

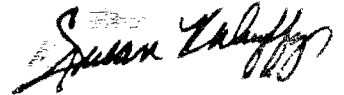
STATE CORPORATION COMMISSION

BEFORE THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

JAN 20 2011

In the Matter of the General Investigation Into )  
KCP&L and Westar Generation Capabilities, )  
Including as these Capabilities May Be )  
Affected by Environmental Requirements. )

Docket No. 11-GIME-492-GIE



**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY  
TO STAFF'S PETITION FOR GENERAL INVESTIGATION**

COMES NOW Kansas City Power & Light Company ("KCP&L" or "Company") and responds as follows to *Staff's Petition For General Investigation Into the Generation Capabilities of Kansas City Power and Light Co. and Westar, Focusing on But Not Limited to Units Currently Subject to Environmental Requirements and For Related Relief* ("Staff's Petition").

1. On December 17, 2009, KCP&L filed an application with the Commission for a rate increase in Docket No. 10-KCPE-415-RTS ("415 Docket"). Included with that filing was a request for an Environmental Cost Recovery Rider ("ECRR") to address future recovery of costs related to upcoming environmental upgrade projects at various KCP&L generating plants.

2. On May 17, 2010, representatives from KCP&L met with members of Staff and CURB in part to explain and discuss the Company's plans to file an application on or about July 1, 2010 for predetermination under K.S.A. 66-1239 regarding the LaCygne Station environmental retrofit project. The LaCygne Unit 1 portion of the retrofit project has been a part of KCP&L's capital investment plans since 2004, and updates on the retrofit project have been reported to Staff and CURB since 2006 as part of KCP&L's Quarterly Reports submitted in compliance with Docket No. 04-KCPE-1025-GIE ("1025 Docket"). As the status of KCP&L's request for an ECRR would not be known until late 2010 when an Order would be issued in the

415 Docket, KCP&L considered a predetermination filing necessary to ensure compliance with its agreement with the Kansas Department of Health and Environment (“KDHE”) regarding the timing of completion of the LaCygne environmental retrofit project in the event the ECRR was denied.

3. On September 30, 2010, KCP&L served upon Dr. Michael Schmidt, Director of Utilities for the Kansas Corporation Commission (“Commission”), a letter informing the Commission that KCP&L anticipated that construction of the environmental compliance project on LaCygne Units 1 and 2 would begin in the first half of 2011. Attached to the notice was a description of the project, an explanation of the need for the project, a statement on KCP&L’s reasons for choosing a particular technology for the project, and an estimate of the cost and duration of the project. A copy of the notice is attached hereto as **Exhibit A**. This letter was provided in compliance with the requested ECRR pending before the Commission at that time in the 415 Docket.

4. Staff began issuing Data Requests to KCP&L on the LaCygne project in November 2010, and visited the LaCygne site on November 2, 2010, with representatives of both the Company and Westar. KCP&L has been forthcoming with all information requested by Staff. A significant amount of information has been provided to Staff since the notice on September 30, 2010, including data used to evaluate the decision to proceed with the LaCygne project and Staff’s review of the bid responses received by the Company for the project which are currently under evaluation. KCP&L is also working to provide Staff with data requested to populate a model Staff plans to run; however, the data is voluminous and not readily available.

5. Initially, KCP&L intended to file for predetermination in the summer of 2010. The Request For Proposal (RFP) on the LaCygne environmental retrofit project was issued in

late spring 2010 with bids expected to be received in fall 2010. Because the predetermination filing would occur prior to receiving and negotiating final bids, KCP&L anticipated presenting an estimate in its predetermination filing with an update to the final number when available later in the proceeding. However, in discussions with Staff, Staff recommended the Company have actual bids in hand before making its predetermination filing. In response, KCP&L decided to postpone the filing until after bids were received and evaluated, or roughly year-end 2010. KCP&L later advised Staff that such filing would take place during first quarter of 2011.

6. On January 10, 2011, Staff filed its Petition to open a generic investigation into issues which directly overlap and impact the issues involved in the predetermination filing KCP&L plans to make with the Commission. Staff's Petition states that these questions should be "fully investigated within a formal structure" and that the appropriate time to examine them "is before the utilities incur financial obligations that could potentially be charged to ratepayers and before the commencement of construction executing a retrofitting decision." (Staff Petition, page 2, para. 2.) Staff also suggests that the Commission establish guidelines for the types of analysis expected from electric utilities facing retrofitting decisions, and clarify the decision mechanism and criteria to be used when evaluating retrofit, decommission, or replacement decisions. (*Id.*, page 9, para. 11.)

7. These same issues are part of what is addressed by a predetermination docket filed under K.S.A. 66-1239. Such a filing provides a 'formal structure' "prior to undertaking the construction of ... a generating facility" to determine the "rate-making principles and treatment" "that will apply to recovery in wholesale and retail rates of the cost to be incurred by the public utility." K.S.A 66-1239 also defines the information that a utility must submit as part of such a filing.

8. KCP&L must file its request for predetermination pursuant to K.S.A. 66-1239 in the very near future in order to meet the tight construction timelines necessary to complete the project by the stipulated June 1, 2015 deadline. Otherwise, LaCygne must be shut down on that date. As a result, KCP&L believes that the predetermination process set forth in K.S.A. 66-1239 will satisfy Staff's concerns.

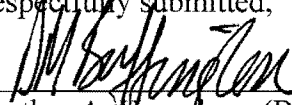
9. Certain statements made by Staff in its Petition are not factually accurate. First, Staff incorrectly states that KCP&L has begun construction on the common chimney at LaCygne. (Staff Petition, page 8, para. 9 (citing an "Interview with KCP&L at LaCygne Generating Station" on November 2, 2010)). Construction has not begun and will not begin, pending the outcome of a predetermination filing. Second, Staff inaccurately interprets KCP&L's 2009 Annual Report in stating that Kansas City has been designated a non-attainment area for ozone. Although KDHE has submitted to the Environmental Protection Agency ("EPA") its determinations that the Kansas City area should be designated an ozone non-attainment area, EPA has not yet responded and formally designated the Kansas City area as non-attainment for the 2008 ozone standard. (Staff Petition, page 6, para. 9.)

10. KCP&L is developing its anticipated filing under K.S.A. 66-1239 consistent with the requirements of the statute and consistent with the decisions of the Commission in previous dockets filed and approved under this statute. The timing of the predetermination proceeding is integral to KCP&L being able to meet its legal obligations to KDHE and to its customers in Kansas. KCP&L has provided notice of the LaCygne environmental retrofit projects and has provided Staff with a significant amount of data and other information about the project. KCP&L will cooperate fully in this generic docket, should the Commission decide to proceed on Staff's Petition. However, KCP&L asks that the Commission carefully consider the impact of its

decision as to how to proceed, and how it sees the generic docket and KCP&L's upcoming predetermination docket fitting together without inefficiently using resources or duplicating efforts and still allowing KCP&L to meet the June 1, 2015 compliance date.

WHEREFORE, KCP&L responds as set forth above to Staff's Petition, and requests that the Commission consider these comments as it deliberates on how to proceed in this docket.

Respectfully submitted,



Heather A. Humphrey (Bar No. 17594)  
General Counsel

Denise Buffington (Bar No. 24850C)  
Corporate Counsel

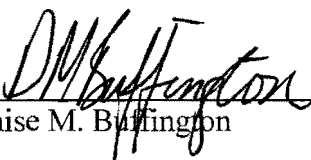
Kansas City Power & Light Company  
One Kansas City Place  
1200 Main Street – 16<sup>th</sup> Floor  
Kansas City, Missouri 64105

Glenda Cafer (Bar No. 13342)  
Cafer Law Office, L.L.C.  
3321 SW 6<sup>th</sup> Avenue  
Topeka, Kansas 66606  
(785) 271-9991  
(785) 233-3040 (fax)  
gcafer@sbcglobal.net

**COUNSEL FOR KANSAS CITY POWER &  
LIGHT COMPANY**

**CERTIFICATE OF SERVICE**

A copy of the foregoing pleading has been served this 20th day of January 2011 upon counsel of record in this proceeding.

  
\_\_\_\_\_  
Denise M. Buffington

VERIFICATION

STATE OF MISSOURI )  
 ) ss  
COUNTY OF JACKSON )

The undersigned, Mary Britt Turner, upon oath first duly sworn, states that she is the Director, Regulatory Affairs of Kansas City Power & Light Company, that she has reviewed the foregoing Response, that she is familiar with the contents thereof, and that the statements contained therein are true and correct to the best of her knowledge and belief.

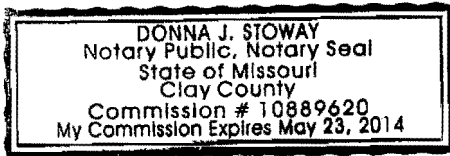
*Mary Britt Turner*  
\_\_\_\_\_  
Mary Britt Turner  
Director, Regulatory Affairs  
Kansas City Power & Light Company

Subscribed and sworn to before me this 18th day of January, 2011.

*[Signature]*  
\_\_\_\_\_  
Notary public

My commission expires:

*May 23, 2014*  
\_\_\_\_\_





September 30, 2010

Michael R. Schmidt  
Director of Utilities  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

Re: KCP&L's LaCygne Environmental Expenditures and the Environmental Cost  
Recovery Rider Requested in Docket 10-KCPE-415-RTS

Dear Mr. Schmidt,

The purpose of this letter and the attached summary is to provide the Kansas Corporation Commission (Commission or KCC) Staff with notice of the commencement of the LaCygne Units 1 and 2 environmental compliance project in the event the Commission authorizes Kansas City Power and Light (KCP&L) to implement an Environmental Cost Recover (ECR) Rider.

KCP&L has requested an ECR Rider in the Company's current rate case, Docket 10-KCPE-415-RTS (415 Docket). The Commission is scheduled to issue an order in the 415 Docket, including whether or not the Company will be authorized to implement an ECR Rider, by November 22, 2010. As discussed in the rebuttal testimony of KCP&L witness Curtis D. Blanc and the direct testimony of KCC Staff witness Jeffrey D. McClanahan in the 415 Docket, if the Company is authorized to implement an ECR Rider it intends to recover its Kansas jurisdictional share of costs for environmental expenditures at LaCygne Units 1 and 2 through the ECR Rider. At this time KCP&L anticipates the construction of the environmental compliance project on LaCygne Units 1 and 2 will begin in the first half of 2011.

As discussed in the direct testimony of KCP&L witness Tim M. Rush in the 415 Docket and consistent with how Westar administers its ECR Rider, under the proposed ECR Rider, six months before the Company commences an environmental compliance project KCP&L will submit a summary to the KCC Staff. The summary is to contain the following information:

- A description of the project;
- The need for the project, including how it complies with legal requirements;
- The reasons for choosing a particular technology in lieu of possible alternatives;  
and
- An estimate of the costs and duration of the project.





The summary containing this information is in the attached file titled "LaCygne Units 1 and 2 Environmental Project". We believe Westar has already provided its notice for these same La Cygne projects pursuant to the requirements of its ECR Rider.

Please contact me if you have any questions concerning this project.

Regards,

A handwritten signature in black ink, appearing to read "Curtis D. Blanc".

Curtis D. Blanc  
Senior Director, Regulatory Affairs

cc: David Springe, CURB – Public Version

**PUBLIC VERSION**

“\*\* [REDACTED] \*\*” *Designates Confidential Information.  
All Such Information Should Be Treated Confidentially.*

**KCC Filing  
Pollution Control Project  
LaCygne Units 1 and 2 Environmental Project**

**Description of the project**

At KCP&L's LaCygne Generating Station the Company is preparing to install wet scrubbers, baghouses and a common chimney for both LaCygne Units 1 and 2, and a selective catalytic reduction (SCR) system and low-nitrogen oxide (NO<sub>x</sub>) burners for Unit 2.

The benefit of these projects will be to reduce the emission of stack particulate matter, NO<sub>x</sub> and sulfur dioxide (SO<sub>2</sub>) emissions from the La Cygne Generating Station.

**Need for the Project**

*Regional Haze Rule*

The Environmental Protection Agency (EPA) has clarified the requirements of its Regional Haze Rule (RHR), which are intended to improve visibility over national parks and wilderness areas throughout the United States. In November 2007, KCP&L and the Kansas Department of Health and Environment (KDHE) executed a Regional Haze Agreement supporting KCP&L's intention to reduce LaCygne Units 1 and Unit 2 emissions to RHR compliance limits which require the installation of Best Available Retrofit Technology (BART). Under this agreement, KCP&L agreed to emission limits for La Cygne Units 1 and 2 that will be less than or equal to the presumptive emission limits established in the Code of Federal Regulations by 40 CFR Part 51, Appendix Y, averaged for both Units. The emission limits agreed to within the Regional Haze Agreement were included in KDHE's Regional Haze State Implementation Plan (SIP), which was submitted in October 2009 to the EPA for approval, KCP&L agreed to install and operate BART compliant equipment as expeditiously as practical, but in no event later than five years after EPA approval of the Kansas SIP or June 1, 2015, whichever date occurs first.

In March 2005, the EPA issued the Clean Air Interstate Rule (CAIR) which did not apply to Kansas. In July 2008, the D.C. Circuit Court of Appeals vacated CAIR in its entirety and remanded the matter to the EPA to promulgate a new rule consistent with its opinion. The CAIR remains in effect pending future EPA or court action.

### *Proposed Transport Rule*

In July 2010, the EPA proposed the Transport Rule with the goal of reducing interstate transport of ozone and fine particle matter. This rule would replace the CAIR. This rule would require 31 states, including Kansas and Missouri, to reduce power plant emissions that contribute to ozone and fine particle pollution in other states.

EPA is proposing to put in place this new approach that helps states meet their obligations to reduce transported pollution and attain and maintain compliance with the national ambient air quality standards (NAAQS). Specifically, this proposal would require significant reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions that cross state lines by 2012 and 2014.

EPA is proposing one approach for reducing SO<sub>2</sub> and NO<sub>x</sub> emissions in states covered by this rule and taking comment on two alternatives. In EPA's preferred approach, EPA is proposing to set a pollution limit (or budget) for each of the 31 states and the District of Columbia. This approach allows limited interstate trading among power plants but assures that each state will meet its pollution control obligations.

EPA has indicated it will finalize the ozone NAAQS in October 2010. To address the anticipated revised ozone standard, EPA proposes that a Transport Rule II will be proposed for additional NO<sub>x</sub> reductions in summer 2011 and finalized in summer 2012. It is anticipated that the Transport Rule II will have additional phase reductions for annual and ozone season NO<sub>x</sub>.

Analysis of KCP&L's proposed allocation to sources show allowance deficits that will have to be addressed through trading, if permissible, operational changes, and/or additional emission control equipment.

### *Proposed Ozone NAAQS Standard*

In January 2010, EPA proposed to strengthen the 8-hour primary ozone standard, designed to protect public health, to a level within the range of 0.060-0.070 parts per million (ppm). EPA is also proposing to establish a distinct cumulative, seasonal secondary standard, designed to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges and wilderness areas. EPA is proposing to set the level of the secondary standard within the range of 7-15 ppm-hours. The proposed revisions result from a reconsideration of the identical primary and secondary ozone standards set at 0.075 ppm in 2008. EPA has indicated it will finalize the ozone NAAQS in October 2010.

In March 2009, both KDHE and MDNR made non-attainment recommendations for the 2008 ozone NAAQS standard for Kansas City metropolitan counties. In 2009, the Kansas City area exceeded the 2008 standard of 0.075 ppm. The currently proposed range of 0.060-0.070 ppm will be very difficult for the Kansas City area to attain in the future.

By approximately 2014, KDHE will be required to develop a SIP outline how Kansas will reduce ozone to meet the standard in non-attainment areas. Non-attainment could require NOx reduction controls to be added to KCP&L's La Cygne Unit 2 by potentially as early as 2014.

**Reasons for choosing a particular technology**

Critical uncertainties such as gas prices, CO<sub>2</sub> allowance prices, load growth, capital costs and emerging technologies were analyzed over multiple scenarios in KCP&L's modeling and planning process. The results indicate that both LaCygne Units 1 and 2 should be retrofitted as part of the low cost plan in most scenarios, as compared to shutting the units down prior to June 1, 2015, which would be required absent the investments contemplated here.

**An estimate of the cost and duration of the project**

Based on the response to KCP&L's Request for Information (RFI) issued to potential Engineer, Procure and Construct (EPC) contractors, engineers, and equipment suppliers the Company issued a Request for Proposal (RFP) to six vendors in June 2010. Bids are due in November 2010 and the bid evaluation to support a short list is anticipated to be completed in December 2010.

KCP&L's capital budget currently includes an estimate of \*\* [REDACTED] \*\* for the Company's 50% share of retrofitting the LaCygne Generating Units 1 and 2. This number will be updated once the RFP process and bid evaluation has been completed.

Estimated Timeline



