

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the Application of Kansas City)
Power & Light Company for Approval of Its)
2014 Energy Efficiency Rider for Program) Docket No. 14-KCPE-442-TAR
Costs Incurred January 1 Through December)
31, 2013.)

**COMMISSION STAFF'S RESPONSE TO CURB'S MOTION TO REMOVE
CONFIDENTIAL DESIGNATIONS**

COMES NOW Staff of the State Corporation Commission of the State of Kansas (Staff and Commission, respectively) and in response to CURB's *Motion to Remove Confidential Designations* dated May 23, 2014, files its Response. In support hereof, Staff states as follows:

I. Procedural Background

1. On March 31, 2014, Kansas City Power & Light Company (KCP&L) filed its Application for Approval of its 2014 Energy Efficiency Rider (EE Rider).

2. The Citizens' Utility Ratepayer Board (CURB) filed a Petition to Intervene on April 2, 2014. CURB's Petition was granted on April 17, 2014.

3. On May 13, 2014, Staff filed its Report and Recommendation (R&R) in this matter. Staff filed both a public and confidential version of its R&R. In the public version, one exhibit was redacted as confidential.

4. On May 23, 2014, CURB filed its Motion to Remove Confidential Designations. In its Motion, CURB notes that KCP&L, during discovery, designated certain data and documents as confidential.¹ CURB also explains that it requested "explanations of each confidential designation, and informed the company that CURB would be filing a motion

¹ CURB's Motion to Remove Confidential Designations, paragraph 1. (CURB Motion, ¶ 1.)

objecting to the designations if the Company did not remove the designations or provide adequate explanations."²

5. As detailed in CURB's Motion, KCP&L provided written explanations for its confidential designations via email on May 21, 2014.³ While apparently satisfied the data was legitimately designated confidential by KCP&L, CURB nonetheless requests the Commission make the information public "for a variety of policy reasons."⁴

II. Staff's Response

6. Staff has no response or recommendation regarding CURB's request to make certain data of KCP&L public on policy grounds. However, Staff must respond to certain statements in CURB's Motion that could mislead the Commission.

7. In its Motion, CURB implies Staff performs no review of whether data has been legitimately labeled confidential by a regulated utility. For example, referencing the requirement to explain a confidential designation, CURB argues, "it is rare that Commission Staff objects to a utility's failure to comply with this provision"⁵ Also, in reference to the instant docket, CURB states, "Unfortunately, Staff's unquestioning acceptance of KCP&L's designations has resulted in redaction from Staff's filing of other information that is clearly not entitled to confidential treatment." CURB also incorrectly claims "Staff redacted entire *pages* of data, not just the specific items which KCPL claims are entitled to confidentiality."⁶ Staff objects to the apparent implication that Staff blindly accepts confidential designations and never questions such labels.

² CURB Motion, ¶ 5.

³ CURB Motion, ¶ 6.

⁴ CURB Motion, ¶ 6, ¶ 14.

⁵ CURB Motion, ¶ 11.

⁶ CURB Motion, ¶ 15 (emphasis added). Staff notes that not every figure in its Confidential Exhibit TSR-1 (the only redacted item) may be entitled to confidential treatment. However, much of the data is of a type that can legitimately be claimed as confidential. Therefore, it is misleading to label Staff's choice to honor KCP&L's designation as "unquestioning acceptance."

8. In fact, Staff does consider the nature of the data it reviews and whether there is a legitimate reason for the utility to label it confidential. Instead of simply relying on a generic explanation of its confidential nature, Staff examines the actual data and assesses whether it can be legitimately claimed as confidential. If Staff has concerns regarding the legitimacy of a utility's confidential data, or if the designation otherwise raises red flags, Staff contacts the utility for further explanation.

9. While Staff rarely has cause to challenge confidential designations, the allegation that Staff does not consider this issue is simply untrue. Staff also finds CURB's accusations curious in a proceeding where KCP&L provided a "legitimate reason for maintaining confidentiality" of its data, and CURB solely objects to confidentiality on policy grounds.⁷

10. CURB also requests the Commission direct "Staff to address the failure of utilities to provide written statements of the reasons for confidentiality at the time a utility submits information to Staff labelled 'confidential'."⁸ Staff notes that current Commission regulations do not require enforcement by Staff. More importantly, Staff, as a party to the proceeding, is not in a position to enforce regulations beyond any posture traditionally taken by another party.

WHEREFORE Staff submits its *Response to Curb's Motion to Remove Confidential Designations* for Commission review and for such other relief as the Commission deems just and proper.

⁷ CURB Motion, ¶ 6, ¶ 14.

⁸ CURB Motion, 18.

Respectfully submitted,



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VERIFICATION

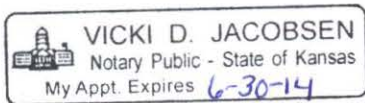
STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

Andrew French, of lawful age, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas; that he has read and is familiar with the foregoing *Staff's Response to Curb's Motion to Remove Confidential Designations* and attests that the statements therein are true and correct to the best of his knowledge, information and belief.



Andrew French, #24680
Litigation Counsel
The State Corporation Commission
of the State of Kansas

SUBSCRIBED AND SWORN to before me this 30th day of May, 2014.





Notary Public

My Appointment Expires: 6-30-14

CERTIFICATE OF SERVICE

14-KCPE-442-TAR

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing docket was served via electronic service this 30th day of May, 2014, to the following:

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