

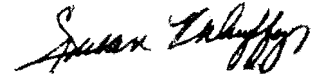
THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Kansas)
City Power & Light Company to Modify Its) Docket No. 10-KCPE-415-RTS
Tariffs to Continue the Implementation of Its)
Regulatory Plan.)

STATE CORPORATION COMMISSION

JUL 13 2010

**CURB AND STAFF'S JOINT REPLY TO
KANSAS GAS SERVICE'S RESPONSE TO
MOTION TO STRIKE CROSS-ANSWERING TESTIMONY
OF KANSAS GAS SERVICE WITNESSES RONALD WHITE AND
DAVID DITTEMORE AND MOTION FOR EXPEDITED TREATMENT**



COME NOW, the Citizens' Utility Ratepayer Board ("CURB"), and the Staff of the State Corporation Commission of the State of Kansas ("Staff" and "KCC" or "Commission" respectively), and file this joint reply to Kansas Gas Service's ("KGS") response to CURB and Staff's July 6, 2010, joint motion to strike the Cross-Answering Testimony of Dr. Ronald White and David Dittemore, prefiled with the Commission on July 2, 2010, on behalf of KGS. In support of their joint response, CURB and Staff state as follows:

1. On July 9, 2010, KGS filed its response to the aforementioned motion to strike. KGS' primary argument is that CURB and Staff first raised the issues of cash working capital and the treatment of third-party reimbursements in establishing net salvage depreciation rates and, as a result, forced KGS to file cross-answering testimony to address the issues. However, KCP&L raised these issues in their Application commencing this docket when they sought specific treatment of such issues under the specific parameters of KCP&L's operations. KGS did not mention these two issues as being of any importance to KGS when KGS filed for intervention in this docket, and opposition by CURB and Staff to KCP&L's proposals does not create a basis for KGS to comment or otherwise interfere with the issues in KCP&L's rate case.

2. CURB and Staff filed testimony related to these two issues in KCP&L's Application – testimony that was specific to KCP&L's Application – because it is appropriate to do so in the context of KCP&L's rate case. The fact that CURB and Staff took positions on these issues is no surprise to KGS. After a review of KCP&L's Application and testimony, and knowing its own history and involvement in the KCP&L dockets leading to this rate case and the separate GIV on depreciation, KGS sought to intervene in this docket without including the two issues as a basis for the intervention. KGS also elected not to file direct testimony on these issues on June 15, 2010. It would have been inappropriate for KGS to have filed testimony regarding KCP&L's specific treatment of the two issues then, just as it is inappropriate for KGS to file cross-answering on those issues now.

3. KGS has expressed concern about precedent being established in KCP&L's rate case that would be binding on other utilities. In fact, this is their only stated basis of substantial interest to file testimony on the two issues and forms the basis for their standing. However, there is no precedent set in utility-specific KCC regulatory dockets on such issues unless a sufficient similarity of underlying issues and facts applies to two separate utilities. It might be reasonable to raise past KCC holdings in such an instance, but KGS has not yet alleged any substantial similarities between itself and KCP&L's operations to justify the concern over precedence. There simply is no such similarity that justifies KGS interjecting itself in another utility's rate case to argue issues that *might* apply to KGS in some hypothetical future rate case.

4. In addition, KGS' concern over possible precedence is baseless because there are proper venues for raising arguments and filing comments regarding these two issues: 1) The 08-GIMX-1142-GIV docket which is a generic investigation on depreciation in the industry, and 2)

KGS' next rate case, whenever that may be. To allow KGS to make general arguments about industry policy and specific arguments as they relate to KGS, in another utility's rate case invites improper intrusion and improper cross-examination for purposes other than the determination of the Applicant's issues in all rate cases before this Commission. Such policy arguments are suited for a general investigation, and KGS-specific arguments on these two issues are appropriate in KGS' next rate case. Furthermore, KGS has the opportunity in the general investigation docket to raise these two issues on an industry-wide basis.

5. KGS' legal interests are not affected by this proceeding and KGS is not denied due process; this is KCP&L's rate case and the two issues raised in KGS' cross-answering testimony may be fully and properly addressed in alternative venues. KGS has not substantiated its concerns by demonstrating sufficient similarity to KCP&L's particular operations. KGS' statement that it must file testimony in KCP&L's rate case because an issue it believed was being dealt with in the general investigation is now being addressed by CURB and Staff in an other utility's rate case is not a proper basis for filing the cross-answering testimony. The recovery of fuel costs in cash working capital in the general industry is not being reviewed in KCP&L's rate case. KGS' ability to recover fuel costs in cash working capital is not being reviewed in KCP&L's rate case. Only KCP&L's ability to do so is before the Commission.

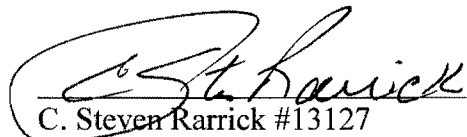
6. KGS is correct that it had no basis to intervene on the two issues before CURB and Staff filed testimony on the issues. But KGS has no basis to intervene on the issues after the filing of CURB and Staff testimony, either. If KGS had no basis to intervene regarding KCP&L's proposed treatment of cash working capital and depreciation following KCP&L's original filing, then it has no basis for intervention merely because CURB and Staff opposed KCP&L's proposed treatment of

these issues.

7. KGS' final plea is that the denial of cross-examination of CURB and Staff's witnesses on these issues raises constitutional concerns. KGS cites the Kansas Supreme Court holding that the right of cross-examination in an adjudicatory proceeding is one of fundamental importance and a requirement of due process. However, KGS' citation is in the realm of civil and criminal practice where precedent is of greater import than in regulatory proceedings at the KCC. Moreover, KGS makes this reference assuming it has a direct interest and standing in KCP&L's rate case to address these two issues, which is an assumption without basis in fact or law.

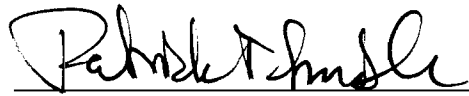
8. Wherefore, CURB and Staff respectfully request the Commission issue an order granting CURB and Staff's joint motion to strike the Cross-Answering Testimony of Dr. Ronald White and David Dittmore. Given the short time prior to the commencement of the evidentiary hearing on August 16, 2010, CURB also requests that the Commission enter an order on this matter as expeditiously as possible.

Respectfully submitted,



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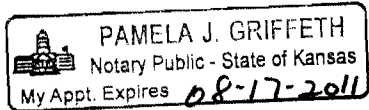
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

I, Patrick T. Smith, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the Staff of the State Corporation Commission of the State of Kansas; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

Patrick T. Smith
Patrick T. Smith

SUBSCRIBED AND SWORN to before me this 13th day of July, 2010.



Pamela J. Griffeth
Notary of Public

My Commission expires: August 17, 2011

CERTIFICATE OF SERVICE

10-KCPE-415-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing CURB and Staffs Joint Reply was served by electronic service on this 13th day of July, 2010, to the following parties who have waived receipt of follow-up hard copies.

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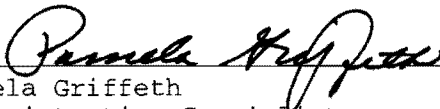
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