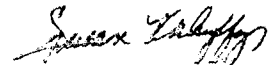


THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

In the Matter of the Application of Kansas )  
City Power & Light Company for Approval ) Docket No. 09-KCPE-246-RTS  
to Make Certain Changes in its Charges for )  
Electric Service to Continue the )  
Implementation of Its Regulatory Plan. )

STATE CORPORATION COMMISSION

JUN 19 2009

 Docket  
Room

**CURB'S REPLY TO KCP&L'S RESPONSE TO  
CURB'S MOTION TO STRIKE PORTIONS OF  
ADDITIONAL TESTIMONY AND EXHIBITS OF CHRIS  
GILES AND JOHN WEISENSEE AND FOR EXPEDITED RULING**

COMES NOW, the Citizens' Utility Ratepayer Board ("CURB"), and files this reply  
KCP&L's response to CURB's Motion to strike portions of the additional testimony and exhibits of  
Chris B. Giles and John P. Weisensee,. In support of its reply, CURB states and alleges as follows:

1. CURB incorporates herein by reference the procedural history and arguments  
contained in its June 8, 2009, CURB's Motion to Strike Portions of Additional Testimony and  
Exhibits of Chris Giles and John Weisensee and for Expedited Ruling.

**I. The Additional Testimony and Exhibits of Chris B. Giles and John P. Weisensee  
Related to IATAN Common Plant Should be Stricken From the Record.**

2. In response to CURB's request to strike Mr. Giles' and Mr. Weisensee's testimony  
related to actual costs of Iatan 1 and common costs based on ratios, KCP&L argues:

CURB misconstrues KCP&L's testimony, arguing that it does not provide actual  
costs. This is incorrect. KCP&L witness John Weisensee discusses in his May 5,  
2009 testimony the process used by the Company to accumulate actual costs paid or  
approved for payment as of the cut-off date. (See Weisensee Additional Direct  
Testimony at pp 2-3.) As also noted by Mr. Weisensee, KCP&L included in its  
testimony the actual amount of costs that were paid or approved for payment and  
compared the costs against the Iatan Unit 1 Control Budget. *The ratio KCP&L used*

*in its May 5, 2009 testimony was simply the amount of costs that were paid or approved for payment (\$402,812,641-which was noted on Line A of Schedule JPW-9) as compared to the total Iatan Unit 1 Control Budget (\$484.1 million). KCP&L used this ratio to demonstrate the amount of common costs (included in the Unit 1 Control Budget) that had been paid or approved for payment as of the cut-off date. Additionally, KCP&L applied this ratio against the common costs included in the Unit 2 Control Budget. This methodology is consistent with Staff's recommendation as set forth in Justin Grady's additional direct testimony.*<sup>1</sup>

3. KCP&L's argument is disingenuous and without merit. KCP&L admits Mr. Weisensee did not provide testimony on "actual costs" by stating "KCP&L *used this ratio* to demonstrate the amount of common costs (included in the Unit 1 Control Budget) that had been paid or approved for payment as of the cut-off date. Additionally, KCP&L *applied this ratio* against the common costs included in the Unit 2 Control Budget."

4. KCP&L's convoluted argument cannot convert admittedly estimated amounts derived from ratios to "actual costs." Actual costs are actual costs, not amounts derived by applying ratios of other actual costs to forecasted control budget amounts of other plant investments.

5. Contrary to KCP&L's argument, the Commission did not revise the procedural schedule at the request of the parties to allow KCP&L to offer testimony of estimated costs derived from ratios of other actual costs compared to forecasted amounts (Control Budget) of other plant investments. To the contrary, the Revised Scheduling Order expressly required that KCP&L's May 5, 2009 additional testimony was only to include testimony directly related to *actual costs* for Iatan Unit 1 and Iatan common costs *paid or approved for payment* through April 30, 2009, and directly related to the updated costs on non-Iatan plant through March 31, 2009.<sup>2</sup> This was acknowledged by the Commission in its Order Denying MUUG's Motion to File Additional Testimony and Granting

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<sup>1</sup> KCP&L's Response to Curb's Motion to Strike Portions of Additional Testimony and Exhibits of Chris Giles and John Weisensee and for Expedited Ruling, ¶ 5 (emphasis added).

<sup>2</sup> Revised Scheduling Order, ¶ 10 (emphasis added). See also, Joint Motion, ¶ 10.

KCPL's Motion to Strike MUUG's Testimony Submitted May 29, 2009,<sup>3</sup> as well as its more recent Order Granting KCP&L's Motion to Strike Testimony of CURB Witness Kalcic Submitted May 29, 2009.<sup>4</sup>

## **II. The Additional Testimony of Chris B. Giles and John P. Weisensee Related to the Creation of a Regulatory Asset Should be Stricken From the Record.**

6. KCP&L next attempts to argue Mr. Giles' and Mr. Weisensee's testimony regarding the creation of a regulatory asset is somehow directly related to the actual costs that have been paid or approved for payment through April 30, 2009 because (KCP&L argues) it is related to movement away from budgeted costs to actual costs. CURB never agreed to the use of budgeted costs in this case, and the move from budget costs to actual costs was caused by KCP&L's inability to track with any certainty the common costs it was attempting to bring into this case long after the application was filed.

7. KCP&L has sought and received from this Commission numerous accommodations, including but not limited to those given in the 1025 Docket Stipulation and Agreement (AFDUC, CIAC, etc.) the subsequent floating filing dates, and the recent extension of the procedural schedule to address the substantial changes to the Company's application made in rebuttal testimony. KCP&L is not entitled to further accommodation – in the form of yet another new claim for relief from ratepayers in the form of a regulatory asset.

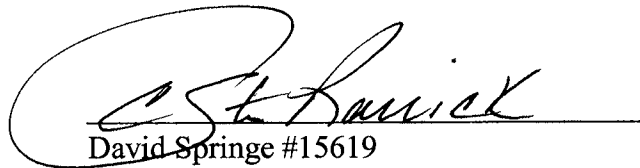
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<sup>3</sup> Order Denying MUUG's Motion to File Additional Testimony and Granting KCPL's Motion to Strike MUUG's Testimony Submitted May 29, 2009, ¶ 4 (“additional cost testimony the Commission ordered to be filed by KCPL ON May 5, 2009 and to which the other parties, Staff and Interveners, were ordered to file on May 29, 2009 related to the audit on *Actual costs...*”; “compressed schedule ... was revised at the request of all parties and designed to address problems concerning ‘Actual Cost’ issues.” (emphasis added).

<sup>4</sup> Order Granting KCP&L's Motion to Strike Testimony of CURB Witness Kalcic Submitted May 29, 2009, ¶ 4.

8. WHEREFORE, CURB respectfully requests the Commission grant its motion for an expedited order striking the portions of the additional testimony of Chris B. Giles and John P. Weisensee and related exhibits referenced in CURB's Motion to Strike Portions of Additional Testimony of Chris Giles and John Weisensee and for Expedited Ruling.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Steven Rarrick", is written over a horizontal line. The signature is fluid and cursive, with a large loop at the beginning.

David Springe #15619

Niki Christopher #19311

C. Steven Rarrick #13127

Citizens' Utility Ratepayer Board

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VERIFICATION

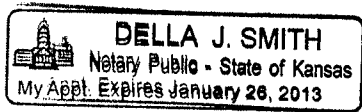
STATE OF KANSAS )  
 ) ss:  
COUNTY OF SHAWNEE )

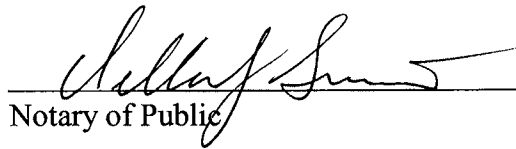
I, C. Steven Rarrick, of lawful age, being first duly sworn upon his oath states:

That he is an attorney for the above named petitioner; that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.

  
C. Steven Rarrick

SUBSCRIBED AND SWORN to before me this 19<sup>th</sup> day of June, 2009.



  
Notary of Public

My Commission expires: 01-26-2013.

**CERTIFICATE OF SERVICE**

09-KCPE-246-RTS

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, e-mailed, or hand-delivered this 19th day of June, 2009, to the following:

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