

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

Before Commissioners: Brian J. Moline, Chair
Robert E. Krehbiel
Michael C. Moffet

APR 14 2006

 Docket Room

In the Matter of the Application of Kansas)
City Power & Light Company for Approval) Docket No. 06-KCPE-828-RTS
to Make Certain Changes in its Charges for)
Electric Service to Begin the)
Implementation of Its Regulatory Plan.)

**COMMENTS IN SUPPORT OF THE MOTION TO RECONSIDER THE
COMMISSION’S ORDER LIMITING SIERRA CLUB’S INTERVENTION**

COMES NOW, the Citizens’ Utility Ratepayer Board (CURB) and respectfully files the following comments in support of the Kansas Chapter of the Sierra Club’s (Sierra Club) Motion to Reconsideration the Commission Order Limiting Sierra Club’s Intervention.

1. On January 31, 2006, Kansas City Power and Light (KCP&L) filed its application for rate increase in the above captioned docket.

2. On February 4, 2006, Sierra Club filed to intervene in this docket. On March 8, 2006, KCPL filed its Response seeking to limit the participation of Sierra Club, and on March 21, 2006, Sierra Club filed its Reply to KCPL’s Response.

3. On March 28, 2006, the Kansas Corporation Commission (Commission) issued its order¹ allowing Sierra Club to intervene in the docket, but limiting the intervention rights of Sierra Club to the environmental aspects of the docket stating “Sierra Club is granted intervention for the limited purpose of participating in environmental matters to the exclusion of matters regarding rates and matters pertaining to rates.” (Order at para. 14)

¹ CURB was granted intervention in the docket in this same order.

4. On April 13, 2006, Sierra Club filed its Motion to Reconsider the Commission's Order limiting Sierra Club's Intervention.

5. CURB respectfully disagrees with the Commission's decision limiting Sierra Club's participation in this docket, and urges the Commission to give due consideration to the Motion for Reconsideration of Sierra Club and to grant Sierra Club, for good cause shown, full intervention rights in this case.

6. The cost recovery, rates and regulatory approvals KCPL is requesting in this rate case are the result of a long term resource and regulatory plan negotiated between KCPL and the Staff, and approved by the Commission in Docket Number 04-KCPE-1025-GIE. (1025 docket) Even the most cursory review of the resource plan shows that many of the resource decisions agreed to in the plan have, at some level, an environmental basis. For example, the resource plan includes 100 MW (with the potential of and additional 100 MW) of wind energy to meet future demand. According to the testimony of Mr. John Grimwade of KCPL, "with increased concerns over carbon dioxide emissions as well as other emissions, the addition of renewable generating capacity was determined to be a balanced approach to mitigating these concerns as well as provide an opportunity for KCPL to learn from having renewable in our portfolio" (Grimwade, Direct Testimony, May 10, 2005, Docket No. 04-KCPE-1025-GIE; See also, Grimwade Exhibit JRG-2 "Assessment of Renewable Wind Resources as Part of KCPL's Supply Portfolio", Docket No. 04-KCPE-1025-GIE)

7. Further, the resource plan includes direct investment in environmental upgrades to Iatan I and LaCygne I, including Selective Catalytic Reduction (SCR), Flue Gas Desulphurization (FGD) and Baghouses. (Stipulation and Agreement, Appendix A, Docket No.

04-KCPE-1025-GIE) These direct environmental upgrades to KCPL's existing generation plants will provide a potential benefit to the Kansas City metropolitan area through reduced emissions and improved air quality. Indeed, one of the selling points of Iatan II is that after construction, the combined emissions from Iatan I and Iatan II will be less than current emissions from Iatan I.

8. Finally, KCPL has proposed approximately \$25 million in Load Management, Affordability and Energy Efficiency programs (Stipulation and Agreement, Appendix B and B-1, Docket No. 04-KCPE-1025-GIE) As argued by Sierra Club, the level of resources devoted to load management, conservation and efficiency programs could impact the discussion of the prudence of KCPL's other resource decisions, the cost of the resource plan, consumer rates and the environmental impacts of the plan.

9. The financial impact of the resource decisions on KCPL and mechanisms to pass these resource costs to KCPL's customers are set forth in a detailed "rate plan" process. (Stipulation and Agreement, Appendix C, Docket No. 04-KCPE-1025-GIE). The current rate case is the first in a series of four potential rate cases outlined in the rate plan, as approved by the Commission in the 1025 docket.

10. It is not CURB's intent to re-argue the intricacies of the 1025 agreement between Staff and KCPL. However, in its Petition for Reconsideration in the 1025 docket, CURB requested clarification of certain inconsistent language regarding whether or not the Commission had "approved" KCPL's decision to build Iatan II in its 1025 Order Approving Stipulation and Agreement. The Commission, in its September 21, 2005 Order Denying Petitions for Reconsideration answered CURB's question this way:

"There is nothing inconsistent in the language. For example, as

CURB has pointed out, it is not a party to the Agreement. Therefore, CURB is not bound, unlike Staff and the other parties to the Agreement to follow the terms of the Agreement. If the issue arises in a future docket regarding the decision to build an additional 500 MW of coal fired generation, for example, CURB will be free to argue the decision is unreasonable and costs associated with executing that decision should not be recovered in rates. CURB will be free to present testimony to this effect. The Commission will consider such evidence, and, if persuaded by the evidence, will rule in CURB's favor." (Order at para. 23)

The Commission was clear; parties that did not sign the 1025 Agreement were not bound by the Agreement or the decisions put forth therein. More importantly, by Commission admission, parties that did not sign the Agreement were not precluded from bringing forth arguments in a future docket² that may be contrary to those put forth by Staff and KCPL in the Agreement. By limiting Sierra Club's intervention in the current rate case (the future case contemplated above), the Commission may in fact be denying a non-signatory party in the 1025 docket the right to bring forth arguments for Commission consideration. While the statement in the 1025 order does not legally bind the Commission to grant Sierra Club full intervenor rights in the current case, CURB suggests that equity would fall in Sierra Club's favor on this issue.

11. As noted by Sierra Club, this is not the first case before the Commission in which Sierra Club has intervened. Having participated in these other cases cited by Sierra Club, including the 1025 docket, CURB can think of no instance in these prior dockets where the Sierra Club or its attorneys have worked in any fashion to impair the orderly and prompt conduct of the proceedings before the Commission. To CURB's knowledge, Sierra Club attorneys and

² The Commission, in the same September 21, 2005 Order Denying Petitions for Reconsideration, rejected one of CURB's arguments as not yet ripe, stating " the Commission agrees with Staff's position that the approval of the Order does not presently affect rates, and that the issue is therefore premature. CURB's theoretical concern will only become appropriate and timely in the context of an actual rate case." (Order at para. 11)

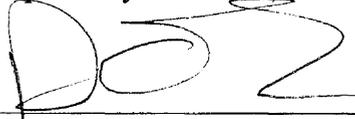
witnesses have presented their case in an orderly and professional fashion, within the normal procedures and confines the Commission uses to process cases.

12. CURB believes that having Sierra Club as a full intervenor in the current rate case would be beneficial to the Commission and the public generally. Sierra Club does bring a voice for environmental issues that may be otherwise understated from other parties to this docket, including CURB. It is truly impossible to separate the environmental issues driving KCPL's resource decisions from the cost and rate questions that are before the Commission in this docket. As such, CURB believes limiting Sierra Club's intervention to only environmental issues, while apparently precluding Sierra's Club's ability to participate in rate discussion will limit the Commission's understanding of the issues to only part of the picture. There are likely many issue in this case over which the parties will disagree. However, the resource decisions and rate issues the Commission must decide in this case will impact KCPL and KCPL's customers for decades to come. It is CURB's opinion that granting Sierra Club full intervention status in this dockets will benefit the Commission, KCPL's customers and the public generally through the development of a full a complete record, based on the view points and evidence presented by many parties with diverse opinions, on which the Commission can then issue its decision. CURB does not believe that Sierra Club's full participation in the docket will in any way impair the prompt and orderly conduct of this proceeding, but will in fact enhance the record for the Commission.

WHEREFORE, CURB respectfully asks that the Commission accept and consider, in the good faith that they are offered, these Comments in support of the Motion to Reconsider the Commission's Order limiting Sierra Club's Intervention and generally supporting full intervenor

status for Sierra Club in this important case for KCPL, Kansas and the public generally.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Springe', written over a horizontal line.

David Springe #15619

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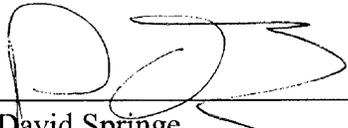
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VERIFICATION

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

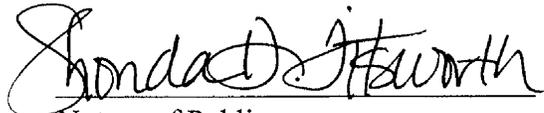
I, David Springe, of lawful age, being first duly sworn upon his oath states:

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



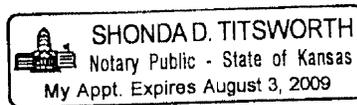
David Springe

SUBSCRIBED AND SWORN to before me this 14th day of April, 2006.



Notary of Public

My Commission expires: 8-03-2009



CERTIFICATE OF SERVICE

06-KCPE-828-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, or hand-delivered this 14th day of April, 2006, to the following:

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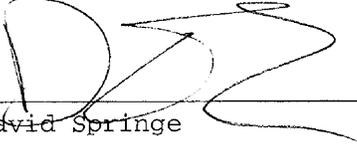
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