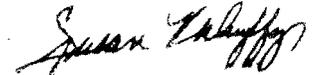


**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

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

STATE CORPORATION COMMISSION

OCT 12 2010



**REPLY BRIEF OF THE
CITIZENS' UTILITY RATEPAYER BOARD**

C. Steven Rarrick #13127
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
(785) 271-3200
(785) 271-3116 Fax

comply with its obligations under the 1025 Stipulation. (Hearing Exh. 23, Stipulation and Agreement, pp. 9-10, ¶ B. 2).

4. CURB agrees, however, that KCPL is incorrect in asserting Staff never challenged the Regulatory plan. (Staff Brief, ¶ 11). Staff's decision to perform an extensive prudence review demonstrates that Staff challenged and questioned KCPL's performance under the Regulatory Plan. (Hearing Exh. 23, Appendix C., p. 8 of 9).

1. KCPL failed to seek explicit approval from the Commission before voluntarily incurring material capital investments or expenses beyond those contemplated by the 1025 Stipulation and the Resource Plan

5. CURB agrees with Staff that the Quarterly Reports were not intended to constitute approval by Staff or any other party. (Staff Brief, ¶ 13). In addition, the fact KCPL provided the quarterly reports as required by the 1025 Stipulation is irrelevant to the Commission's prudence determination on the Iatan projects.¹

6. CURB agrees with and adopts the arguments contained in ¶ 15 of Staff's Brief.

2. It was KCPL's duty to monitor the reasonableness or adequacy of the Resource Plan and KCPL failed to fulfill its duty

7. CURB agrees with and adopts the arguments contained in ¶¶ 16-24 of Staff's Brief with respect to KCPL's failure to monitor the reasonableness or adequacy of the Resource Plan and Staff's proper and timely challenge to the reasonableness and adequacy of the Resource Plan.

¹ KCPL Brief, ¶¶ 12-15.

II. ANALYSIS OF ISSUES IN THIS RATE CASE

A. FILED AND AMENDED POSITIONS OF PARTIES

8. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

B. PRUDENCE ANALYSIS

9. CURB agrees with and adopts the arguments contained in ¶¶ 27-36 of Staff's Brief regarding prudence analysis, with the exception that CURB asserts the original cost estimate for Iatan 2 was the estimate contained in the 1025 Stipulation.

1. The applicable prudence standard

10. CURB generally agrees with the arguments contained in ¶¶ 37-39 of Staff's Brief. However, CURB maintains there is disagreement among the parties regarding the applicable standards of prudence, specifically with respect to how the factors under K.S.A. 66-128g should be applied, and whether these factors alter the legal standard of prudence in Kansas. (CURB Brief, ¶ 54).

11. Empire has chosen to ignore the Commission's September 8, 2010 Order, which directed the parties not to brief the prudence legal standards enumerated at K.S.A. 66-128g(a)(1-12).²

² Order, September 8, 2010, ¶ 9, KCC Docket 10-KCPE-415-RTS.

2. Staff has demonstrated that KCPL's actions and decisions in the construction of Iatan Unit 2 were not prudent

12. CURB agrees with and adopts the arguments contained in ¶¶ 40-48 of Staff's Brief regarding how KCPL's actions and decisions in the construction of Iatan Unit 2 were not prudent.

3. Overview of the Iatan Unit 2 prudence disallowances proposed by Staff

(a) Staff has met its burden to prove imprudent actions and Staff's proposed Iatan Unit 2 disallowances should be accepted

13. CURB agrees with and adopts the arguments contained in ¶ 50-58 of Staff's Brief.

(i) Mr. Drabinski's analysis is based on the underlying data in the record and the proper analysis as required by Kansas law

14. CURB agrees with and adopts the arguments contained in ¶¶ 51-58 of Staff's Brief.

(ii) Mr. Drabinski's has accurately identified the applicable "Industry Standards" he relied upon as basis for his opinion

15. CURB agrees with and adopts the arguments contained in ¶¶ 60-64 of Staff's Brief.

(iii) Mr. Drabinski's proposed \$231 million disallowance analysis is a rational analysis that properly determines the additional costs caused by the imprudent actions of KCPL

16. CURB agrees with and adopts the arguments contained in ¶¶ 65-102 of Staff's Brief.

(iv) KCPL's experts failed to sufficiently demonstrate the alleged flaws in the analysis of Mr. Drabinski's proposed disallowance

17. CURB agrees with and adopts the arguments contained in ¶¶ 104-119 of Staff's Brief.

(v) Comparison to the Commission's analysis from the Wolf Creek case

18. CURB agrees with and adopts the arguments contained in ¶¶ 121-133 of Staff's Brief.

4. Mr. Drabinski's prudence review and disallowance recommendations testimony are relevant and persuasive

19. CURB agrees with and adopts the arguments contained in ¶¶ 134-206 of Staff's Brief.

20. While Staff takes the position that the January 2006 estimate of \$1.343 billion (total plant) is the estimate against which the Iatan 2 project costs are to be compared, Staff notes that it would be reasonable to use the 1025 Stipulation cost estimates as the basis for the Iatan 2 cost comparisons. In support of this conclusion, Staff cites the following reasons:

- The 1025 Stipulation cost estimates were mentioned in KCPL's press releases and press filings.
- KCPL never sought formal recognition of a different cost estimate with the Commission. (Staff Brief, ¶ 138).

21. Numerous other reasons why it is reasonable to use the 1025 Stipulation cost estimates as the original cost estimate are cited in CURB's initial Brief at paragraphs 34-39, 41, 67-87, and 89-100.

5. Dr. Glass's proposed exclusion of expenses from revenue requirement based on off-system sales margins should be adopted

22. CURB supports the adjustment made by Staff witness Dr. Robert Glass excluding expenses from revenue requirement based on off-system sales margins for the reasons set forth in Dr. Glass's testimony. As a result, CURB agrees with and adopts the arguments contained in ¶¶ 208-224 of Staff's Brief and opposes the position set forth in KCPL's Brief, paragraphs 207-224.

6. CURB's proposed disallowance is based on substantial competent evidence and K.S.A. 66-128g (4), and is further supported by Staff's prudence review

23. Please see CURB's discussion of the application of K.S.A. 66-128g, Factor 4, in Argument II B 7 (d), below.

7. Application of the K.S.A. 66-128g factors demonstrates that KCPL did not act prudently

24. CURB will only respond to factors 1, 4-6, and 8-12 under K.S.A. 66-128g below.

(a) Factor 1. A comparison of the existing rates of the utility with rates that would result if the entire cost of the facility were included in the rate base for that facility

25. While Dr. Glass testified that he relied upon the \$54 million gross revenue requirement impact calculated by KCPL witness Chris Giles, he failed to acknowledge that \$54 million figure is understated. It has been reduced by \$20.3 million for amount being collected related to PTPP (see response to CURB-108), which is a voluntary prepayment on plan being made by ratepayers, and which has improperly been included in the calculation. Mr. Giles shows the termination of the annual PTPP surcharge as a cost reduction. While it is true that this surcharge will cease when new rates go into effect, the termination of this surcharge does not

result in a net savings to ratepayers over what rates would have been had the Iatan 2 plant not been built. Also, the net cost of \$14 million depends on certain assumptions regarding fuel prices. Given the continued decline in gas prices referenced by Bob Glass, the Company is unlikely to “save” \$40 million of fuel costs.

(d) Factor 4. A comparison of the original cost estimates made by the owners of the facility under consideration with the final cost of such facility

26. CURB isn't certain why Staff discusses Dr. Glass's calculation of the initial average rate or the change in base revenue with regard to factor 4, which involves a comparison of the original cost estimates made by the owners of the facility under construction with the final cost of the facility. CURB believes the arguments contained in CURB's Post Hearing Brief, Section II. 3 and 5 provide the Commission with substantial competent evidence to support CURB's prudence disallowance based on Factor 4.³

27. The Company provided the original cost estimates in the 1025 docket to obtain regulatory approval for the Company's regulatory plan (including the construction of Iatan 2), to obtain air permits for Iatan 2, and to get the joint owner agreements for Iatan 2 finalized. (Tr. Vol. 5, p. 1101, lines 6-25). This original cost estimate constituted the Company's 5-year budget of 2004 (Tr. Vol. 2, p. 419, lines 22-25), was specified in the Company's 2005 10-K (Hearing Exhibit 53, pp. 16, 68 of 214), and contained a 95 percent confidence level with an 8 percent or \$85 million contingency. (Tr. Vol. 6, p. 1333, lines 4-23; Tr. Vol. 11, p. 2505, lines 21-25; p. 2506, lines 1-20).

³ CURB's Post-Hearing Brief incorrectly referenced Section II. 4, instead of Section II, 3 and 5.

28. The cost estimates contained in the 1025 Stipulation were the 2004 budgeted amounts for the Company, and the Company should be held accountable for the original cost estimates are required by Factor 4 in K.S.A. 55-128g. Not only did the Company allow substantial cost overruns that substantially exceeded those original cost estimates, but the Company ultimately received 35 less MW of generation, or 465 MW rather than the 500 MW share represented in the original cost estimates and the 1025 Stipulation. The Regulatory Plan envisioned that KCPL would acquire 500 MWs of generation, or 62.5% based on an 800 MW facility. However, KCPL actually owns 54.7% of Iatan Unit 2, or 465 MWs. Thus, Kansas ratepayers are not only paying more, but they are paying more for less capacity. (Crane D., p. 37, lines 9-16).

29. KCPL made specific representations about the costs of each project in the Regulatory Plan, which are referenced in Appendix A and specified in Appendix D of the 1025 Stipulation. (Hearing Exh. 23, 1025 Stipulation, Appendix A, p. 1, Appendix D).

30. The Commission relied upon the original cost estimate for Iatan 2 in approving the 1025 Stipulation. (Hearing Exh. 24, Order Approving the Stipulation and Agreement, KCC Docket No. 04-KCPE-1025-GIE, August 5, 2005, ¶¶ 9, 11; Crane D., p. 34, lines 2-14).

31. Furthermore, KCPL was required to seek explicit approval from the Commission before incurring material capital investments or expenses beyond those contemplated by the 1025 Stipulation and the Resource Plan. (Hearing Exh. 23, 1025 Stipulation, pp. 9-10, ¶ B. 2). KCPL failed to seek explicit approval before incurring those material investment expenses, and should be held accountable for that failure.

32. KCPL, and its shareholders, should bear a portion of those cost overruns. The Company sought and entered into a regulatory compact through the Regulatory Plan. While the

scope of the final Iatan Unit 2 project changed, those scope changes were made by KCPL after the plan was approved based on the original cost estimates. As a result, the actual costs should still be compared with the original cost estimates reflected in the Regulatory Plan. The rates established over the past five years were based on the agreements contained in Regulatory Plan, so the costs in the Regulatory Plan should be the base against which actual costs are compared when determining if those cost overruns should be disallowed. (Crane D., p. 38, lines 7-19).

(e) Factor 5. The ability of the owners of the facility under consideration to sell on the competitive wholesale or other market electrical power generated by such facility if the rates for such power were determined by inclusion of the entire cost of the facility in the rate base

33. CURB agrees with and adopts the arguments contained in ¶¶ 208-224, 242 of Staff's Brief.

34. As confirmed by Staff witness Dr. Glass, KCPL claimed in the 1025 docket that off-system sales would help mitigate the costs of building Iatan 2. However, market fluctuations for natural gas prices have reduced the value of electricity on the wholesale market. (Tr. Vol. 8, pp. 1652-1653). Those market fluctuations have made KCPL's claimed mitigation much less likely, with the resulting risk placed entirely on ratepayers, with absolutely no risk to shareholders. KCPL pursued approval of the regulatory plan by emphasizing mitigation of the costs of building Iatan 2 with projections for off-system sales. This is why Dr. Glass proposes a one-time reduction in KCPL's operating expense of \$6 million. (Tr. Vol. 8, p. 1682).

35. Lower off-system sales margins than those represented by the Company in the 1025 docket are no different than capital cost overruns. Both directly impact the bottom line cost

to ratepayers. It is entirely appropriate, therefore, to require shareholders to absorb certain costs because off-system sales are less than projected, given the commitments in the Regulatory Plan.

(f) Factor 6. A comparison of any overruns in the construction cost of the facility under consideration with any cost overruns of any other electric generating facility constructed within a reasonable time before or after construction of the facility under consideration

36. CURB agrees with and adopts the arguments contained in ¶ 244 of Staff's Brief, with the exception that CURB believes the "original cost estimate" is the cost estimate contained in the 1025 Stipulation (CURB Brief, ¶¶ 33-39, 67-100).

(h) Factor 8. Inappropriate or poor management decisions in construction or operation of the facility being considered

37. CURB agrees with and adopts the arguments contained in ¶¶ 246-247 of Staff's Brief.

38. This factor forms the basis for much of Staff's disallowance. Moreover, inappropriate or poor management decisions are likely to have contributed to the cost overruns that form the basis for CURB's recommended disallowance as well.

(i) Factor 9. Whether inclusion of all or any part of the cost of construction of the facility under consideration, and the resulting rates of the utility therefrom, would have an adverse economic impact upon the people of Kansas

39. While Staff noted that Dr. Glass did indicate that the cost of Iatan 2 could have an effect on specific industries or specific companies in Johnson County (Tr. Vol. 8, p. 1651-52), Iatan 2 has already had a negative economic impact on Kansas ratepayers. Because of the need to finance Iatan 2, the KCC Staff and other parties entered into a Regulatory Plan that resulted in

annual cost increases to Kansas ratepayers, and over \$77 million in prepayment on plant not yet placed in service. In fact, it is unlikely that a Regulatory Plan would have been sought or approved in the absence of Iatan 2.

(j) Factor 10. Whether the utility acted in the general public interest in management decisions in the acquisition, construction or operation of the facility

40. CURB agrees with and adopts the arguments contained in ¶¶ 251-255 of Staff's Brief.

41. Moreover, this factor is closely tied to Factor 8. The company made specific representations to ratepayer groups, parties, and the Commissioners in the 1025 docket about both the costs for the regulatory projects and the projected rate increases that would result from those regulatory projects. Those representations were relied upon by the parties and the Commissioners in the 1025 docket, in imposing specific obligations on ratepayers such as the annual rate cases (and increases), the prepayment on plant not yet placed in service, etc. Now, the Company says those representations relied upon by the Commission meant nothing (could have been a "banana"). Certainly, binding ratepayers to a regulatory plan based on cost estimates the Company now disavows is not in the public interest. If the cost estimates provided in the 1025 docket were "conceptual" only, the Company had the obligation to tell the stakeholders, parties, and the Commission of that material fact.

(k) Factor 11. Whether the utility accepted risks in the construction of the facility which were inappropriate to the general public interest to Kansas

42. CURB agrees with and adopts the arguments contained in ¶¶ 256-258 of Staff's Brief.

43. This is in addition to CURB's argument that by not seeking explicit approval (Hearing Exh. 24, 1025 Order; Hearing Exh. 23, 1025 Stipulation, at p. 9, Section B.2) for the material costs overruns of Iatan 2 as required by the 1025 Stipulation and Order, KCPL accepted the cost overrun risks.⁴ By accepting those inappropriate risks without seeking explicit approval from the Commission, the Company exposed ratepayers to those inappropriate risks, which is not in the general public interest. Thus, this factor requires that the Company's shareholders be held accountable and responsible for at least a portion of the resulting cost overruns.

(I) Factor 12. Any other fact, factor or relationship which may indicate prudence or lack thereof as that term is commonly used

44. CURB agrees with and adopts the arguments contained in ¶ 259 of Staff's Brief.

45. The record has extensive examples of facts, factors, and relationships that indicate a lack of prudence on the part of the Company. A short list would include, but is not limited to:

- Providing the cost estimates in the 1025 docket based on an extensive Project Definition Report and later disavowing the accuracy of those cost estimates;
- Representing projected rate increases of 15-20% over the five year regulatory plan in the 1025 docket but failing to contain costs to stay within the projected rate increases;
- Retaining a law firm to advise the Company on the regulatory construction projects, thereby concealing from the public much of the advice received from the law firm;
- Paying that law firm over \$20 million during the construction process; and
- Failing to seek explicit approval from the Commission before incurring the substantially increased capital costs for Iatan 2, as required by the Regulatory Plan.

⁴ CURB Brief, ¶ 111.

8. Staff's proposed disallowance for Iatan Unit 1

46. CURB agrees with and adopts the arguments contained in ¶¶ 260-267 of Staff's Brief.

9. Conclusion

47. CURB agrees with and adopts the arguments contained in ¶¶ 268-275 of Staff's Brief.

C. REVENUE REQUIREMENT - RATE OF RETURN ISSUES

1. The Commission is required to set a rate of return that will result in "just and reasonable" rates

48. CURB's recommendation on return on equity conforms to the *Hope* and *Bluefield* standards.

2. CURB's recommended ROE conforms to the applicable standards for just and reasonable rates

49. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

3. The Commission should exclude KCPL's equity-linked convertible debt units from the Company's capital structure

50. CURB agrees with and adopts the arguments contained in ¶¶ 311, and 314-321 of Staff's Brief.

D. REVENUE REQUIREMENT - INCOME STATEMENT ISSUES

1. Known and Measurable Requirement

51. CURB agrees with and adopts the arguments contained in ¶¶ 222-324 of Staff's Brief.

2. KCPL's proposed capitalization rate (payroll and various other benefits)

52. CURB takes no position on this issue.

3. CURB's adjustment to KCPL's incentive compensation for non-executives is reasonable and should be accepted by the Commission

53. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

4. CURB's adjustment to KCPL's incentive compensation for executives is reasonable and should be accepted by the Commission

54. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

5. KCPL's proposed generation/production maintenance expense is unreasonable

55. CURB agrees with Staff that KCPL has failed to validate the reasonableness of the Handy-Whitman Index for the first two years of the seven-year period it proposes (Staff Brief, ¶¶ 353-54). However, CURB contends that the Company has failed to demonstrate that the Handy Whitman Index is a reasonable indicator of generation/production costs for any of the years in question. (Crane, D., p. 8, lines 11-13, p. 9, lines 1-9). No special studies or analyses are

required in order to demonstrate that historic costs HAVE NOT trended with the Handy Whitman Index. While unit costs may increase from year-to-year, overall costs have not followed the trends predicted by the Handy Whitman Index. Accordingly, the KCC should reject the use of the Handy Whitman Index and instead adopt the test year level of generation/production costs, which is reasonable given actual historic costs over the past seven years. (Crane D., p. 81, lines 17-21, p. 82, lines 1-9).

6. KCPL's proposed distribution maintenance expense adjustment is unreasonable

56. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

7. KCPL's budgeted Iatan Unit 2 O&M expense is unreasonable

57. CURB agrees with and adopts the arguments contained in ¶¶ 360-362 of Staff's Brief.

8. Staff's proposed disallowance of Iatan Common O&M expense is reasonable and supported by substantial competent evidence

58. CURB agrees with and adopts the arguments contained in ¶¶ 363-368 of Staff's Brief.

9. KCPL's proposed SO₂ emission allowances amortization period is not reasonable or supported by substantial competent evidence

59. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

10. KCPL's SERP benefits should be the responsibility of shareholders, not ratepayers

60. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

11. KCPL's proposed pension funding status adjustment is unreasonable and should be denied

61. CURB agrees with and adopts the arguments contained in ¶¶ 386-394 of Staff's Brief.

12. The Company's projected claims for other benefits are based on budgeted amounts, are speculative, and do not represent known and measurable changes to the test year

62. The arguments contained in ¶¶ 386-394 of Staff's Brief support CURB's recommendation to disallow the Company's other benefits claim based on budgeted 2010 amounts. Since the Company is largely self-insured, the projected costs included in KCPL's claim are speculative and do not represent known and measurable changes to the test year. As a result, the KCC should utilize the actual test year costs to determine pro forma Other Benefits Expense costs in this case. CURB's adjustment would result a reduction in operating expense of \$1,444,857, as reflected at Schedule ACC-27. This adjustment reflects the actual test year costs for Other Benefits Expense. (Crane D., p. 72, lines 1-8).

13. KCPL's property tax expense should be based upon the actual 2009 expense

63. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

14. Staff's depreciation study adjustment should be adopted

64. CURB agrees with and adopts the arguments contained in ¶¶ 406-425, and pages 105-126 of Staff's Brief.

15. Rate Case Expense

(a) Staff's amortization argument is supported by substantial competent evidence and should be adopted

65. CURB agrees with and adopts the arguments contained in ¶¶ 426-429 of Staff's Brief.

(b) CURB's proposed disallowances for rate case expense are reasonable and should be adopted

66. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

16. KCPL's use of a 30-year average is appropriate

67. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors except to reiterate the comments made in its Initial Brief that the KCC should reject Staff's 10-year period for normalizing weather. Instead, the KCC should continue its policy of utilizing 30-year weather as recommended by CURB and the Company.

17. KCPL's attempt to reduce the ratepayer benefit of the pre-tax payment on plant by deducting accumulated deferred income tax violates the agreement between the parties and should be rejected

68. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

E. CLASS COST OF SERVICE, RATE DESIGN AND OTHER ISSUES

1. KCPL's Environmental Cost Recovery ("ECR") Rider should not be approved

69. CURB agrees with and adopts the arguments contained in ¶¶ 457-470, 474-476 of Staff's Brief, pages 2-7 of MUUG's Brief, and ¶ 62 of the HISNC Brief.

2. KCPL's Class Cost of Service ("CCOS") Study

70. MUUG contends that the class cost-of-service studies sponsored by KCPL and Staff in this proceeding are flawed, and consequently such studies do not support significant changes in rate design. (MUUG Brief, pp. 7-11). In the absence of an adequate COSS, MUUG argues that an equal percentage increase should be assigned to all of KCPL's customer classes. (MUUG Brief at 11 & 12).

71. CURB supports KCPL's COSS. (CURB Brief at ¶ 265). However, CURB also supports the assignment of an equal percentage increase (or decrease) to all rate classes. (CURB Brief at ¶ 276). Assigning an across-the-board increase (or decrease) to all rate classes is not inconsistent with CURB's rate design proposals.

3. Rate Design

72. The Commission should adopt CURB's recommended rate design guidelines after first determining KCPL's overall revenue requirement and individual customer class revenue targets. (CURB Brief at ¶ 280.)

73. While MUUG opposes Staff's rate design and CCOS study, MUUG's Brief did not indicate any opposition to CURB's rate design proposals, which were based on KCPL's CCOS study. KGS likewise does not appear to oppose CURB's rate design.

4. KCPL's request to modify its off-system sales allocator should be denied

74. CURB agrees with and adopts the arguments contained in ¶¶ 510-521 of Staff's Brief, which are consistent with the arguments made in CURB's initial brief, ¶¶ 299-307.

5. KCPL's proposed ROE adder for inclining block rate structure is unnecessary, unreasonable, and not supported by substantial competent evidence

75. CURB agrees with and adopts the arguments contained in ¶¶ 522-524 of Staff's Brief, which are consistent with the arguments made in CURB's initial brief, ¶¶ 308-310.

6. International Dark Sky's Recommendations

76. CURB takes no position on this issue.

7. KCPL's uncontested street lighting and municipal traffic control tariffs

77. CURB takes no position on this issue.

8. KCPL's requested OPEB tracker and modifications should be denied

78. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

9. Abbreviated Rate Case

79. CURB has no further comment on this issue relating to the Post Hearing Briefs filed by Staff or other Intervenors.

10. Other specific actions requested in the Commission's September 8, 2010 Order

80. CURB has no further comment on this section relating to the Post Hearing Briefs filed by Staff or other Intervenors.

III. CONCLUSION

81. The Commission should grant Staff's full disallowances for Iatan 1 and 2, issue a rate decrease of approximately \$8.468 million, deny the Company's attempt to offset PTPP by \$25 million in accumulated deferred income taxes, adopt Staff's depreciation study adjustments, deny the Company's request for an environmental cost recovery rider, deny the Company's rate design proposals, adopt CURB's recommended rate design guidelines, and for such further relief as may be just and equitable.

Respectfully submitted,



C. Steven Rarrick #13127
Citizens' Utility Ratepayer Board
1500 SW Arrowhead Road
Topeka, KS 66604
(785) 271-3200
(785) 271-3116 Fax

CERTIFICATE OF SERVICE

10-KCPE-415-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, electronic service, or hand-delivered this 12th day of October, 2010, to the following:

* JAMES G. FLAHERTY, ATTORNEY
ANDERSON & BYRD, L.L.P.
216 SOUTH HICKORY
PO BOX 17
OTTAWA, KS 66067
Fax: 785-242-1279
jflaherty@andersonbyrd.com

JAMES R. WAERS, ATTORNEY
BLAKE & UHLIG PA
475 NEW BROTHERHOOD BLDG
753 STATE AVE., STE. 475
KANSAS CITY, KS 66101
Fax: 913-321-2396
jrw@blake-uhlig.com

JANE L. WILLIAMS, ATTORNEY
BLAKE & UHLIG PA
475 NEW BROTHERHOOD BLDG
753 STATE AVE., STE. 475
KANSAS CITY, KS 66101
Fax: 913-321-2396
jlw@blake-uhlig.com

* GLENDA CAFER, ATTORNEY
CAFER LAW OFFICE, L.L.C.
3321 SW 6TH STREET
TOPEKA, KS 66606
Fax: 785-271-9993
gcafer@sbcglobal.net

* BLAKE MERTENS
EMPIRE DISTRICT ELECTRIC COMPANY
602 S JOPLIN AVE (64801)
PO BOX 127
JOPLIN, MO 64802
Fax: 417-625-5169
bmertens@empiredistrict.com

* KELLY WALTERS, VICE PRESIDENT
EMPIRE DISTRICT ELECTRIC COMPANY
602 S JOPLIN AVE (64801)
PO BOX 127
JOPLIN, MO 64802
Fax: 417-625-5173
kwalters@empiredistrict.com

* C. EDWARD PETERSON, ATTORNEY
FINNEGAN CONRAD & PETERSON LC
1209 PENNTOWER OFFICE CENTER
3100 BROADWAY
KANSAS CITY, MO 64111
Fax: 816-756-0373
epeters@fcplaw.com

* DAVID WOODSMALL, ATTORNEY
FINNEGAN CONRAD & PETERSON LC
1209 PENNTOWER OFFICE CENTER
3100 BROADWAY
KANSAS CITY, MO 64111
Fax: 816-756-0373
dwoodsmall@fcplaw.com

DARRELL MCCUBBINS, BUSINESS MANAGER
IBEW LOCAL UNION NO. 1464
PO BOX 33443
KANSAS CITY, MO 64120
Fax: 816-483-4239
local1464@aol.com

JERRY ARCHER, BUSINESS MANAGER
IBEW LOCAL UNION NO. 1613
6900 EXECUTIVE DR
SUITE 180
KANSAS CITY, MO 64120
local1613@earthlink.net

BILL MCDANIEL, BUSINESS MANAGER
IBEW LOCAL UNION NO. 412
6200 CONNECTICUT
SUITE 105
KANSAS CITY, MO 64120
Fax: 816-231-5515
bmcdaniel412@msn.com

* LEO SMITH, BOARD OF DIRECTORS
INTERNATIONAL DARK SKY ASSOCIATION
1060 MAPLETON AVENUE
SUFFIELD, CT 06078
leo@smith.net

CERTIFICATE OF SERVICE

10-KCPE-415-RTS

* ROBERT WAGNER, PRESIDENT, BOARD OF DIRECTORS
INTERNATIONAL DARK SKY ASSOCIATION
9005 N CHATHAM AVENUE
KANSAS CITY, MO 64154
rwagner@eruces.com

* VICKIE SCHATZ, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PLACE
1200 MAIN STREET (64105)
P.O. BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2992
victoria.schatz@kcpl.com

* MARY TURNER, DIRECTOR, REGULATORY AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PLACE
1200 MAIN STREET (64105)
P.O. BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2110
mary.turner@kcpl.com

* PATRICK T SMITH, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
p.smith@kcc.ks.gov
**** Hand Deliver ****

* W. THOMAS STRATTON, JR., CHIEF LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
t.stratton@kcc.ks.gov
**** Hand Deliver ****

* WALKER HENDRIX, DIR, REG LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225-9835
Fax: 913-319-8622
whendrix@oneok.com

* CURTIS D. BLANC, SR. DIR. REG. AFFAIRS
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PLACE
1200 MAIN STREET (64105)
P.O. BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
curtis.blanc@kcpl.com

* ROGER W. STEINER, CORPORATE COUNSEL
KANSAS CITY POWER & LIGHT COMPANY
ONE KANSAS CITY PLACE
1200 MAIN STREET (64105)
P.O. BOX 418679
KANSAS CITY, MO 64141-9679
Fax: 816-556-2787
roger.steiner@kcpl.com

* DANA BRADBURY, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
d.bradbury@kcc.ks.gov
**** Hand Deliver ****

* MATTHEW SPURGIN, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
m.spurgin@kcc.ks.gov
**** Hand Deliver ****

* JOHN P. DECOURSEY, DIRECTOR, LAW
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225-9835
Fax: 913-319-8622
jdecoursey@kgas.com

* JO SMITH, SR OFFICE SPECIALIST
KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC.
7421 W 129TH STREET STE 300 (66213)
PO BOX 25957
SHAWNEE MISSION, KS 66225-9835
Fax: 913-319-8622
josmith@oneok.com

CERTIFICATE OF SERVICE

10-KCPE-415-RTS

* ANNE E. CALLENBACH, ATTORNEY
POL SINELLI SHUGHART
6201 COLLEGE BLVD
SUITE 500
OVERLAND PARK, KS 66211
Fax: 913-451-6205
acallenbach@polsinelli.com

* REID T. NELSON
REID T. NELSON
D/B/A ATTORNEY AT LAW
3021 W 26TH STREET
LAWRENCE, KS 66047
rnelson@sbids.state.ks.us

* FRANK A. CARO, JR., ATTORNEY
POL SINELLI SHUGHART
6201 COLLEGE BLVD
SUITE 500
OVERLAND PARK, KS 66211
Fax: 913-451-6205
fcaro@polsinelli.com

* JAMES P. ZAKOURA, ATTORNEY
SMITHYMAN & ZAKOURA, CHTD.
7400 W 110TH STREET
SUITE 750
OVERLAND PARK, KS 66210
Fax: 913-661-9863
jim@smizak-law.com



Della Smith

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