

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Petition of Kansas City)
Power & Light Company (“KCP&L”) for) Docket No. 11-KCPE-581-PRE
Determination of the Ratemaking Principles)
and Treatment that Will Apply to Recovery)
in Rates of the Cost to be Incurred by)
KCP&L for Certain Electric Generation)
Facilities Under K.S.A. 66-1239.)

Received
on

JUL 08 2011

by
State Corporation Commission
of Kansas

**RESPONSE AND OBJECTION TO
STAFF MOTION AND REQUEST FOR ORAL ARGUMENT**

COMES NOW, the Citizens’ Utility Ratepayer Board (CURB) and files its Response and Objection to the Staff of the State Corporation Commission (Staff) Motion and Request for Oral Argument.

1. On July 1, 2011 CURB filed its Motion to Compel or Strike Portions of Staff Testimony and Bates White Report (CURB Motion). At issue is the Staff’s refusal to provide CURB access to the underlying data in the Bates White report.

2. On July 7, 2011, at 9:53 a.m., seven minutes before the start of a schedule prehearing conference in this docket, CURB received an email with a link to Staff’s Response to Curb’s Motion to Compel or Strike Portions of Staff Testimony and Bates White Reports (Staff Response). CURB’s motion was to be taken up by the Prehearing Officer at the scheduled conference and oral argument was made at the conference. There is a record transcript of that argument and further oral argument is pointless and a waste of time. CURB also filed a written response to the Staff Response (CURB Response).

3. In its written response to CURB’s motion and in oral argument before the Prehearing

Officer, Staff made the argument it had not precluded CURB from obtaining the requested data since CURB was free to obtain the underlying data and modeling software by contracting with outside vendors. Further, Staff argued that it offered to run the scenarios requested by CURB and it was not Staff's fault that CURB doesn't have the resources to pay the \$26,000 quoted as the cost of providing the data. Staff is apparently playing the "we're sorry you don't have enough money to play on our playground" card, without acknowledging that Staff's deep pocketed resources come from the same consumer pockets as CURB. In responding to Staff's deep pockets argument, CURB reminded Staff that K.S.A 66-1222(d) requires the Kansas Corporation Commission (KCC) to provide CURB with assistance when requested, and that CURB believed assistance with the issue at hand was appropriate.

4. It is true that the regulatory framework in Kansas does not provide an exorbitant budget to CURB to carry out its statutory duties. The KCC is given far more resources, but also the obligation to assist CURB when requested. K.S.A. 66-1222(d) is clear and unambiguous, "the state corporation commission *shall* provide such technical and legal staff assistance as may be requested by the board in the administration of the provisions of this act" (*emphasis added*).

5. On July 8, 2011, at 12:08 CURB received an email with a link to Staff's Motion and Request for Oral Argument on CURB's Motion to Compel. (Request of Oral Argument)

6. Staff now argues in its current Request for Oral Argument that "K.S.A. 66-1222(d) was enacted at a time when CURB did not have its own technical staff and only applies to technical staff who are employees of the State of Kansas working exclusively for the Kansas Corporation Commission." There is no such restriction in the language of K.S.A. 66-1222(d) and staff does not provide any evidence or citation to support the contention that the aid to be provided under the

statute is restricted to employees of the State of Kansas working exclusively for the Kansas Corporation Commission.

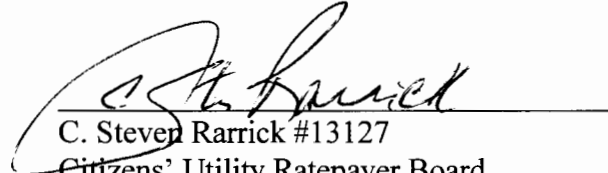
7. Staff further argues “the KCC is prohibited from expending budgetary funds for the support of CURB technical services in dockets by outside consultants.” Again, Staff presents an interesting notion with no evidence or citation as support. Based on these unsupported notions, Staff argues that CURB’s representation of K.S.A. 66-1222(d) is “improper and unduly burdensome”. CURB suggests that the plain language of K.S.A. 66-122(d) is not difficult to understand, and even if it places a burden on the KCC, that burden was one contemplated by the statutory framework that created CURB and required the KCC to provide aid when requested. It simply cannot be claimed that carrying out a simple and specific statutory directive is somehow unduly burdensome.

8. The real issue here, as presented in CURB’s motion to compel, as addressed in Staff’s Response to CURB, CURB’s Response to the Staff Response and in oral argument before the Prehearing Officer, is providing access to the underlying data used by Staff to support its case. There is no further need for oral argument beyond that already presented at the Prehearing Conference, nor any benefit at this point in devoting additional time or energy to the issues. As such, CURB objects to Staff request for further oral argument on this issue.

9. Regardless of the above and prior filings, Staff and CURB are continuing to work together to find reasonable solutions to the issues and challenges presented in this case, as both have always done in the past. CURB believes there is a basis for a reasonable compromise to the discovery dispute at hand and is continuing to work with Staff towards that end, but given the late hour feels compelled to file this Response to Staff Request for Oral Argument. CURB will notify the Commission if a compromise solution is attained.

WHEREFORE, CURB requests the Commission issue and order denying Staff request for further oral argument in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. Steven Rarrick", is written over a horizontal line.

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VERIFICATION

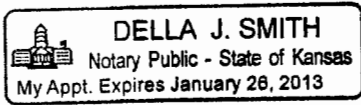
STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)


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 8th day of July, 2011.




Notary Public

My Commission expires: 01-26-2013.

CERTIFICATE OF SERVICE

11-KCPE-581-PRE

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 8th day of July, 2011, to the following:

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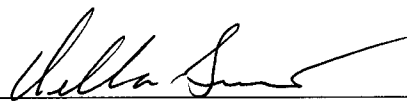
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A handwritten signature in black ink, appearing to read "Della Smith", written over a horizontal line.

Della Smith
Administrative Specialist