

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

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

In the Matter of the Future Supply)
Delivery and Pricing of the Electric) Docket: 04-KCPE-1025-GIE
Service Provided by Kansas City)
Power & Light)
_____)

*DOUBLE SPACE
*NUMBER
PARAGRAPHS
OR LINES

PETITION TO INTERVENE

Comes Now Your Name on behalf of Kansas City Power & Light [KCP&L] Ratepayers, Westar Ratepayers, and on behalf of the *sovereignty, health and welfare of all citizens in the State of Kansas, the Midwest region, and the United States of America*, with our Petition to Intervene in the above-captioned matter made known to us on Date Became Aware of KCP&L Proceeding with reliance on the Kansas Constitution in its entirety and specifically Article 1 § 3 vests the power of the state in the Governor, Governor Sebelius’s Executive Order 04-05 Mandate for 1,000 MWp Renewables by 2015, Kansas Statutes Annotated [K.S.A.], the Kansas Administrative Regulations [K.A.R.] and specifically K.A.R. 82-1-221 *Late intervention exceptions allowed . . . for good cause.* K.A.R. 2004 Supp. 82-1-225 (b) *Intervention allowed at any time . . . in the interests of justice and will not impair the orderly conduct of the proceedings.* K.A.R. 82-230 (f) *further evidence*, K.A.R. 82-230 (g) *Late-filed exhibits.*, K.A.R. 74-4317 et seq. First Sunshine Laws ~ Kansas Open Meetings Law - Lack of Notice to Ratepayers of Right to Intervene in Proceeding, Federal Reserve Board’s Truth in Lending Regulations 12 C.F.R. Part 12 Part 226 Reg.Z, 15 U.S.C.A. § 1601 et seq. Federal Consumer Credit Protection Act [CCPA], Kansas Banking Law Book and 1999 Session Laws of Kansas, K.A.R. 75-6-1 Article 6 Uniform Consumer Credit Code, U.S. 42 U.S.C. § 1983, 1985(2), 1985(3) *Public Health and Welfare*, and specifically Section 7470 *clean air resources, source in other state, (5) only after careful evaluation of all consequences of and procedural opportunities for informed public participation in decision-making*, the Kansas Constitution, the Missouri Constitution and the United States Constitution in their entirety and as specified herein and further clarified in the Solar Development Cooperative’s *Petition to Reconsider* filed July 21, 2005. YOUR NAME states and affirms right to Intervene herein as follows:

Without Consumer Intervention to RESCIND Kansas City Power & Lights Stipulation and Agreement, there is a 75-98% Chance Commission would Approve this unethical agreement based on material misrepresentations on behalf of KCP&L related to solar energy as an electricity generation choice to meet *peak air conditioning demand*. On page 16 and 17 of John Grimwade’s direct testimony on behalf of Kansas City Power & Light he claims distributed or self-generation [DG] technology could not support the 431 MWp *peak air conditioning demand the billion coal plant is being proposed for*. He further states on page 13 that with increased air pollution laws and the passage of imposed mandates for renewable energy that the 100 MWp wind resource balances the portfolio. Although, he talks about the limited demand-side management measures of the S&A portfolio, including some transmission distribution [T&D] management measures, there are no T&D for the integration of demand-side electricity generators like reverse meters for *bulding-integrated photovoltaics [BI-PV]*. While he admits that coal has high installation costs and pollution problems, he insists that solar energy is not affordable because of *high installation costs and fraudulently claims* Kansas climate is not appropriate for competitive solar energy on page 17.

KCP&L’s advertising brochure 530-0510-05 Exhibit B of SDC/Smith’s *Petition to Reconsider* has two misleading statements in violation of Kansas truth in lending laws where they state that there would be a 3-4% *increase annually over implying that would include 2005 and 2006, but it does not clarify that this would be over five years totaling a 20% Increase in Ratepayer Bills for the deployment of unwanted and unneeded polluting COAL-FIRED PLANT!* Where consumers were not appropriately notified of the evidentiary hearing schedule in the brochure which was scheduled May 3, 2005, but were mislead into thinking they could only participate via a

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public hearing sometime in the future, KCP&L are in gross violation of Sunshine Laws or Kansas Open Meetings Act [KOMA] K.A.R. 74-4317 et seq. Appellant cannot produce part of evidence before administrative agency and then produce the balance upon judicial review. *Rickard v. Fundenberger*, 1 Kan App.2d 2, 223, 563 P.2d 1069 (1977) See also *Fischer v. State Dept. Of Social and Rehabilitation Services*, 271 Kann. 167, 21 P.3d 509 (2001) Appeal made from *evidentiary record only*. *Proceeding records and exhibits including public testimony must be brought in as evidence.*

The unprecedented demand by KCP&L to make *Ratepayers* the prime coal plant Financier *should* have issued red flags for the Commission about the risk of the proposed project where KCP&L could not gain regular open market financing. However, instead we find KCC staff have mislead and encouraged *Kansas Hospitals Association* [KHA] into being one of two signatories for KCP&L's questionable *Stipulation and Agreement*. *'My, what big teeth you have doctor . . .'* The further shocking challenge for unaware ratepayers is the *Contribution in Aid of Construction* [CIAC] financial mechanism that legally requires the Commission to provide KCP&L *cash Infusions upon request* via Ratepayers to protect KCP&L's credit for any reason. *The limits and range for basis for cash infusions to KCP&L non-performance are not stated. This sets a highly illegal and unconstitutional precedent allowing utilities to use Ratepayers to fund very risky remote-site power plant projects. The CIAC Mechanism provides no motivation for KCP&L to perform in a market that is increasingly hostile for impractical polluting coal plants.* This would provide Precedent for KCC to approve Westar Coal Plan where consumers do not intervene.

If either of these two coal plants are approved, it will render Governor Sebelius's mandate for 1,000 MWp renewables by 2015 mere words on a page. The Kansas Solar Electric Co~operatives being developed by the Solar Development Cooperative will provide Kansas consumers and citizens over 200 jobs in solar energy and 10 MWp BI-PV installed solar capacity in 100 of the 105 counties of Kansas by 2016. It does not require an increase in electric rates except the need to expand KCP&L and Westar's T&D services for demand-side interconnection and reverse metering.

Per the fraud committed by KCP&L's direct testimony of John Grimwade related to solar energy and DG as a viable and preferred electricity generation choice and KCP&L's objection to the Solar Development Cooperative's informative Petition to Intervene I violation of their S&A, we pray the Commission allow our Petition to Intervene in order to testify on the evidentiary record to rescind KCP&L's Stipulation and Agreement and in support of 1,000 MWp solar BI-PV electricity by 2015 in lieu of the KCP&L and Westar coal plant proposals to meet Governor Sebelius mandate for 1,000 MWp renewables in Kansas by 2015. We urge the Commission to refuse to fund the two coal projects, and to use Kansas resources and authority to stop construction of these unwanted and unneeded coal plants that would increase air pollution and hazardous wastes not only for Midwest, but along air currents that take pollution around the world.

Your signature is followed by a notarized Verification . Click on any file on the KCC website <http://www.kcc.state.ks.us/docket/cal.cgi> . Go to the end of the document to see notarized Verification. Just write it or ask someone to print one for you if you don't use Internet. Then, go to service list at link here. <http://www.kcc.state.ks.us/docket/cal.cgi?service=04-KCPE-1025-GIE>
Then, write a brief Certificate of Delivery as shown at the end of every document filed on the website for this proceeding and copy in the service list and sign. Then deliver to:
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BE SURE HAVE TEN 10 COPIES WHEN YOU GO TO FILE

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