

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 5<sup>th</sup> day of  
September, 2006.

In the Matter of the Application of Kansas City	)	
Power & Light Company for Approval to Make	)	<b><u>Case No. ER-2006-0314</u></b>
Certain Changes in Its Charges for Electric	)	Tariff No. YE-2006-0594
Service to Begin the Implementation of Its	)	
Regulatory Plan.	)	

**ORDER DISMISSING WAL-MART STORES EAST, L.P.**

Issue Date: September 5, 2006

Effective Date: September 15, 2006

On February 1, 2006, Kansas City Power & Light Company submitted to the Commission proposed tariff sheets intended to implement a general rate increase for electrical service provided in its Missouri service area. The Commission issued an Order and Notice on February 3, in which it gave interested parties until February 23 to request intervention.

On July 3, 2006, Wal-Mart Stores East, L.P., filed a Motion for Leave to File Application to Intervene Out of Time. Wal-Mart stated that it did not file for intervention earlier because it “needed time to review the filing and analyze its business interests as they relate to the proceeding.” Because no party objected, the Commission granted Wal-Mart’s motion on July 17.

Section 386.490.3, RSMo 2000, states that Commission orders shall continue in force until changed or abrogated by the Commission. Upon its own motion, the Commission will reconsider Wal-Mart’s motion in light of Commission Rule 4 CSR 240-2.075(5), which allows the Commission to grant late-filed applications to intervene upon good cause.

The Commission concludes that Wal-Mart failed to state good cause in its July 3 motion, and will therefore abrogate its July 17 order granting Wal-Mart intervention. Wal-Mart does not give sufficient reason for its need to take from the February 23 intervention deadline until July 3 to “review the filing and analyze its business interests as they relate to the proceeding.” Such a cursory and generic explanation for being over four months late to request intervention does not rise to the level of good cause.

Also, the Commission notes that the Report and Order in Case No. EO-2005-0329 approved a Stipulation and Agreement that permits KCPL to file another rate case as soon as February 1, 2007. Wal-Mart will be free to apply to intervene in a KCPL rate case as soon as next February. The ability of Wal-Mart to intervene in a rate case in just a few months is another reason that good cause does not exist to allow Wal-Mart to intervene so late in the day in the current rate case.

**IT IS ORDERED THAT:**

1. The Commission’s July 17, 2006 Order Granting Intervention to Wal-Mart Stores East, L.P. is abrogated, and no longer in effect.
2. Wal-Mart Stores East, L.P., is dismissed from this case.
3. This order shall become effective on September 15, 2006.

( S E A L )

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

Davis, Chm., Murray and Appling, CC., concur.  
Gaw and Clayton, CC., dissent.

Pridgin, Senior Regulatory Law Judge