

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 24th day  
of October, 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 DENYING MOTION FOR LEAVE  
TO DEPART FROM LIST OF WITNESSES**

Issue Date: October 24, 2006

Effective Date: October 24, 2006

On October 18, 2006, W. Bill Dias filed a Motion for Leave to Depart from List of Witness (sic). He asks that the Commission deviate from the parties' witness list, filed on October 6, and require two KCPL employees who are not on the List of Witnesses, and who have not filed testimony, to testify on October 27.<sup>1</sup>

KCPL responded on October 20, objecting to the motion. KCPL states that the witness scheduled to testify on October 27 on customer relations, Sue Nathan, is the proper witness to cover energy conservation, whereas the other "issues" Mr. Dias wishes to cover, payment plans, pay agent/pay station efforts, credit card payment status, and credit agency reporting, have nothing to do with energy conservation.

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<sup>1</sup> According to KCPL, one of these people, Cory Sullivan, is no longer a KCPL employee.

Also, KCPL points out that neither of the two people Mr. Dias wants to testify has filed testimony, and that the purpose of Commission evidentiary hearings is to cross-examine witnesses who have filed testimony. Finally, in response to Mr. Dias' assertion that the witnesses he wants will provide "direct testimony on KCPL's outreach to the community that no other KCPL witnesses can provide," KCPL points out that its witness John Marshall already addressed KCPL's community outreach programs on October 17.<sup>2</sup>

The Commission will deny Mr. Dias' motion. Commission Rule 4 CSR 240-2.080(15) gives parties ten days to respond to pleadings. Mr. Dias did not respond to the List of Witnesses that was filed on October 6 until October 18, after the ten-day deadline. His motion is, therefore, untimely.

What is more, this failure to timely respond is particularly important because the hearing **actually began** on the tenth and final day to respond to the List of Witnesses, which was October 16. Mr. Dias was even in the hearing room on that day and voiced no opposition to the witness list. To expect sixteen other parties to suddenly adapt to Mr. Dias' request, which was made near the mid-point of the hearing, to possibly conduct discovery and to prepare for witnesses who have not even filed testimony, is unfairly prejudicial to them.

Also, Mr. Dias stated that it was his understanding that KCPL witness Sue Nathan would be able to answer his questions, but that on October 16 "it became clear" that Cory Sullivan and Lori Shaffer were the KCPL witnesses that he wants. He does not describe the source of his clarity, and the Commission is unsure what was unclear

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<sup>2</sup> Mr. Marshall was listed on the October 6 List of Witnesses as being available on October 17. Despite Mr. Marshall being named in some of Mr. Dias' marked exhibits, Mr. Dias failed to appear and cross-examine Mr. Marshall on October 17.

about Ms. Nathan's prefiled direct testimony, filed on February 1, or her surrebuttal testimony, filed on October 6, which was largely to respond to Mr. Dias' August 24 local public hearing testimony.

Mr. Dias filed a late motion to intervene, which the Commission granted on September 19, 2006; the Commission, however, cannot extend the quickly-approaching January 1, 2007 operation-of-law date to accommodate his desired schedule change. Any lack of clarity about Ms. Nathan's testimony should have been addressed long ago.

**IT IS ORDERED THAT:**

1. The Motion for Leave to Depart From List of Witness (sic) filed by W. Bill Dias is denied.
2. This order shall become effective on October 24, 2006.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

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

Pridgin, Senior Regulatory Law Judge