

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

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

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	<u>Case No. ER-2006-0314</u>
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 FILE APPLICATION
TO INTERVENE OUT OF TIME OF W. BILL DIAS,
NATURAL PERSON, AND W. BILL DIAS D/B/A
1.PAYSTATION.COM, AND DENYING INTERVENTION**

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 August 1, 2006, over five months past the intervention deadline, W. Bill Dias filed a Motion for Leave to File Application to Intervene Out of Time of W. Bill Dias, Natural Person, and W. Bill Dias d/b/a 1.paystation.com. In his application, Mr. Dias states that he and KCPL executed a Memorandum of Understanding on February 12, 2001, but did not include the memorandum with his application.

Mr. Dias' explanation for his late-filed application is that the information causing him to wish to intervene only became known on July 12, 2006. That was the date that he claims that he met with KCPL to discuss a revised Memorandum of Understanding dealing with the establishment of a third-party payment agent willing to partner with the Baptist Ministers Union of Kansas City, Missouri, to create an on-time bill payment program, to promote delayed due dates that correspond to their customers pay period, and to provide energy conservation and weatherization for any person that was able to maintain on-time bill payment in the urban community. In an August 21 pleading, Mr. Dias states that the bill payment portion of the Memorandum of Understanding was missing from KCPL's February 1, 2006 tariff filing.

Although KCPL's Stipulation and Agreement in its Experimental Regulatory Plan case,¹ and its tariffs in this case, are and always have been public documents, Mr. Dias alleges that KCPL concealed the details of its demand response, efficiency and affordability programs from the public. He further claims that the rate increase KCPL seeks would "grant an undue or unreasonable preference, advantage, prejudice and/or would disadvantage the customers living in the Urban Core and enrich KCPL on the backs of the its (sic) customers living and working in the Urban Core."² In his request for relief, Mr. Dias asks that the Commission order, among other things, that KCPL must partner with UMKC and Mr. Dias to build a charter school, that KCPL must guarantee that 30% of all contracts and purchases for the Iatan 2 project be awarded to minority owned firms, and that KCPL must guarantee that 30% of its workforce will be minority.

¹ Case No. EO-2005-0329

² Dias application, ¶ 21.

KCPL objects, stating that the Commission has no statutory authority to grant the relief that Mr. Dias requests. Further, KCPL argues that Mr. Dias' interest is not different from that of the general public, and that the Office of the Public Counsel already represents the interests that Mr. Dias seeks to represent. Finally, KCPL states that allowing Mr. Dias to intervene at such a late date, after the parties have filed direct testimony, would prejudice KCPL and other parties as well.

Staff states that in light of the Commission's granting Wal-Mart Stores East, L.P., late-filed intervention in July, that Mr. Dias has met the same standard Wal-Mart met, and has shown good cause. Staff states that Mr. Dias has shown that his interests are different from those of the general public, and does not oppose his intervention, subject to the requirement that Mr. Dias testify live at an August 24 local public hearing concerning revenue requirement, and that he stand cross-examination at the evidentiary hearing. Mr. Dias stated that he wished to call five of his own witnesses, as well as six KCPL witnesses, at the August 24 local public hearing set for noon.

Discussion

Commission Rule 4 CSR 240-2.075(4) allows the Commission to grant intervention to a person who has an interest different from that of the general public and which may be adversely affected by a final order arising from the case, or if granting intervention would serve the public interest. Commission Rule 4 CSR 240-2.075(5) allows the Commission to grant late-filed applications to intervene upon good cause. Commission Rule 4 CSR 240-2.040(5) allows non-attorneys to represent only themselves.

Relying upon the above-cited rules, the Commission will deny Mr. Dias' late-filed application to intervene. Before even reaching the substance of Mr. Dias' application, the

Commission must find that Mr. Dias has shown good cause for leave to file his late-filed application. The Commission concludes that he has not done so.

As Mr. Dias stated himself, KCPL's tariff about which he complains was filed on February 1, 2006.³ That tariff has always been a public document. Yet, even after Mr. Dias' July 12 meeting with KCPL during which Mr. Dias claims he received information causing him to want to intervene, he waited another twenty days, until August 1, to ask leave to intervene. Contrasted with Wal-Mart's uncontested late-filed application⁴, which was signed by an attorney and claimed that Wal-Mart had unique interests regarding rate design, cost of service, and revenue recovery, Mr. Dias cannot represent anyone but himself, and his requests for the Commission to order KCPL to do such things as partner with him to build a charter school and to have minority quotas of contractors and employees is beyond the scope of this case, as well as beyond Mr. Dias' ability to represent others without a license to practice law in Missouri. What is more, representing this "urban core" that Mr. Dias purports to represent is precisely the job of the Office of the Public Counsel, which is obligated to represent the public at large. As such, Mr. Dias fails to show that his interests are different from those of the general public.

Mr. Dias testified at one of the August 24 local public hearing, and submitted his February 12, 2001 Memorandum of Understanding and an unsigned Memorandum of Understanding dated June 5, 2006 at that hearing. The Commission reviewed the 2001 memorandum, which involved a six-month pilot program for on-line bill payment. The Commission does not see how an on-line bill payment program that expired approximately

³ Dias application, ¶ 6.

⁴ Because Wal-Mart's application was also late-filed, the Commission will consider dismissing Wal-Mart from this case.

five years ago is pertinent to the present rate case. Further, KCPL has not signed Mr. Dias' more comprehensive 2006 revised memorandum.

Even if, however, Mr. Dias had shown good cause, he fails to show how he may be adversely affected by a final order arising from the case. His desire for an on-line bill payment program to assist the urban core, a charter school, and minority quotas of KCPL employees and contractors may be perfectly noble goals. However, the Commission does not have the authority to order such sweeping social changes.

As is his right, Mr. Dias testified at an August 24 local public hearing. He also is free to file public comments, to ask leave to file a brief as an *amicus curiae*, or to file a separate complaint against KCPL regarding these memoranda. He has not, however, shown good cause to intervene at such a late date.

IT IS ORDERED THAT:

1. The Motion for Leave to File Application to Intervene Out of Time of W. Bill Dias, Natural Person, and W. Bill Dias d/b/a 1.paystation.com is denied.
2. 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