

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	
Certain Changes in its Charges for Electric)	Case No. ER-2006-0314
Service to Begin the Implementation of its)	
Regulatory Plan)	

CITY OF KANSAS CITY’S POST HEARING BRIEF

The City of Kansas City (the “City”) appeared in this proceeding to highlight the weatherization program for the Commission, a topic that had been introduced by the direct testimony of Susan K. Nathan on behalf of Kansas City Power & Light Company (KCPL) and addressed by the testimony of Anita Randolph, Director of the Missouri Energy Center within the Missouri Department of Natural Resources and the City’s Weatherization Program administrator, Mr. Robert T. Jackson. Weatherization was one of the final matters taken up before the Commission during the principal bank of hearings. This issue was heard on October 27, 2006.

A. *The Stipulation in Case No. EO-2005-0329*

One of the many agreements KCPL entered as part of the stipulation (the “Stipulation”) approved by this Commission in *In the Matter of a Proposed Regulatory Plan of Kansas City Power & Light Company*, Case No. EO-2005-0329 was implementation of affordability, efficiency and demand response programs. One of those programs was a weatherization program that depended in no small part on cooperation and in-place administration of the City. The Stipulation was approved by the Commission on July 28, 2005. In appendix C the parties

included a detailed description of the KCPL's weatherization program and how it would be evaluated. The program was described in the Stipulation on page C-2 through C-3 as follows:

LOW INCOME WEATHERIZATION AND HIGH EFFICIENCY PROGRAM

PROGRAM DESCRIPTION

Qualifying lower income customers can get help managing their energy use and bills through KCP&L's low income weatherization and high efficiency program. The program will work directly with local CAP agencies that already provide weatherization services to low income customers through the DOE and other state agencies. KCP&L will provide supplemental funds to the CAPs to cover the cost of weatherization measures. This program will be administered by the CAP agencies and follows the protocol under current federal and state guidelines. Participants can be a KCP&L owner-occupied residential customer in a one to four-unit structure and have an income that is up to 185% of the federal poverty guidelines. Renters will also be allowed to participate if the landlord pays 50% of the weatherization cost and agrees not to raise the rent for pre-agreed period of time. CAP agencies will be allowed an average of \$1,500 per participant for weatherization and other electric savings measures. This program helps low income customers reduce their energy costs at no cost to the customer. CAP agencies offer a cost effective implementation capability, which allows most of the funds allocated to this program to go directly to the purchase and installation of energy efficiency measures.

EVALUATION

Weatherization impacts for the first two years of the program will be based upon borrowed analysis from other utility programs. In the third year of the program, a billing analysis will be conducted to estimate impacts for all measures.

As part of the Stipulation the parties agreed that KCPL's implementation of the affordability, efficiency and demand response programs deserved periodic oversight from interested parties. The Commission approved the creation and duties of an advisory panel as described at page 47 of the Stipulation as follows:

The Staff, Public Counsel, MDNR and any other interested Signatory Party will serve as an advisory group ("Customer Programs Advisory Group" or "CPAG") to KCPL in the development, implementation, monitoring and

evaluation of the Demand Response, Efficiency and Affordability Programs. KCPL agrees to meet with and provide updates to the CPAG at least once every six months on the following subjects: (1) the status of program implementation including the amount of expenditures for each program and the level of customer participation, (2) the status of program evaluations including evaluation consultants chosen, evaluation budgets, evaluation expenditures and copies of completed evaluations, and (3) the status of new program selection and design efforts, including copies of program screening results.

The City of Kansas City is a signatory to the Stipulation, and Mr. Jackson has served as its representative to the CPAG. (Tr. 1561)

B. Progress of Implementing the Weatherization Program

In her direct testimony, Susan Nathan (Exhibit 41) reported to the Commission about the progress KCPL has made in implementing the menu of affordability, energy efficiency and demand response programs. It is worth noting that the order approving the Stipulation is not yet a year and a half old, but as the City has witnessed, KCPL has moved swiftly toward fulfilling its commitments to the Appendix C programs. KCPL has also timely engaged the CPAG pursuant to its obligations under the Stipulation.

Even though KCPL's partnership with the City in assuring energy affordability for its low-income customers is progressing well, Mr. Jackson in his rebuttal (Exhibit 501) asked the Commission to consider two possible process improvements.

Mr. Jackson has been involved in weatherization programs administered by the City since 1983 and has been the Weatherization Program Director since 1985. He is a frequent presenter on weatherization issues to national forums. He is chairman of the Missouri Department of Natural Resources Policy Advisory Council for the weatherization program and was recently elected to a co-chairmanship of the Committee to Keep Missourians Warm, the membership of which includes staff members of this Commission, legislators, social services

networks, and Community Action Program (CAP) agencies. (Tr. 1576-1577) He is a charter member of the Kansas-Missouri chapter of the American Association of Blacks in Energy, an organization that provides funding support for students seeking occupations in engineering. He is also a fifteen year member of the Energy and Housing Professional Alliance, an umbrella organization composed of the community action agencies of the state of Missouri. (Tr. 1580-1581)

In rebuttal, Mr. Jackson stated that historically the City secures weatherization applicants to participate in the program and then refers those applicants to KCPL for approval based on the applicant's record of energy consumption. After that, KCPL must then return the approved applicant list to the City for further processing. To improve the process, Mr. Jackson proposed that KCPL act as the referral source for the applicants. (Ex. 501, Jackson Rebuttal, at 2).

Another improvement proposed by Mr. Jackson concerned recipients of federal Low Income Home Energy Assistance Program funds (LIHEAP). The recipients of these funds must work directly with the utility that provides them service, and that would be the case with LIHEAP recipients who are also KCPL customers. According to Mr. Jackson, largely the same LIHEAP recipients apply for and are granted the limited federal dollars each year limiting the number of "new" applicants who can participate in the program and indirectly compromising the effectiveness of weatherization. If LIHEAP recipients were directed to the City/KCPL weatherization program the pressure on the LIHEAP program would reduce and furthermore, new applicants for those dollars could become recipients. (Ex. 501, Jackson Rebuttal, at 2).

By the time written surrebuttal was due to be filed in this matter, the CPAG had convened. During its meeting, Mr. Jackson's ideas on improving the process of applicant referrals and conjoining LIHEAP with the weatherization program were discussed. In

consequence of those discussions, KCPL has agreed to develop a list of those who received third party assistance in paying their bills and who met the usage and customer eligibility guidelines for weatherization assistance. KCPL would send a letter to customers on that list informing them of the program's availability as a means of inviting their participation. This is acceptable to the City, as it was to all CPAG members. (Ex. 42, Nathan Surrebuttal, at 8). Furthermore, KCPL has agreed to cooperate with the City and others in proposing and supporting changes in the rules governing LIHEAP so that Mr. Jackson's recommendations are incorporated. (Tr. 1437).

Given these assurances by KCPL, the issues raised by Mr. Jackson have substantially resolved and an order of the Commission addressing Mr. Jackson's recommendations will not be required.

C. Mr. Dias

Of the several issues that Mr. Dias attempted to inject during the closing hours of this proceeding, the City was primarily interested in his objection that KCPL was failing to provide weatherization assistance to the Kansas City "community," and in his proposal for a weatherization program underwritten by KCPL in which customers might be eligible without regard to income.

The City is not opposed to the introduction of innovative customer assistance programs that are designed to expand the role of weatherization techniques in the efficient use of energy. However, any such program should be accompanied by the safeguards of 1) proven need; 2) qualified administration; and 3) accountability. The history of the weatherization program for KCPL and other utilities in this state illustrates the significance of all three of these components in achieving success. In the absence of these factors, there is sizeable room for inefficiencies in the use of administrative resources and financial resources.

In examining Mr. Dias' qualifications, he does not profess education or experience in weatherization or programs promoting it. He claims no position with any city, state or federal agency that is given statutory responsibility in the field. He claims no memberships on recognized associations or committees that are organized to promote or approve weatherization programs for eligible applicants. He does not testify that he would need weatherization services himself.

During his cross examination of witnesses and his own questioning at hearing, Mr. Dias referred generally to the "community" and what it had asked KCPL to do. (See Tr. 1460, line 21 and Tr. 1530, line 20 for example) What community or community interest he was referring to was never adequately defined. As an individual representing himself without counsel, Mr. Dias was prohibited from representing the positions of, and appearing for, other parties by rules forbidding the unauthorized practice of law. There is nothing in his background, or in the rules of advocacy, that qualifies him to speak for anyone other than himself. Essentially, the "community" that Mr. Dias mentioned in his remarks during the hearing remains shapeless for purposes of the Commission's decisions in this case. Most importantly, there is no evidence in this record that any interest of the Kansas City socioeconomic structure or, in general, of the community of Kansas City, is omitted from adequate and lawful representation in the CPAG. However, the City believes that voices of invited members of community organizations should be heard at CPAG meetings and has no objection to the adoption of a public participation process in this advisory body.

Mr. Dias introduced a weatherization program during the local public hearings and did so again, over objection, during the hearing on October 27, 2006. The City will not dwell long on Mr. Dias' program. To paraphrase Mr. Jackson's surrebuttal testimony, the parties know next to

nothing about the details of administration of this program. Mr. Dias did not advise who would administer the program but his lack of credentials would certainly disqualify him. It was never said how his program would fit into the list on Appendix C of the Stipulation, which constitutes part of an order of this Commission which the parties have been directed to obey. Mr. Jackson testifies that the program conflicts with the weatherization program ordered by the Commission already. (Ex. 502, Jackson Surrebuttal at 2).

The City questions the need for the program. As Mr. Jackson testified at hearing, the City itself operates and administers a weatherization program that is open to energy consumers of any income level. Under this program, the customer pays the contractor for weatherization features installed, but the City performs the energy audit, provides a list of qualified contractors and then inspects the results for contract compliance. (Tr.1579). This City offering is advertised on the City's web page and in public education programs. (Tr. 1579).

There is so little known about Mr. Dias' weatherization program idea that reaching any conclusions about its need, costs, administration and evaluation are impossible under the present record. Furthermore, the evidence is rather strong that KCPL is complying with the requirements of Appendix C of the Stipulation and its related provisions. Mr. Dias weatherization program concept should not be accepted by the Commission.

Respectfully submitted,

/s/ Mark W. Comley

Mark W. Comley #28847
NEWMAN, COMLEY & RUTH P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537
(573) 634-2266
(573) 636-3306 (FAX)

Attorneys for City of Kansas City, Missouri

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via email on this 17th day of November, 2006, to all parties of record.

/s/ Mark W. Comley

Mark W. Comley