

**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	)	Case No. ER-2006-0314
for Electric Service to Begin the	)	
Implementation of its Regulatory Plan	)	

**MISSOURI DEPARTMENT OF NATURAL RESOURCES' POST-HEARING  
BRIEF**

COMES NOW the Missouri Department of Natural Resources and submits its post-hearing brief. The MDNR has organized its post-hearing brief according to the List of Issues filed by Staff on behalf of the parties; however, because the MDNR did not present testimony or evidence on all the issues, the MDNR will only address in this brief those issues on which it had a position.

**Customer Programs:**

**Weatherization Program:**

Should the weatherization program be modified so that KCPL's Call Center will refer customers to the program?

The MDNR believes and submitted testimony in support of the modification. Having the Call Center refer customers to the program is an efficient use of KCPL resources and would promote savings both for the company and its customers. (Ex. 302, p. 3-4.) However, in her surrebuttal testimony, KCPL witness Sue Nathan proposed an alternative plan, which MDNR witness Anita Randolph testified meets the intent of the proposed modification. (Ex. 42, pp. 8-9, 1.13-23 and 1-2 and Tr. Vol. 14, p. 1569-1570.)

Consequently, the MDNR is satisfied with KCPL's proposed alternative and does not believe this is a contested issue at this time.

Should LIHEAP recipients be directed to the weatherization program and be required to participate in it?

The MDNR believes in and has submitted testimony supporting the idea of directing LIHEAP recipients to the weatherization programs and requiring them to participate in it if the services are available and offered. (Ex. 302, p.3-4.) While the LIHEAP provides immediate assistance to low-income Missouri residents, the weatherization program will have a longer term impact both in terms of energy efficiency and helping the LIHEAP recipients meet future energy needs and pay future energy bills. (Ex. 302, p. 3-4.) The MDNR does recognize that the Missouri Department of Social Services administers LIHEAP. (Ex.42, p. 9, l. 3-11.) KCPL witness Sue Nathan did testify that KCPL would work with other parties, including the city of Kansas City, Missouri, to have the Department of Social Services make the necessary changes to the program to direct LIHEAP recipients to participate in weatherization programs if the services are available and offered. (Tr. Vol 14, p. 1436-1437.) Given this commitment, the MDNR believes this issue has also been resolved.

Should KCPL participate in an “Energy Conservation Program” that will provide consultation, weatherization materials and installation? If so, should the cost of the program to be underwritten by KCPL and charged to the customer?

The MDNR objected to the inclusion of this issue and has (and continues to) assert that it is not properly before the Commission in this case. Although Mr. Dias filed testimony, he did so late--October 11, 2006--after the other parties to the case had filed their surrebuttal. (Procedural Order, Case No. ER-2006-0314 and Ex. 1301.) Further while Mr. Dias styled his testimony as “surrebuttal,” it was in reality his Direct testimony and did not respond to testimony filed by any party in their rebuttal.

Additionally, there is nothing before the Commission explaining Mr. Dias’ proposed issue, or providing other parties with the necessary details to assess Mr. Dias’ proposals. (Ex. 302, p.4-6 and Tr. Vol. 14, p. 1556.) Further, the MDNR implements the low-income weatherization program in Missouri. As part of that, MDNR contracts with local agencies to provide those services. The MDNR program and those of the local agencies, including the city of Kansas City’s program, follow federal guidelines imposed by the federal government in exchange for receiving federal assistance for the programs. Nothing in what Mr. Dias has provided suggests the program he supports will follow those guidelines and in fact suggests the opposite. While Mr. Dias may envision a program that focuses on a somewhat different income group than the MDNR Weatherization Assistance Program, again, the lack of detail regarding Mr. Dias's

proposal makes it difficult to assess the costs of the program and the value of the program to KCPL customers.

Furthermore, Mr. Dias' cross of Ms. Randolph and other parties' witnesses showed that Mr. Dias was not familiar with the Customer Programs Advisory Group, the energy efficiency programs KCPL is implementing and will implement as a result of the KCPL Resource Plan case Stipulation and Agreement, Case No. EO-2005-0329, or the extensive public workshops hosted by KCPL during the development of the Resource Plan that resulted in the Stipulation and Agreement approved by the Commission in Case No. EO-2005-0329. (Tr. Vol. 14, pp. 1445-1446, 1544-1545, 1548-1549, 1550-1551.)

MDNR does recognize that during the hearing Mr. Dias raised a valid point, Additional efforts, beyond and following the public workshops that KCPL hosted during development of the Resource Plan, should be made to garner public input into the energy-efficiency planning process. During the hearing, both the Office of Public Counsel and the MDNR committed to including the public in the planning process. (Tr.1567) The MDNR should note that the Stipulation and Agreement approved by the Commission in Case No. EO-2005-0329 limits the participants in the CPAG to those parties who signed the Stipulation and Agreement. Further, the Stipulation limits the attendees at the meetings of the CPAG to the signatory parties. Nonetheless, there are other avenues available to seek public input that need not include the CPAG. Both the Office of Public Counsel and the MDNR are state agencies that may meet with members of the public to discuss matters of public interest, including energy efficiency programs. While the

Commission is certainly free to encourage such meetings, it need not order them in the context of a rate case.

Most of the remaining issues raised by Mr. Dias appear to be in the nature of a contract dispute between him and KCPL. By example, Mr. Dias states that KCPL breached an agreement it had with him and his company. (Ex. 1301, pp. 7 and 11, Tr. Vol. 14, p. 1476) Contract disputes between utilities and potential vendors are not something within the statutory authority exercised by this Commission. And as we all know, administrative agencies are constrained by the authority granted them by statute. *Curdt v. Missouri Clean Water Commission*, 586 S.W.2d 58, 59 (Mo App. E.D. 1979.) Without competent and substantial evidence to support and explain the “Energy Conservation Program” proposed by Mr. Dias, this Commission should not approve it.

WHEREFORE, the MDNR submits its post-hearing brief.

Respectfully submitted,

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