

**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-2007-0291
Service to Implement its Regulatory Plan	)	

**STAFF’S RESPONSE TO THE APPLICATION FOR REHEARING FILED BY KANSAS  
CITY POWER & LIGHT COMPANY AND RESPONSES THERE TO OF TRIGEN**

COMES NOW the Staff of the Missouri Public Service Commission, in response to the Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers filed by Kansas City Power & Light Company in this matter, and Responses there to of Trigen, in the interest of better elucidating this matter for determination by the Commission. Staff also renews its Request for Clarification filed December 12, 2007. Staff recommends that the Commission reopen the record in this case for the limited purpose of taking evidence on the issues raised by the filings of KCPL and Trigen, in order to take evidence on the matters raised for the first time in this proceeding in KCPL’s Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers, and states as follows:

The issue at hand is the potential impact of the December 6, 2007 Report and Order on those physical locations that are in the process of, to a greater or lesser extent, equipping facilities in order to take advantage of the discounts afforded by KCPL’s general service all-electric rate schedules and the separately metered space heating provisions of KCPL’s standard general service tariffs. In the above-referenced pleading, KCPL brought to the Commission and Staff’s attention a number of facilities that it states, under affidavit, to be either under construction or in the process of being retrofitted

with equipment that would make them eligible to take electrical service at the discounted rates. It is unfortunate that KCPL did not introduce the information included with their filing into evidence. It is for that reason that Staff has prepared this response, and recommends that the Commission re-open the record in order to take this information, as well as relevant information on this issue that other parties may introduce, into evidence.

**ER-2006-0314:**

The dispute associated with this matter dates back to KCPL's last rate case, ER-2006-0314. At issue in that case was:

Should the existing general service all-electric rate schedules and the separately metered space heating provisions of KCPL's standard general service tariffs be eliminated or restricted to existing customers only until there is a comprehensive class cost of service study and/or cost-effectiveness study which analyzes and supports such tariffs and provisions as well as KCPL's Affordability, Energy Efficiency and Demand Response programs?

In the Commission's Report and Order entered in the ER-2006-0314 case, regarding this issue, the Commission stated that it "will adopt Staff's suggestion, and Trigen's alternative suggestion, that the Commission restrict the existing general service all-electric rate schedules and the separately metered space heating provisions of KCPL's standard general service tariffs to existing customers until there is a comprehensive class cost of service study."

Trigen filed an Application for Clarification or Rehearing, seeking that the Commission order that the restriction to "existing customers" be more explicitly stated as a restriction to existing customers on the existing general service all-electric rate schedules and the separately metered space heating rates as of December 31, 2006, as distinguished from any existing KCPL general service customer.

The Commission ordered KCPL to respond to the applications for rehearing and motions for clarification in Case No. ER-2006-0314. In KCPL's Response to Applications for Rehearing and Motions for Clarification, KCPL provided in pertinent part that:

....KCPL has numerous existing customers that are eligible for the all-electric tariffs or separately metered space-heating tariff provisions who have indicated a desire to be served under these tariffs.

As the Commission is aware, several of KCPL's existing customers are in the process of completing major expansions and new construction projects in downtown Kansas City. These existing customers have relied upon KCPL's tariffs as they made their decisions regarding utility services. Trigen seeks to have the Commission restrict the availability of these tariffs to all-electric customers and to separately metered space-heating customers. This would deprive existing customers of the right to take service under these tariffs and alter the economics of the decisions they made regarding their choice of heating sources.

At that time, KCPL did not provide a list of the "several" existing customers that were in the process of completing major expansions and new construction projects in downtown Kansas City that had relied upon KCPL's tariffs in making their decisions regarding utility services, nor provide any detail as to the number of said customers, but merely made the assertions above. Trigen filed a Reply to KCPL's Response to Applications for Rehearing and Motions for Clarification. In its January 18, 2007 Order Regarding Motions for Rehearing, the Commission denied, without addressing, Trigen's Application for Clarification or Rehearing.

**ER-2007-0291:**

In the instant case, ER-2007-0291, a similar issue was postulated and appears as Issue 13c, in the Commission's December 6, 2007 Report and Order:

Should the availability of KCPL's general service all-electric tariffs and separately-metered space heating rates be restricted to those qualifying customers

commercial and industrial physical locations being served under such all-electric tariffs or separately-metered space heating rates as of the date used for the billing determinants used in this case (or as an alternative, the operation of law date of this case) and should such rates only be available to such customers for so long as they continuously remain on that rate schedule (i.e., the all-electric or separately-metered space heating rate schedule they are on as of such date)?

In its Report and Order issued December 6, 2007, regarding Issue 13c, the Commission stated in its “Decision” paragraph that:

The availability of KCPL’s general service all-electric tariffs and separately metered space heating rates should be restricted to those qualifying customers’ commercial and industrial physical locations being served under such all-electric tariffs or separately metered space heating rates as of the date used for the billing determinants used in this case, and such rates should only be available to such customers for so long as they continuously remain on that rate schedule (i.e. the all-electric or separately metered space heating rate schedule they are on as of such a date).

In Kansas City Power & Light Company’s Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers, KCPL presents, under affidavit, as Attachment 1, a list of 47 customers that KCPL characterizes as presently undergoing construction or in the process of installing the necessary equipment to qualify for the all-electric and space heating rates, and a list of 282 customers purportedly seriously evaluating the possibility of installing such equipment, styled as “Missouri Commercial Electric Heat Projects Under Construction for 2007,” and “Missouri Commercial Electric Heat Prospects,” respectively. In addition in that Application, KCPL stated that it had added nearly 200 customers to the all-electric or separately-metered space-heating tariffs during 2007. Perhaps the Staff should have foreseen this situation, particularly after the statements in KCPL’s Response to Applications for Rehearing and Motions for Clarification in Case No. ER-2006-0314, but KCPL did not provide any detail respecting its assertions in that case. The Staff first

became aware of an identification of these projects at the time of KCPL's filing of its Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers, December 14, 2007, in the instant case. There appears to be only two *possible* passing references to the possibility of the present situation by KCPL in the instant case. The first is found on page 6 at lines 16 – 18 of Mr. Rush's surrebuttal testimony, where he makes what may be a cryptic reference to this issue in his statement that "[b]y restricting the availability to customers currently served would create an [sic] difficult hardship on current customers who have made decisions to install equipment that would allow those customers to qualify for this rate." The second is in KCPL's post-hearing brief, at page 42, KCPL refers to "numerous existing KCPL customers that are in the process of completing major construction projects." In retrospect, these references could be taken to refer to those projects KCPL addresses in its Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers. However, during the pendency of the case proper, Staff assumed these statements to refer to customers already on those rates who had invested in their heating facilities, or were engaged in up-dating or enlarging their systems.

It is truly unfortunate that KCPL chose not to provide the information contained in Attachment 1 in any of the testimony that it filed on this issue in last case or this case, but instead waited until after the Commission made its decision to not accept KCPL's position on this issue in the instant case. Regardless of how late KCPL is in bringing this information to the Commission's and the parties' attention, the Staff cannot turn a blind eye to the predicament of building owners or operators who have allegedly made

economic decisions based on the continuing availability of KCPL's general service all-electric and separately-metered space heating rate options.<sup>1</sup>

If the Commission grants KCPL's Application for Rehearing and Stay, the revenue requirement determined by the Commission to be recovered in KCPL's new tariff sheets is not affected, but the availability of following revised tariff sheets needs to be further addressed:

Kansas City Power & Light Company, PSC Mo. No. 7, Electric Rates

3rd Revised Sheet No. 9, canceling 2nd Revised Sheet No. 9

3rd Revised Sheet No. 10, canceling 2nd Revised Sheet No. 10

3rd Revised Sheet No. 11, canceling 2nd Revised Sheet No. 11

3rd Revised Sheet No. 17, canceling 2nd Revised Sheet No. 17

3rd Revised Sheet No. 18, canceling 2nd Revised Sheet No. 18

3rd Revised Sheet No. 19, canceling 2nd Revised Sheet No. 19

WHEREFORE the Staff respectfully prays that the Commission reopen the record in order to take additional evidence on the matters raised by the Application for Rehearing and Stay portion of Kansas City Power & Light Company's Application for Rehearing and Stay, or in the Alternative, Application for Waiver or Variance from Decision for Specific Customers, and the responses there to of Trigen. Staff also renews its Request for Clarification filed December 12, 2007.

---

<sup>1</sup> Trigen has alleged that several of these locations are not "existing customers" of KCPL. In Staff's opinion, this disagreement as to the details of the affidavit highlights the necessity of the taking of additional evidence on this matter.

Respectfully submitted,

/s/ Sarah Kliethermes

Sarah L. Kliethermes

Legal Counsel

Missouri Bar No. 60024

Attorney for the Staff of the  
Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751-6726 (Telephone)

(573) 751-9285 (Fax)

sarah.kliethermes@psc.mo.gov

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 20<sup>th</sup> day of December, 2007

/s/ Sarah Kliethermes