

**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	)	

**OBJECTIONS OF TRIGEN-KANSAS CITY ENERGY CORPORATION
TO KCPL TARIFFS FILED PURPORTEDLY IN COMPLIANCE
WITH THE COMMISSION’S REPORT AND ORDER
ISSUED ON DECEMBER 6, 2007**

Comes Now Trigen-Kansas City Energy Corporation (“Trigen”), by and through the undersigned counsel, and for its Objections to the tariffs filed herein by KCPL purportedly in compliance with the Commission’s Report and Order issued on December 6, 2007, respectfully states as follows:

1. In its Report and Order issued herein on December 6, 2007 (the “Report and Order”), the Commission ordered, in Ordered Paragraph 5, that “Kansas City Power & Light Company shall file tariffs that comport with this Report and Order no later than December 13, 2007.” In Ordered Paragraph 6, the Commission also ordered that “The Staff of the Commission shall file a recommendation regarding the tariffs ordered in paragraph 5 no later than December 18, 2007. Any party that wishes to object to the tariffs ordered in paragraph 5 shall do so no later than December 18, 2007.”

2. In the Report and Order, on page 82 under its discussion of issue 13c, the Commission ordered as follows:

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 date). (Emphasis added)

The “compliance” tariffs filed herein by KCPL do not comport with the foregoing language in several respects, as discussed below.

KCPL’s December 13 Tariff Filing¹

3. **First**, in regard to the separately metered space heating rates: the last paragraph under the Availability section of each of the Small General Service (Schedule SGS, Sheet No. 9), Medium General Service (Schedule MGS, Sheet No. 10), and Large General Service (Schedule LGS, Sheet No. 11) tariffs filed by KCPL states as follows:

The Separately Metered Space Heat rate of this schedule is available only to Customers’ physical locations currently taking service under this schedule and who are served hereunder continuously thereafter.

Each of the foregoing *schedules* contain other *rates* (such as a standard general application rate) for the small, medium or large customer categories in addition to the separately metered space heating rate for the respective small, medium or large customer category. Although Trigen would disagree with such an interpretation, this paragraph is needlessly ambiguous and could be argued to still allow a KCPL customers’ physical

¹ The third paragraph under the Availability section of each of the Small General Service-All Electric(Frozen) (Schedule SGA, Sheet No. 17), Medium General Service-All Electric(Frozen) (Schedule MGA, Sheet No. 18), and Large General Service-All Electric(Frozen) (Schedule LGA, Sheet No. 19) tariffs filed by KCPL on December 13 incorrectly changed the availability of these Schedules to make them available “For electric service using electric space heating as the primary source for heating. . . .” thereby incorrectly converting the all-electric tariffs into space heating tariffs. **This is completely contrary to the Commission’s Report and Order**; in fact, even KCPL did not ask for this change in this case. KCPL filed substitute tariffs on December 18 to correct this problem and supposedly reflect no change in this paragraph from that contained in KCPL’s currently approved tariff; however, as set forth below, there are additional problems with the “substitute” tariff filing. The undersigned has been informed that yet another “substitute” filing is going to be made by KCPL later in the day on December 18. However, since the Report and Order required objections be made December 18, the undersigned is submitting the objections contained in this pleading at this time, and reserves the right to object further if necessary to the “substitute” filings made by KCPL.

location which is taking service under *any rate contained in* Schedule SGS, Schedule MGS or Schedule LGS *to switch to the separately metered space heating rate* of the respective Schedule. Accordingly, these tariffs do not comport with the Report and Order (which specifically stated that the separately-metered space heating rates should be restricted to those qualifying customers' commercial and industrial physical locations being served under such separately-metered space heating rates), and such ambiguity could be exploited to yield an outcome which would exacerbate the Commission's stated concern of "allowing even more KCPL customers to migrate to those discounts."

4. To remedy this problem (another problem regarding the date of restriction will be discussed below, and additional language proposed below), the above-referenced paragraph under the Availability section of each of the Small General Service (Schedule SGS, Sheet No. 9), Medium General Service (Schedule MGS, Sheet No. 10), and Large General Service (Schedule LGS, Sheet No. 11) tariffs should be revised to read as follows:

The Separately Metered Space Heat rate of this schedule is available only to Customers' physical locations currently taking service under such Separately Metered Space Heat rate and who are served under such rate continuously thereafter.

5. **Second**, in regard to the all-electric tariffs: the first paragraph under the Availability section of each of the Small General Service-All Electric(Frozen) (Schedule SGA, Sheet No. 17), Medium General Service-All Electric(Frozen) (Schedule MGA, Sheet No. 18), and Large General Service-All Electric(Frozen) (Schedule LGA, Sheet No. 19) tariffs filed by KCPL states as follows:

The rates of this Schedule are available only to Customers' physical locations currently taking service under this Schedule and who are served hereunder continuously thereafter.

As set forth above in paragraph 2, the Report and Order restricted the availability of KCPL's all-electric *tariffs*, not just the *rate* provisions of those tariffs. Accordingly, these tariffs do not comport with the Report and Order.

6. To remedy this problem (other problems regarding the date of restriction and the name/title of the Schedules will be discussed below, and additional language proposed below), the above-referenced paragraph under the Availability section of each of the Small General Service-All Electric(Frozen) (Schedule SGA, Sheet No. 17), Medium General Service-All Electric(Frozen) (Schedule MGA, Sheet No. 18), and Large General Service-All Electric(Frozen) (Schedule LGA, Sheet No. 19) tariffs should be revised to read as follows:

This Schedule is available only to Customers' physical locations currently taking service under this Schedule and who are served hereunder continuously thereafter.

7. **Third**, in regard to the date as of which **both** the separately metered space heating rates and the all-electric tariffs would be restricted pursuant to the Commission's decision of issue 13c of the Report and Order: the tariff language filed by KCPL purportedly in compliance with the Report and Order for both the separately metered space heating rates and the all-electric tariffs is set forth above in paragraphs 3 and 5, respectively.

8. As set forth above in paragraph 2, the Report and Order stated 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. . .” (Emphasis added) However, nowhere in KCPL’s purported “compliance” tariffs does this date – or any other date of restriction – appear, as seen in paragraphs 3 and 5 above.

9. Trigen recognizes that on December 12, 2007, Staff filed a Request for Clarification of the “Date of Effectiveness of Decision Regarding Issue 13c” and other matters. In Staff’s Request for Clarification, Staff states that the date used for the billing determinants² used in this case was September 30, 2007. Therefore, to comply with the Commission’s Report and Order, the date as of which **both** the separately metered space heating rates and the all-electric tariffs should be restricted would be September 30, 2007. However, in its Request for Clarification, Staff seems to request that the Commission adopt January 1, 2008, as the date as of which the separately metered space heating rates and the all-electric tariffs be restricted as otherwise provided in the decision regarding issue 13c. In either event, a specific date – no later than January 1, 2008 – needs to be set forth in the tariff language in order to comply with the Commission’s Report and Order and eliminate possible confusion in the future.

10. To remedy this problem (as well as the problem identified above) with respect to the separately metered space heating rates, the above-referenced paragraph under the Availability section of each of the Small General Service (Schedule SGS, Sheet No. 9), Medium General Service (Schedule MGS, Sheet No. 10), and Large General Service (Schedule LGS, Sheet No. 11) tariffs should be revised to read as follows:

The Separately Metered Space Heat rate of this schedule is available only to Customers’ physical locations taking service under such Separately

² Or “billing units” in Staff’s Request for Clarification.

Metered Space Heat rate as of September 30, 2007³, and who are served under such rate continuously thereafter.

Likewise, to remedy this problem (as well as the problem identified above; another problem regarding the name/title of the All-Electric Schedules will be discussed below) with respect to the all-electric tariffs, the above-referenced paragraph under the Availability section of each of the Small General Service-All Electric(Frozen) (Schedule SGA, Sheet No. 17), Medium General Service-All Electric(Frozen) (Schedule MGA, Sheet No. 18), and Large General Service-All Electric(Frozen) (Schedule LGA, Sheet No. 19) tariffs should be revised to read as follows:

This Schedule is available only to Customers' physical locations taking service under this Schedule as of September 30, 2007⁴, and who are served hereunder continuously thereafter.

KCPL's December 18 Tariff Filing⁵

11. On December 18, 2007, KCPL filed "substitute" tariff sheets 17, 17D, 18, 18D and 19, supposedly to supersede the respective sheets it filed on December 13, 2007. The Commission should recall that the Report and Order ordered KCPL to file compliance tariffs on December 13, not December 18, and required parties to object to KCPL's compliance tariffs no later than December 18. Therefore, KCPL's "substitute" filing was made on the day that objections were due from other parties. These "substitute" tariff sheets did **not** correct the deficiencies noted above with respect to the December 13 tariff filing, and therefore the deficiencies noted above with respect to sheets 17, 18 and 19 are still present and KCPL still needs to be ordered by the

³ If the Commission grants Staff's Request for Clarification that the date used should be January 1, 2008, the Commission should simply order that the date used in the tariffs be January 1, 2008.

⁴ See footnote 2 above.

⁵ As set forth in footnote 1 above, KCPL's (first) December 18 filing did correct one problem with the December 13 filing on sheets 17, 18 and 19. However, there are additional problems with that filing.

Commission to correct those deficiencies. However, the December 18 “substitute” filing contains additional deficiencies which cause them to be not in compliance with the Commission’s Report and Order as discussed below.

12. In its Report and Order issued herein on December 6, 2007, the Commission decided issue 13f against KCPL and in favor of Trigen and Staff. In the Report and Order, the Commission decided that KCPL should **NOT** be allowed to rename its All-Electric tariffs as Space Heating tariffs; however, that is precisely what KCPL has attempted to do in its “substitute” tariff filing. In addition, KCPL’s December 13 tariff filing correctly recognized in the name/title of the all-electric schedules that such schedules were “frozen” pursuant to the Commission’s decision regarding issue 13c; however, KCPL’s “substitute” tariff filing inappropriately removes the “frozen” designation from these sheets. KCPL’s December 18 “substitute” tariff filing is therefore not in compliance with the Commission’s Report and Order and should be rejected.

13. In its December 13 Tariff filing, the name/title of the Schedule at the top of sheets 17 and 17D stated “Small General Service-All Electric (Frozen)”; the name/title of the Schedule at the top of sheets 18 and 18D stated “Medium General Service-All Electric (Frozen)”; and the name/title of the Schedule at the top of sheet 19 stated “Large General Service-All Electric (Frozen)”. These schedule names were correct. However, in KCPL’s December 18 tariff filing, the name/title of the Schedule at the top of sheet 17 states “Small General Service-Space Heating”; at the top of sheet 17D states “Small General Service-All Electric [without inclusion of the word “Frozen”]”; at the top of sheets 18 and 18D states “Medium General Service-Space Heating”; and at the top of sheet 19 states “Large General Service-Space Heating.” These names/titles in the

“substitute” tariff filing made by KCPL on December 18 clearly do not comport with the Commission’s Report and Order; the names/titles of the schedules should be as reflected in KCPL’s December 13 tariff filing. In other words, the name/title of the Schedule at the top of sheets 17 and 17D should state “Small General Service-All Electric (Frozen)”; the name/title of the Schedule at the top of sheets 18 and 18D should state “Medium General Service-All Electric (Frozen)”; and the name/title of the Schedule at the top of sheet 19 should state “Large General Service-All Electric (Frozen)”.

WHEREFORE, Trigen-Kansas City Energy Corporation respectfully requests an order from the Commission (A) finding that the Small General Service (Schedule SGS, Sheet No. 9), Medium General Service (Schedule MGS, Sheet No. 10), Large General Service (Schedule LGS, Sheet No. 11), Small General Service-All Electric(Frozen) (Schedule SGA, Sheet No. 17), Medium General Service-All Electric(Frozen) (Schedule MGA, Sheet No. 18), and Large General Service-All Electric(Frozen) (Schedule LGA, Sheet No. 19) tariff sheets filed herein by KCPL on December 13, 2007, are not in compliance with the Commission’s Report and Order for the reasons set forth above, (B) finding that the “substitute” tariff sheets (Sheets 17, 17D, 18, 18D and 19) filed by KCPL on December 18, 2007, are not in compliance with the Commission’s Report and Order for the reasons set forth above, (C) rejecting all of said tariff sheets, and (D) ordering KCPL to file new sheets with the revised language set forth in paragraph 10 above and with the correct names/titles (including the designation of “Frozen”) of the Schedules as set forth in paragraph 13 above and including the correct availability language as discussed in footnote 1 above..

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent to counsel for parties of record by depositing same in the U.S. Mail, first class postage prepaid, by hand-delivery, or by electronic mail transmission, this 18th day of December, 2007.

/s/ Jeffrey A. Keevil
