

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Kansas City)	
Power & Light Company for Waiver or Variance)	
of Certain Provisions of the Report and Order)	Case No. EE-2008-0238
in Case No. ER-2007-0291)	

APPLICATION FOR INTERVENTION

COMES NOW Trigen-Kansas City Energy Corporation (“Trigen”), and in accordance with 4 CSR 240-2.075, applies to intervene and become a party in the above-referenced case and, in support of this Application For Intervention, respectfully states as follows:

1. Trigen is a corporation organized and existing under the laws of the State of Delaware with its principal office located at 115 Grand, Kansas City, Missouri 64106. Trigen is a “heating company” as defined in Section 386.020 RSMo and a “steam heating utility” as defined in 4 CSR 240-3.010 that provides steam heating service in a portion of downtown Kansas City, Missouri, in the Missouri county of Jackson, and as such is subject to the jurisdiction of the Missouri Public Service Commission (“Commission”) as provided by law.

2. Trigen was authorized to provide steam heating service pursuant to authority granted by the Commission in Case No. HA-90-5, issued on December 29, 1989. Trigen has been duly authorized by the Secretary of State of Missouri to transact business as a foreign entity; a copy of Trigen’s Certificate of Good Standing from the Missouri Secretary of State was submitted in Case No. HM-2004-0618 and is

incorporated herein by this reference. Trigen has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three (3) years that involve customer service or rates. Trigen has no annual report or assessment fees that are overdue.

3. All correspondence, pleadings, communications, notices, orders and decisions of the Commission with respect to this matter should be sent to the undersigned counsel and to the following:

Brian Kirk
Vice President and General Manager
Trigen-Kansas City Energy Corporation
115 Grand
Kansas City, Missouri 64106
Tel: (816) 889-4915
Fax: (816) 842-4272
Email: bkirk@trigen.com

With a copy to:

Lawrence W. Plitch
Vice President and General Counsel
The Trigen Companies
99 Summer Street, Suite 900
Boston, MA 02110
Tel: (617) 849-6630
Fax: (617) 849-6631
Email: lplitch@trigen.com

4. According to the Commission's *Order and Notice* issued herein on January 24, 2008, on January 23, 2008, Kansas City Power & Light Company ("KCPL") filed an Application for Waiver or Variance Concerning Certain All-Electric and Electric Heating Customers of Kansas City Power & Light Company (the "KCPL Application") in which KCPL asks the Commission for a waiver or variance of portions of the Report and Order in Case No. ER-2007-0291 as those portions pertain to KCPL's general service

all-electric tariffs and separately-metered space heating rates for customers not taking service under those rates as of January 1, 2008, but who committed financial resources based upon their expectation that those rates would be available.

5. The Commission's January 24th *Order and Notice* directed that any entity wishing to intervene in this matter should file an application to intervene no later than February 13, 2008. This Application for Intervention is therefore being timely filed.

6. Trigen has a direct and pecuniary interest in this proceeding which is different from that of the general public. Trigen provides steam heating service in a portion of the same service area in which KCPL provides electric service and, as a result, is a direct competitor of KCPL. Trigen is also an electric customer of KCPL, in addition to being a direct competitor.

7. In the Report and Order in Case No. ER-2007-0291, the Commission decided 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 date).

Thereafter, on December 21, 2007, in its Order Regarding Motions for Rehearing and Request for Clarification, the Commission clarified that it intended the availability of KCPL's general service all-electric tariffs and separately-metered space heating rates to be restricted to those qualifying customers' commercial and industrial physical locations being served under such tariffs or rates as of January 1, 2008. KCPL's Application seeks

waiver or variance of the foregoing restriction. Throughout Case No. ER-2007-0291, Trigen supported the foregoing restriction, submitting substantial testimony in support thereof, participating in the hearing of the issue before the Commission, and submitting briefs on the issue.

8. Since the KCPL Application was filed as a Highly Confidential document with the names of the purported “certain customers” of KCPL redacted, Trigen cannot state for certain herein whether any of these “certain customers” are also currently customers of Trigen; however, given that Trigen’s entire certificated service territory is overlapped by KCPL’s territory, Trigen fears that at least some of the “certain customers” which KCPL is seeking to convert to KCPL’s all-electric tariffs or separately-metered space heating rates are currently Trigen customers – customers which Trigen may lose if the KCPL Application is granted by the Commission. Therefore, Trigen suspects that KCPL’s statement in the KCPL Application that no other regulated public utility will be affected by the variance or waiver requested by KCPL is incorrect. Furthermore, Trigen is opposed to the Commission allowing KCPL to continue providing, or expand its provision of, service under rates which are discriminatory, and submits that granting the KCPL Application would conflict with the Commission’s Report and Order in Case No. ER-2007-0291 in which the Commission recognized that allowing more KCPL customers to migrate to the all-electric or separately-metered space heating rates would exacerbate the problems caused by these discount rates and “allowing even more customers to use those discounts flies in the face of a possible move, supported by Staff, towards eliminating them completely.”

9. For the above-stated reasons, Trigen's interest in this proceeding is different from that of the general public and cannot be adequately represented by any other party to this proceeding. Furthermore, Trigen is concerned that decisions or orders of the Commission herein could adversely impact it, and accordingly opposes the relief sought herein by KCPL. The Commission has previously recognized Trigen's unique interest in KCPL cases before this Commission by granting Trigen's intervention request in KCPL's last two rate cases, Case No. ER-2006-0314 and Case No. ER-2007-0291.

10. Trigen's participation will aid the Commission in resolving the issues raised in this proceeding. Consequently, Trigen's intervention and participation will promote the public interest.

11. To the extent that it is necessary to do so at this time, Trigen requests that a hearing be set in this matter, after allowing adequate time for discovery and the filing of prepared written testimony. Since there is insufficient information currently available to identify all issues that may arise which will affect Trigen's interests, Trigen reserves its rights to state its position and participate with regard to any matter or issue arising in this proceeding.

WHEREFORE, having complied with the requirements of 4 CSR 240-2.075, Trigen respectfully requests that the Commission grant this Application for Intervention and permit Trigen to intervene herein and become a party to this proceeding for all purposes.

Respectfully submitted,

/s/ **Jeffrey A. Keevil**

Jeffrey A. Keevil #33825
STEWART & KEEVIL, L.L.C.

4603 John Garry Drive, Suite 11
Columbia, Missouri 65203
(573) 499-0635
(573) 499-0638 (fax)
per594@aol.com

Attorney for Trigen-Kansas City
Energy Corporation

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing was sent to the Commission's General Counsel's Office, to counsel as directed in the Commission's Order and Notice in this case issued January 24, 2008, and counsel of record by depositing same in the U.S. Mail first class postage paid, by hand-delivery, or by electronic transmission, this 13th day of February, 2008.

/s/ Jeffrey A. Keevil
