

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

In the Matter of the Application of)	
WST, Inc., a Missouri Corporation, for a)	
Variance from Kansas City Power & Light)	Case No. EE-2006-0123
Company's General Rules and Regulations)	
Requiring Individual Metering)	

**RESPONSE OF KANSAS CITY POWER & LIGHT COMPANY
TO APPLICATION FOR VARIANCE OF WST, INC.**

Pursuant to the order issued by the Public Service Commission of the State of Missouri ("Commission") on September 22, 2005, in the above-captioned proceeding, Kansas City Power & Light Company ("KCPL") hereby submits its response to the application for variance submitted by WST, Inc. ("WST") with respect to the Wallstreet Tower condominium project located at 1101 Walnut, Kansas City, Missouri ("Wallstreet Tower"). KCPL believes that serving multiple-occupancy buildings with a single master meter is contrary to the provisions of KCPL's tariff that prohibit KCPL from providing electric service for resale or redistribution. Although KCPL does not have a position concerning whether the Commission grants WST's application for a variance from those tariff provisions, KCPL has several logistical and policy concerns regarding WST's application. In support hereof, KCPL respectfully offers as follows:

I. BACKGROUND

1. On August 30, 2005, KCPL received a letter from counsel for WST requesting confirmation that KCPL accepts and approves WST's plan to install a single master meter for the 153 units and common areas comprising Wallstreet Tower. By letter dated September 15, 2005, KCPL informed WST that Section 5.03 of the General Rules and Regulations of KCPL's tariff ("KCPL Rules") provides that "KCPL will not supply electric service to a Customer for resale or

redistribution by the Customer.”¹ KCPL further explained that it interpreted WST’s proposed master metering of Wallstreet Tower to constitute either a prohibited resale or redistribution. As an electrical corporation and public utility as defined in Mo. Rev. Stat. § 386.020 (2000), KCPL may not provide service under terms and conditions other than those provided and published in its tariff, as approved by the Commission. KCPL suggested that if WST wished to utilize a single master meter for the 153 units and common areas comprising Wallstreet Tower, then WST should seek and obtain from the Commission a variance from Section 5.03 of the KCPL Rules.

2. On September 20, 2005, WST submitted an “Application for Variance” and “Motion for Expedited Treatment,” requesting (i) a confirmation that the Commission’s requirement to separately meter each residential unit in a multiple-occupancy building, as set forth in 4 C.S.R. § 240-20.050(2), does not apply to Wallstreet Tower; and (ii) a variance from Section 5.03 of the KCPL Rules. WST explained that it “contemplates and desires to utilize the existing master metering system for the [Wallstreet Tower] condominium project.”

3. On September 22, 2005, the Commission issued an “Order Making KCPL a Party and Directing KCPL and Staff to Respond to WST, Inc.’s Application for Variance.” The Commission directed KCPL to submit its response to WST’s application no later than October 3, 2005.

II. COMMUNICATIONS

4. Correspondence or communications regarding this proceeding, including service of all notices and orders of this Commission, should be addressed to:

¹ Kansas City Power & Light Co., General Rules and Regulations Applying to Electric Service, Sheet No. 1.19, § 5.03 (effective Jan. 19, 1981).

Lois Liechti
Manager - Regulatory Affairs
Kansas City Power & Light Company
1201 Walnut Street – 13th Floor
P.O. Box 418679
Kansas City, Missouri 64141-9679
Phone: (816) 556-2612
Fax: (816) 556-2110
E-mail: Lois.Liechti@kcpl.com

Curtis D. Blanc
Kansas City Power & Light Company
1201 Walnut Street – 20th Floor
Kansas City, Missouri 64141
Phone: (816) 556-2483
Fax: (816) 556-2787
E-mail: Curtis.Blanc@kcpl.com

III. RESPONSE TO APPLICATION FOR VARIANCE

A. WST's Application for Variance

5. KCPL cannot undertake a practice that is inconsistent with the provisions of its tariff. Section 5.03 of the KCPL Rules expressly provides that “KCPL will not supply electric service to a Customer for resale or redistribution by the Customer.” As KCPL understands WST's intended metering practices, WST's actions will constitute either a prohibited resale of energy or a prohibited redistribution of energy. In either event, KCPL believes that absent express authorization from the Commission, KCPL is prohibited under the terms of its tariff from supplying electric service to Wallstreet Tower, at least as WST presently contemplates such service.

6. Consistent with the facts before the Commission in a previous KCPL-related proceeding in Case No. EE-2003-0199,² KCPL believes that a variance from Section 5.03 of the KCPL Rules is necessary regardless of whether 4 C.S.R. § 240-20.050(2) is applicable. In the

² *In the Matter of the Application of Kansas City Power & Light Co. for a Variance from the Separate Meter Requirement*, Case No. EE-2003-0199 (Mar. 27, 2003).

previous case, the Commission concluded that 4 C.S.R. § 240-20.050(2) did not apply, but that a variance from Section 5.03 of the KCPL Rules was nonetheless necessary for KCPL to serve a master-metered, multiple-occupancy building. As is the case with Wallstreet Tower, the building at issue in Case No. EE-2003-0199 was constructed prior to June 1, 1981.

7. Congress determined in the Public Utility Regulatory Policies Act of 1978 (“PURPA”) that separate metering is “appropriate” to further energy conservation public policy goals where “(1) there is more than one unit in such building; (2) the occupant of each such unit has control over a portion of the electric energy used in such unit; and (3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.”³ The Commission has likewise adopted these criteria.⁴

8. WST acknowledges in its application that there is more than one unit in Wallstreet Tower and that “the owners of each unit will control the use of all electric energy used in such unit for heating and cooling, lighting, any kitchen appliances and all other uses.”⁵ The question before the Commission therefore becomes whether the “long-run benefits to the electric consumers” of separately metering the individual units in Wallstreet Tower exceed the costs to the developer of such metering. KCPL does not have a position concerning this issue and respectfully defers to the Commission’s judgment.

9. KCPL believes that it can only provide service to a master-metered Wallstreet Tower if the Commission grants WST the variance it seeks in this proceeding. As the Commission stated in Case No. EE-2004-0092, “Absent approval of this variance request,

³ 16 U.S.C. § 2625(d) (2004).

⁴ *In the Matter of the Application of Union Electric Co., Doing Business as AmerenUE, for a Metering Variance to Serve Brentmoor at Oaktree*, Case No. EE-2004-0267 (Nov. 2, 2004).

⁵ Application for Variance, at ¶ 12.

individual metering for each [unit] along with a ‘house’ meter for all other use [will] be required.”⁶

B. WST’s Motion for Expedited Treatment

10. KCPL does not object to WST’s request for expedited treatment. KCPL seeks to clarify, however, any potential misunderstanding concerning when WST became aware of KCPL’s position concerning the need to separately meter the individual condominium units at Wallstreet Tower. WST implies that expedited treatment is necessary because “It was not until August 16, 2005 that [KCPL] sent written notification to WST that KCPL would be requiring individual metering to each condominium unit.”⁷

11. KCPL wants to correct any potential inference that WST was not aware of KCPL’s position concerning separate meters prior to August 16, 2005. Since the Wallstreet Tower project was first described to KCPL, KCPL has consistently conveyed its opinion that the individual condominium units should be separately metered.⁸ Although KCPL may not have conveyed that opinion to WST in writing until August 16, 2005, WST was well aware of KCPL’s position prior to that date.

C. Concerns and Requests for Clarification Regarding Logistical and Policy Issues

12. As previously stated, KCPL does not have a position concerning whether the Commission grants WST’s requested variance. However, in the event the Commission grants WST’s application, KCPL has a number of logistical and policy concerns that warrant Commission consideration and guidance.

⁶ *In the Matter of the Application of Union Electric Co., Doing Business as AmerenUE, for a Variance for Parkview Apartments*, Case No. EE-2004-0092, at p. 2 (Sept. 23, 2003).

⁷ Motion for Expedited Treatment, at ¶ 3.

⁸ KCPL’s explanation to WST is consistent with Section 507 of KCPL’s Electric Service Standards, which expressly provides that “In multiple-occupancy buildings, each of the premises should be individually metered, as well as the facilities used in common if applicable.”

13. KCPL requests that the Commission clarify who KCPL's customer is in a master-metering scenario for purposes of determining under what circumstances it is appropriate for KCPL to discontinue service. Could KCPL, for example, discontinue service to all 153 units at Wallstreet Tower if actions by the condominium association warrant disconnection under the Commission's regulations or the provisions of KCPL's tariff? If such discontinuance is permissible and warranted, what kind of notice is required? The Commission's regulations and KCPL's tariff indicate that notice to KCPL's customer, or in this case, the condominium association, is all that is necessary prior to discontinuing service. This could create the scenario where consistent with Commission requirements, KCPL discontinues service to 153 household owners without notice from KCPL to the actual end users.

14. Although similar issues may arise with respect to older master-metered residential apartments where the landlord defaults on the utility service and the utility disconnects a rental apartment, the issues presented in the current proceeding are different. In the landlord/tenant context, the tenant has the option of rent abatement, or ultimately, to move, arguing that the landlord had violated the rental agreement. Where condominiums are concerned, on the other hand, KCPL would be disconnecting individually owned residences. It is critical that KCPL maintain the full extent of its customer default remedies, but KCPL recognizes that special Commission consideration is necessary in a master-metering scenario, especially when a condominium project is master metered. Consequently, KCPL seeks the Commission's guidance in this matter.

15. Furthermore, given the level of conversions of older buildings into loft/condominium projects in the Kansas City metropolitan area, KCPL seeks the Commission's guidance concerning how the Commission will balance the energy conservation policy goals of

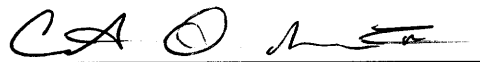
PURPA against what KCPL is observing to be the typical goal of developers to master meter their projects. As discussed above, Congress established in PURPA a policy in favor of separately metering the individual units of multiple-occupancy buildings as consistent with PURPA's general energy conservation measures. There are numerous projects similar to the Wallstreet Tower project in various stages of development in the Kansas City metropolitan area. KCPL requests that the Commission consider that other developers will likely rely upon the Commission's resolution of the present matter.

16. KCPL also respectfully requests guidance concerning its treatment of future multiple-occupancy building developers. Specifically, should KCPL direct subsequent developers to the Commission, as KCPL directed WST? If not, what should KCPL do with respect to comparable requests for service that in KCPL's opinion constitute a prohibited resale or redistribution of electric service?

IV. CONCLUSION

17. For the foregoing reasons, KCPL respectfully requests that the Commission carefully consider KCPL's logistical and policy concerns regarding WST's application for variance. KCPL further requests that if the Commission grants WST's requested variance that the Commission also provide guidance concerning the issues raised herein.

Respectfully submitted,



Curtis D. Blanc
Kansas City Power & Light Company
1201 Walnut – 20th Floor
Kansas City, Missouri 64141
Phone: (816) 556-2483
Fax: (816) 556-2787
E-mail: Curtis.Blanc@kcpl.com

Dated: October 3, 2005


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via first class mail, postage prepaid, on this 3rd day of October 2005, upon:

Shawn E. Stewart
Stewart Law Firm, L.C.
4505 Madison Avenue
Kansas City, Missouri 64111

Dana K. Joyce
Missouri Public Service Commission
P.O. Box 360
200 Madison St., Suite 800
Jefferson City, MO 65102

Lewis Mills
Office of the Public Counsel
P.O. Box 2230
200 Madison St., Suite 650
Jefferson City, MO 65102



Curtis D. Blanc
Counsel for Kansas City Power & Light Company