

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

Richard Tolbert,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. EC-2007-0407
	)	
Kansas City Power & Light Company,	)	
	)	
Respondent.	)	

**RESPONSE TO MOTION TO RECONSIDER DISMISSAL  
OF KANSAS CITY POWER & LIGHT COMPANY**

Pursuant to 4 CSR 240-2.080(15), Kansas City Power & Light Company ("KCPL") hereby responds to Mr. Tolbert's Motion to Reconsider Dismissal. For the reasons discussed herein, the Commission should deny Mr. Tolbert's request.

In support hereof, KCPL states as follows:

1. On October 30, 2007, the Missouri Public Service Commission ("Commission") issued an order dismissing Mr. Tolbert's complaint without prejudice. In its order the Commission correctly concluded that

Although it could very likely also be dismissed on one or both of the other independent grounds raised by KCPL, the Commission will dismiss the amended complaint for Mr. Tolbert's failure to comply with the Commission's rules governing pleadings.

\* \* \*

There is no dispute that Mr. Tolbert is neither the owner nor a tenant or permanent resident of the Premises; that ADNC Church, not Mr. Tolbert, is the customer of record that paid the bill for the accounts associated with the Premises; and that Mr. Tolbert's complaint is not signed by an attorney.<sup>1</sup>

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<sup>1</sup> Order Dismissing Complaint Without Prejudice, at p. 7.

2. In his Motion to Reconsider Dismissal, Mr. Tolbert now alleges for the first time that he “was a tenant, resident, and co-owner of the Premises.”<sup>2</sup> Based on this unsupported, new assertion, Mr. Tolbert requests that he be permitted “to amend his complaint and sign it for himself as a tenant and resident.”<sup>3</sup> Mr. Tolbert also suggests that his complaint should be reinstated to give him “the opportunity to ‘well-plead’ the facts.”

3. The Commission should reject Mr. Tolbert’s request. Not only is Mr. Tolbert’s request unsupported, but it contradicts his prior statements to the Commission in the case and the other information that has been provided. Moreover, the Commission has already afforded Mr. Tolbert ample opportunity to present his case.

**A. Mr. Tolbert Is Not a Co-Owner of the Premises.**

4. For the first time, Mr. Tolbert claims in his motion that he is a co-owner of the Premises. He did not assert this claim in his informal complaint, his formal complaint, or the Complaint Case Response Form he submitted in this case. In fact, Mr. Tolbert’s prior arguments, as expressed in those documents, are contrary to his present assertion. Previously, Mr. Tolbert argued that he had standing to bring the complaint because a property management service agreement allegedly entitled The All Denominational New Church to use a two bedroom apartment at the Premises.<sup>4</sup> If Mr. Tolbert was a co-owner of the Premises, there would be no need to rely upon such an agreement. Mr. Tolbert would simply be entitled to such use as a co-owner.

5. Mr. Tolbert’s new and unsupported claim also contradicts the public records of Jackson County, Missouri. According to the “Property Account Summary” for the Premises,

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<sup>2</sup> *Complainant’s Motion to Reconsider Dismissal*, at Para. 1.

<sup>3</sup> *Id.* at Para. 2.

<sup>4</sup> See Complaint Case Response Form, Appendix A.

which is a publicly available document accessible via Jackson County's website and is attached hereto as **Schedule 1**, Charlie Williard is the sole owner of the Premises. Mr. Williard is listed as the "owner" and "taxpayer" of the Premises, including the designation that his ownership interest in the Premises is 100%.

6. In sum, Mr. Tolbert's prior statements and the public records of Jackson County indicate that he is not a co-owner of the Premises. His recent and unsupported change of position does not justify his request for the Commission to reconsider its dismissal of his complaint.

**B. Mr. Tolbert Is Not a Lawful Tenant of the Premises.**

7. Mr. Tolbert also now asserts for the first time that he is a tenant of the Premises. By his own previous admission, "Tolbert was not the tenant of those apts. ADNC was."<sup>5</sup> Mr. Tolbert has never asserted that he has a lease agreement for the Premises. Instead, he has consistently asserted that The All Denominational New Church had a contract with the landlord, *i.e.*, the owner, dated May 2, 2005 to manage the Premises, and that the agreement entitled him to use a rental unit at the Premises.<sup>6</sup>

8. Mr. Tolbert does not have a lease to occupy the Premises. He bases his alleged tenant status solely on the May 2, 2005 letter from Mr. Williard. That letter, by its own terms, entitles "the church," *i.e.*, not Mr. Tolbert, to occupy a rental unit in the Premises. The May 2,

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<sup>5</sup> Complaint Case Response Form, at p. 5, in response to Question No. 10.

<sup>6</sup> See Complaint Case Response Form, Appendix A.

2005 letter, assuming it is still in effect,<sup>7</sup> supports Mr. Tolbert's initial claim that "Tolbert was not the tenant of those apts. ADNC was."<sup>8</sup>

9. In sum, Mr. Tolbert's prior statements and the May 2, 2005 letter from Mr. Williard indicate that he is not a lawful tenant of the Premises. If the May 2, 2005 letter creates a landlord-tenant relationship that continues to be in effect, it is between Mr. Williard and The All Denominational New Church—not Mr. Tolbert. Mr. Tolbert's recent and unsupported change of position does not justify his request for the Commission to reconsider its dismissal of his complaint.

**C. Mr. Tolbert Does Not Reside at the Premises.**

10. According to Mr. Tolbert's prior statements, neither of the Premises are his permanent residence. In his communications with KCPL, Mr. Tolbert has consistently stated that 2012 Agnes is his permanent address.<sup>9</sup> Mr. Tolbert has also stated to KCPL that the Premises are vacant, but that he resides in the units from time to time. Kansas City, Missouri, posted the Premises as uninhabitable, and KCPL understands from the owner and landlord of the Premises, Mr. Williard, that the Premises are vacant.

11. In sum, Mr. Tolbert's prior statements, the actions of Kansas City, Missouri, and the recent statements of Mr. Williard indicate that Mr. Tolbert is not a lawful resident of the Premises. Mr. Tolbert has previously said that he does not reside there. The City has posted the Premises as uninhabitable, and the owner and landlord has explained that the Premises are

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<sup>7</sup> KCPL notes that it attached to its Response to Third Order Directing Filing a letter from Mr. Williard dated October 10, 2007. *See* Response to Third Order Directing Filing, Schedule 1. In his letter, Mr. Williard explains that he terminated the management services agreement and that presently "neither Mr. Tolbert, nor anyone else associated with The All Denominational New Church, is authorized to manage [the] property."

<sup>8</sup> Complaint Case Response Form, at p. 5, in response to Question No. 10.

<sup>9</sup> The last known customer of record at 2012 Agnes is The All Denominational New Church, which left an unpaid account balance of \$205.81.

vacant. Mr. Tolbert's recent and unsupported change of position does not justify his request for the Commission to reconsider its dismissal of his complaint.

**D. Mr. Tolbert has had Ample "Opportunity to 'Well-Plead' the Facts."**

12. In the conclusory, "WHEREFORE" clause of his Motion to Reconsider Dismissal, Mr. Tolbert suggests that the Commission should reconsider its dismissal to give Mr. Tolbert "the opportunity to 'well-plead' the facts." To the contrary, the Commission has already afforded Mr. Tolbert ample opportunity to make his case.

13. Mr. Tolbert's one-sentence complaint against KCPL alleged, in its entirety, that "KCP&L disconnected electric service on 2/28/07 without good cause and without proper final notice." Recognizing that Mr. Tolbert had not fully availed himself of the opportunity to present his case, the Commission directed him to complete a detailed Complaint Case Response Form, which included numerous questions to assist Mr. Tolbert with the presentation of his case. Mr. Tolbert requested, and the Commission granted, two requests for additional time to complete the Complaint Case Response Form.

14. The Commission has already gone to considerable lengths to give Mr. Tolbert the opportunity to present his case. Mr. Tolbert has not demonstrated that there is good cause for any further accommodation.

**E. The Commission's Rationale for Dismissing Mr. Tolbert's Complaint Remain Valid**

15. Notwithstanding the new, unsupported, and contradictory assertions in his Motion to Reconsider Dismissal, the Commission's rationale for dismissing his complaint remains valid. Mr. Tolbert is neither the owner of the Premises, nor the customer of record for either of the accounts involving the Premises. ADNC Church was the customer of record. It paid the bills for

electric service at the Premises. Consistent with these facts, Mr. Tolbert previously acknowledged that he brought the complaint “to represent the church.”<sup>10</sup>

16. Commission Rule 240-2.040(5) provides that “A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity.” As such, permitting Mr. Tolbert to pursue the complaint will further his unauthorized practice of law before the Commission.

17. In addition, Commission Rule 240-2.080(1) provides that “Every pleading shall be signed by at least one (1) attorney of record with the attorney’s individual name or, if a natural person is not represented by an attorney, shall be signed by the natural person.” As explained above, Mr. Tolbert previously admitted that he brought the complaint “to represent the church.” As such, the complaint is inconsistent with the Commission’s regulations because it should have been signed by at least one attorney.

18. Because Mr. Tolbert submitted the complaint “to represent the church,” and because Mr. Tolbert is not represented by counsel, the complaint is inconsistent with Commission Rules 240-2.040(5) and 240-2.080(1). As such, the Commission was correct to dismiss his complaint.

**F. Mr. Tolbert’s Motion to Reconsider Dismissal is Untimely**

19. As a final point, KCPL notes that Mr. Tolbert’s Motion to Reconsider Dismissal is untimely. The Commission issued its order dismissing the complaint on October 30, 2007, with an effective date of November 9, 2007. Mr. Tolbert’s Motion to Reconsider Dismissal was filed November 14, 2007, after the order became effective.

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<sup>10</sup> Complaint Case Response Form, at p. 5, in response to Question No. 12.

For the foregoing reasons, the Commission should deny Mr. Tolbert's motion to reconsider the dismissal of his complaint.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C. D. Blanc", with a horizontal line drawn underneath it.

Curtis D. Blanc (Mo. Bar No. 58052)  
Kansas City Power & Light Company  
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**COUNSEL FOR  
KANSAS CITY POWER & LIGHT COMPANY**

Dated: November 15, 2007

## **SCHEDULE 1**

### **Jackson County Property Tax Records for the Premises**



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## Property Account Summary

Parcel Number	30-140-03-01-00-0-00-000	Property Address	2315 E 39TH ST , KANSAS CITY, MO 64130
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### General Information

Property Description	WARDER'S GEORGE W ADD LOT 1 (EX PT IN 39TH) & ALL OF LOT 2 BLK 3
Last Sale Price	60,000.00
Last Sale Date	12/07/2004
Last Sale Document Number	2004K0082181
Property Category	Land and Improvements
Status	Active, Delinquency, Host Other Property, Locally Assessed
Tax Code Area	001

### Property Characteristics

Property Class	2018
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### Parties

Role	Percent	Name	Address
Taxpayer	100	WILLARD CHARLIE	706 E 34TH ST, KANSAS CITY, MO 64109 UNITED STATES
Owner	100	WILLARD CHARLIE	706 E 34TH ST, KANSAS CITY, MO 64109 UNITED STATES

### Property Values

Value Type	Tax Year 2007	Tax Year 2006	Tax Year 2005	Tax Year 2004	Tax Year 2003
Market Value Total	44,561	44,561	44,561	44,561	44,561
Taxable Value Total	8,467	8,467	8,467	8,467	8,467
Assessed Value Total	8,467	8,467	8,467	8,467	8,467

**If you wish to pay your property taxes on-line now**, press the "Add To Payment List" Button. If you wish to pay multiple parcels with a single payment click the "Search for Additional Property to Pay" Button on the next page.

**If you wish to mail your taxes**, please make checks payable to: "Jackson County Collector". Be sure to include the Parcel Account number(s) on your payment and send to: P.O. Box 219747, Kansas City, MO 64121.

For any questions or assistance, please contact the Taxpayer Services Unit at (816) 881-3232.

### Installments Payable

Tax Year	Installment	Due Date	Principal	Interest, Penalties and Costs	Total Due	Cumulative Due	Select to Pay
2004	Delinquent	09/30/2007	669.66	508.18	1,177.84	1,177.84	<input checked="" type="radio"/>
2005	Delinquent	09/30/2007	679.70	323.58	1,003.28	2,181.12	<input type="radio"/>
2006	Delinquent	09/30/2007	679.80	193.22	873.02	3,054.14	<input type="radio"/>
2007	1	12/31/2007	673.59	0.00	673.59	3,727.73	<input type="radio"/>

[Add To Payment List](#)

[View Detailed Statement](#) Detailed information about taxes and all other charges displayed above.

[Calculate Future Payoff](#) Taxes, interest and penalty due on a specific future date.

This Parcel is in Delinquency/Bankruptcy and taxes can not be paid online.

**Distribution of Current Taxes**

District	Rate	Amount
BOARD OF DISABLED SERVICES	0.074800	6.33
CITY - KANSAS CITY	1.463200	123.89
JACKSON COUNTY	0.535500	45.34
KANSAS CITY LIBRARY	0.449300	38.04
KANSAS CITY SCHOOL #33	4.950000	419.12
MENTAL HEALTH	0.120800	10.23
METRO JUNIOR COLLEGE	0.213200	18.05
STATE BLIND PENSION	0.030000	2.54
CITY - KANSAS CITY		10.05

**Receipts**

Date	Receipt No.	Amount Applied	Amount Due	Tendered	Change
04/16/2004 09:40	3062277	723.37	723.37	723.37	0.00
11/07/2003 11:05	2597912	766.74	766.74	766.74	0.00
10/08/2002 08:59	2078999	764.76	764.76	764.76	0.00

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**ATTENTION APPLE USERS:** The ability to pay a tax bill with the **Safari internet browser** is not supported at this time.

Apple users, please use Mozilla's Firefox internet browser.

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application was served either by electronic mail or by first class mail, postage prepaid, on this 15<sup>th</sup> day of November 2007, upon:

Richard Tolbert  
2315 E. 39<sup>th</sup> Street  
Kansas City, Missouri 64109

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Curtis D. Blanc