

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

Emma J. McFarlin and Rebecca J. Shepherd,	)	
	)	
Complainants,	)	
	)	
v.	)	File No. EC-2013-0024
	)	
Kansas City Power & Light Company,	)	
	)	
Respondent.	)	

**KANSAS CITY POWER & LIGHT COMPANY'S BRIEF**

COMES NOW, Kansas City Power & Light Company ("KCP&L" or "Company") and submits this post-hearing *Brief* ("Brief") in accordance with the Missouri Public Service Commission's ("Commission") *Order Setting Procedural Schedule*, further extended by *Order Extending Time to File Briefs*.

**I. INTRODUCTION**

1. On July 20, 2012, Complainants submitted a formal *Complaint* to the Commission concerning disconnection of electric service.

2. Complainants requested that KCP&L: (i) reduce their balance; (ii) provide documentation of tampering; (iii) restore complete service to the Complainants' property with reasonable payment plan; and, (iv) provide a letter of apology from KCP&L and the Commission.

3. On July 24, 2012, Complainants added an allegation of inaccurate metering.

4. On July 25, 2012, the Commission Staff ("Staff") filed its *Preliminary Report* recommending the *Complaint* be dismissed as the Complainants' documentation failed to support that they were disconnected for any reason other than non-payment. See Ex. 1, p. 7.

5. An evidentiary hearing was held on May 17, 2013 to address the *Complaint*. Following the hearing, the Commission issued an *Order Granting Motion to Terminate Service* in response to KCP&L's April 30, 2013 *Motion for Authority to Terminate Service*. Pursuant to the aforementioned *Order*, Complainants were ordered to pay not less than \$1,891.80 toward their bill by no later than 4:00 p.m. on May 17, 2013.

6. On May 20, 2013 KCP&L delivered a notice of disconnect to the Complainants for non-payment of services, indicating the amount due to avoid disconnection of \$1,891.80. On May 22, 2013 the Company made a telephone call to warn the Complainants of pending disconnection scheduled for May 24, 2013.

7. Complainants did not comply with the ordered payment of \$1,891.80 by May 17, 2013. Rather, Complainants made payment of \$1,000 on May 21, 2013 and their electric service was subsequently terminated on May 24, 2013. \*\* [REDACTED]

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8. Complainants' balance as of today's date is \*\* [REDACTED] \*\* with \*\* [REDACTED] \*\* of that balance in arrears.

9. Complainants have the burden of proving that KCP&L has violated either a statute, regulation, tariff or order. Complainants have not met this burden.

## II. COMMISSION SHOULD DENY THE RELIEF REQUESTED BY COMPLAINANTS

### A. Complainants are not entitled to a balance reduction under KCP&L's tariffs

10. On April 25, 2013, the Commission granted KCP&L's *Motion for Partial Summary Determination* as to allegations of meter inaccuracy.

11. Complainants provided no evidence at hearing that would cause the Commission to modify its April 25, 2013 decision. Complainants attempted to show differences in kilowatt

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hours per day, as compared to previous months and years. See Tr. pp. 34-35. This is not sufficient evidence to create a genuine issue of fact regarding the accuracy of the meter, in light of the meter test and affidavit provided by KCP&L.

12. Complainants' meter was tested on February 20, 2013. The meter test demonstrated that the meter was 100.03% accurate. These tests were performed pursuant to Commission standards and demonstrated that the meter was accurate. See Tr. p. 70, l. 19; p. 71, ll. 2-4.

13. Rule 6.09(a) (Sheet 1.24) of KCP&L's tariffs provide for refunds for meter errors if the error is greater than 2%. The tariff states:

6.09 Billing Adjustments:

- (a) Where, upon test, the kilowatt-hour meter error is found to be 2% or less, no billing adjustment will be made.

14. Because Complainants' meter tested at 100.03% accuracy, Complainants' request for a balance reduction is without merit and should be rejected by the Commission.

**B. Complainants' failure to receive agency assistance was not related to a tampering allegation**

15. Complainants have never been billed for tampering charges. See Tr. pp. 47-48, ll. 24-2.

16. The evidence at the hearing demonstrates that the Complainants' failure to receive assistance had nothing to do with tampering allegations. *Staff's Preliminary Report* filed on July 25, 2012 indicated that:

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See Staff's Preliminary Report, Ex. 1, p. 5.

Staff witness Fred further explained at hearing in May, 2013, that the United Services Community Action Agency's ("USCAA") reasons for not providing aid "would have been either the lack of the co-payment that was necessary or the possible inability to qualify due to eligibility based on income." See Tr. p. 75, ll. 15-18. KCP&L witness Stolberg also testified that USCAA denied assistance due to the fact that Complainants' income exceeds the qualification guidelines. See Tr. p. 63, ll. 15-19. In addition, USCAA's February 28, 2013 letter to KCP&L was admitted into evidence at the hearing. The letter indicates that USCAA's refusal to provide aid to Complainants was not due to tampering allegations but rather that Complainants' ineligibility was based on the failure to meet the requirements for the Low Income Home Energy Assistance Program. See USCAA Letter, Ex. 2.

**C. KCP&L established two payment plans, neither of which were honored by Complainants**

17. On June 18, 2012 KCP&L sent a notice of disconnect to the Complainants for non-payment of services. On June 25, 2012 the Company made telephone calls to warn of pending disconnection. On July 10, 2012 KCP&L disconnected service at the meter for non-payment. See Tr. p. 47, ll. 12-17. KCP&L complied with the Hot Weather statute (393.108 RSMo) and the Commission's disconnection rule (4 CSR 240-13.050) in making this disconnection. See Tr. p. 74, ll. 6-17.

18. On July 26, 2012 services were reconnected after Complainants agreed to a budget pay amount of \$350 per month. See Tr. p. 62, ll. 5-9.

19. On September 21, 2012 KCP&L agreed to lower the monthly budget pay amount to \$300. See Tr. p. 62, l. 5. While KCP&L honored the settlement agreement by reconnecting the Complainants' service, neither settlement agreement was honored by Complainants. Id. l. 13.

Before the payment made on May 21, 2013, the last payment made by Complainants was on August 6, 2012. See Tr. p. 20, ll. 19-20.

20. Complainants have not shown that they are entitled to a third payment plan under KCP&L's tariffs or Commission rules.

**D. Letter of Apology**

21. KCP&L believes a letter of apology is unnecessary as it has acted in accordance with its tariffs, the Missouri code of state regulations and state law.

**III. CONCLUSION**

22. The Complainants have not met their burden on any of the issues found in their *Complaint*. The Complainants' meter is accurate. Under KCP&L's tariffs, Complainants are not entitled to a balance reduction. KCP&L's disconnection of Complainants was pursuant to Commission rules and the Hot Weather statute. KCP&L's actions did not impact the aid decisions of USCAA. Staff testified that KCP&L complied with the Commission's disconnection rule and Hot Weather statute. *Staff's Preliminary Report* and its testimony at hearing supports the actions of KCP&L in its dealings with Complainants.

WHEREFORE, KCP&L respectfully requests that the Commission deny Complainants' request for relief.

Respectfully submitted,

/s/ Roger W. Steiner

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 7<sup>th</sup> day of June, 2013.

/s/ Roger W. Steiner

Roger W. Steiner