

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Tony Walker,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2006-0451</u>
)	
Kansas City Power & Light Company,)	
)	
Respondent)	

ORDER GRANTING MOTION
FOR LEAVE TO SUBMIT ANSWER OUT OF TIME

Issue Date: July 27, 2006

Effective Date: July 27, 2006

Tony Walker filed a complaint against Kansas City Power & Light Company. On July 12, 2006, Kansas City Power & Light Company filed a motion to file its answer out of time. KCPL explains that it believed it submitted its answer on June 30, 2006. However, upon learning that it had inadvertently submitted a copy of the complaint rather than its answer, KCPL filed its answer and motion of July 12. KCPL informed the Commission that Mr. Walker received a timely copy of the answer and is therefore not prejudiced by a late-filed answer. KCPL further explains that because no procedural schedule has been set, no parties would be prejudiced by the Commission accepting KCPL's late-filed answer. The Commission then directed Mr. Walker to file a response to the motion.

Mr. Walker filed his response on July 24. In his objection to KCPL's motion, Mr. Walker cites Commission rule 4 CSR 240-2.080 (15), which allows parties no more than ten days to file responsive pleadings unless otherwise ordered by the Commission.

Although this is a correct recitation of the Commission's rule, it is incorrectly applied. Commission rule 4 CSR 240-2.070 governs complaints and the time in which answers to complaints must be filed. At section (8) respondents are required to file answers to complaints "within the time provided." In the Notice of Complaint, issued by the Commission on May 31, 2006, KCPL is directed to file an answer within 30 days. The company therefore had until June 30 to file its answer.

Discussion

As KCPL states, its answer being filed late was the result of a mistake. Further, Mr. Walker was timely served with a copy of KCPL's answer and no party would be prejudiced by the Commission accepting KCPL's late-filed answer. Lastly, Mr. Walker has not given the Commission a reason to reject KCPL's motion.

Commission rule 4 CSR 240-2.050 (3) (B) states as follows:

When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission, at its discretion, may – after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

The Commission finds that the KCPL's failure to timely file its answer is the result of excusable neglect. Moreover, the gravity of the any possible harm caused by KCPL's late-filed answer is greatly outweighed by the result of denying its motion and finding the company in default. The Commission will therefore grant the requested relief and accept KCPL's late-filed answer.

IT IS ORDERED THAT:

1. Kansas City Power & Light Company's motion for leave to submit its answer out of time is granted.

2. This order shall become effective on July 27, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Kennard L. Jones, Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 27th day of July, 2006.