

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the investigation )  
of steam service rendered by )  
Kansas City Power & Light Company. )

Case No. HO-86-139

REPLY BRIEF OF THE KANSAS POWER AND LIGHT COMPANY

I. Introduction

Due to the limited nature of KPL Gas Service's interests in this case, this Reply Brief will respond only to the discussion in KCPL's Initial Brief which related to its proposal to provide electric-fired steam boilers to customers at no charge. *KCPL Initial Brief (KCPL Brief)*, at 39-44.

II. Argument

A. KCPL's proposal is promotional  
and is clearly intended to be.

Throughout this proceeding KCPL has maintained that it does not view its proposal to provide steam boilers to customers at no charge as a promotional practice.<sup>1</sup> In its Initial Brief, KCPL once again states that it "doesn't believe that its offer is a promotional practice, much less a prohibited one." *KCPL Brief*, at 39. The Company's argument appears to be that since it has told that Commission that compensation rather than inducement is the goal of the proposal, it does not fall within the proscriptions of the Rule. *See KCPL Brief*, at 40. This argument ignores the plain meaning of the language quoted by the Company and clear indications of its intentions made throughout the course of the hearings.

<sup>1</sup>As pointed out in KPL Gas Service's Initial Brief, at 4 fn. 5, KCPL has tacitly admitted that if the "traditional" interpretation of the Rule were applied, its proposal would be prohibited by arguing that, "[i]n this unique case, the traditional prohibitions against furnishing free electric boilers or equipment should not apply." *Deaudain*, Exhibit 13, at 6.

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As KCPL correctly stated, "promotional practice[s]" include the giving of any consideration "for the purpose, express or implied, of inducing such person to select or use the service or additional service" of a utility. 4 C.S.R. 240-14.010(5)(G). (Emphasis added.) The major purpose of the Rule appears to be to ensure competition between utilities will be based only on customer comparisons between the competing services and not on deal sweeteners thrown in by the utilities. That the Company seeks permission to provide special inducements to establish a competitive advantage over KPL Gas Service in its efforts to convert steam customers to other forms of energy is very clear. Precisely that goal was stated by KCPL witness Graham. His testimony was as follows:

Q. (by Mr. Walther): Mr. Graham, is it the purpose of KCPL's steam conversion plan to retain all steam customers as electric heat customers?

A. (by Mr. Graham): Yes, as many as we can.

Q. Would you agree that this purpose could not be accomplished if you provided your customers with gas boilers?

A. If we give them boilers?

Q. Gas boilers.

A. No. We do not sell gas, so that would not accomplish that purpose or that goal.

Graham, Tr. Vol. Six, at 407. As was pointed out in KPL's Brief, testimony by other KCPL witnesses clearly indicates that the purpose of the proposal was to induce steam customers to convert to electricity since they would be unlikely to chose electricity over gas were the competition pursued on an equal basis. KPL Brief, at 4.

B. No exemption from the Promotional Practices Rule is justified.

KCPL reiterates its request for an exemption from the Promotional Practices Rule, KCPL Brief, at 40, and states that it has shown good cause why it should be allowed to make the offer. Id. However, as stated in KPL Gas Service's initial brief, KCPL has failed to make the showing required to obtain an exemption on the grounds set forth in the Rule -- that it faces and must meet unregulated competition.

Moreover, there exists no good cause to create a special exception where, as here, both the purpose of the Rule and KCPL's purported goal of "compensation" can be accommodated without an exception. A cash payment to KCPL's steam customers equal to the cost of an electric steam boiler to be used at each customer's discretion would provide compensation, allow competition between competing forms of energy on an equal basis, and avoid conflict with the Rule due to the elimination of any "inducement."<sup>2</sup> The availability of a solution both compatible with the expressed desire of the Company to compensate its customers and the requirements of the Rule makes the granting of a waiver unnecessary and inappropriate.

C. KCPL's proposal distorts economic choices and ought to be rejected.

KCPL's brief clearly indicates the severe economic distortion which would be occasioned by approval of its plan to provide steam boilers to customers. Three statements in the brief are extremely telling in this regard.

First, KCPL states that the cost of the boilers is irrelevant to this case "since the steam customers aren't being asked to pay those costs." *KCPL Brief*, at 42. Second, it says that its customers can make a "good economic decision" comparing the cost of steam service to electric rates plus maintenance and gas rates plus maintenance and capital costs. *Id.* Third, it states that the eleven Customer Intervenor were able to make their choice without difficulty. *Id.* at 43.

The first two points are directly related to KPL Gas Service's criticism of the plan. In making the choice between "steam" service and gas service, the customer will be comparing apples and oranges -- with the apples being provided free of

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<sup>2</sup>This approach was suggested in KPL Gas Service's Initial Brief. The Customer Intervenor also suggested in their brief that the customers be presented the option of a free electric boiler or an equivalent cash payment. *Brief of Customer Intervenor*, at 3-4.

charge. The customer would only pay capital costs if it chooses gas service.<sup>3</sup> While the evaluation of the steam option would depend on the customer's "perception of future energy conditions," *id.* at 42, its adoption of the comparable gas option would require a decision to invest its own money in equipment -- a decision requiring quite a different analysis. With such uneven competition, it is no wonder that the eleven "Customer Intervenor" had no difficulty in making their choice to accept the free boilers offered by KCPL.<sup>4</sup>

D. If KCPL's plan is accepted, KPL Gas Service should be allowed to provide gas-fired boilers and chillers as proposed by its witness.

KCPL objects to KPL Gas Service's offer to provide gas-fired boilers and chillers in the event that KCPL's proposal is adopted. KCPL states that KPL Gas Service's proposal "has not been demonstrated to be cost-based, and there are no unusual, extenuating circumstances affecting KPL." *KCPL Brief*, at 41. These criticisms are unfathomable to KPL Gas Service.

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<sup>3</sup>At page 44 of its brief, KCPL stated that it "is not 'paying' any amount to terminate its steam distribution business, other than the time cost of the capital invested in boilers and space heating equipment (Tr. 92-93)." Despite this assertion, Mr. Beaudoin's cited testimony was far from definitive. He stated that the capitalized value of the "contribution" from converted steam heat customers "over 20 years could equal the cost of providing these facilities. It all depends on how you look at the business situation." *Id.* at 93. (Emphasis added.) His further testimony was even less certain:

Q. (by Ms. Young) Now, Mr. English mentioned in his opening statement that these are free boilers. Under that scenario, are these really free boilers that are being given to the customers?

A. (by Mr. Beaudoin) What we give to the customers is the upfront capital costs of installing the boiler. At the higher steam rates, eventually there would be some contribution to the capital costs.

Tr. Vol. Three, at 93-4 (emphasis added). Its statements in its brief notwithstanding, KCPL does not seem to know when or how much of its investments in boilers will be paid back.

<sup>4</sup>It is worthy of note that when the choice was made less one-sided, i.e., by hypothesizing that neither gas nor electric or that both gas and electric boilers be would provided free, the intervenors were unable to make a decision. See *Neuro*, Tr. Vol. Seven at 443-44.

First, the argument that KPL Gas Service's proposal has not been shown to be cost-based is incredible in light of KCPL's offer to provide free boilers and charge steam rates which do not now, and may never include the costs of its investment, and which result in an operating deficit to KCPL based on the investment and expenses used to set the rates. Not only has there been no showing that KCPL's rates are cost-based, it has been plainly admitted that the existing and phase-in rates bear no relation to the cost of serving steam customers. *KPL Brief*, at 2-3.

Second, KPL Gas Service's offer was expressly conditioned upon KCPL's proposal being accepted by the Commission. An order from this Commission releasing KCPL from the strictures of the Promotional Practices Rule to allow it to give away electric boilers would clearly constitute "unusual, extenuating circumstances" significantly affecting KPL Gas Service and its competitive relationship with KCPL. Authorization of the KPL Gas Service proposal would merely reestablish fair competition between the companies in the event that KCPL's proposal is approved.

If KCPL is allowed to provide electric boilers at no charge, KPL Gas Service should be allowed to provide boilers and chillers to those same customers.

### III. Conclusion

KCPL's proposal to install electric-fired steam boilers on its customers premises violates the Commission's Promotional Practices Rule, would provide KCPL an unfair competitive advantage, and ought not be allowed. In the event it is approved, however, KPL Gas Service should be permitted to install gas-fired boilers and chillers and charge a rate equivalent on a Btu basis to the rate charged by KCPL for steam service.

Respectfully submitted,

THE KANSAS POWER AND LIGHT COMPANY



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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of May, 1987, I served a true and correct copy of the above and foregoing Reply Brief of The Kansas Power and Light Company on each of the parties listed on the official service list of the secretary in this docket.

  
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Martin J. Bregman