

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Cheryl L. Fabulae,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2007-0146</u>
)	
Kansas City Power & Light Company,)	
)	
Respondent.)	

ORDER FINDING GOOD CAUSE TO RESET COMPLAINT FOR
HEARING

Issue Date: January 4, 2007

Effective Date: January 4, 2007

On October 6, 2006, Cheryl L. Fabulae filed a formal complaint against Kansas City Power & Light Company ("KCPL"). By order dated November 16, 2006, the Commission granted Staff's motion for expedited treatment and resolution of the complaint and set it for an evidentiary hearing in Room 305 of the Governor Office Building on Monday, November 27, 2006, beginning at 10:00 a.m. No continuance was secured by any party beforehand, and the hearing was convened at the scheduled time. While KCPL and the Commission's Staff appeared for the hearing by their counsel, Ms. Fabulae did not appear, either in person or by telephone.

Since Ms. Fabulae failed to appear at the November 27, 2006 evidentiary hearing without previously having secured a continuance, her complaint against KCPL became

subject to dismissal unless she showed good cause for her absence.¹ Therefore, by order dated November 28, 2006, the Commission granted Ms. Fabulae fifteen days to file a pleading showing good cause for her failure to appear at the evidentiary hearing.

On December 14, 2006, Ms. Fabulae filed her response to the Commission's show cause order, explaining that the reason she did not appear at the evidentiary hearing on November 27, 2006 was that she was hospitalized with pneumonia at Liberty Hospital from November 21 through November 30, 2006. This clearly constitutes a *prima facie* showing of good cause. Furthermore, over ten days have passed since Ms. Fabulae filed her response to the Commission's show cause order, and no party to this case has filed an opposing responsive pleading.² Accordingly, the Commission finds that Ms. Fabulae has demonstrated good cause for her failure to appear at the evidentiary hearing on November 27, 2006, and it must be rescheduled.

As to when the hearing will be held, the Commission is aware that on November 16, 2006, it granted Staff's motion for expedited treatment and resolution of Ms. Fabulae's complaint.³ The Commission is also aware that in her December 14, 2006 response to the show cause order, Ms. Fabulae stated that she wished to "finalize this matter with the commission as soon as possible" so that she could begin to "pursue other legal options" regarding the subject matter of her complaint. On the other hand, Ms. Fabulae's response to the show cause order also states that because she is "still under close observation as [her] health has significantly deteriorated," she does "not [have] the strength at this time to

¹ See 4 CSR 240-2.110(2)(B).

² "Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission." 4 CSR 240-2.080(15).

³ That order also required all parties to file with the Commission a copy of their witness lists by no later than 5:00 p.m. on November 21, 2006. While Ms. Fabulae did not do so, her December 14, 2006 response to the Commission's show cause order of November 28, 2006 identifies the witnesses she plans to call at the evidentiary hearing.

put forth more energy toward this matter.” Accordingly, the date, time, and location of the rescheduled hearing will be specified in a separate order.

IT IS ORDERED THAT:

1. The Commission finds that Ms. Fabulae has demonstrated good cause for her failure to appear at the evidentiary hearing on November 27, 2006, and that the hearing must be rescheduled. The date, time, and location of the rescheduled hearing will be specified in a separate order.

2. This order shall become effective on January 4, 2007.

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)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 4th day of January, 2007.