

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the applications of)
Kansas City Power & Light Company for)
variance from Promotional Practices)
Rule for good cause shown and for) Case No. EO-90-251
approval of Promotional Practices)
Sheet Nos. 1.08D.1, 1.08D.2 and 1.08F.1.)

APPEARANCES: Michael A. Rump, Staff Attorney, 1330 Baltimore Avenue, Kansas City, Missouri 64105, for Kansas City Power and Light Company
Richard W. French, Assistant General Counsel, 720 Olive Street, St. Louis, Missouri 63101, for Laclede Gas Company
Michael C. Pendergast, Regulatory Affairs Attorney, 818 Kansas Avenue, Topeka, Kansas 66612, for The Kansas Power and Light Company
Stuart W. Conrad, Attorney at Law, Lathrop, Norquist & Miller, 2345 Grand Avenue, Kansas City, Missouri 64108, for Armco, Inc.
Lewis R. Mills, Jr., First Assistant Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, for Office of the Public Counsel and the Public
Robert J. Hack, Assistant General Counsel, P.O. Box 360, Jefferson City, Missouri 65102, for Staff of the Missouri Public Service Commission

HEARING
EXAMINER: Janet L. Sievert

REPORT AND ORDER

On March 22, 1990, Kansas City Power & Light Company (KCPL) filed application for two separate and distinct variances from the promotional practice rule 4 CSR 240, Chapter 14, et seq.: (1) The Energy Efficiency Cooling Program (the Cooling Program), and (2) The Energy Efficiency Total Electric New Home Program (the Total Electric Program). The Cooling Program is designed to influence consumers through the use of incentives to purchase high-efficiency cooling equipment. The Total Electric Program is designed to encourage construction of a limited number of model energy efficient total electric new homes built in KCPL's service territory.

On April 7, 1990, Laclede Gas Company (Laclede) filed an application to intervene and a request for hearing. On April 19, 1990, the Office of Public Counsel (Public Counsel) filed a motion to deny KCPL's application. On May 1, 1990, the Kansas Power and Light Company (KPL) filed an application to intervene and request for hearing. The Commission's May 11, 1990 order allowed intervention of KPL and Laclede, denied Public Counsel's motion to deny the application and established a procedural schedule, with the hearing to be held June 22, 1990.

On May 22, 1990, Public Counsel filed a motion to amend the procedural schedule. Staff, KPL and Laclede filed responses supporting Public Counsel's motion. KCPL filed a response opposing the motion, and in the alternative would not oppose a delay in the total electric program if the cooling program proceeded as scheduled or was accelerated. On June 1, 1990, the Commission severed the variances, retaining the June 22, 1990 hearing date for the cooling program and scheduled the total electric program hearing for November 15, 1990.

On June 18, 1990, KCPL filed a joint recommendation concerning the cooling program, which was subsequently approved by Commission order dated June 26, 1990. The approval of the agreement allows KCPL to provide incentives to customers to replace faulty cooling equipment with high energy cooling equipment. The agreement is for a limited time, ending March 15, 1991. The agreement, however, did not include the heat pump. KCPL stated an additional variance application will be filed if it decides to continue its cooling program beyond the March 15, 1991 deadline.

On June 26, 1990, ARMCO, Inc. (ARMCO) filed an application to intervene in the hearing set for November 15, 1990. In its order of July 10, 1990, the Commission granted ARMCO's request for intervention.

On September 25, 1990, Public Counsel filed a motion to revise the procedural schedule for the total electric program to which all parties either supported or did not oppose. By notice of October 1, 1990, the procedural schedule was modified, scheduling the hearing for December 10, 1990.

The matters at issue in this case were heard on December 10, 1990. Pursuant to the briefing schedule, simultaneous initial briefs were filed January 28, 1991, and simultaneous reply briefs were filed February 11, 1991.

Findings of Fact

The Missouri Public Service Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact:

KCPL is proposing two separate variances: the Cooling Program and the Total Electric Program. The Cooling Program joint stipulation was filed June 18, 1990 and subsequently approved by the Commission's order dated June 26, 1990. The agreement did not include heat pumps. KCPL continues to request heat pumps be included in this program. However, as the March 15, 1991 deadline for the cooling program will expire prior to the issuance of this Report and Order, the question whether to include heat pumps in the cooling program is moot. Therefore, the Commission will not consider this issue.

The total electric program is intended to make prospective home buyers in KCPL's service area aware of the availability and desirability of total electric homes (homes with electric heating, cooling and water heating systems) by encouraging the construction of a limited number of model total electric homes. The goal of this program is to create market awareness of energy efficient total electric homes. Furthermore, the total electric program is tailored to address specific concerns regarding KCPL's load shape which essentially consists of a high summer peak due to air conditioning load.

Under the total electric program the following incentives will be provided to the home builder: (1) payment of up to \$225 per home for installation of a large capacity, energy efficient water heater, (2) advertising allowance of \$175 for each energy efficient total electric home constructed, (3) advertising by KCPL of a single subdivision or home as examples of total electric homes, (4) payment of up to \$500 per home for registration of model homes on the home builders association tour of homes limited to two homes per builder per subdivision, and a builder incentive of \$700 per home for each model entered on the tour limited to two homes per builder per subdivision, (5) for a model or speculative total-electric home which has not sold six months after the permanent electric meter has been set, KCPL will pay the builder's interest on the loan covering the home until the home sells or six months, whichever is sooner, limited to (a) five homes per builder per subdivision, (b) six months' total interest payment for any one home, and (c) a maximum principle amount of \$200,000 per home.

Incentives to the home buyer consist of an extended warranty on electrical heating and cooling equipment. The extended warranty will cover all parts, labor and equipment for five years and the compressor for ten years. The estimated cost of the extended warranty is \$700.

KCPL contends that the requirements for good cause are: (1) the use of high efficiency equipment, (2) a benefit to both the utility and its customers, and (3) a program which is tailored to address specific concerns of a utility. KCPL believes the variance meets the definition of good cause in that the total electric program is aimed at influencing KCPL's load shape by reducing peak load growth, as well as increasing off peak load, to more economically and efficiently utilize KCPL's resources. KCPL views the benefit of this program as an overall saving on energy costs. KCPL believes customers in general benefit

from increased off-peak sales. Additionally, KCPL argues incremental revenues from off-peak sales will recover the cost of the program and will provide contributions to overall electric service fixed costs. KCPL asserts society will be better served by more efficiently utilizing generation capacity by increasing off-peak utilization.

The Missouri Public Service Commission Staff (Staff) opposes the variance proposed by KCPL as not in the public interest. Staff believes in order for a variance from rule 4 CSR 240-14 et seq. to be justified it must be demonstrated that it will provide benefits to (1) the offering utility and its ratepayers participating in the program, and (2) the program will not negatively impact either the utility ratepayers not participating in the program or regulated alternative fuel suppliers competing in the same service area as the utility proposing to offer the incentive.

Staff opposes implementation of the total electric program without an integrated study being completed showing how the program affects all aspects of the company, (i.e., revenues, rates, loads, capacity, additional distribution of the system) and which establishes that the program is in the public interest. Staff further contends that the total electric program will negatively impact competing alternative suppliers in KCPL's service area which will likely result in alternative suppliers filing similar variances.

Public Counsel opposes the variance for the total electric program on the basis that KCPL has failed to demonstrate good cause as required by rule 4 CSR 240-14.010(2). Public Counsel asserts that in order to demonstrate good cause the proposing utility must prove that benefits will accrue not only to the utility itself and the customers participating in the program but also to the non-participating ratepayers of the utility and competing regulated utilities.

Public Counsel witness Thompson testified that the promotion proposed will have a significant impact on the competing gas suppliers if allowed to proceed as projected. Public Counsel argues that even if KCPL's assertion is true, that increasing load factor is, by definition, beneficial, KCPL still must prove that harm will not come to competing regulated utilities as a result of the variance. Public Counsel further opposes the total electric program variance as the incentives are primarily aimed at home builders, not the home buyer or general ratepayer.

KPL does not necessarily oppose the variance proposed by KCPL. However, KPL believes it is essential to establish a generic proceeding to develop ground rules which will minimize the negative impacts of variances while enabling utilities and their customers to realize the benefits from such variances. Additionally, KPL's witness Axelrod testified that if KCPL's proposed variance is adopted, its competitors will have to institute similar promotional programs to avoid long-term sales losses.

Laclede opposes the variance on the grounds that approval will lead to costly bidding wars between utilities. Laclede argues that KCPL is essentially offering monetary incentives to capture a greater share of the local residential heating market. Whatever share KCPL obtains will be lost by competing utilities in the same service area. Laclede asserts that one can only expect competing utilities to seek a similar variance to maintain competition on a level playing field. Companies will effectively be bidding for the same heating market share, which leads to the possibility of each utility offering greater and greater incentives to gain an advantage over competitors.

The Commission finds that based on the evidence presented the total electric program variance should be denied. The Commission determines that there has not been a sufficient showing of benefit to the public to justify the

variance. Rather, the incentives of the program primarily profit the home builder. Furthermore, the Commission determines that there is a high likelihood that approval of variances such as the one KCPL proposes will lead to industry-wide bidding wars. The Commission finds that a generic docket to establish ground rules for a variance to the promotional practice rule is unnecessary as the rule provides guidelines for any company filing a proposed variance with the Commission.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

KCPL is a public utility subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, RSMo 1986, as amended.

Pursuant to 4 CSR 240-14.010(2), the Commission may grant variances from the rules contained in Rule 14 for good cause shown.

Based upon the evidence presented herein, the Commission concludes that the total electric program variance should be denied as there is not sufficient benefit to the public to meet the good cause standard.

IT IS THEREFORE ORDERED:

1. That pursuant to the findings and conclusions of law in the above Report and Order, the proposed variance filed by the Kansas City Power & Light Company is hereby denied.

2. That this Report and Order shall become effective on April 2,
1991.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Rauch, McClure and
Letsch-Roderique, CC., Concur.
Steinmeier, Chm., Absent.

Dated at Jefferson City, Missouri,
on this 22nd day of March, 1991.