

## **REPORT OF THE STAFF**

TO: Missouri Public Service Commission Official Case File  
Case No. EC-2007-0146, Cheryl Fabulae vs. Kansas City Power  
& Light Company

FROM: /s/Michelle Bocklage, Consumer Services Specialist II

DATE: November 7, 2006

/s/ Carol Gay Fred 11/7/06  
Consumer Service Department/Date

/s/ Kevin A. Thompson 11/8/06  
General Counsel's Office/Date

### **COMPLAINTS**

On July 21, 2006, Ms. Cheryl Fabulae filed an informal complaint regarding the disconnection of her service due to outstanding charges of approximately \$4,000.00.

On October 6, 2006, Ms. Cheryl Fabulae (Complainant) filed a formal complaint (Complaint) with the Missouri Public Service Commission (Commission) against Kansas City Power & Light Company (KCPL or Company). As a basis of her initial formal Complaint filed on October 6, 2006, the Complainant indicated that her house burned down five (5) years ago and that KCPL failed to bill her monthly, resulting in a \$2,000.00 bill. Complainant also claimed that KCPL never advised her of the option of filing an informal complaint with the Commission. Her service has been disconnected approximately twelve (12) times in eighteen (18) months. Upon filing an informal complaint with the Commission, Complainant indicated she never received any additional information until her service was disconnected on October 3, 2006. Complainant also claims that both KCPL and the Commission have violated Commission rules, specifically, 4 CSR 240.13.050.

On October 12, 2006, Ms. Fabulae filed an amended complaint with attachments. In this Complaint, Ms. Fabulae claimed that KCPL failed to bill her for electric service totaling approximately \$1,800.00 until about eighteen months had passed. Upon receipt of the bill for over \$2,000.00 Ms. Fabulae indicated she was unable to remit payment; therefore, she has been required to remit payment of "large sums of money every 1-3 months due to disconnects."

Then, on October 13, 2006, Ms. Fabulae submitted another informal complaint in which she claimed that she has made numerous attempts to resolve a three-year dispute regarding over charges by KCPL. Ms. Fabulae also contends that she was "unfairly billed and denied my rights under the Commission laws and rules".

## **Staff's Findings**

On November 1, 2006, the Commission issued an Order Directing Staff to investigate and File a Report regarding the circumstances set out in the Formal Complaint and to file a written report to the Commission by November 9, 2006. Following are the Staffs findings:

- On May 2, 2001, KCPL removed the meter and closed the account at 5241 N. Bristol Avenue, Kansas City, MO 64119 due to a fire at the location. The account had a zero balance at that time.
- On May 9, 2001, new service was established at 4035 N Bennington Avenue, Apt. 304, Kansas City, MO (account number 6143590843).
- On November 15, 2001, KCPL reinstated the service at the previous location of 5241 N Bristol Avenue, Kansas City (account number 1666827161).
- On November 16, 2001, service at 4035 N Bennington was closed per Ms. Fabulae's request. The account balance at the time of closure was \$241.75.
- On March 7, 2002, a payment of \$423.77 was posted to the 5241 N Bristol Avenue account, which was the first payment recorded on the account since the initiation of service on November 15, 2001.
- Then on March 18, 2002, the payment of \$423.77 was returned due to insufficient funds.
- On April 1, 2002, the unpaid balance of \$241.75 for service at 4035 N Bennington Avenue (account number 6143590843) was transferred to the current account at 5241 Bristol Avenue (account number 1666827161).
- Then on April 1, 2002, a cash payment of \$150.00 was called in to KCPL on account number 1666827161 (5241 Bristol Avenue) and set up on a CWR payment agreement at \$187.00 per month.
- On May 31, 2002, an additional cash payment of \$189.00 was also called in to KCPL for account number 1666827161(5241 Bristol Avenue).
- On June 27, 2002, KCPL received payment of a \$150.00 grant from Salvation Army, which KCPL incorrectly applied to prior account number 1349212924. When KCPL discovered the error, the \$150.00 payment was cancelled on account number 1349212924 and correctly applied to account number 1666827161 (5241 Bristol Avenue).

- On August 29, 2002, the account was considered to be in default; therefore, KCPL removed the account from the CWR arrangement.
- On November 4, 2002, KCPL disconnected the service for nonpayment of \$1,478.07.
- On November 5, 2002, a payment of \$284.00 was called in on the account. With the receipt of this payment, KCPL established a new CWR payment plan at \$273.00 per month and subsequently reconnected the service.
- On December 31, 2002, the account was considered to be in default due to non-payment and was removed from the CWR payment plan.
- On February 14, 2003, payment of \$400.00 posted to the account. Prior to this payment, KCPL had not received a payment since the November 5, 2002 payment of \$284.00.
- On February 28, 2003, KCPL received a telephone call indicating payment of \$200.00 would be made that day and an additional payment of \$247.00 would be made on March 3, 2003. KCPL did not receive the payments in question; therefore, the service was disconnected on March 13, 2003, for nonpayment of \$1,464.56.
- On March 13, 2003, KCPL posted payments in the amount of \$118.00 and \$600.00. The account was set up on a CWR payment plan at \$257.00 per month and the service was reconnected. On March 31, 2003, the payment of \$600.00 was returned for insufficient funds.
- On June 4, 2003, Ms. Fabulae advised KCPL via telephone that she had filed bankruptcy.
- On July 7, 2003, KCPL disconnected the service for non-payment of \$2,102.63, since KCPL had not received official notification of the bankruptcy filing.
- On July 8, 2003, KCPL received faxed bankruptcy paperwork from Ms. Fabulae's attorney regarding the bankruptcy filed on March 14, 2003. KCPL has no record of receiving notice from the court regarding the bankruptcy filing; however, an order to reconnect the service was issued and account number 1666827161(5241 Bristol Avenue) was backdated and closed with an effective date of March 14, 2003.

- A new account number of 4540511943 was established for Complainant at 5241 N Bristol Avenue and backdated with a start date of March 14, 2003.
- On September 16, 2003, KCPL mailed a disconnection notice for the past due amount of \$998.05 for charges incurred after March 14, 2003, plus the deposit arrears of \$200.00.
- On September 24, 2003, KCPL mailed a final disconnection notice for the past due amount of \$998.05, plus the deposit arrears of \$200.00.
- On October 16, 2003, KCPL mailed a disconnection notice for the past due amount of \$1,252.03 in electric service, plus the deposit arrears of \$200.00.
- On October 24, 2003, KCPL mailed a final disconnection notice for the past due amount of \$1,252.03, plus the deposit arrears of \$200.00.
- On November 13, 2003, two payments of \$600.00 posted to the account.
- On November 17, 2003, KCPL mailed a disconnection notice for the additional past due amount of \$168.75, plus the deposit arrears of \$200.00.
- On November 21, 2003, both \$600.00 payments made on November 13, 2003, were returned due to insufficient funds. On December 18, 2003, KCPL mailed a disconnection notice for the past due amount of \$1,528.72, plus the deposit arrears of \$200.00.
- On December 26, 2003, KCPL mailed a final disconnection notice for the past due amount of \$1,528.72 in electric service, plus the deposit arrears of \$200.00.
- On January 5, 2004, KCPL also mailed a final disconnection notice for the two returned checks, totaling \$1,200.00.
- On January 12, 2004, the service was disconnected for non-payment of past due charges for electric service totaling \$1,528.72.
- On January 13, 2004, a KCPL representative offered to reconnect service under the CWR for an initial payment of \$370.00 and monthly CWR plan payments of \$315.00.
- On January 13, 2004, KCPL set the account up on a CWR agreement upon receipt of a check payment totaling \$370.00

- On March 27, 2004, KCPL noted that bankruptcy case number 03-41555-DRD was dismissed on February 19, 2004. Therefore, KCPL transferred the account balance of \$1,854.94 from the prior account number 1666827161 (5241 Bristol Avenue) to the current account number 4540511943.
- On March 30, 2004, the monthly CWR plan amount was increased to \$472.00 due to the transferred balance from the prior account.
- On April 13, 2004, KCPL noted that Ms. Fabulae filed Chapter 13 Bankruptcy on March 30, 2004, in the Western District of Missouri, case number 04-41868-DRD. On April 13, 2004, account number 4540511943 was backdated to March 30, 2004, and closed with an ending account balance of \$3,718.99.
- On April 13, 2004, KCPL established a new account for Complainant with account number 3470068983. This account was then backdated to March 30, 2004.
- On June 17, 2004, KCPL mailed a final disconnection notice for the past due amount of \$167.72.
- On July 19, 2004, KCPL mailed a disconnection notice for the past due amount of \$388.02.
- On August 17, 2004, KCPL mailed a disconnection notice for the past due amount of \$567.65.
- On September 10, 2004, a number of events occurred; 1) the service was disconnected for nonpayment of \$567.65, 2) a payment of \$592.65 was called in at 2:03 p.m. through KCPL automated telephone system, and 3) KCPL noted that bankruptcy case number 04-41868-DRD was dismissed on June 25, 2004. The balance of \$3,718.99 from account number 4540511943 was then transferred to the current account number 3470068983, due to the dismissal of the bankruptcy filing.
- On September 11, 2004, KCPL reconnected the service due to the \$592.65 payment made on September 10, 2004.
- On September 16, 2004, KCPL mailed a disconnection notice for the past due amount of \$162.29.
- On September 23, 2004, KCPL mailed a final disconnection notice for the past due amount of \$162.29.

- On October 18, 2004, KCPL mailed a disconnection notice for the past due amount, including the charges dismissed in the bankruptcy filing, totaling \$4,118.78.
- On October 25, 2004, KCPL mailed a final disconnection notice for the past due amount of \$4,118.78.
- On November 8, 2004, KCPL disconnected the service for nonpayment of \$4,118.78.
- Then again on November 8, 2004, Ms. Fabulae advised KCPL of a pending bankruptcy filing; however, upon contacting the attorney KCPL discovered that there were no pending bankruptcy filings.
- On November 8, 2004, Ms. Fabulae also advised KCPL that her son and daughter-in-law were the new residents at 5241 N Bristol, Kansas City, MO.
- On November 8, 2004, someone claiming to be Ms. Fabulae's daughter-in-law called requesting service. KCPL denied service to her due to the outstanding balance of \$4,229.80.
- On November 9, 2004, Ms. Fabulae contacted KCPL again and KCPL advised her to fax documentation that reflected the current owners of the property at 5241 N Bristol Avenue, plus picture ID of her son, Jeff Fabulae, and daughter-in-law, Brenda Hice, and proof of their previous address indicating where they had been living for the prior six months. Ms. Fabulae then advised a payment of \$690.00 was made in order to set the account up on a CWR payment plan.
- On November 10, 2004, KCPL denied service to Mr. Jeff Fabulae and Ms. Brenda Hice since the information indicated that they have been residing with Mr. & Mrs. Michael Fabulae at the 5241 N Bristol address for two years.
- On November 12, 2004, Mr. Michael Fabulae contacted KCPL inquiring about payment arrangements. KCPL advised him that the order to reconnect the service had been issued and that the account was set up on a CWR payment plan of \$474.00 per month. Mr. Fabulae then indicated that he had stopped payment on the check payment made on November 9, 2004. Mr. Fabulae then called in a receipt number reflecting a cash payment of \$690.00 for reconnection.
- On November 22, 2004, the \$690.00 payment made on November 9, 2004, was returned due to a stopped payment.

- On January 19, 2005, KCPL mailed a disconnection notice for \$974.00 that included the past due CWR budget amount, plus the \$25.00 reconnect fee and the \$1.00 remaining balance from the initial payment to establish the CWR payment plan.
- On January 26, 2005, KCPL issued a final disconnection notice for the past due amount of \$974.00.
- On February 1, 2005, the account defaulted and was removed from the CWR payment plan with arrears of \$974.00.
- On February 10, 2005, KCPL was advised that payment of \$974.00 would be made on February 11, 2005. KCPL advised that the service was scheduled for disconnection and no payment arrangements were available.
- On February 15, 2005, KCPL received a payment of \$500.00, which reduced the delinquency to \$953.58.
- On March 11, 2005, KCPL disconnected service. Ms. Fabulae called KCPL asking what amount would be necessary to reconnect service. Ms. Fabulae was advised that \$953.38 was necessary for reconnection. The KCPL representative advised that since the CWR payment plan was considered to be in default, the balance of \$2,913.84 was considered delinquent on March 10, 2005.
- On March 11, 2005, Mr. Michael Fabulae called KCPL inquiring about the amount necessary for reconnection. The KCPL representative advised that 80% of the \$3,867.42 account balance was necessary for reconnection. Mr. Fabulae indicated that Ms. Fabulae was quoted \$953.38 for reconnection. The representative reviewed the previous notes and advised Mr. Fabulae that service would be reconnected for payment of \$953.38 since the previous representative mistakenly quoted that amount for reconnection.
- On March 14, 2005, KCPL received notification of a cash payment of \$500.00, and then an additional payment of \$454.00 was called in at 11:58 a.m. for reconnection. KCPL then set the account up on a CWR payment plan of \$415.00 per month.
- On April 5, 2005, KCPL considered the account to be in default again since Ms. Fabulae had not remitted payment of the \$25.00 reconnect fee prior to issuance of the new bill.
- On July 7, 2005, KCPL disconnected service due non-payment of \$2,950.19.

- On July 18, 2005, KCPL found the service was reconnected in an unauthorized manner and the seal was missing from the meter. KCPL disconnected the service again.
- On July 26, 2005, KCPL again found the service reconnected in an unauthorized manner, so KCPL disconnected the service at the utility pole.
- On August 1, 2005, KCPL received a fax indicating the filing of a Chapter 13 Bankruptcy in the Western District of Missouri, Case Number 05-45239; therefore, KCPL noted the service should not be disconnected in August 2005 and issued an order to reconnect the service at the utility pole. Account number 3470068983 had an account balance of \$3,923.86 and was backdated and closed as of July 29, 2005.
- On August 1, 2005, KCPL established a new account with account number 545523885, and backdated the account with an effective date of July 29, 2005.
- On October 3, 2005, bankruptcy case number 05-45239 was dismissed; therefore, the prior bill of \$3,923.76 was transferred to the current account.
- On January 25, 2006, KCPL offered a CWR payment plan for an initial payment of \$753.00 and monthly payment of \$521.00.
- On January 26, 2006, KCPL mailed a disconnection notice to 5241 N Bristol Avenue advising the account was delinquent in the amount of \$4,376.80, and payment was due by January 30, 2006 to prevent disconnection.
- On February 7, 2006, KCPL left a twenty-four hour notice of disconnection at the address of 5241 N Bristol Avenue.
- On February 15, 2006, the service at 5241 N Bristol was disconnected for non-payment.
- On February 15, 2006, KCPL offered a CWR payment plan with an initial cash payment of \$780.00.
- On February 15, 2006, a cash payment of \$782.00 was called in; therefore, KCPL issued an order to reconnect the service.
- On February 16, 2006, the service was reconnected.
- On July 1, 2006, KCPL disconnected the service for nonpayment of \$1,038.27.



- On July 14, 2006, KCPL found the service reconnected in an unauthorized manner; therefore, KCPL disconnected the service again.
- On July 14, 2006, KCPL advised Ms. Fabulae via telephone that payment of \$1,213.27 was necessary for reconnection of the service.
- On July 14, 2006, KCPL issued an order to disconnect the service at the utility pole in order to prevent additional unauthorized reconnections.
- On July 17, 2006, KCPL again found the service reconnected in an unauthorized manner. Therefore, KCPL disconnected the service again.
- On July 21, 2006, KCPL advised that a cash payment of \$1,363.27 was necessary for reconnection of the service (\$1,038.27 bill + \$25.00 reconnection fee + \$150.00 tampering charge + \$150.00 tampering charge).
- On July 21, 2006, Mr. Michael Fabulae called in a cash payment of \$1370.00 for reconnection. KCPL subsequently reconnected the service on July 22, 2006.
- On July 25, 2006, KCPL mailed a final disconnection notice to Ms. Fabulae advising \$2,433.37 was delinquent and if this amount was not received on or before July 28, 2006, service could be disconnected.
- On August 1, 2006, KCPL attempted to contact Ms. Fabulae via telephone at 816-303-7791 and 816-453-0726. Since KCPL was unable to reach Ms. Fabulae, KCPL left a message advising of the pending disconnection and provided a contact number for Ms. Fabulae to contact KCPL.
- On August 16, 2006, KCPL mailed a bill to Ms. Fabulae in the amount of \$3,356.07. The disconnection notice contained on the bill stated "the account is past due \$3,033.17. A new or additional deposit may be required and your service could be disconnected if the amount is not received on or before August 28, 2006."
- On August 23, 2006, KCPL mailed a final disconnection notice to Ms. Fabulae advising \$3,033.17 was due on or before August 28, 2006.
- On September 15, 2006, KCPL mailed a bill to Ms. Fabulae totaling \$3,365.14. The bill also contained a disconnection notice advising the account was past due \$3,058.17, and that service could be disconnected if payment of the past due charges was not received on or before September 25, 2006.

- On September 22, 2006, KCPL mailed a final disconnection notice to Ms. Fabulae advising \$3,058.17 was past due and payment of the past due charges was due on or before September 25, 2006.
- On September 28, 2006, KCPL attempted to contact Ms. Fabulae via telephone.
- On October 2, 2006, Ms. Fabulae contacted Consumer Services and advised that a KCPL technician was at the residence to disconnect the service. Ms. Fabulae indicated she wanted to file a formal complaint to prevent the disconnection of the service. Consumer Services contacted KCPL and was advised that the technician would disconnect the service if Ms. Fabulae was unable to pay the delinquent charges. Consumer Services requested that a Manager contact Ms. Fabulae to discuss with her further. KCPL did disconnect Ms. Fabulae's service on October 2, 2006.
- On October 2, 2006, KCPL issued an order to reconnect service pending additional review of documentation Ms. Fabulae agreed to submit to the Commission. KCPL did reconnect Ms. Fabulae's service on October 2, 2006.
- On October 5, 2006, Ms. Fabulae contacted KCPL and stated she will be filing a formal complaint; therefore, KCPL would not be allowed to disconnect the service for thirty (30) days.
- Ms. Fabulae transmitted her formal complaint to the Commission's primary fax number listed on the Commission's Letterhead via facsimile transmission on October 5, 2006, at 6:33 p.m.
- On October 6, 2006, at 10:35 a.m. KCPL disconnected the service at the pole.
- The Data Center did not receive the facsimile nor was it able to docket the complaint in EFIS until October 6, 2006 at 10:52 a.m.
- On October 19, 2006, KCPL mailed a bill in the amount of \$3,560.25. The disconnection notice on the bill stated the past due amount was \$3,058.17.

In the initial formal complaint filed October 6, 2006, Ms. Fabulae states in part, "After filing informal complaint I never received further information of status of information I submitted..." However, upon filing the amended formal complaint on October 12, 2006, Ms. Fabulae included a copy of the letter dated August 2, 2006, that was mailed to her advising of the actions taken on the account by KCPL and Commission Staff. This letter was in

addition to the telephone conversation with Ms. Fabulae on July 24, 2006 and August 2, 2006 (see Schedule 1).

Commission Staff did not receive any additional correspondence or have any additional contact with Ms. Fabulae prior to the disconnection of her electric service by KCPL on October 2, 2006. Upon Commission Staff contacting KCPL regarding Ms. Fabulae's account, the service was temporarily reconnected pending review of the information submitted by Ms. Fabulae.

On October 3, 2006, Commission Staff received a letter from Ms. Fabulae via fax dated August 21, 2006. As the letter did not appear to contain new information to indicate that the disconnection of service was in violation of the rules and regulations, Commission Staff did not prevent the disconnection of electric service by KCPL.

On October 6, 2006, at 10:35 a.m., KCPL disconnected the service.

In the formal complaint filed October 6, 2006, Ms. Fabulae referred to this as a "stall tactic for 2 days so they could deny my right under Rules of Dept of Economic Development Division 240 Chapter 13 4 CSR 240-13.050 which states the Commission must submit in writing a letter of decision of informal complaint" and that she would have thirty (30) days without interruption of service in order to file a formal complaint; however, this is an incorrect Commission rule reference by Ms. Fabulae. Commission rule 4 CSR 240-13.050 relates to Discontinuance of Service, not Commission Complaint Procedures.

The requested letter of decision regarding the informal complaint was originally mailed to Ms. Fabulae on August 1, 2006; therefore, the disconnection of Ms. Fabulae's service on October 3, 2006, exceeded the thirty-one (31) days required by Commission rule 4 CSR 240-13.070(6).

While Ms. Fabulae cites an incorrect rule reference, it appears that she is questioning the Commission's handling of her informal complaint pursuant to 4 CSR 240-13.070(4)<sup>1</sup>. However, since Commission staff has no record of receiving the additional information Ms. Fabulae contends that she mailed on August 22, 2006, and did not have any further conversations with Ms. Fabulae concerning her account with KCPL; Staff was unaware that Ms. Fabulae had additional questions regarding the accounts. Therefore, an additional letter outlining the option of filing a formal complaint did not appear to be necessary.

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<sup>1</sup> Missouri Public Service Commission Rule 4 CSR 240-13.070(4) provides that, if the staff is unable to resolve the complaint to the satisfaction of the parties, the staff shall send a dated letter to that effect to the complainant and to the utility.

Ms. Fabulae also requested a “reasonable solution” to the formal complaint. KCPL has established multiple payment arrangements with Ms. Fabulae in order to allow her to remit payment; however, Ms. Fabulae has repeatedly defaulted on those payment arrangements.

## **Conclusion**

Upon review of the information submitted, Staff does not find that KCPL has billed Ms. Fabulae incorrectly. As supported by Schedule 2, bills were rendered and mailed to Ms. Fabulae each month. The account balance has accumulated due to the multiple insufficient payments, multiple dismissed bankruptcies and the application of diversion charges.

Therefore, Staff believes the disconnection of service appears to be in compliance with Commission rule 4 CSR 240-13.050(1) (A)<sup>2</sup> and 4 CSR 24-13.070(6)<sup>3</sup>.

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<sup>2</sup> Missouri Public Service Commission Rule 4 CSR 240-13.050(1) (F), Nonpayment of an undisputed delinquent charge.

<sup>3</sup> Missouri Public Service Commission Rule 4 CSR 24-13.070(6) provides that a utility shall not discontinue residential service relative to the matter in dispute during the pendency of an informal complaint and until at least thirty-one (31) days after the date of the letter issued pursuant to section (4), and shall in no case discontinue this service without leaving a notice of discontinuance after the date of the letter issued pursuant to section (4).