

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	
Certain Changes in Its Charges for Electric)	Case No. ER-2006-0314
Service to Begin the Implementation of Its)	
Regulatory Plan.)	

**PREHEARING BRIEF OF
TRIGEN-KANSAS CITY ENERGY CORPORATION**

Jeffrey A. Keevil #33825
STEWART & KEEVIL, L.L.C.
4603 John Garry Drive, Suite 11
Columbia, Missouri 65203
(573) 499-0635
(573) 499-0638 (fax)
per594@aol.com

**ATTORNEY FOR TRIGEN-KANSAS
CITY ENERGY CORPORATION**

TABLE OF CONTENTS

ISSUES	1
I. Should a comprehensive analysis of KCPL's class cost-of-service issues and rate design be conducted after the conclusion of the regulatory plan and the in-service date of Iatan 2? Should the cost-basis of general service all-electric rates be included in this analysis?	1
II. In this case, should the qualification provision of the existing general service all-electric rate schedules be expanded as proposed by KCPL, and the all-electric winter energy rate increased an additional 5%, to make rate discounts available to existing and future customers who are not all-electric customers?	2
III. Should the existing general service all-electric rate schedules <i>and</i> the separately metered space heating provisions of KCPL's standard general service tariffs be (1) eliminated; or (2) restricted to existing customers only until there is a comprehensive class cost of service study and/or cost-effectiveness study which analyzes and supports such tariffs and provisions as well as KCPL's Affordability, Energy Efficiency and Demand Response programs?	8
CONCLUSION	18

COMES NOW Trigen-Kansas City Energy Corporation (“Trigen”), by and through the undersigned counsel, and submits this Prehearing Brief on the issues set forth below pursuant to the procedural schedule established herein. Although this Prehearing Brief addresses a limited number of the issues set forth in the issues list filed herein by Staff, Trigen reserves the right to cross-examine witnesses, present argument and submit post-hearing briefs as to any issues it deems necessary if the need arises at a later date.

ISSUES

I. Should a comprehensive analysis of KCPL’s class cost-of-service issues and rate design be conducted after the conclusion of the regulatory plan and the in-service date of Iatan 2? Should the cost-basis of general service all-electric rates be included in this analysis?

Trigen submits that KCPL’s all-electric general service tariffs should be terminated *and* that the separately metered space heating provisions should be eliminated from KCPL’s standard general service tariffs in this case (Herz Direct, page 5), for the reasons which will be discussed in more detail under issue III below. However, in the event that the Commission does not eliminate the general service all-electric discount rates and the separately metered space heating discount rates at this time, the availability of such discounted rates should be restricted to those qualifying commercial and industrial (“C&I”) customers currently being served under such all-electric tariffs or separately metered space heating tariff provisions until a comprehensive class cost of service study and rate design investigation and/or a cost-effectiveness study of KCPL’s Affordability, Energy Efficiency and Demand Response programs (as referenced in the

rebuttal testimony of Staff witness Pyatte at page 17) has been completed, reviewed and presented for the Commission's consideration. (See, Herz Surrebuttal, pp. 6-7). This will also be discussed in more detail below under issue III.

Therefore, in answer to the question posed by this issue, Trigen submits that if the Commission does not eliminate the general service all-electric discount rates and the separately metered space heating discount rates at this time, that a comprehensive analysis of KCPL's class cost-of-service issues and rate design should be conducted *as soon as possible*, and that this analysis *must include* the cost-basis of KCPL's general service all-electric rates *and* separately metered space heating rates. Because Trigen's position on this issue is so closely intertwined with the issues addressed below, further discussion of and the reasons why such a study should be conducted and should include the cost-basis of the all-electric and separately metered space heating rates will be addressed in detail under the following issues.

II. In this case, should the qualification provision of the existing general service all-electric rate schedules be expanded as proposed by KCPL, and the all-electric winter energy rate increased an additional 5%, to make rate discounts available to existing and future customers who are not all-electric customers?

The Commission has previously stated that "the Commission's obligation in a general rate case is to consider 'all relevant factors' in setting just and reasonable rates, not merely those that the parties have included in their pleadings. The Commission is also mandated to ensure that utility facilities are safe and adequate and **that charges are just and reasonable, not in excess** of those permitted by law or Commission order, **and**

not discriminatory or preferential.” *In the Matter of the Application of Union Electric Company, Doing Business as AmerenUE, for an Order Authorizing the Sale, Transfer and Assignment of Certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company, Doing Business as AmerenCIPS, and, in Connection Therewith, Certain Other Related Transactions*, 2004 Mo. PSC LEXIS 348, Case No. EO-2004-0108, Order Dated March 16, 2004 (emphasis added). Section 393.130 RSMo requires that a utility’s charges be “just and reasonable”, and Section 393.140 RSMo authorizes the Commission to determine “just and reasonable” charges. Furthermore, as the rate case applicant herein, KCPL has the burden of proof to show that its proposed tariffs are just and reasonable. *See, e.g., In the Matter of the Tariff Filing of The Empire District Electric Company to Implement a General Rate Increase for Retail Electric Service Provided to Customers in its Missouri Service Area*, Case No. ER-2004-0570, Report and Order issued March 10, 2005; Section 393.150 RSMo. Section 393.130.2 and .3 RSMo also provide that:

2. No . . . electrical corporation . . . shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for . . . electricity . . . or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No . . . electrical corporation . . . shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

In this case, KCPL is proposing to expand, or broaden, the availability of its discounted all-electric rates to customers who are not all-electric customers while increasing the all-electric winter energy rate by 5%¹. (Rush Direct, page 8). KCPL's proposal would broaden the availability of its current discounted, low load factor energy rates to customers that are now served under KCPL's standard general service tariff rates.

Despite proposing to expand the availability of its discounted all-electric rates to customers who are not all-electric, KCPL has failed to produce any cost of service, incremental or marginal cost analyses, or any other underlying studies, to support its proposal; in fact, KCPL has failed to produce any support for the substantial winter discount *currently* offered² to its all-electric (low load factor) C&I customers, *much less* support of its proposed expansion of that discount beyond all-electric customers. (Herz Direct, page 12; Herz Surrebuttal page 2). In its response to Trigen's data request 11, KCPL admitted that "Within the context of the rate case, the Company did not perform any incremental or marginal cost studies related to serving our all-electric, electric space heating customers." (Herz Direct, page 12). Although KCPL filed a class cost of service study in this case, its all-electric tariff customers (as well as its separately metered space

¹ To do this, KCPL proposes to rename the "all electric" tariff in each of the three general service categories as a "space heating tariff". (Herz Direct, page 10).

² The discounts currently offered will be further addressed under the following issue.

heating customers) were rolled-in with the standard tariff customers within each general service category and therefore the cost of service study results shown are for the entire general service category; therefore, KCPL has no support for its proposed winter discounts. (Herz Direct, pp. 28-29).

Furthermore, KCPL has not conducted any analyses of, nor does it appear to possess information as to, the impact its proposal will have on customers, billing determinants or revenues, or for that matter, how many customers would be affected by its proposal. (Herz Direct, page 11; Herz Surrebuttal, page 2). In response to Trigen's data request 7, KCPL stated that "Potential customer shifts that would result from the requested change in availability of this rate has not been measured. As a result, billing determinates are not available to project the associated revenue impact." (Herz Direct, page 11). Therefore, KCPL appears to admit that the impact of its proposed change on revenues is neither known nor measurable at this time.

KCPL appears to recognize the importance of having cost support for changes such as those it proposes. In her rebuttal testimony, KCPL witness Liechti stated that "the underpinning of any material rate design recommendation would be a CCOS [class cost of service] study" because a "CCOS study yields important information beyond each classes' individual contribution to return. It also provides an indication of costs attributable to customer. energy and demand components. These are the cornerstones of rate design." (Liechti Rebuttal, page 4). However, KCPL has completely failed to adhere to the testimony of its own witness with regard to its proposal to expand the availability of its discounted all-electric rates to customers who are not all-electric customers. It has failed in its burden of proof and its proposal to expand, or broaden, the

availability of its discounted all-electric rates to customers who are not all-electric customers should be rejected by the Commission.

While it is true that KCPL has proposed to increase the general service all-electric winter energy rate 5% more than the increase to the winter energy rate in its standard general service tariff in connection with its proposed expansion of the all-electric discount to customers who are not all-electric customers, like its proposal to broaden the availability of the discount, KCPL has failed to produce any cost support for this 5% differential. Had KCPL performed the necessary cost studies related to serving these customers, the result may have supported a differential increase significantly greater than 5%. (Herz Direct, page 12). As noted above, KCPL indicated that it has not performed any cost analysis of its proposal, and KCPL does not know, nor apparently can it measure, the customer impact or revenue impact of its proposed change to broaden the availability of the discounted all-electric general service tariff rates. (Herz Direct, page 13). Simply put, KCPL has provided no factual basis or foundation to conclude that a mere 5% differential increase **will recover** the full costs of providing winter electric service from the cost-causers **under its proposal**. (*Id.*).

In addition to the fact, as shown in the preceding paragraphs, that KCPL has failed to prove that its proposal to expand the qualification provision of its existing general service all-electric rate schedules to make rate discounts available to existing and future customers who are not all-electric customers is just and reasonable, or that its proposal to increase the all-electric winter energy rate an additional 5% should not be significantly greater, **there are other reasons to reject** KCPL's proposal. Simply stated, KCPL's *current* discounted all-electric general service tariff rates *and* KCPL's tariff

provisions for separately metered space heating rate discounts suffer from the following substantial flaws³:

- KCPL's discounted rates are unreasonable and unfairly discriminate between C&I customers, some of which may be competing with each other, by charging different amounts for identical usage under similar circumstances;
- The discounted rates send price signals that favor low load factor, high demand use for selective end use customers, which directly conflicts with the price signals sent other C&I customers in the same general service class;
- If certain C&I space heating equipment is desirable in KCPL's system, KCPL has other, more appropriate, approved programs by which it provides assistance and evaluation, and funding in the form of rebates that are targeted directly toward such equipment;
- Discounted rates for selective, behind-the-meter use create additional and unnecessary burdens and cost to administer, monitor and police which, as a practical matter, are not possible to fully implement or maintain; and
- The discounted rates seem to be a matter of simply continuing past practice, and it has not been shown by KCPL that such discounted rates are beneficial or needed for competitive reasons and may in fact have the potential to adversely impact competition. (Herz Direct, pp. 4-5).

All of the foregoing flaws in the current discounted rates will be discussed in detail under issue III below. However, given these flaws in the current discounted rates, it should be obvious that the availability of KCPL's discounted all-electric rates should not be expanded, or broadened, to customers who are not all-electric customers.

³ Each of these will be addressed in more detail under the following issue.

Therefore, for all of the reasons set forth above under this issue, in response to the question posed by this issue – should the qualification provision of the existing general service all-electric rate schedules be expanded as proposed by KCPL, and the all-electric winter energy rate increased an additional 5%, to make rate discounts available to existing and future customers who are not all-electric customers – Trigen emphatically answers “No,” the qualification provision of the existing general service all-electric rate schedules **should not be expanded** as proposed by KCPL to make rate discounts available to existing and future customers who are not all-electric customers. And, while KCPL’s proposal to increase the all-electric winter energy rate an additional 5% may be a step in the right direction, KCPL has failed to show that such increase should not be significantly greater than 5% to avoid an effective subsidy of those customers receiving the discount rates.

III. Should the existing general service all-electric rate schedules and the separately metered space heating provisions of KCPL’s standard general service tariffs be (1) eliminated; or (2) restricted to existing customers only until there is a comprehensive class cost of service study and/or cost-effectiveness study which analyzes and supports such tariffs and provisions as well as KCPL’s Affordability, Energy Efficiency and Demand Response programs?

Trigen submits that KCPL’s all-electric discount rates and KCPL’s separately metered space heating discount rates should be eliminated. If, however, the Commission decides not to eliminate these discount rates, these rates should at least be restricted to qualifying C&I customers currently being served under such discounted rates until there

is a comprehensive class cost of service study and/or cost-effectiveness study which analyzes and supports such discount rate tariffs and discount rate provisions as well as KCPL's Affordability, Energy Efficiency and Demand Response programs.

As explained by Mr. Herz:

KCP&L has three general service categories applicable to commercial and industrial customers: small, medium and large. Within each of these three general service categories, KCP&L has two general service tariffs – one which I'll refer to as the standard general service tariff, the other is an "all electric" general service tariff.⁴ The standard and all electric tariffs within each of the three general service categories have the same rate structure . . . and the same energy rates during the four summer months . . . but different energy rates for the winter season . . . Within each of the three general service categories, the all electric tariffs have substantially lower winter season energy rates . . . (Herz Direct, page 7)

Furthermore, "In each of the small, medium and large standard general service tariffs, there is a special rate provision for separately metered space heating. Like the discounted all electric tariff rates, the separately metered space heating provision provides for a substantially lower winter season energy rate." (Herz Direct, page 13). As discussed herein, and in the testimony of Mr. Herz, the general service all-electric discount rate tariffs and the separately metered space heating discount rate provisions are sometimes collectively referred to as "discounted rates for space heating" or "discounted rates related to commercial and industrial [C&I] space heating".

As mentioned above, although KCPL filed a class cost of service study in this case, its all-electric tariff customers and its separately metered space heating customers were rolled-in with the standard tariff customers within each general service category and

⁴ The reference to standard general service tariffs in [Mr. Herz'] testimony includes the Small General Service Schedule SGS Sheet No. 9, Medium General Service Schedule MGS Sheet No. 10, and Large General Service Schedule LGS Sheet No. 11. The reference to all electric general service tariffs in [Mr. Herz'] testimony includes the Small General Service All Electric Schedule SGA Sheet No. 17, Medium General Service All Electric Schedule MGA Sheet No. 18, and Large General Service All Electric Schedule LGA Sheet No. 19.

therefore the cost of service study results shown are for the entire general service category or categories; KCPL has no cost of service support for either its existing general service all-electric rate discount or its existing separately metered space heating discount. (Herz Direct, pp. 28-29). In fact, KCPL has provided no documentation that its discounted rates related to C&I space heating exceed the incremental cost of providing the service. (Herz Direct, pp. 27-28). Furthermore, in its response to Trigen's data request 11, KCPL admitted that "Within the context of the rate case, the Company did not perform any incremental or marginal cost studies related to serving our all-electric, electric space heating customers." (Herz Direct, page 12). It appears that the current general service electric heat rate discounts are not even based on KCPL's last cost of service case in 1996, but rather simply "maintained the price differentials between customers with electric heating that were in place prior to" KCPL's 1996 cost of service case. (Rush Rebuttal, page 4). It is therefore not even clear that the rate differentials in place prior to 1996 were cost-based. (Herz Surrebuttal, page 6). No evidence has been produced by KCPL to show that they were.

In addition to suffering from an absence of cost support, KCPL's discounted all-electric general service tariff rates and KCPL's tariff provisions for separately metered space heating rate discounts suffer from several substantial flaws which were listed under the preceding issue; these flaws will now be addressed in more detail.

KCPL's discounted rates are unreasonable and unfairly discriminate between C&I customers, some of which may be competing with each other, by charging different amounts for identical usage under similar circumstances. (Herz Direct, page 4). During the winter season, C&I customers served under KCPL's all-electric general service tariffs

pay approximately 23% less for their *entire* electricity usage than such customers would pay under KCPL's standard general service tariff (Herz Direct, pp. 8-9); C&I customers served under KCPL's separately metered space heating provision pay approximately 54% less for such separately metered electricity usage than they would pay under KCPL's standard general service tariff rate (Herz Direct pp. 14-15). Standard tariff customers wind up paying more for their winter service to subsidize these discounts. (Herz Direct, page 15). It should also be noted that, even in the absence of the discounted rates for space heating, KCPL's standard general service rate design already has substantially lower rates in the winter than in the summer. (Herz Direct, page 21; Herz Surrebuttal, pp. 8-12).

Although there are reasonable and appropriate distinctions between customers which should be recognized in the design of a utility's rates (such as those which recognize cost responsibility differences among types and sizes of customers, and distinctions between low load factor and high load factor C&I customers), customers benefiting from KCPL's discounted rates for space heating receive preferential treatment to the detriment of the ineligible customers, even though such other customers may have similar characteristics and be served under similar circumstances. (Herz Direct, page 17). General service tariff customers, often competitors that have identical monthly usage characteristics, should have the same electric bill and not be discriminated against depending on what the electricity may or may not be used for on the customer's side of the meter or whether or not a portion of the usage is submetered. (Herz Direct, page 16). KCPL's current practice of charging different rates to similar general service customers for substantially the same service rendered under similar circumstances should be

eliminated (*Id.*), and appears to be in violation of Section 393.130 RSMo which provides that:

2. No . . . electrical corporation . . . shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for . . . electricity . . . or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.
3. No . . . electrical corporation . . . shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Continuation of these rate discounts would result in C&I customers that utilize the same electric service from KCPL under similar circumstances paying significantly different winter energy rates solely on the basis of the end-use of the electricity; discriminates to the benefit of C&I customers that add winter load to KCPL's system; and discriminates in favor of the C&I customer installing space heating equipment. (Herz Surrebuttal, pp. 12-13).

The discounted rates send price signals that favor low load factor, high demand use for selective end use customers, which directly conflicts with the price signals sent other C&I customers in the same general service class. (Herz Direct, page 4). As the Commission is aware, low load factor customers are typically not viewed as being as attractive or desirable as high load factor customers (Mr. Herz discusses the reasons for this at pages 18-19 of his Direct Testimony). Accordingly, KCPL's tariffs generally recognize the concept of load factor differentiation (Herz Direct, page 19); however, KCPL's discounted rates for space heating – both KCPL's discounted all-electric general service tariff rates and KCPL's tariff provisions for separately metered space heating rate discounts – actually favor low load factor customers⁵. (Herz Direct, pp. 8-9, 14-15, 24-25, Schedule JAH-2). Such rates are contrary to the typical cost of service study that recognizes the efficiencies inherent in serving high load factor customers, are unreasonable and unsupported by any study or analysis, and simply do not make sense. (Herz Direct, page 20).

Despite KCPL's claim that a benefit it realizes from the discount rates is that “space heating increases KCP&L's winter season loads while improving [KCP&L's] overall system utilization or load factor,” space heating is not increasing the load factor of KCPL's system. (Herz Direct, page 24). As testified by Mr. Herz:

Using billing information provided by KCP&L, I calculated the load factor of the customers on the winter discount rates. As previously discussed, the load factors of the small and medium general service all electric [customers] are approximately equal to the standard tariff rate load factors. The load factors of the customers served under the separately metered space heating discounted rate are lower than the load factors of standard tariff rate customers. Based on this information, I do not believe that the offering of discounted space heating rates, particularly rates that

⁵ Although KCPL has indicated that space heating increases its load factor, this does not appear to be accurate. (Herz Direct, pp. 24-25).

provide the largest discount on a customer's low load factor usage, has the intended effect of improving KCP&L's system load factor.

(Herz Direct, pp. 24-25). Given that KCPL's standard general service rate design already has substantially lower rates in the winter than in the summer (Herz Direct, pp. 17-22; Herz Surrebuttal, pp. 9-12 and Schedules JAH-5 and JAH-6), KCPL's 1996 class cost of service and rate design case effectively eliminated the need for continuing space heating related rate discounts. (Herz Surrebuttal, page 8).

If certain C&I space heating equipment is desirable in KCPL's system, KCPL has other, more appropriate, approved programs by which it provides assistance and evaluation, and funding in the form of rebates that are targeted directly toward such equipment. (Herz Direct, page 4). Since KCPL's space heating related discounts do not appear to be achieving their supposed benefits of increasing the efficiency of KCPL's electric system and improving load factor by increasing winter season loads, it should be obvious that KCPL is using the wrong approach. As testified by Mr. Herz:

Instead of offering increasing winter rate discounts to selected low load factor customers, KCP&L should be targeting its efforts on its Affordability, Energy Efficiency and Demand Response programs. . . These programs provide rebates to the customer to promote energy efficiency that will benefit the participating customer and hopefully not be detrimental to other ratepayers. These programs require that the measure to be implemented by a customer is economically viable or it cannot be implemented. These programs are a better approach to marketing specific end uses than are discount rates. Discriminating rate treatment is not appropriate, as two customers with the exact same usage, regardless of end use, should be treated the same. If building space heating load is a reasonable objective for KCP&L, it should be achieved through programs specifically designed to examine the relative costs and benefits of such an undertaking, not with additional discounts embedded in the . . . tariff. (Herz Direct, pp. 21-22).

These programs, which were approved in KCPL's regulatory plan case, include technical assistance from KCPL to the customer as well as rebates for the installation of space

heating equipment. (Herz Surrebuttal, page 13). If space heating is deemed to be important, it should be encouraged through specifically designed programs rather than rate discrimination.

Discounted rates for selective, behind-the-meter use create additional and unnecessary burdens and cost to administer, monitor and police which, as a practical matter, are not possible to fully implement or maintain. (Herz Direct, page 4). In order to apply discounted rates for selective end use, KCPL's tariffs require it to have an administrative process that involves gathering information about the C&I customer's space heating system and periodic reporting on the usage of these customers. (Herz Direct, page 22). Although KCPL indicates it has the capability to monitor usage under these rate schedules, it is not clear that KCPL has a process under which it would remove a customer from a discounted rate if the customer no longer meets the requirements. (Herz Direct, page 23). In fact, KCPL indicated in response to a data request that "Only in the event that a customer would contact KCP&L and inform us of a significant change in the size and design of equipment would KCP&L have cause to revisit the availability of an all electric tariff for a customer." (Herz Direct, page 23; KCPL response to Trigen data request number 25). This is inadequate, because if a customer no longer meets the requirements of the discounted rate, that customer's use is no different from a customer not receiving the discount. Not only is the continued qualification of some customers for the discounted rate somewhat questionable, but it does not appear that the energy usage of these customers is increasing the efficiency of KCPL's system. (See, Herz Direct, pp. 24-26).

The discounted rates seem to be a matter of simply continuing past practice, and it has not been shown by KCPL that such discounted rates are beneficial or needed for competitive reasons and may, in fact, adversely impact competition (Herz Direct, pp. 4-5, 16-17) or even have the potential to amount to an unfair competitive practice on the part of KCPL. KCPL's current rate design has a significant differential between the standard general service tariff summer energy rates and the winter energy rates. (Herz Surrebuttal, pp. 10-11, Schedules JAH-5 and JAH-6). Therefore, the availability of low cost generation in the winter months (referred to by KCPL witness Mr. Rush) is already recognized in the standard general service tariff rate design, which KCPL claims to be the result of a lengthy CCOS and rate design case in 1996. (Herz Surrebuttal, page 11). However, it appears that the all-electric rate discounts and the separately metered space heating discounts were not derived in a similar manner and are not even based on the results of KCPL's last cost of service case in 1996; rather, these preferential rates simply "maintained the price differentials between customers with electric heating that were in place prior to" KCPL's 1996 cost of service case. (Rush Rebuttal, page 4). It is therefore not even clear that the rate differentials in place prior to 1996 were cost-based. No evidence has been produced to show that the pre-1996 rate differentials were cost based. (Herz Surrebuttal, page 6). KCPL has presented no testimony or analyses demonstrating that the discounted rates related to space heating are needed, either by KCPL or its C&I customers, for competitive reasons. (Herz Direct, page 26). However, if selective price cuts or tariff discounts are allowed, such as KCPL's space heating related discounts, that are specifically directed at the customer base of an alternative energy supplier, the

Commission should proceed with extreme caution so as not to undermine or encourage the elimination of such competition. (*Id.* at 26-27).

For all of the reasons discussed above, the Commission should eliminate all of KCPL's general service space heating related rate discounts – *i.e.*, KCPL's existing all-electric general service tariffs should be terminated *and* the separately metered space heating provisions should be eliminated from KCPL's standard general service tariffs. (Herz Direct, page 5; Herz Surrebuttal, page 13). However, in the event that the Commission does not eliminate all of KCPL's general service space heating related rate discounts at this time, the availability of such discounted rates should at least be restricted to those qualifying C&I customers currently being served under such all-electric tariffs or separately metered space heating tariff provisions until a comprehensive class cost of service study and rate design investigation and/or a cost-effectiveness study which analyzes and supports such tariffs and provisions as well as KCPL's Affordability, Energy Efficiency and Demand Response programs (as referenced in the rebuttal testimony of Staff witness Pyatte at page 17) has been completed, reviewed and presented for the Commission's consideration. (Herz Direct, pp. 5-6; Herz Surrebuttal, pp. 6-7, 13). In that event, KCPL should be ordered to present such a study as soon as possible and to implement a phase out plan for the remaining C&I customers served under the all-electric general service tariffs and the separately metered space heating tariff provisions. (Herz Direct, page 6). In addition, KCPL should be required to investigate and determine whether the C&I customers currently served under the all-electric general service tariffs and the separately metered space heating tariff provisions meet the eligibility requirements for those discounted rates; to remove those customers which the

investigation determines are no longer eligible for such discounts; and to monitor and police the eligibility requirements of those customers receiving the discount rates until the discount rates are phased out. (*Id.* at 5-6).

CONCLUSION

For all of the foregoing reasons, Trigen-Kansas City Energy Corporation respectfully requests that the Commission adopt its position as set forth above on each of the issues set forth herein.

Respectfully submitted,



Jeffrey A. Keevil #33825
STEWART & KEEVIL, L.L.C.
4603 John Garry Drive, Suite 11
Columbia, Missouri 65203
(573) 499-0635
(573) 499-0638 (fax)
per594@aol.com

Attorney for Trigen-Kansas City
Energy Corporation

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent to counsel for parties of record by depositing same in the U.S. Mail, first class postage prepaid, by hand-delivery, or by electronic mail transmission, this 12th day of October, 2006.

