

STEWART LAW FIRM, L.C.

SHAWN E. STEWART
ATTORNEY AT LAW

September 20, 2005

FILED²

SEP 21 2005

Missouri Public
Service Commission

Missouri Public Service Commission
Colleen M. Dale, Secretary
Attention: Data Center
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, MO 65102

Re: WST, INC.

Dear Ms. Dale:

Enclosed please find one (1) original and eight (8) copies of an Application for Variance, and one (1) original and eight (8) copies of a Motion for Expedited Treatment, for filing for WST, Inc.. I am enclosing a copy to be file-stamped and returned to me at 4505 Madison Avenue, Kansas City, Missouri, 64111.

If you have any questions, please call me at (816) 751-0517.

Very truly yours,

STEWART LAW FIRM, L.C.



Shawn E. Stewart

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

SEP 21 2005

In the Matter of the Application of)
WST, Inc., a Missouri corporation)
For a Variance from Kansas City)
Power & Light Company's)
General Rules and Regulations)
Requiring Individual Metering)

Missouri Public
Service Commission

Case No. _____

APPLICATION FOR VARIANCE

Comes now WST, Inc. ("WST"), through its legal counsel, and for its Application for a variance from the General Rules and Regulations of Kansas City Power & Light Company ("KCPL") requiring individual metering, states as follows:

1. WST is a Missouri corporation in good standing. A copy of the Certificate of Good Standing issued by the Secretary of State is attached hereto as Exhibit A. Its principal place of business and mailing address is: Mr. W. Jason Townsend, WST, Inc., 1101 Walnut Street, Kansas City, Missouri, 64111. WST's telephone number is (913) 814-7577 and its facsimile number is (913) 814-7677.

2. Pleadings, notices, orders and other correspondence concerning this Application should be addressed to:

Shawn E. Stewart, Esq.
Stewart Law Firm, L.C.
4505 Madison Avenue
Kansas City, Missouri 64111
Telephone: (816) 751-0517
Facsimile: (816) 751-0518

3. WST holds title to the real property and improvements of WallStreet Tower Condominiums located at 1101 Walnut Street in Kansas City, Jackson County, Missouri. WST

is in the process of converting an existing 20-story building (the "Tower") in downtown Kansas City into 153 condominium units.

4. The WallStreet Tower Condominiums Association, Inc. will be the governing body of all of the condominium unit owners for the maintenance, repair, and replacement of the common elements and for the administration and operation of all matters related to the condominium, including assuming full responsibility for payment of the bills for electric service to the Tower. Each unit owner will be a member of the Association.

5. The Tower was constructed in 1970 for retail and office use, and has been served by a common distribution center of electrical power, as well as heating, ventilation and air conditioning ("HVAC"). The Tower is served through a common powerhouse transmitter, where electricity is distributed centrally, as well as is the HVAC. The Tower, because of its participation in the common power distribution scheme which was installed at the time of the construction of the Tower in 1970, is wired for single service of electrical supply from the common powerhouse transmitter. The residential units and common commercial areas in the Tower are not individually metered. Rather, the residential units are fed vertically through the Tower from centralized distribution panels. Groups of several residential units and common commercial areas are fed by each vertical feed. Thus, it is impossible to split out and meter each unit without replacing each and every one of the vertical feeds, which would require a gutting of the building power distribution system/main switch gear and the rewiring the Tower and each unit for individual metering of electricity. WST contemplates and desires to utilize the existing master metering system for the condominium project.

6. Pursuant to the Missouri Code of State Regulations, "each residential and commercial unit in a multiple-occupancy building construction of which has begun after June 1,

1981 shall have installed a separate electric meter for each residential or commercial unit.” See Mo. Code Regs. Ann. Tit 4, section 240-20.050(1)(d). The State of Missouri Public Commission (the “Commission”) has defined when construction begins for purposes of the rules, as follows: “Construction begins when the footings are poured.” See Mo. Code Regs. Ann. Tit 4, section 240-20.050(1)(d). The Commission has ruled, on numerous cases, that Rule 4 CSR 240-20.050 does not apply to buildings that were constructed prior to June 1, 1981. Therefore, because the footings for the Building were poured before June 1, 1981, no variance from the separate metering requirement of 4 CSR 240-20.050 is required to master meter the units of the WallStreet Tower Condominiums.

7. KCPL, the public utility affected by the requested variance, has stated to WST that, by the terms of KCPL’s tariff, Section 5.03 of the General Rules and Regulations Applying to Electric Service of KCPL, filed January 19, 1981 with the Commission, KCPL requires individual metering for each unit.

8. In *In the Matter of the Application of Union Electric Company, d/b/a AmerenUE, for a Metering Variance to Serve Brentmoor at Oaktree*, Case No. EE-2004-0267, the Commission’s Electric Meter Variance Committee addressed five questions in its recommendations for that case:

1. Is individual metering of the multiple-occupancy building required by 4 CSR 240.050?
2. Do the occupant(s) of each unit have control over a portion of the electric energy used in such unit?

3. With respect to such portion of electric energy used in such unit, do the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters?

4. Would the granting of a variance be consistent with the goals of PURPA to increase conservation of electric energy, increase efficiency in the use of facilities and resources by electric utilities, and establish equitable retail rates for electric consumers?

5. Would the granting of a variance be in the public interest because it furthers a public policy objective in conjunction with other federal, state, or local government programs, such as subsidizing housing costs for low-income residents or promoting economic development in certain urban areas?

11. In response to "Is individual metering of the multiple-occupancy building required by 4 CSR 240.050?", the answer is clearly no. (See Paragraph 6 herein.)

12. In response to "Do the occupants of each unit have control over a portion of the electric energy used in such unit?" the owners of each unit will control the use of all electric energy used in such unit for heating and cooling, lighting, any kitchen appliances and all other uses.

13. In response to the third question, WST has estimated that separate metering each condominium unit as opposed to master metering the Tower would result in additional expenditures in excess of \$350,000. Included in this cost projection are the costs to redesign, modify and redistribute power to individual units, as a result of the installation of individual meters in each residential unit, and for the costs associated with the individual meters. These additional expenditures, which will average \$2,288 per unit, are an impediment to the conversion

of the Tower and the costs are financially prohibitive. Individualized metering would cause substantial disruptions to the structural components of the Tower, and cause capital improvements that would exceed any benefits to the electric consumers of separate metering. Since The WallStreet Tower Condominium Association, Inc. will make payment for the electric service to the Tower, the residents will not receive the benefits of any conservation efforts they might undertake. The unit owners have anticipated that there would be no individual meters in their units and have entered into the contracts with WST in reliance on that representation. Therefore, the long-run benefits to the electric consumers in the Tower do not exceed the costs of purchasing and installing separate meters.

14. In response to the fourth question raised by the Committee in the *Brentmoor* case, and as set forth above, WST contemplates that the Association will receive one bill from KCPL, and the Association will in turn pay that bill in full. WST has represented, from the commencement of the project, that the units would not have separate meters and the electric consumers have made an informed decision to acquire the units under that single master metering system. Therefore, the granting of the variance from KCPL's tariff would be consistent with the goals of PURPA.

15. In response to the fifth question raised by the Committee in the *Brentmoor* case, granting the variance from KCPL's tariff would be in the public interest because it furthers a public policy objective in conjunction with other federal, state or local government programs, such as promoting economic development in certain urban areas.

16. By Ordinance No.050382, passed on April 28, 2005, the Council of the City of Kansas City, Missouri approved the General Development Plan for the Downtown Loop Planning Area, and declared the downtown development area to be a blighted, unsanitary or

undeveloped industrial area in need of development, pursuant to the provisions of Chapter 100, RSMo, of the Planned Industrial Expansion Law. The WallStreet Tower Condominium project is located within this blighted development area.

17. The Planned Industrial Expansion Authority for Kansas City, Missouri, on May 27, 2005, did notify the Mayor and City Council of the City of Kansas City, Missouri of its intent to accept the WallStreet Tower Condominium development proposal, and thirty days thereafter, the PIEA did accept the WallStreet Tower Condominium development proposal. On July 1, 2005, the Planned Industrial Expansion Authority authorized its Chairman to enter into a development contract with WST for the implementation of the WallStreet Tower Condominium Development Plan.

18. The WallStreet Tower Condominium project is a material and instrumental aspect of ameliorating and redeveloping Kansas City's downtown urban core, and it is in conjunction with the Planned Industrial Expansion Authority and the City of Kansas City's economic development plans and initiatives for the downtown area. As a result, granting the variance to KCPL's tariff would certainly be in the public interest because it furthers the public policy objective of the City of Kansas City, Missouri in eliminating the blighted conditions of its downtown, and in doing so, to attract the public to live in the downtown.

9. The time considerations of individual metering are also very problematic and concerning. It was not until August 16, 2005 that KCPL sent written notification to WST that KCPL would be requiring individual metering to each condominium unit. WST has entered into contracts that call for the closings on units to occur as early as October 19, 2005. Installation of single metering and the electrical services entailed for 153 units would set the development back

by several months and the delay will cause irreparable harm and damage to many, including WST and the buyers of the units.

WHEREFORE, for the foregoing reasons, WST respectfully requests that the Commission issue its order:

- (a) Determining that separate metering for residential or commercial units at the WallStreet Tower Condominium project located at 1101 Walnut Street, Kansas City, Missouri is not required by 4 CSR 240-20.050; and
- (b) Granting a variance from the applicable tariffs of KCPL on individual metering with respect to the WallStreet Tower Condominium project located at 1101 Walnut Street, Kansas City, Missouri,, including that tariff set forth in Section 5.03 of the General Rules and Regulations Applying to Electric Service, filed with the Commission by KCPL on January 19, 1981, allowing a single master meter for the entire Tower; and
- (c) For such other and further relief as may be just and proper.

Respectfully submitted,

STEWART LAW FIRM, L.C.

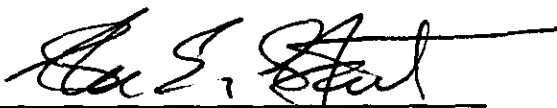
By: 
SHAWN E. STEWART #49202
4505 Madison Avenue
Kansas City, Missouri 64111
Telephone: (816) 751-0517
Facsimile: (816) 751-0518
Email: stewartlaw@birch.net

ATTORNEYS FOR APPLICANT


VERIFICATION

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

I, Shawn E. Stewart, an attorney for WST, Inc., a Missouri corporation, the developer and owner of the WallStreet Tower Condominium project, being duly sworn upon my oath, do hereby state that I have read the foregoing document and that the facts stated therein are true and correct to the best of my knowledge, information and belief, and that I am authorized to file such document on behalf of WST, Inc., a Missouri corporation.

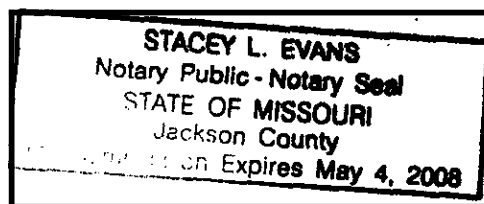

SHAWN E. STEWART

Subscribed and sworn to before me this 20th day of September, 2005.


Stacey Evans, Notary Public

My Commission Expires:

5-4-2008





Robin Carnahan
Secretary of State

**CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING**

ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records
my office and in my care and custody reveal that

**WST, INC.
00639033**

as created under the laws of this State on the 7th day of February, 2005, and is in good
standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my
hand and imprinted the GREAT SEAL of the
State of Missouri, on this, the 16th day of
September, 2005

Robin Carnahan

Secretary of State

