

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

In the Matter of the Application of WST, Inc.,)	
a Missouri Corporation, for a Variance From)	
Kansas City Power & Light Company's General)	<u>Case No. EE-2006-0123</u>
Rules and Regulations Requiring Individual)	
Metering)	

**WST'S SUGGESTED PROVISIONS OF 4 CSR 240-13 TO BE INCLUDED IN THE
DECLARATION OF THE WALLSTREET TOWER CONDOMINIUMS**

COMES NOW, Applicant WST, INC. and for its Suggested Provisions of 4 CSR 240-13 To Be Included In The Declaration Of The Wallstreet Tower Condominiums, hereby respectfully states the following:

1. Pursuant to a request issued by the Public Service Commission of the State of Missouri ("Commission") on October 18, 2005, in the above-captioned proceeding, the Commission sought the suggestions of WST on the provisions of 4 CSR 240-13 (Title 4 – Department of Economic Development; Division 240 – Public Service Commission; Chapter 13 – Service and Billing Practices for Residential Customers of Electric, Gas and Water Utilities) to be included in the Declaration of the WallStreet Tower Condominiums.

2. As requested by the Commission, WST suggests the following language and the following provisions of 4 CSR 240-13 be included in the Declaration (as said term is defined by the Uniform Condominium Act of Missouri, Chapter 448) of WallStreet Tower Condominiums:

Pursuant to an order granting a variance pertaining to the individual electric metering requirements of Kansas City Power & Light Company ("KCPL"), issued by the Missouri Public Service Commission ("Commission"), the customer of KCPL for electric service to the Tower shall be the Association, whereby the Tower shall have one master meter for the electric service

and only the Association will receive the billing for said service from KCPL. The consumer protection provisions of KCPL's tariff on file with the Commission and the consumer protection provisions of 4 CSR 240 will apply to the Association, which is the Customer of KCPL. Because the Unit Owners will not purchase electric service from KCPL, but rather, directly from the Association, the terms and conditions of KCPL's tariffs and 4 CSR 240 will not apply to the Unit Owners. However, the following provisions, which are based upon the provisions of 4 CSR 240-13, will govern the electric service indirectly provided to the Unit Owners by the Association:

Billing and Payment Standards

- (1) The Association shall render a bill for each month to every Unit Owner in accordance with this section.*
- (2) Each billing statement to the Unit Owner rendered by the Association shall be computed on the actual usage of the Unit during the billing period, and said billing statement shall also be based upon the Unit Owner's proportionate share of the electrical service for the Tower Common Elements based upon the Unit Owner's percentage of interest in the Tower Common Elements, (the total amount due for the electrical service for the Tower Common Elements will be determined by calculating the total amount of the billing statements for the actual usage of all of the Units combined, and subtracting that amount from the total amount billed to the Association by the electric utility provider,) except as follows:*
 - (A) The Association may render a bill based on estimated electric usage when conditions beyond the control of the Association prevent an actual meter reading.*

(B) When the Association renders an estimated bill in accordance with these rules, it shall:

- 1. Maintain accurate records of the reasons for the estimate and the effort made to secure an actual reading;*
- 2. Clearly and conspicuously note on the bill that it is based on estimated usage.*

(3) The Association shall bill the Unit Owner for its electric usage on a monthly basis. The Unit Owner shall have at least twenty-one (21) days from the rendition of the bill to pay the utility charges. If the due date or delinquent date falls upon a Sunday, legal holiday, or any other day when the offices of the Association are not open, the due date or delinquent date shall be extended through the next business day. The date of payment for remittance by mail is the date on which the Association receives the remittance. The Association shall not base a late fee or a discontinuance of service, on a payment that was made to the Association on or before the due date or delinquent date.

(4) Every bill for electric service to the Unit Owner shall clearly state:

- (A) The beginning and ending meter readings of the billing period and the dates of these readings;*
- (B) The date when the bill will be considered due and the date when it will be delinquent, if different;*
- (C) Any previous balance which states the balance due for electric utility charges separate from other non-electric utility charges; and*

(D) The total amount due.

Billing Adjustments

(1) For all billing errors, the Association will determine from all related and available information the probable period during which this condition existed and shall make billing adjustments for the estimated period involved as follows:

(A) In the event of an overcharge, an adjustment shall be made for the entire period that the overcharge can be shown to have existed not to exceed sixty (60) consecutive monthly billing periods, calculated from the date of discovery, inquiry or actual notification of the Association, whichever comes first;

(B) In the event of an undercharge, an adjustment shall be made for the entire period that the undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods, calculated from the date of discovery, inquiry or actual notification of the Association, whichever was first;

(C) No billing adjustment will be made where the full amount of the adjustment is less than one dollar (\$1);

(D) Where, upon test, an error in measurement is found to be within the limits prescribed by Commission rules, no billing adjustment will be made; and

(E) When evidence of tampering is found, or there are misrepresentations of the use of service by the Unit Owner, the Association will calculate the billing adjustment period in accordance with the applicable statute of limitations for the prosecution of such claim after determining the probable period during which such condition existed from all related and available information.

Inquiries

(1) The Association shall insure that:

- (A) Qualified personnel shall be available and prepared at all times during normal business hours to receive and respond to all Unit Owner inquiries, service requests and complaints;*
- (B) Qualified personnel shall be available at all times to receive and initiate response to Unit Owner contacts regarding any discontinuance of service or emergency condition occurring within the Tower; and*
- (C) Names, addresses and telephone numbers of personnel designated and authorized to receive and respond to the requests of the Unit Owners.*

Disputes

- (1) A Unit Owner shall advise the Association that all or part of a charge is in dispute by written notice, in person or by a telephone message directed to the Association during normal business hours. A dispute must be registered with the Association at least twenty-four (24) hours prior to the date of proposed discontinuance for a Unit Owner to avoid discontinuance of service as provided by these rules.*
- (2) When a Unit Owner advises the Association that all or part of a charge is in dispute, the Association shall record the date, time and place the contact is made; investigate the contact promptly and thoroughly; and attempt to resolve the dispute in a manner satisfactory to both parties.*
- (3) Failure of a Unit Owner to participate with the Association in efforts to resolve an inquiry which has the effect of placing charges in dispute shall constitute a waiver of the Unit Owner's right to continuance of service and the Association, not less than*

five (5) days after provision of the notification required by section (8), may proceed to discontinue service unless the Unit Owner submits the dispute to arbitration under the procedure set forth in this Declaration, within the five (5) day period.

(4) If a Unit Owner disputes a charge, the Unit Owner shall pay to the utility an amount equal to that part of the charge not in dispute. The amount not in dispute shall be mutually determined by the Unit Owner and the Association. The Unit Owner and the Association shall consider the Unit Owner's prior consumption history, weather variations, the nature of the dispute and any other pertinent factors in determining the amount not in dispute.

(5) If the parties are unable to mutually determine the amounts not in dispute, the Unit Owner shall pay to the Association, at the Association's option, an amount not to exceed fifty percent (50%) of the charge in dispute or an amount based on usage during a like period under similar conditions which shall represent the amount not in dispute.

(6) Failure of the Unit Owner to pay to the Association the amount not in dispute within four (4) working days from the date that the dispute is registered or by the delinquent date of the disputed bill, whichever is later, shall constitute a waiver of the Unit Owner's continuance of service and the Association may then proceed to discontinue service as provided in this rule.

(7) If the dispute is ultimately resolved in favor of the Unit Owner in whole or in part, any excess moneys paid by the Unit Owner shall be refunded promptly.

(8) *If the Association does not resolve the dispute to the satisfaction of the Unit Owner, the Association shall notify the Unit Owner that each party has a right to submit the dispute to binding arbitration.*

(9) *The Association may treat a Unit Owner complaint or dispute involving the same question or issue based upon the same facts as already determined, and is not required to comply with these rules more than once prior to discontinuance of service.*

Discontinuance of Service

(1) *Service to a Unit may be discontinued for any of the following reasons:*

(A) *Nonpayment of an undisputed delinquent charge;*

(B) *Unauthorized interference, diversion or use of the utility service situated or delivered on or about the Unit;*

(C) *Failure to comply with terms of a settlement agreement;*

(D) *Refusal after reasonable notice to permit inspection, maintenance, replacement or meter reading of utility equipment. If the Association has a reasonable belief that health or safety is at risk, notice at the time inspection is attempted is reasonable.*

(2) *None of the following shall constitute sufficient cause for the Association to discontinue service:*

(A) *The failure of a Unit Owner to pay for services or other items that are not an integral part of the electric service provided;*

(B) *The failure of a Unit Owner to pay for service received at a separate Unit.*

In the event of discontinuance or termination of service at a separate Unit,

the Association may transfer and bill any unpaid balance to any other account of the Unit Owner and may discontinue service after twenty-one (21) days after rendition of the combined bill, for nonpayment;

(C) The failure of the Unit Owner to pay for a different class of service received at the Unit;

(D) The failure to pay the bill of another Unit Owner, unless the Unit Owner whose service is sought to be discontinued received substantial benefit and use of the service; and

(E) The failure to pay a bill correcting a previous underbilling, whenever the Unit Owner claims an inability to pay the corrected amount, unless the Association has offered the Unit Owner a payment arrangement equal to the period of underbilling.

(3) On the date specified on the notice of discontinuance or within eleven (11) business days after that, and subject to the requirements of this section, the Association may discontinue service to the Unit Owner between the hours of 8:00 a.m. and 4:00 p.m. Service shall not be discontinued on a day when the Association personnel are not available to reconnect the Unit Owner's service, or on a day immediately preceding such a day. After the eleven (11) business day effective period of the notice, all notice procedures required by this section shall again be followed before the Association may discontinue service.

(4) The notice of discontinuance shall contain the following information:

(A) The name and address of the Unit Owner and the address, if different, of the address of record with the Association of the Unit Owner;

- (B) *A statement of the reason for the proposed discontinuance of service and the cost for reconnection;*
 - (C) *The date on or after which service will be discontinued unless appropriate action is taken; and*
 - (D) *How a customer may avoid the discontinuance.*
- (5) *The Association shall not discontinue service pursuant to this section unless written notice by first class mail is sent to the Unit Owner at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, the Association may deliver a written notice in hand to the Unit Owner at least ninety-six (96) hours prior to discontinuance. The Association shall maintain an accurate record of the date of mailing or delivery. A notice of discontinuance of service shall not be issued as to that portion of a bill which is determined to be an amount in dispute, or that is currently the subject of a dispute pending with the Association or in arbitration.*
- (6) *Notice shall be provided as follows:*
 - (A) *At least twenty-four (24) hours preceding a discontinuance, the Association shall make reasonable efforts to contact the Unit Owner to advise the Unit Owner of the proposed discontinuance and what steps shall be taken to avoid it. Reasonable efforts shall include either a written notice following the notice, a doorhanger or at least two (2) telephone call attempts reasonably calculated to reach the Unit Owner;*
 - (B) *Immediately preceding the discontinuance of electric service, the employee or agent of the Association designated to perform this function, except*

where the safety of said person is endangered, shall make a reasonable effort to contact and identify him/herself to the Unit Owner or a responsible person then upon the premises of the Unit and shall announce the purpose of his/her presence. When service is discontinued, the employee/agent shall leave a notice upon the Unit's door in a manner conspicuous to the Unit Owner that service has been discontinued and the address and telephone number of a person on behalf of the Association where the Unit Owner may arrange to have service restored.

(C) Notwithstanding any other provision of this section, the Association shall postpone a discontinuance for a time not in excess of twenty-one (21) days if the discontinuance will aggravate an existing medical emergency of the Unit Owner, a member of his/her family or other permanent resident of the Unit where service is rendered. Any person who alleges a medical emergency, if requested, shall provide the utility with reasonable evidence of the necessity.

(D) Notwithstanding any other provision of this Declaration, the Association may discontinue service temporarily for reasons of maintenance, health, safety or a state of emergency.

(E) Upon the Unit Owner's request, the Association shall restore service consistent with all other provisions of the Declaration when the cause for discontinuance has been eliminated and applicable restoration charges have been paid. At all times, a reasonable effort shall be made to restore service upon the day restoration is requested, and in any event, restoration

shall be made not later than the next working day following the day requested by the Unit Owner. The Association may charge the Unit Owner a reasonable fee for restoration of service.

WHEREFORE, WST respectfully submits the foregoing in response to the Commission's request of October 18, 2005.

Respectfully submitted,

STEWART LAW FIRM, L.C.

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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18th day of October, 2005.

/s/ Shawn E. Stewart _____
Shawn E. Stewart