

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

BRIARCLIFF DEVELOPMENT COMPANY,)
a Missouri Corporation)

COMPLAINANT)

v.)

KANSAS CITY POWER & LIGHT)
COMPANY)

RESPONDENT)

CASE NO. EC-2011-0383

POSITION STATEMENT OF BRIARCLIFF DEVELOPMENT COMPANY

COMES NOW, Complainant, by its attorneys, and pursuant to the Commission's Order Setting Procedural Schedule dated November 15, 2011, hereby presents the following as its Position Statement:

Briarcliff's Statement of Issue 1:

1. Did KCP&L properly apply its tariff as of August 2009 in refusing to continue to provide service to the Briarcliff I building on the 1LGAE (general service all-electric) rate schedule under the name of the owner of the building, who had been receiving and using all-electric service at the building since 1999, but was a customer name differing from the customer name associated with that service on KCP&L's records, prior to that rate schedule being frozen on January 1, 2008 and which schedule thereafter was "available only to Customers' physical locations currently taking service under this Schedule and who are served hereunder continuously thereafter"?

Response: No. KCP&L did not properly apply its tariff in August 2009 in refusing to provide the physical location of the Briarcliff I building with service on the 1LGAE rate schedule when the name on KCP&L's records for the Briarcliff I account was changed to the name of the owner of the building in August 2009. Neither the Commission in its Order freezing the rate nor KCP&L's tariffs prohibit the Briarcliff I physical location from continuing to be served under the 1LGAE tariff. In its Order, the Commission froze the all-electric rate "to those qualifying customers' commercial and industrial physical locations being served under such all-electric tariffs ... for so long as they continuously remain on that rate schedule." KCP&L's tariff states that effective January 1, 2008 the frozen all-electric schedule "is available only to Customers' physical locations currently taking service under the Schedule and who are served hereunder continuously thereafter." The physical location of the Briarcliff I building is not prohibited from continuing to be served under the frozen all-electric rate merely because the name on the account on KCP&L's records changed, since in this case, Briarcliff Development, as the owner of Briarcliff I from the beginning, was and is a Customer of KCP&L as defined in Rule 1.04 of KCP&L's General Rules and Regulations at such physical location, and since the physical location was taking service under the Schedule on January 1, 2008 and continuously thereafter and would be on the rate today but for KCP&L unilaterally and erroneously determining that changing the name of the

customer on its account from the owner's agent to the name of the owner automatically disqualified the Briarcliff I physical location from continuing to receive the service at the 1LGAE rate after August 2009.

Joint Statement of Parties on Issues 2 and 3:

2. Does the Commission have the authority to waive or vary KCP&L's tariff provisions that restrict KCP&L from providing service to Briarcliff I on the all-electric schedule 1LGAE on a prospective basis? If so, should it?

Response: Yes, the Commission has the authority to waive or vary KCP&L's tariff provisions. It should not do so, however, unless it rules against Briarcliff on its complaint.

3. Should the Commission order KCP&L to file a revised tariff sheet allowing KCP&L to provide service to Briarcliff I on an all-electric schedule on a prospective basis?

Response: Despite KCP&L's assertions that the language of its frozen all-electric rate schedule include a change in the customer of record name, such rule does neither imply nor specifically state that "if the customer name changes on an account served by these tariffs... the account must be changed to a standard electric tariff." Had KCP&L intended that its tariff be read that way it should have specifically included such language.

However, in the event that the Commission should determine that Briarcliff I was properly refused continuance of the all-electric rate schedule under the current language of KCP&L's rule because the name on the account in KCP&L's records was changed from the name of the owner's agent to the name of the owner of the physical location itself, who is and has been defined as a "customer" in KCP&L's General Rules and Regulations, then the Commission should order KCP&L to file a revised tariff sheet allowing KCP&L to provide service to Briarcliff I and others similarly situated on an all-electric schedule on a prospective basis.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.,

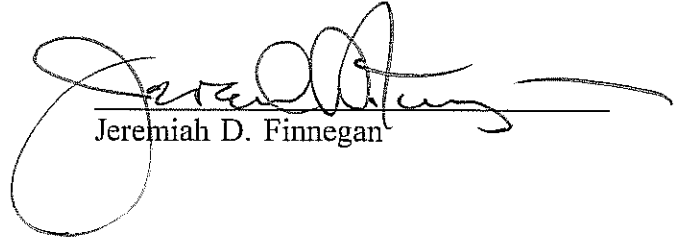
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ATTORNEYS FOR BRIARCLIFF
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been mailed, hand-delivered, faxed or electronically mailed to all counsel of record this 10th day of January, 2012.



Jeremiah D. Finnegan