

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Brent Fallon,)	
Complainant,)	
)	
v.)	File No. EC-2012-0007
)	
Kansas City Power & Light Company)	
)	
Respondent.)	

ORDER DENYING DISMISSAL

Issue Date: September 7, 2011

Effective Date: September 7, 2011

The Missouri Public Service Commission is denying dismissal as sought in the *Response to Staff's Recommendation* ("motion")¹ because Kansas City Power & Light Company ("KCP&L") cites no law supporting it.

KCP&L argues that the Commission should convene no hearing because Staff's recommendation pleads facts contrary to the complaint. But Staff does not seek dismissal on that basis. The statutes provide that Mr. Fallon has the right to present evidence.

In any contested case:

* * *

(2) **Each party shall have the right to call and examine witnesses, to introduce exhibits,** to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him to testify, **and to rebut the evidence against him** [;²]

¹ Filed on August 19, 2011.

² Section 536.070, RSMo 2000 (emphasis added).

and:

1. At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, **the complainant**, the public counsel and the corporation, person or public utility complained of, and such corporations and persons as the commission may allow to intervene, **shall be entitled to be heard and to introduce evidence**. The commission shall issue process to enforce the attendance of all necessary witnesses.^[3]

In the motion, KCP&L cites no law under which the Commission may decide this contested case⁴ without following those statutes.

Therefore, the Commission will deny the motion.

THE COMMISSION ORDERS THAT:

1. The motion to dismiss is denied.
2. This order is effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 7th day of September, 2011.

³ Section 386.420, RSMo 2000.

⁴ Section 386.390.5, RSMo 2000 and Section 536.010(4), RSMo Supp. 2010.