

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

Danielle Mehlenbacher, Complainant,	)	
v. Kansas City Power & Light Company	)	<b><u>Case No. EC-2015-0093</u></b>
and KCP&L Greater Missouri Operations	)	
Company.	)	

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and, hereby files Staff's report of its investigation into this matter.

1. Danielle Mehlenbacher filed her *Complaint* on October 9, 2014.

2. Section 386.390.1, RSMo, authorizes the Commission to hear and determine complaints in writing, brought by any corporation or person, "setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission[.]"<sup>1</sup> Pursuant to its rulemaking authority at § 386.410.1, RSMo, the Commission has duly promulgated its Rule 4 CSR 240-2.070, concerning complaints. That rule distinguishes formal complaints and small formal complaints, and sets out less cumbersome procedures for the latter. Because the amount at issue here exceeds \$3,000, this case is not eligible for treatment as a small formal complaint case. Rule 4 CSR 240-2.070(15).

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<sup>1</sup> Excluding complaints as to the reasonableness of utility rates unless brought on the Commission's own motion or by the Public Counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council, commission or other legislative body of any city, town, village or county, or by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of the utility service in question. § 386.390.1, RSMo.

3. On December 19, 2014, the Commission directed Staff to investigate this matter and file a report by January 29, 2015. Rule 4 CSR 240-2.070(11).

4. Respondent KCP&L Greater Missouri Operations Company owned the pole in question.

5. Staff has investigated and now recommends that the Commission determine the *Complaint* filed herein by Complainant in favor of the Respondents because, as set out in Staff's attached *Memorandum*, the Complainant has not met her burden of showing that Respondent has violated a statute or a rule, order, or tariff of this Commission.

6. Additionally, the Commission is without authority to grant the relief requested by the Complainant, as the relief sought is the recovery of money damages for damage to personal property, a remedy the Commission does not have the statutory authority to grant.<sup>2</sup> For that reason, Staff recommends that the Commission dismiss the *Complaint* so that the parties may resolve their dispute in the courts without additional expense or delay.

**WHEREFORE**, Staff for the foregoing reasons prays that the Commission will dismiss Ms. Mehlenbacher's complaint.

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<sup>2</sup> The court in *State ex rel. Laundry, Inc. v. PSC*, 34 S.W.2d 37, 46 (Mo.1931), addressed the question of complainant's entitlement to a refund of rates charged for water in excess of manufacturer's rates. The court held that PSC must determine whether complainants were entitled to a refund saying, "The pecuniary relief so prayed by complainants calls for the exercise of a judicial function, by the entry of a judgment or order for the recovery of money, which function is exclusively exercisable only by the judicial branch or department of our state government. The Public Service Commission is an administrative body only, and not a court, and hence the commission has no power to exercise or perform a judicial function, or to promulgate an order requiring a pecuniary reparation or refund."

Respectfully submitted,

**/s/ Cydney D. Mayfield**

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**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 29<sup>th</sup> day of January, 2015.

**/s/ Cydney D. Mayfield**

## **M E M O R A N D U M**

TO: Missouri Public Service Commission Official Case File  
File No. EC-2015-0093  
Investigation Into the Damage Claim of Daniel Mehlenbacher v. Kansas  
City Power & Light - Greater Missouri Operations, Regarding a Light Pole  
That Fell and Damaged a Vehicle

FROM: Scott Glasgow, Tariff, Safety, Economic and Engineering Analysis

DATE: /s/ Daniel I. Beck 01/29/15      /s/ Cydney D. Mayfield 01/29/15  
Engineering Analysis / Date      Staff Counsel's Department / Date

SUBJECT: Staff Recommendation

DATE: January 29, 2015

### **SUMMARY**

On October 9, 2014, Danielle Mehlenbacher ("Complainant" or "Customer") filed a formal complaint against Kansas City Power & Light – Greater Missouri Operations ("KCP&L-GMO" or "Company") regarding a light pole that fell onto the customer's car during a June 15, 2014 storm, causing in excess of \$3000.00 worth of damage. On November 13, 2014, KCP&L-GMO filed its Answer in which it generally denied all allegations or claimed to be without sufficient knowledge or information to admit or deny. The Company admits that a light pole fell and believes the pole and tree were down due to the severe storm on June 15, 2014.

Staff first investigated the issues raised in this Complaint starting on July 28, 2014, as informal complaint number C201500142, and has conducted additional analysis as part of the current formal complaint, Case No. EC-2015-0093. During the storm a large tree branch appears to have fallen onto the Company's line attached to the light pole. Consequently, the line that was attached to the light pole, and the light pole itself, fell onto the ground. It appears that the Company agrees with the Complainant's assertion that the

pole fell down during the June 15, 2014 storm. Staff agrees with the Complainant that the pole contained visible rot around the outside of the pole at its base. Staff cannot make a determination whether the pole fell down due to rot or due to the weight of the tree branch that fell onto the line during the storm.

### **DISCUSSION**

Customer believes that due to the deteriorated condition of the pole, the pole fell onto the customer's car causing damage. Staff agrees that the pole appeared to have some decay according to the pictures provided in the formal complaint, which are attached to the memorandum as Attachment A. Staff cannot confirm that the pole would have not fallen without the rot. In the picture provided to KCP&L-GMO, which was also provided by the customer, and attached as Attachment B, it shows that a large branch from an adjacent tree was taken down during the storm as well as a pole leaning in back of the house. The line that fed the light pole appears to be under the branch and on the house and running back to the leaning pole in the back of the house. The Customer did not claim any issue with the pole in the back of the house. The Company stated that the pole in the back was not only leaning but was broken. Due to the storm, the large branch that appears to have fallen on the line, contributed to both poles being compromised when the branch fell onto the wire. It is common during storms for wires and poles to be broken or compromised when trees/limbs fall on the attached wire.

Concerning the care of the light pole, according to KCP&L-GMO the light pole was inspected and rated at a priority 3 in 2009. KCP&L-GMO's 2012 Infrastructure Standards Compliance Plan pursuant to 4 CSR 240-23.020 states:

Corrective action is taken immediately when conditions discovered during the course of inspections are identified as critical to safety or service reliability (PI and P2). Corrective work on conditions not rising to that critical threshold is bundled with planned work-focusing on the priority of improving performance of poorly performing feeders and laterals. Corrective work is also completed within the normal course of construction work (P3).

According to KCP&L the pole rating did not need immediate corrective action. The Company did cut the top of the pole 6 to 12 inches in 2009 because of splitting. It appears that the Company has followed PSC rules with the inspection and care of the pole.

#### **STAFF RECOMMENDATION**

Staff's investigation has included conversations with the Complainant and the Company, a review of documents provided by the Company, a review of the documents that were provided by the Complainant and a site visit on January 22, 2015. Staff does not have sufficient evidence to support the Complainant's contention that the damage to the vehicle in question is directly attributable to the condition of KCP&L-GMO's light pole. Based on its investigation, Staff concludes that the Company has not violated PSC rules.

**Attachment A**



## Attachment B

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

Danielle Mehlenbacher,

Complainant

v.

Kansas City Power & Light Company and  
KCP&L Greater Missouri Operations  
Company,

Respondent

Case No. EC-2015-0093

**AFFIDAVIT OF SCOTT GLASGOW**

STATE OF MISSOURI

COUNTY OF COLE

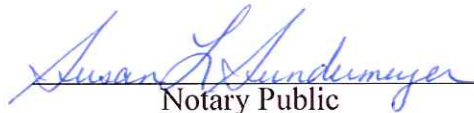
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) ss  
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Scott Glasgow, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Report in memorandum form, to be presented in the above case; that the information in the Staff Report was given by him; that he has knowledge of the matters set forth in such Staff Report; and that such matters are true to the best of his knowledge and belief.

  
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Scott Glasgow

Subscribed and sworn to before me this 29<sup>th</sup> day of January, 2015.

SUSAN L. SUNDERMEYER  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Callaway County  
My Commission Expires: October 28, 2018  
Commission Number: 14942086

  
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Notary Public