

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 4th day of
March, 2008.

In the Matter of the Application of Kansas City)	
Power & Light Company for a Variance from)	<u>Case No. EE-2008-0260</u>
Certain Regulations Pertaining to Net Metering)	Tariff No. JE-2008-0476

**ORDER GRANTING REQUEST FOR A VARIANCE AND APPROVING
TARIFF**

Issue Date: March 4, 2007

Effective Date: March 15, 2008

On February 11, 2008, Kansas City Power and Light Company ("KCPL") filed an application for a variance from the Commission's rule on Net Metering, 4 CSR 240-20.065, and a revised tariff that would implement a new Missouri statute, the "Net Metering and Easy Connection Act."¹ The tariff carries an effective date of March 15, 2008, and KCPL requests the waiver of the Commission's current net metering regulation because it is inconsistent with the new statute.

On February 27, 2008, The Commission's Staff filed a recommendation regarding the waiver request and proposed tariff. Staff recommends the Commission grant KCPL's request for compliance with Commission Rule 4 CSR 240-20.065 and approve the tariff, with an effective date of March 15, 2008. Staff states that KCPL's tariff is in compliance with the "Net Metering and Easy Connection Act." Staff further states that good cause exists for the granting of the variance from the Commission's current net metering rule until

¹ Section 386.890, RSMo (Cum. Supp. 2007), effective January 1, 2008.

the Commission rescinds that rule and replaces it with a new rule consistent with the revised statute.²

Based on the recommendation of its Staff, the Commission will approve the submitted tariff. The Commission also finds good cause to waive application of Commission Rule 4 CSR 240-20.065.³

IT IS ORDERED THAT:

1. The following tariff sheets filed by Kansas City Power and Light Company, on February 11, 2008, and assigned Tariff No. JE-2008-0476, are approved to become effective on March 15, 2008:

PSC Mo. No. 7

3rd Revised Sheet No. 34, Canceling 2nd Revised Sheet No. 34
1st Revised Sheet No. 34A, Canceling Original Sheet No. 34A
2nd Revised Sheet No. 34B, Canceling 1st Revised Sheet No. 34B
1st Revised Sheet No. 34C, Canceling Original Sheet No. 34C
1st Revised Sheet No. 34D, Canceling Original Sheet No. 34D
2nd Revised Sheet No. 34E, Canceling 1st Revised Sheet No. 34E
Original Sheet No. 34F

² Section 386.890.9 allows the Commission nine months from January 1, 2008, to promulgate implementing regulations.

³ Although the term “good cause” is frequently used in the law, *State v. Davis*, 469 S.W.2d 1, 5 (Mo. 1971) the rule does not define it. Therefore, it is appropriate to resort to the dictionary to determine its ordinary meaning. See *State ex rel. Hall v. Wolf*, 710 S.W.2d 302, 303 (Mo. App. E.D. 1986) (in absence of legislative definition, court used dictionary to ascertain the ordinary meaning of the term “good cause” as used in a Missouri statute); *Davis*, 469 S.W.2d at 4-5 (same). Good cause “generally means a substantial reason amounting in law to a legal excuse for failing to perform an act required by law.” *Black’s Law Dictionary* 692 (6th ed. 1990). Similarly, “good cause” has also been judicially defined as a “substantial reason or cause which would cause or justify the ordinary person to neglect one of his [legal] duties.” *Graham v. State*, 134 N.W. 249, 250 (Neb. 1912). Missouri appellate courts have also recognized and applied an objective “ordinary person” standard. See, e.g., *Cent. Mo. Paving Co. v. Labor & Indus. Relations Comm’n*, 575 S.W.2d 889, 892 (Mo. App. W.D. 1978) (“[T]he standard by which good cause is measured is one of reasonableness as applied to the average man or woman.”) Of course, not just any cause or excuse will do. To constitute good cause, the reason or legal excuse given “must be real not imaginary, substantial not trifling, and reasonable not whimsical.” *Belle State Bank v. Indus. Comm’n*, 547 S.W.2d 841, 846 (Mo. App. S.D. 1977). See also *Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable). And some legitimate factual showing is required, not just the mere conclusion of a party or his attorney. See generally *Haynes v. Williams*, 522 S.W.2d 623, 627 (Mo. App. E.D. 1975); *Havrisko v. U.S.*, 68 F.Supp. 771, 772 (E.D.N.Y. 1946); *The Kegums*, 73 F.Supp. 831, 832 (S.D.N.Y. 1947).

2nd Revised Sheet No. 40, Canceling 1st Revised Sheet No. 40
2nd Revised Sheet No. 40A, Canceling 1st Revised Sheet No. 40A
2nd Revised Sheet No. 40B, Canceling 1st Revised Sheet No. 40B
7th Revised Sheet No. TOC-1, Canceling 6th Revised Sheet No. TOC-1

2. Kansas City Power and Light Company, is granted a waiver from compliance with Commission Rule 4 CSR 240-20.065 until such time as the Commission rescinds that rule and adopts a new rule consistent with the Net Metering and Easy Connection Act.

3. This order shall become effective on March 15, 2008.

4. This case shall be closed on March 16, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton, Appling,
and Jarrett, CC., concur.

Stearley, Regulatory Law Judge