

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 13th day of March, 2013.

In the Matter of 2013 Annual Update of)
Kansas City Power & Light Company Pursuant)
to 4 CSR 240-22)

File No. EE-2013-0388

ORDER GRANTING APPLICATION FOR VARIANCE

Issue Date: March 13, 2013

Effective Date: March 23, 2013

On February 7, 2013¹, Kansas City Power & Light Company (“KCP&L”) asked the Commission to grant it variances from certain requirements of the Commission’s Integrated Resource Planning Rule, 4 CSR 240-22. KCP&L asks the Commission to extend the date for filing its 2013 Annual Update Report and its 2013 Annual Update Workshop by three months. KCP&L also asks for a variance from the Commission rules requiring RTO expansion plan analysis specific to Missouri customers.

The Commission issued notice of this application on February 7, and gave interested parties until February 21 to request intervention. The Commission received no intervention requests,

The Staff of the Commission (“Staff”) filed its Recommendation on February 21. Staff recommends that the Commission approve the application.

¹ Calendar dates are 2013 unless otherwise noted.

Commission Rule 4 CSR 240-2.060(4) permits applications for variances from Commission Rules. Such an application shall set out a “complete justification setting out the good cause for granting the variance.”

Although the term “good cause” is frequently used in the law,² the rule does not define it. Therefore, it is appropriate to resort to the dictionary to determine its ordinary meaning.³ “Good cause” has been judicially defined as a “substantial reason or cause which would cause or justify the ordinary person to neglect one of his [legal] duties.”⁴

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.”⁵ And some legitimate factual showing is required, not just the mere conclusion of a party or his attorney.⁶

Based upon KCP&L’s verified application and Staff’s Recommendation, the Commission finds good cause to grant KCP&L its requested variance.

THE COMMISSION ORDERS THAT:

1. The Commission grants Kansas City Power & Light Company the requested variances described above.

² *State v. Davis*, 469 S.W.2d 1, 5 (Mo. 1971).

³ 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).

⁴ *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.”)

⁵ *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).

⁶ 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).

2. This order shall become effective on March 23, 2013.
3. This case shall be closed on March 24, 2013.

BY THE COMMISSION

A handwritten signature in cursive script that reads "Shelley Brueggemann".

Shelley Brueggemann
Acting Secretary

R. Kenney, Chm., Jarrett, Stoll,
and W. Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge