

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

In the Matter of the Joint Application of Kansas City)
Power & Light Company and KCP&L Greater)
Missouri Operations Company for Variances from)
4 CSR 240-13.035(1) Regarding Denial of Service)
Notice.)

Case No. EE-2014-0253

STAFF'S RECOMMENDATION TO DENY VARIANCES

COMES NOW the Staff of the Public Service Commission of Missouri and states:

1. On March 14, 2014, Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (jointly "KCP&L") jointly applied for variances from the new requirements of rule 4 CSR 240-13.035(1) that utilities must inform an applicant in writing and maintain a record of the written notice when they refuse to provide service to the applicant. These new requirements take effect March 30, 2014. KCP&L seek to not have to comply with them for sixty (60) days after the rule takes effect, i.e., until May 29, 2014.

2. Commission rule 4 CSR 240-13.065 addresses variances from Chapter 13. The text of the rule follows:

4 CSR 240-13.065 Variance

PURPOSE: This rule establishes the procedure to be followed by a utility seeking a variance from any provision of this chapter.

(1) Any utility may file an application with the commission seeking a variance from all or parts of Chapter 13, which may be granted for good cause shown.

(2) A utility filing an application for a variance with the commission shall mail, contemporaneously with the filing, copies of

the application by first class mail to the newspaper with the largest circulation in each county within the utility's service area affected by the variance, the public counsel and each party in the utility's most recent rate case who represented residential customers.

(3) Any variance granted by the commission shall be reflected in a tariff.

AUTHORITY: sections 386.250(6), RSMo Supp. 1991 and 393.140(11), RSMo 1986. Original rule filed Sept. 22, 1993, effective July 10, 1994.*

**Original authority: 386.250(6), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991 and 393.140(11), RSMo 1939, amended 1949, 1967.*

3. Although KCP&L do not reference Commission rule 4 CSR 240-13.065, they do assert that they have shown good cause for the requested variances as follows: "Due to the press of other business, the Company has not completed the computer programming necessary to begin written denial notices by March 30, 2014." Elsewhere in their pleading they also allege: "The Company has been working to implement an automated process to provide written notice for such denials. However, the Company will not meet the March 30, 2014 effective date of the rule."

4. In pertinent part to these requests, the proposed amendment to Rule 4 CSR 240-13.035(1) published in the Missouri Register on September 3, 2013 (Vol. 38. No. 17, pp. 1368-69), provided:

(1) When the utility refuses to provide service to an applicant for service, the utility shall inform the applicant verbally, if recorded and retained, or written upon applicant request, unless otherwise specified /A/a utility may refuse to commence service to an applicant for any of the following reasons:

* * * *

5. However, in response to AARP comments, the Commission revised the proposed rule to require denial notices be written. The Commission's description of the comment and the final rule language as published in the Missouri Register on February 18, 2014 (Vol. 39, No. 4, pp. 506-07), follow:

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 13—Service and Billing Practices for Residential
Customers of Electric, Gas, Sewer, and Water Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250(6) and 393.140(11), RSMo 2000, the commission amends a rule as follows:

4 CSR 240-13.035 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1368–1369). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

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COMMENT #2: The revised version of section (1) as published in the *Missouri Register* would add a requirement that when a utility refuses to provide service to an applicant it must inform the applicant of that decision “verbally, if recorded and retained, or written upon applicant request, unless otherwise specified.” The AARP group urges the commission to require that all refusals to provide service be in writing. They believe that the existence of a written refusal will better inform applicants of their rights under these regulations. KCP&L and GMO, as well as Missouri-American Water Company, believe that requiring verbal denials to be recorded and retained would be unduly expensive and ask the commission to eliminate that requirement from the rule. Ameren Missouri also objects to requiring a written refusal, even when requested by the applicant, arguing such a requirement would be costly.

RESPONSE: The commission agrees with the AARP group, a denial of utility service is an important decision that can have dire consequences for an applicant. The applicant should be informed of such an important decision in writing so they can be better informed about their rights. The commission will

adopt a slightly modified version of the language proposed by the AARP group to replace the language published in the *Missouri Register*.

* * * *

4 CSR 240-13.035 Denial of Service

(1) When the utility refuses to provide service to an applicant, it shall inform the applicant in writing, and shall maintain a record of the written notice. A utility may refuse to commence service to an applicant for any of the following reasons:

* * * *

6. The Commission filed its rulemaking activities in Case No. AX-2013-0091. There is an agenda entry for November 26, 2013, showing it was discussed, and a December 4, 2013 entry in the EFIS docket showing a JCAR stamp with the rule in its final form. Lois Lechti of Kansas City Power & Light Company is on the service list for Case No. AX-2013-0091.

7. KCP&L knew, or should have known, of the written notice requirement at least by Wednesday, December 4, 2013, if they did not have actual notice by Tuesday, November 26, 2013, or shortly after.

8. In Staff's view KCP&L have not shown good cause for why they cannot provide written denial of service notices by March 30, 2014. If it is due to programming to automate the notice issuances, KCP&L have not credibly shown the four months from early December 2013 to late March 2014 is inadequate.

9. Further, KCP&L have not shown that either of them has complied with the requirement of rule 4 CSR 240-13.065 that they mail, "contemporaneously with the filing [of their application for a variance], copies of the application by first class mail to the newspaper with the largest circulation in each county within the utility's service area

affected by the variance, the public counsel and each party in the utility's most recent rate case who represented residential customers."

WHEREFORE, in response to the Commission's March 18, 2014, ***Order Directing Filing and Setting Intervention Deadline***, Staff recommends that the Commission determine Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company have not shown good cause to allow them until May 29, 2014, to comply with the Commission's new rule 4 CSR 240-13.035(1) requirement that they inform an applicant in writing and maintain a record of the written notice when they refuse to provide service to the applicant that takes effect March 30, 2014, and that they have not shown that they have provided the contemporaneously mailed notice of the application by first class mail to the newspaper with the largest circulation in each county within the utility's service area affected by the variance, the public counsel and each party in the utility's most recent rate case who represented residential customers as required by rule 4 CSR 240-13.065.

Respectfully submitted,

/s/ Nathan Williams

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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 24th day of March, 2014.

/s/ Nathan Williams