

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

November 27, 2006
Jefferson City, Missouri
Volume 1

CHERYL L. FABULAE,)
)
Petitioner,)
)
vs.) Case No. EC-2007-0146
)
KANSAS CITY POWER & LIGHT COMPANY)
)
Respondent.)

BENJAMIN H. LANE, Presiding
REGULATORY LAW JUDGE
STEVE GAW,
ROBERT M. CLAYTON, III,
COMMISSIONERS

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1 A P P E A R A N C E S

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1 P R O C E E D I N G S

2 JUDGE LANE: All right. Well, it's the
3 appointed hour, so let's go ahead and get started. We'll
4 go on the record.

5 My name is Benjamin Lane. I'm the Regulatory
6 Law Judge who will be conducting the hearing in this case.
7 The case number is EC-2007-0146 styled in the matter of
8 Cheryl L. Fabulae, Complainant, versus Kansas City Power &
9 Light Company, Respondent.

10 I know that several of you have entered your --
11 have made your written entries of appearance, but if you
12 would, would you please give me an oral entry as well just
13 for the record?

14 MR. BLANC: Sure. Curtis Blanc here on behalf
15 of Kansas City Power & Light Company. I have left my
16 contact information with the court reporter.

17 JUDGE LANE: Thank you, Mr. Blanc.

18 MR. THOMPSON: Kevin Thompson for the Staff of
19 the Missouri Public Service Commission, Post Office Box
20 309, Jefferson City, Missouri, 65102.

21 JUDGE LANE: Mr. Thompson, thank you. Are there
22 any other parties here represented by counsel? Seeing
23 none, hearing from none, I believe we have entries of
24 appearance from anyone who is represented by counsel.

25 I also want to state for the record who is not

1 present. I do not see anyone from Office of Public
2 Counsel, who has not participated in this case to date.

3 Also, I want to state for the record that
4 approximately six minutes ago, we made a call to -- on the
5 speaker phone to the call-in number of record for
6 telephonic participation in this hearing, initiated the
7 call, put it on speaker phone, rang it for approximately
8 five minutes after the scheduled time of the hearing at
9 10:00. And Ms. Fabulae or a representative of her did not
10 participate in the call.

11 Normally, we would go -- we might as well go
12 into resolution of any preliminary matters or pending
13 motions. Seeing as the complainant in this case is not
14 present either telephonically or in person, we need to
15 resolve that matter first, I think, before we get into
16 anything where we talk about witnesses, anything like
17 that.

18 I would entertain suggestions or arguments by
19 the parties that are here as to what an appropriate course
20 of action should be on a going forward basis.

21 MR. BLANC: KCP&L would move at this time that
22 the complaint be dismissed for failure to prosecute by the
23 Complainant.

24 JUDGE LANE: Duly noted. Thank you, Mr. Blanc.
25 Anyone else?

1 MR. THOMPSON: Staff has no objection.

2 JUDGE LANE: And would that dismissal be
3 prejudice or without?

4 MR. BLANC: With prejudice is our request, your
5 Honor.

6 MR. THOMPSON: Your Honor, if I could, I would
7 urge you to dismiss without prejudice. There have been
8 allegations by Complainant that she suffers from a
9 life-threatening illness and that she has been
10 hospitalized.

11 I do not know whether any of those things, in
12 fact, are true. I have made no effort to corroborate
13 those allegations. I'd simply suggest to you that they do
14 exist in the record, and it is, therefore, at least
15 possible that there is some intervening cause that's
16 prevented Ms. Fabulae from appearing today.

17 If she is dismissed without -- with prejudice,
18 then she would never be able to come back and take this
19 matter up when that intervening obstacle had been removed,
20 assuming there is one. So I would urge you to dismiss
21 without prejudice, your Honor. Thank you.

22 JUDGE LANE: Thank you very much for those
23 suggestions. Would either of the Commissioners like to
24 comment on either of those proposed courses of action?

25 COMMISSIONER GAW: Yeah. I have -- I have a

1 question, first, and that is, is -- I understand that
2 there was some sort of an -- of an e-mail or a fax that
3 was received last week in regard to this case from -- from
4 an individual and that -- that made some statements in
5 regard to the condition that the complainant was in
6 health-wise currently that might prevent her from being
7 able to attend.

8 And I -- my first question is whether or not
9 that -- that, indeed, was the case that we received a fax
10 or an e-mail.

11 Secondly, what was the nature of -- of it? And
12 -- and, thirdly, if -- if -- if there's been any
13 verification about -- about the status from anyone of --
14 of the Complainant in regard to her ability to appear,
15 which Mr. Thompson may have already answered the question,
16 that last question in his most recent statements.

17 But that's -- that's -- that's the first part of
18 my inquiry.

19 MR. THOMPSON: If I may, your Honor?

20 JUDGE LANE: Please.

21 MR. THOMPSON: The Commission received on
22 November 21st a fax at its -- the fax number, I think, in
23 the Operations Division. It was from the Colorado
24 Technical University, North Kansas City Campus, where I
25 believe Ms. Fabulae has been employed. It is a letter

1 unsigned, but with the typed name at the bottom Kim
2 Hickman, who is a person absolutely unknown to us and to
3 this case dated November 21, 2006.

4 It states, "I am sending this at the request of
5 my coworker, Cheryl Fabulae, as she has been hospitalized
6 since Friday with pneumonia and bronchitis. Cheryl's
7 husband asked I send this. Apparently someone from KCP&L
8 called her home in the morning at around 10:30 a.m. and
9 asked that she return her call at her convenience.

10 Cheryl would like to have the opportunity to
11 continue with her complaint, but she is too ill at this
12 time to participate.

13 Cheryl asked that I also make mention that she
14 received a bill from KCP&L Friday for \$130 for service
15 from 10/12/06 to 11/12/06 when, in fact, she had no
16 service since 10/6/06.

17 For what it's worth, everyone here at the
18 college thinks you people should have criminal charges
19 brought against you for what you have done to this poor
20 woman and her family. All she ever asked was to allow her
21 to pay her bill with an amount that they can manage, and
22 KCP&L and you refused.

23 I don't know if you are aware, but she does not
24 own a computer or a cell phone. They don't even own a
25 car. Even the Humane Society would rescue a pet if it was

1 left in the cold with no food. But yet you all can treat
2 a human being in this manner. Shame on you. Sincerely,
3 Kim Hickman."

4 I have undertaken no steps to investigate these
5 allegations. I have no idea whether they're true or not.

6 COMMISSIONER GAW: KCP&L, have you all followed
7 up on that -- on that -- is it a fax, did you say?

8 MR. THOMPSON: Yes, sir.

9 MR. BLANC: We had not received that fax, so
10 this is actually the first I've heard of it. So, no, we
11 have not followed up on it.

12 COMMISSIONER GAW: Okay.

13 JUDGE LANE: I just want to let the record show
14 that this communication was filed as a public comment in
15 the case in EFIS on Wednesday afternoon about 2:30.

16 MR. BLANC: Okay.

17 COMMISSIONER GAW: Okay. Well, if, indeed, the
18 Complainant is hospitalized and unable to attend this
19 proceed -- proceeding, then -- then that would have some
20 bearing on, it would seem to me, what -- what should be
21 done with this case procedurally.

22 I guess my question is whether there is a -- and
23 I guess from your all's standpoint, I don't know that it's
24 -- it's necessarily your all's responsibility to verify
25 that. But at some point in time, there -- there would

1 need to be, in my opinion, something that -- to give us
2 some additional information on the status that the
3 Complainant is in that might -- might excuse her absence
4 this morning.

5 So, that's -- that's all. I guess we'll take
6 this up at some point in time with regard to what to do
7 with the case, assuming that will not occur this morning,
8 but on an agenda day.

9 COMMISSIONER CLAYTON: May I ask a question of
10 counsel for KCP&L?

11 JUDGE LANE: Please.

12 COMMISSIONER CLAYTON: Thank you, Judge. The
13 status quo of the circumstances right now is that she does
14 not -- the Complainant does not have electricity service
15 at this time; is that correct?

16 MR. BLANC: That is correct.

17 COMMISSIONER CLAYTON: Okay. So -- so we don't
18 have a circumstance where KCP&L is -- is putting out a
19 service that potentially would be subject to a case like
20 this. Basically, this is all over older debt or past
21 service; is that correct?

22 MR. BLANC: That is correct.

23 COMMISSIONER CLAYTON: Okay. So other than the
24 inconvenience of you coming down here, KCP&L isn't out any
25 other funds other than the time? And I don't want to

1 diminish the seriousness of that.

2 MR. BLANC: Sure.

3 COMMISSIONER CLAYTON: But since there's no
4 service being provided, there's no additional monies being
5 spent by KCP&L in this case.

6 MR. BLANC: That is correct.

7 COMMISSIONER CLAYTON: Okay. Thank you very
8 much. I don't have any other questions.

9 JUDGE LANE: Okay. Very well. I think that --
10 I think that pretty much summarizes -- the parties did a
11 good job of summarizing their positions.

12 I think the Commissioners have had their
13 questions answered, and they're important questions.

14 MR. BLANC: I guess we would like to make one
15 clarification in light of something that Mr. Thompson read
16 from the fax that we have recognized an error and are in
17 the process of correcting it.

18 The amount she indicated she was billed since
19 her service was disconnected is obviously in error. And
20 according to our tariffs, we should just bill her the
21 minimum amount to maintain the account, which is
22 approximately \$6. And so whatever the amount he read
23 from, that was in error, and we are in the process of
24 correcting that. And she will get a corrected bill.

25 COMMISSIONER CLAYTON: Judge, I do -- if it

1 hasn't already been done, that fax really ought to be
2 filed as part of the case. I know it was read into the
3 record. But so the parties have an opportunity to review
4 the entire letter, I think we should -- if you haven't
5 already done that, please do so.

6 JUDGE LANE: Yes. It has been filed in EFIS as
7 a public comment, so --

8 COMMISSIONER CLAYTON: But is it in the case
9 file?

10 JUDGE LANE: It's not in the case file, so I
11 think that ought to be done.

12 COMMISSIONER CLAYTON: Is that a problem making
13 the filing not necessarily for the truth of it, but it
14 ought to be made part of the this particular case file. I
15 don't know what the EFIS Comments section is. I don't
16 know what that is, so --

17 MR. BLANC: Or it could be done as an ex parte
18 contact to Judge Dale.

19 COMMISSIONER CLAYTON: That would probably be
20 appropriate.

21 JUDGE LANE: All right. That sounds like a good
22 resolution. It will just be filed as a part of the record
23 in this case as an ex parte contact directed to Judge Dale
24 since I believe the cover sheet did say Cully Dale, did it
25 not?

1 MR. BLANC: Correct, your Honor.

2 MR. THOMPSON: It did. We have no objection.

3 JUDGE LANE: Yeah. I was going to -- do you
4 concur in that procedure?

5 MR. THOMPSON: Absolutely.

6 JUDGE LANE: Very well. I think we'll do that.
7 We'll also -- I'll take your suggestions under advisement,
8 and we'll bring this issue to the next agenda.

9 COMMISSIONER GAW: Let me ask another question, I guess,
10 and that is, will there be some sort of a written notice
11 given or some sort of a notice given to the Complainant in
12 regard to her -- her not appearing today? Or will that
13 wait until there's a resolution from the Commission about
14 how to proceed? What's standard practice? I'm just not
15 -- I can't recall.

16 MR. THOMPSON: Your Honor, the ball is in your
17 court now.

18 COMMISSIONER GAW: Yes. That's what I --

19 MR. THOMPSON: Any communication would come from
20 the Commission.

21 COMMISSIONER GAW: Is there a standard
22 notification, does anyone recall, that occurs when someone
23 does not show for a hearing?

24 MR. THOMPSON: I think the indication would be
25 in the form of a dismissal order.

1 COMMISSIONER GAW: Or -- or something else.

2 MR. THOMPSON: Or perhaps a show cause order,
3 depending on what the Commission decides to do.

4 COMMISSIONER GAW: All right. Okay.

5 JUDGE LANE: All right. Very well. I think
6 we're done. Thank you very much.

7 MR. BLANC: Thank you.

8 JUDGE LANE: Off the record.

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