

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 10, 2001

CASE NO: EE-2001-663

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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office in
Jefferson City on the 10th day
of July, 2001.

In the Matter of the Request of)	
Kansas City Power & Light Company)	<u>Case No. EE-2001-663</u>
for a Variance from the Separate)	
Meter Requirement)	

ORDER GRANTING VARIANCE

This order grants the motion filed on June 4, 2001, by Kansas City Power & Light Company (as supplemented by filings by KCPL on June 19 and 27, 2001) with the Missouri Public Service Commission for a variance concerning the Commission's separate metering requirement.

The Commission notes that although the words are practically synonymous, under Chapter 386 of the Revised Statutes of Missouri, "waiver" means a suspension and "variance" means a modification of a Commission rule.

KCPL's Request

KCPL filed a request on June 4, 2001, for an order concerning the Commission's separate metering requirement. KCPL supplemented its original request by filing a supplemental pleading on June 19, 2001, and also filed a motion to amend the supplemental pleading, correcting scrivener's errors in the supplemental pleading, on June 27, 2001. Both of these pleadings supplied further information ordered by the Commission's order directing filing, issued on June 11, 2001.

KCPL filed the request under Commission Rules 4 CSR 240-2.060(1) and (14). KCPL stated that it is a Missouri corporation, in good standing, with its principal office in Kansas City, Missouri. KCPL stated that it is engaged in the generation, transmission, distribution, and sale of electric energy and power in those areas in Missouri certificated to it by the Commission, including the City of Kansas City, Missouri, as well as areas of eastern Kansas. KCPL is an "electrical corporation" and "public utility" as those terms are defined in Sections 386.020 (15) and (42), RSMo 2000, and, as such, is subject to the jurisdiction of the Commission as provided by law. KCPL's Certificate of Good Standing from the Missouri Secretary of State was attached to its request as Exhibit A. KCPL stated that it has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, except as set forth on Exhibit B, attached to its request. KCPL also stated that it has no annual report or assessment fees that are overdue.

KCPL's request further pointed out:

- The NBA Disciples Housing of Greater Kansas City Inc. is constructing low-income housing for senior citizens. The project is called the David Cole Place Senior Citizens Apartments and is located at 11301 Grandview Road, Kansas City, MO. The new apartment building consists of 65 units.
- NBA has requested that KCPL install one master meter to serve the entire building, rather than a separate meter for each unit. NBA will be responsible for paying the electric bill for each unit and the common facilities.
- The installation of a master meter will reduce construction costs by approximately \$18,200. That amounts to \$280 per apartment.

- The monthly rent that NBA will charge its tenants will reflect, in part, the costs associated with constructing the apartment building. To the extent that it is able to reduce construction costs, NBA will be able to lower the amount charged for housing. This is important especially in light of the fact that the residents will be senior citizens with fixed incomes. Separate metering will increase construction costs and frustrate NBA's goal of providing low-cost housing to the elderly.

Thus, KCPL requested that the Commission issue an order granting KCPL a variance from the separate metering requirement thereby permitting KCPL to install a master meter.

Electric Meter Variance Committee's Recommendation

On June 28, 2001, the Electric Meter Variance Committee (comprising members of the Commission's Staff, the Commission's General Counsel, and the Office of the Public Counsel) filed its recommendation. Briefly restated, the Committee's position is:

- Commission Rule 4 CSR 240-20.050(2) states: "Each residential and commercial unit in a multiple-occupancy building...shall have installed a separate electric meter for each residential or commercial unit."
- The Commission's rule is aimed at compliance with certain sections of the Public Utility Regulatory Policies Act of 1978. That Act provides in 16 U.S.C. Section 2625(d) that separate metering is appropriate for any new building if there is more than one unit in the building, the occupant of each unit has control over a portion of the electric energy used in the unit, and, concerning the electric energy used in the unit, the long-run benefits to the electric

consumers in the building exceed the costs of purchasing and installing separate meters in the building.

- The Project consists of 65 apartments for low-income senior citizens. NBA has requested that KCPL provide master metering to the Project because master metering will lower the cost of constructing this low-income senior citizen housing. KCPL states in its application that the installation of a master meter will reduce construction costs by approximately \$18,200 or \$280 per apartment. It also states that NBA will be responsible for paying the electric bill for each apartment and the common facilities and, therefore, no purpose will be served by individually metering each apartment with the attendant unnecessary increase in construction costs to individually wire each apartment.
- The Committee has considered the potential benefits to consumers of separate metering, i.e., the ability to directly receive the financial benefits of individual conservation and efficiency efforts and the potential for individual choice in selecting an electricity provider at some time in the future. The Committee finds that these potential benefits are likely to be of little value to consumers living in these low-income apartments. Furthermore, since the NBA will be responsible for paying the electric bills, individual consumers would not directly receive the financial benefits of individual conservation and efficiency efforts in any event; and receiving, processing and paying separate bills for electric service would be unnecessary and costly.

- The Committee, for good cause shown, recommends the Commission issue an order granting KCPL a variance from the Commission's Rule 4 CSR 240-20.050 (requiring separate metering) for electric service to the Project. The Committee also recommends that the Commission order KCPL to file a revised Tariff Sheet No. 1.71 (Separate Metering Variances) to add this variance, if granted, to its list of variances from Commission Rule 4 CSR 240-20.050 that the Commission has granted to it.

Findings of Fact

Commission Rule 4 CSR 240-2.060(14) states:

[A]pplications for variances or waivers from...tariff provisions...shall contain information as follows: (A) Specific indication of the...tariff from which the variance or waiver is sought; (B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and (C) The name of any public utility affected by the variance or waiver.

The Commission finds that KCPL has substantially complied with that part of Commission Rule 4 CSR 240-2.060(14) cited above.

Conclusions of Law

The Commission has the authority to grant a variance under Commission Rule 240-20.050(5) which states:

Any person or entity affected by this rule may file an application with the commission seeking a variance from all or parts of this rule...and for good cause shown, variances may be granted as follows:

(A) The variance request shall be filed in writing...;

(B) If the commission deems it in the public interest, a hearing may be held...;

and

(C) A variance committee consisting of two...members of the commission's utility division staff and a member of the commission's general counsel's office....The public counsel shall be an ex officio member of this committee.

1. The variance committee shall consider all variance applications filed by utilities and shall make a written recommendation of its findings to the commission....

2. Each applicant for a variance shall have ten...days from the date of the variance committee's findings to either accede or request a formal hearing before the commission.

3. If applicant accedes, the commission may adopt the variance committee's findings or set the matter for formal hearing upon the application of any interested person or upon the commission's own motion.

The *Deffenderfer* case held that the requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the

opportunity to present evidence.¹ Since no one has requested a hearing, the Commission may grant the relief requested based on the application.

Good Cause Finding

The Commission further finds that the good cause for granting the variance is that KCPL's proposed variance from the Commission's separate metering requirement (i) benefits consumers, (ii) does not violate any state law, (iii) does not provide KCPL with any unfair competitive advantage, and (iv) is in the public interest.

IT IS THEREFORE ORDERED:

1. That the motion to amend the supplemental pleading filed on June 27, 2001, by Kansas City Power & Light Company, is granted.

2. That the Missouri Public Service Commission grants to Kansas City Power & Light Company a variance for good cause from the separate metering rule as set forth in Commission Rule 4 CSR 240-20.050.

3. That Kansas City Power & Light Company must file a revised Tariff Sheet No. 1.71 (Separate Metering Variances) to add this variance to its list of variances from Commission Rule 4 CSR 240-20.050 that the Commission has previously granted to Kansas City Power & Light Company.

4. That nothing in this order may be considered a finding by the Missouri Public Service Commission of the value for ratemaking purposes of the properties, transactions, or expenditures herein involved.

¹ *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

5. That the Missouri Public Service Commission reserves the right to consider any ratemaking treatment to be afforded the properties, transactions, or expenditures herein involved in a later proceeding.

6. That Kansas City Power & Light must file with the Missouri Public Service Commission a notice that it has complied with this order, no later than 15 business days after it has complied.

7. That this order will become effective on July 20, 2001.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts".

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(SEAL)

Simmons, Ch., Murray, Lumpe and Gaw, CC., concur

Hopkins, Senior Regulatory Law Judge

ALL Secretary: Hopkins/Boyce

Date Circulated

7-3

EE-2001-663
CASE NO.

82
Lampe, Chair

CM
Dresner, Vice Chair

MS
Murray, Commissioner

MS
Simmons, Commissioner

MS
Gaw, Commissioner

7-10
Agenda Date

4-0 AS
Action taken:

Must Vote Not Later Than

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 10th day of July 2001.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

