HEARING 10/12/2005

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

October 12, 2005 Jefferson City, Missouri Volume 2

In the Matter of the Application)
Of WST, Inc., a Missouri)
Corporation, for a Variance from) Case No.
Kansas City Power & Light) EE-2006-0123
Company's General Rules and)
Regulations Requiring Individual)
Metering)

MORRIS WOODRUFF, Presiding, Senior Regulatory Law Judge

REPORTED BY: Jennifer L. Leibach, RPR, CCR(T) MIDWEST LITIGATION SERVICES

HEARING 10/12/2005

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2 (Pages 2 to 5)

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1	have the authority to waive these particular tariff	1	JUDGE WOODRUFF: All right. You can inquire.
2	provisions. There's, to the Staff's knowledge, no provision	2	DIRECT EXAMINATION
3	within the tariffs to grant the Commission of that authority	3	QUESTIONS BY MR. STEWART:
4	to grant a variance and where the legislature has deemed it	4	Q. Again, Brian, would you please state your name
5	appropriate for the Commission to have that authority, it's	5	for the record?
6	so done by statute.	6	A. Brian Fredock.
7	Therefore, it's the Staff's view, at this	7	Q. And what is your address?
8	point, with what it understands the facts to be, that this	8	A. My address is 510 East Wea, Paola, Kansas,
9	application should be denied. Staff also points out that	9	66071.
10	while it's not advocating this position, it's a possibility	10	
11	that it could be viewed that WST is a utility, but not a	11	Q. And Brian, who are you employed by?A. I'm employed by WST, Inc.
12	-	12	
	public utility, in which event it could sell power to		Q. And what is your position with WST, Inc.?
13	customers without being under this Commission's jurisdiction	13	A. I'm the owner's representative and
14	And I did provide the Commission with an	14	construction manager of the project.
15	exhibit. I don't know if the Commission wants to mark that	15	Q. So you are familiar with the ins and outs of
16	now or at some future time.	16	the condominium project that is currently under construction
17	JUDGE WOODRUFF: It was marked as Exhibit 1	17	at 1101 Walnut Street?
18	before we went on the record, and I'll assume you'll offer it	18	A. Yes, I am.
19	at an appropriate time.	19	Q. Could you briefly describe the project as far
20	MR. WILLIAMS: Sure.	20	as how many units there are and what kind of a project it is?
21	JUDGE WOODRUFF: All right. For Kansas City	21	A. As I understand it, the the building was a
22	Power & Light?	22	mixed-use office, commercial building, and it was purchased.
23	MR. BLANC: Good morning. We're here largely	23	And currently we're undergoing a renovation to still keep it
24	because Kansas City Power & Light believes that it couldn't	24	a mixed-use with mostly residential units, and a few
25	provide service that WST's request without violating	25	commercial or retail spaces available. The the
	Page 7		Page 9
1	provision of its tariff. Specifically, we were concerned	1	residential units is right now, they right now consist of
2	that Section 5.03, which prohibits the provision of service	2	approximately 143 units with a potential of four commercial
3	for resale or redistribution we were concerned that we	3	units in the building.
4	would violate that provision if we provided service to WST as	4	Q. Could you explain how the existing power is
5	we understood their metering and cost recovery practices to	5	channeled through the building as it exists?
6	be. Given that set of facts, we suggested that WST	б	A. Sure. Currently, KCP&L has a series of
7	seek a variance from the Commission from that provision of	7	transformers in the building, and they in a vault, which
8	our tariff, and that is the application that initiated this	8	is dedicated to that use. From the from that from the
9	proceeding. Kansas City Power & Light does not have a	9	transformers, it is sent to a master meter, and then and
10	position as to whether the Commission grants or does not	10	then sent to our distribution switchboard. From that
11	grant this application, we just simply believe that we	11	switchboard, it is sent throughout the building on a series
12	couldn't provide the service they were requesting without	12	of two bus ducts, where it's distributed throughout to the
13	some form of Commission authorization. Thank you.	13	individual units. And each bus duct, in itself, can't supply
14	JUDGE WOODRUFF: All right. Thank you. All	14	the whole building, that's why that's why two are
15	right. Well, let's go ahead and start taking evidence then.	15	installed for for that use of the commercial spaces.
16	And we'll begin with WST.	16	Q. And it's WST, Inc.'s intent to continue with
17	MR. STEWART: Mr. Chairman, the applicant	17	this existing electrical supply and to allow for a master
18	calls Mr. Brian Fredock to the stand.	18	meter to continue with the project?
19	JUDGE WOODRUFF: Mr. Fredock, if you'll come	19	A. It is. The the distribution system is set
20	over here to the witness stand.	20	up in such a way that you can't you can't separate the
21	(THE WITNESS WAS SWORN.)	21	power to each individual unit without renovating the entire
22	JUDGE WOODRUFF: You may be seated. Could you		system. We would have to install a new switch gear at an
23	spell your name for me first?	23	enormous cost, and then we would have to take that switch
24	THE WITNESS: Brian, B-R-I-A-N, Fredock,	24	gear and and provide separate separate backbone
25	F-R-E-D-O-C-K.	25	throughout the entire building for that.

3 (Pages 6 to 9)

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HEARING 10/12/2005

1Estimates right now, just for the switch gear1Are you familiar with the Vall Street Tower3adoe, are above \$250,000, and ifs it would beastronomical to at this day and age to redistribute the4power from there in the current in the current in the current of the particleCondominium Sassociation. Inc. that has been formed and5organized under the Missouri Secretary of State's office?6Q. Do you recall having any conversations with87A. Yes, it would core and the probability of - well,910of netering?0. Can you explain how the billing would work11A. Yes, we're had several meetings with them1012A. Yes, we're had several meetings with them1113A. Yes, we're had several meetings with them1214would cost		Page 10		Page 12
2 Condominium's Association. Inc. that has been formed and 3 astronmicule to asthis dy and age - to redistribute the 4 power from there in the current - in the current floor plan 3 5 that we have. and in the current - in the way that the building 3 6 that right now. 4 7 that right now. 7 8 Q. Do you real having any conversations with 6 9 Kanass City Power & Light representatives regarding the issue 9 11 A. Yes, we're had several meetings with them 11 12 about that, in which we discussed the probability of - well, 13 13 if we separated the - the power distribution system, it 13 14 would cost - it would cost, hasically, a small fortune to to 14 15 che develop by - by the - the monitoring system, with the - 16 q. And did Kanasa City Power & Light inform you 16 18 regulations would be necessary forn the Commission in order 18 18 regulations would be necessary forn the Commission in order 18 19 that we billing information, from the taxes, and the - when KCP&L 20	1	Estimates right now, just for the switch gear	1	Are you familiar with the Wall Street Tower
4 power from there in the current - in the current floor plan is just set up. It's not economically possible for us to do 7 A. Yes, I am. 5 that we have, and in the current - in the current floor plan is just set up. It's not economically possible for us to do 7 A. Yes, I am. 7 Do you recall having any conversations with 9 Kansus City Power & Light representatives regarding the issue 9 A. Yes, 9 Q. Can you explain how the billing would work 6 7 A. Yes, we've had several meetings with them 13 A. Yes, we've had several meetings with them 14 No 13 if we separated the - the power distribution system, with 14 A. A fund distance of their nucles and 15 A. As funderstand it, the meter will come 16 14 would cost - it would cost, hasically, a small fortune to do 16 that the bilewed that a variance to their nucles and 17 the their usage is. 18 18 regulations would be necessary from the Commission in order 18 that we could derive that from the - from the 10 20 concept? Q. With respect to your master metering 20 advertise is disserimated and correctly 21 21 A. Yes, they did. 22 advertise is disserimated and correctly 22 23 have any intention of installing any additional metering 23 that we may additional metering 24 24 po	2		2	
5Inat we have, and in the current - the way that the building5Q. And are you familiar with the declaration that would govern the condominium project and the terms and conditions of that declaration?6Q. Do you recall having any conversations with Kanass City Power 4. Light prepresentatives regarding the issue of metering?6would govern the condominium project and the terms and conditions of that declaration?7Consource 2.Consource 2.Consource 2.Consource 2.10of metering?Consource 2.Consource 2.11what the case would be?A. Yes.Consource 2.12about that, in which we discussed the probability of - well, that.11what the case would be?13if we separated the - the power distribution system, it that.12A. Su understand it, the meter will come into - excuse me, the building would come into the that waitable right now, cach individual unit owner would that the case would be?14would cost - tit would cost, basically, a small fortune to that.14homeowner's association, and through the reports that are the way albe right now, cach individual unit owner would to allow WST, Inc. to proceed with the master metering. 2016A. Meter would ek?12A. Yes, they did.21alter - alter everything is disseminated and correctly to allow WST, Inc. to proceed with the master metering. 212221A. Yes, they did.21alter - alter everything is disseminated and correctly to allow WST, Inc. to proceed with the master metering. 222221A. Yes, they wer to the Will and phy that to <br< td=""><td>3</td><td>astronomical to at this day and age to redistribute the</td><td>3</td><td>organized under the Missouri Secretary of State's office?</td></br<>	3	astronomical to at this day and age to redistribute the	3	organized under the Missouri Secretary of State's office?
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7 that right now. 7 conditions of that declaration? 8 Q. Do you recall having any conversations with 8 9 Kansas City Power & Light representatives regarding the issue 9 10 of metering? 10 11 A. Yes. We had several meetings with them 12 about that, in which we discussed the probability of - well, 11 14 would cost - it would cost, basically, a small fortune to do 14 15 that. 15 16 Q. And did Kansas City Power & Light inform you 16 17 that they believed that a variance to their rules and 17 18 regulations would be necessary from the Commission in order 18 19 to allow WST, Inc, to proceed with the master metering, do you 20 21 A. Yes, they did. 21 24 devices to monitor fussale of ach unit's electric? 24 24 devices to monitor fussale of ach unit's electric? 24 24 proyen to be very accurate, and several states in the country. 1 25 regulationization is malting any additional metering? 20 24	5	that we have, and in the current the way that the building	5	Q. And are you familiar with the declaration that
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10 of metering? 10 from the association to the unit owner if, in fact, that's 11 A. Yes, we've had several meetings with them 11 what the case would be? 13 if we separated the the power distribution system, it 11 A. As 1 understand it, the meter will come 15 that. A. As 1 understand it, the meter will come 10 16 Q. And did Kansas City Power & Light inform you 14 homeowner's association, and through the reports that are 16 Q. And did Kansas City Power & Light inform you 16 hat avainable fight now, each individual unit owner would 17 that they believed that a variance to their rules and 17 be billed coxtel what their usage is. 18 regulations would be necessary from the Commission in order 18 And we could derive that from the from the 19 to allow WST, Inc. to proceed with the master metering 40 20 With respect to your master metering, do you 21 20 With respect to your master metering 40 would would take the rest of the bill and apply that to 21 A. Yes, they did. 22 11 Page 11 Page 13 21 proven to be very accurate, and several states in the country </td <td>8</td> <td>Q. Do you recall having any conversations with</td> <td>8</td> <td>A. Yes.</td>	8	Q. Do you recall having any conversations with	8	A. Yes.
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4 (Pages 10 to 13)

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	Page 14		Page 16
1	their what their unit is doing.	1	A. Yes, I am.
2	Currently, on KCP&L's billing, and I	2	Q. And pursuant to that plan, was the area that
3	understand that they have the capability of doing a little	3	Wall Street Tower is located was declared a blighted area?
4	bit more as well, they show a monthly usage throughout the	4	A. Yes, it was a blighted area, and Kansas City
5	year. We can provide the the tenant with more up-to-date	5	took the the initiative to create a redevelopment area in
6	and a more usable format than than monthly or even weekly.	6	downtown.
7	We can show the tenant peak times and peak loads during the	7	Q. And is the Wall Street Tower project a
8	day of power usage. It would it's even as accurate or	8	redevelopment project in accordance with that plan?
9	sensitive to to show when the washing machine turns on,	9	A. Yes, it is.
10	when it stops, when they use the microwave, just things of	10	Q. And the material part of the plan is to
11	that nature.	11	encourage the redevelopment of Kansas City's downtown urban
12	Q. And do you know approximately how much it	12	core?
13	would cost to comply with the individual metering	13	A. Yes.
14	requirements of Kansas City Power & Light?	14	Q. Does the project qualify for any economic
15	A. To the best of my knowledge, the information	15	incentives, such as real estate property tax abatement?
16	we're getting from our subcontractors, the just to redo or	16	A. Yes, it does.
17	reconfigure the the main distribution panel, or main	17	Q. And so the project would it be your opinion
18	switch gear, is going to be about \$250,000. The and from	18	that the project is encouraging the elimination of blighted
19	there, the distribution system needs to be to be	19	conditions in downtown Kansas City, Missouri?
20	demolished, and then reinstalled. That figure comes up to	20	A. Absolutely.
21	anywhere from \$550,000 to \$650,000.	21	Q. When is the first unit expected to be conveyed
22	So essentially, to retrofit Wall Street Tower	22	on this project?
23	Condominiums with a new power distribution system, you're	23	A. The first unit the first date of delivery
24	talking an extra million dollars, where just installing this	24	is October 19th.
25	metering system that we propose, it costs about \$45,000.	25	Q. And is that pursuant to a contract that was
	Page 15		Page 17
1	Q. And is it your belief that the individual	1	entered into between WST, Inc. and that buyer?
1 2	metering system that you intend to install would increase	2	entered into between WST, Inc. and that buyer? A. Yes, it is.
	metering system that you intend to install would increase electric conservation and allow for each unit owner to		entered into between WST, Inc. and that buyer?A. Yes, it is.Q. And there would be ramifications to
2	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy?	2 3 4	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if
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2 3 4 5 6	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy?A. It would. I mean, just because of the fact that they can see how much power they're using, and it would	2 3 4 5 6	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if that closing did not occur? A. Yes.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy? A. It would. I mean, just because of the fact that they can see how much power they're using, and it would also be an incentive to homeowners to try to even out their power consumption during the day. And another example, we have several tenants that are are absentee, if you will, that won't be there maybe just a few months during the year. It will that's an incentive for them to purchase a condominium in our building because they're their billing will be such that they'll only be billed for what they use during the year. There's been several articles published as an example. Here's the Bank of America Center in downtown San Francisco that installed this system, and as an average savings, they saved the first year that it was installed. They saved over a million dollars in their energy costs, so	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if that closing did not occur? A. Yes. Q. Do you have any estimated time frame as to how long it would take to bring the project into compliance with the individual metering concept? A. It would delay the I mean, just to get the new switch gear in, we're looking at anywhere from a 90- to 120-day delivery time just for that just for that system. So I would I would think that the I think that the project would be delayed approximately about six months. MR. STEWART: Mr. Chairman, I have no further questions at this time. JUDGE WOODRUFF: Okay. Thank you. Let's ge for cross-examination then, beginning with Staff. MR. WILLIAMS: Thank you, Judge.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy? A. It would. I mean, just because of the fact that they can see how much power they're using, and it would also be an incentive to homeowners to try to even out their power consumption during the day. And another example, we have several tenants that are are absentee, if you will, that won't be there maybe just a few months during the year. It will that's an incentive for them to purchase a condominium in our building because they're their billing will be such that they'll only be billed for what they use during the year. There's been several articles published as an example. Here's the Bank of America Center in downtown San Francisco that installed this system, and as an average savings, they saved the first year that it was installed. They saved over a million dollars in their energy costs, so this is a very this is a very accurate system, and there's just a lot of opportunities for the tenants in our building	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if that closing did not occur? A. Yes. Q. Do you have any estimated time frame as to how long it would take to bring the project into compliance with the individual metering concept? A. It would delay the I mean, just to get the new switch gear in, we're looking at anywhere from a 90- to 120-day delivery time just for that just for that system. So I would I would think that the I think that the project would be delayed approximately about six months. MR. STEWART: Mr. Chairman, I have no further questions at this time. JUDGE WOODRUFF: Okay. Thank you. Let's ge for cross-examination then, beginning with Staff. MR. WILLIAMS: Thank you, Judge. CROSS-EXAMINATION QUESTIONS BY MR. WILLIAMS:
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy? A. It would. I mean, just because of the fact that they can see how much power they're using, and it would also be an incentive to homeowners to try to even out their power consumption during the day. And another example, we have several tenants that are are absentee, if you will, that won't be there maybe just a few months during the year. It will that's an incentive for them to purchase a condominium in our building because they're their billing will be such that they'll only be billed for what they use during the year. There's been several articles published as an example. Here's the Bank of America Center in downtown San Francisco that installed this system, and as an average savings, they saved the first year that it was installed. They saved over a million dollars in their energy costs, so this is a very this is a very accurate system, and there's just a lot of opportunities for the tenants in our building to to create an energy savings. Q. Are you familiar with the general development	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if that closing did not occur? A. Yes. Q. Do you have any estimated time frame as to how long it would take to bring the project into compliance with the individual metering concept? A. It would delay the I mean, just to get the new switch gear in, we're looking at anywhere from a 90- to 120-day delivery time just for that just for that system. So I would I would think that the I think that the project would be delayed approximately about six months. MR. STEWART: Mr. Chairman, I have no further questions at this time. JUDGE WOODRUFF: Okay. Thank you. Let's ge for cross-examination then, beginning with Staff. MR. WILLIAMS: Thank you, Judge. CROSS-EXAMINATION QUESTIONS BY MR. WILLIAMS: Q. The building located at 1101 Walnut Street, when did WST begin renovation of that building?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	metering system that you intend to install would increase electric conservation and allow for each unit owner to conserve energy? A. It would. I mean, just because of the fact that they can see how much power they're using, and it would also be an incentive to homeowners to try to even out their power consumption during the day. And another example, we have several tenants that are are absentee, if you will, that won't be there maybe just a few months during the year. It will that's an incentive for them to purchase a condominium in our building because they're their billing will be such that they'll only be billed for what they use during the year. There's been several articles published as an example. Here's the Bank of America Center in downtown San Francisco that installed this system, and as an average savings, they saved the first year that it was installed. They saved over a million dollars in their energy costs, so this is a very this is a very accurate system, and there's just a lot of opportunities for the tenants in our building to to create an energy savings.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 entered into between WST, Inc. and that buyer? A. Yes, it is. Q. And there would be ramifications to potential ramifications under that contract to WST, Inc. if that closing did not occur? A. Yes. Q. Do you have any estimated time frame as to how long it would take to bring the project into compliance with the individual metering concept? A. It would delay the I mean, just to get the new switch gear in, we're looking at anywhere from a 90- to 120-day delivery time just for that just for that system. So I would I would think that the I think that the project would be delayed approximately about six months. MR. STEWART: Mr. Chairman, I have no further questions at this time. JUDGE WOODRUFF: Okay. Thank you. Let's ge for cross-examination then, beginning with Staff. MR. WILLIAMS: Thank you, Judge. CROSS-EXAMINATION QUESTIONS BY MR. WILLIAMS: Q. The building located at 1101 Walnut Street,

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	Page 18		Page 20
1	wholesale demolition of the tenant spaces.	1	A. Currently? I'm not sure if I mean, prior
2	Q. What was the extent what is what has	2	to that date or I'm sorry?
3	been the extent of the renovation? You talked about	3	Q. You indicated the building was gutted. From
4	demolition of the tenant spaces. Was the building gutted?	4	the time it was acquired by the developer until now, have
5	A. The building was gutted, the window systems	5	there been any renovations done to the electrical systems in
б	have been replaced. Before we billed out an entire floor,	б	the building?
7	everything is going to be demoed [ph. sp.], from the exterior	7	A. On the individual floors, we've we've
8	walls, we're going to have the concrete floor, the existing	8	removed the the lighting and electrical distribution on
9	metal metal subfloor, you know, for the upper deck. The	9	that floor, that's specific to the floor. And we've left
10	only things that we've left in place are the distribution	10	the the main the main backbone of the system still
11	systems and the central core, which included the elevators	11	intact.
12	and emergency egress.	12	Q. Is this a 20-story building?
13	Q. When did the plans for the building renovation	13	A. Yes, it is.
14	begin and when were they finalized?	14	Q. And how has the renovation progressed? Have
15	A. I'm not sure when they began, but the they	15	you been doing it floor-by-floor, or have you done the entire
16	were finalized we received a a building permit in July	16	building at once?
17	of this year.	17	A. We've started floor-by-floor. For example,
18	Q. Do you know approximately when the planning	18	demolition started on the 20th floor, and worked its way
19	began?	19	down. And in the meantime, when there's demolition on the
20	A. The planning began approximately, I believe,	20	lower floors, we've started to reconstruct the upper floors
21	August sometime in August, '04, is when I became familiar		according to our our permit.
22	with the project.	22	Q. And then you've indicated that the residential
23	Q. You indicated that's when you became familiar	23	space in the building is going to be condominiums; is that
24	with the project. Was someone else involved with it before	24	correct?
25	you?	25	A. Yes, the greater percentage is going to be
	Page 19		Page 21
1	A. The the owners had had a design	1	condominiums.
2	development team involved with it before then.	2	Q. And do you know what price range those
3	Q. Do you know when the developers first got in	3	condominium units will be sold at?
4	touch with Kansas City Power & Light about electrical supply		A. I would think the the average price of the
5	to the building in connection with the renovation?	5	condominiums is about \$300,000.
6	A. We first got in contact with Kansas City Power	6	Q. Is that in the price range of the condominium
7	& Light in I believe it was in September of '04.	7	the developer is wanting to close, I guess it's October 19th
8	Q. And what was the nature of that contact?	8	of this year?
9	A. It was it was to to verify the current	9	A. The I believe the price range in in the
10	distribution system in the building. And at that time, there	10	condominium the first condominium closing is more like
11	was there's no mention of individual metering, or	11	\$475,000.
12	requirement for that, at that time.	12	Q. And when did the developer first learn from
13	Q. When did WST, or the developer, talk to KCP&L	13 14	KCP&L that it was going to have issues with the type of power it was marting to receive from KCP&L 2
14 15	about its intention to put in multiple condominium units in	15	it was wanting to receive from KCP&L? A. I believe the the first meeting we had this
16	A. They knew about it at the first meeting that I	16	year with KCP&L was in was in May. And at that time, we
17	attended.	17	discussed the the power requirements and the the
18	Q. And when was that?	18	requirements for individual metering. I think it was in May.
19	A. In September of 2004.	19	Q. Was there some reason the developer didn't
20	Q. And has the renovation that's taken place at	20	file an application with the Commission until September, if
21	this building exceeded 50 percent of been 50 percent or	21	the issue had been raised as early as May?
	more of its value?	22	A. With with the investigations from what I
22			
22 23	A. No.	23	understand, the investigations that KCP&L was undertaking wa
		23 24	understand, the investigations that KCP&L was undertaking wa to see if there was an economical solution to the
23	A. No.		

6 (Pages 18 to 21)

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EXHIBIT F

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1recently, we received a letter from KCP&L verifying that1Q. So there's a commitment in that do2that there was really no economical way to redistribute power2for the condominium's association to do resa3to the building, and that's when they they said that they3received from Kansas City Power & Light?4would we wouldn't be able to get anything but individual4A. Well, I don't believe it's resale. For5metering for the building.5guess in my terms, if I sell something, I'm get6Q. Under the setup that you've described, which6profit on it. Obviously, KCP&L is in the bus7as I understand, KCP&L would supply, basically, master power7received from Kansas City Power & Light?8to the building, and then the condominium association would9r- I'm going to use word sell99 I'm going to use word sell10A. Sure.1011Q because they're going to charge per on a11the owners either. So basically, they are just13would happen to the individual condominium owners, that power. What13would happen to the individual condominium association or14from KCP&L was not paid by the condominium association or1416Q. Can that document be provided to16A. I mean, what would happen to the individual16Q. Can that document be provided to17owners? The individual owners control whether or not the16A. Yes, it will.18bill gets paid from the homeowner's association by their </th <th>le of power or me, I bing to make a siness to make a d I would upcharging to to provide for separate the e a charge to t condominium KCP&L.</th>	le of power or me, I bing to make a siness to make a d I would upcharging to to provide for separate the e a charge to t condominium KCP&L.
2that there was really no economical way to redistribute power2for the condominium's association to do resa3to the building, and that's when they they said that they3received from Kansas City Power & Light?4would we wouldn't be able to get anything but individual44A. Well, I don't believe it's resale. For5metering for the building.5guess in my terms, if I sell something, I'm got6Q. Under the setup that you've described, which6profit on it. Obviously, KCP&L is in the bus7as I understand, KCP&L would supply, basically, master power7profit as well. So by making a profit, I would8to the building, and then the condominium association would8conclude that that would be a resale.9 I'm going to use word sell9Right now, there is no intention of the staff services necessary to to10A. Sure.10anything to the condominium owners, that power. What1211Q because they're going to charge per on a11the for the staff services necessary to to12usage basis to the condominium owners, that power. What12billing. That won't be a back that won't be13would happen to the individual condominium association or14redistributing that bill according to what the14from KCP&L was not paid by the condominium association or14Q. Can that document be provided to15A. I mean, what would happen to the individual16Q. Can that document be provided to16A. I mean, what wo	le of power or me, I bing to make a siness to make a d I would upcharging to to provide for separate the e a charge to t condominium KCP&L.
3to the building, and that's when they they said that they would we wouldn't be able to get anything but individual metering for the building.3received from Kansas City Power & Light? A. Well, I don't believe it's resale. For guess in my terms, if I sell something, I'm go profit on it. Obviously, KCP&L is in the bus profit as well. So by making a profit, I would conclude that that would be a resale.6Q. Under the setup that you've described, which as I understand, KCP&L would supply, basically, master power to the building, and then the condominium association would 96profit on it. Obviously, KCP&L is in the bus profit as well. So by making a profit, I would conclude that that would be a resale.9 I'm going to use word sell Q because they're going to charge per on a usage basis to the condominium owners, that power. What would happen to the individual condominium owners if the bill from KCP&L was not paid by the condominium association or anyone else?1014from KCP&L was not paid by the condominium association or anyone else?1215A. I mean, what would happen to the individual owners? The individual owners control whether or not the bill gets paid from the homeowner's association by their1818bill gets paid from the homeowner's association by their1818bill gets paid from the homeowner's association by their18	or me, I bing to make a siness to make a d I would upcharging to to provide for separate the e a charge to t condominium KCP&L.
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17owners? The individual owners control whether or not the17Commission?18bill gets paid from the homeowner's association by their18A. Yes, it will.	
18bill gets paid from the homeowner's association by their18A.Yes, it will.	
± 2 ment to you for that. I don't think that the $-a$ ± 2 O. All think I wall to get more mu	o vour
20 homeowner's association would just arbitrarily not pay the 20 example of if an owner doesn't pay his partic	
21 bill when each individual homeowner pays the homeowner's 21 A. Okay.	
22 association. 22 Q. Condominium owner under the	way you've
23 Now, the and in the event that single, or 23 described what the developer's planning on d	
24 maybe even a few, of the condominium owners don't pay their 24 has begun setting in motion, what would hap	-
25 bill, the homeowner's association will have a fund to draw 25 particular condominium owner declined to m	· .
Page 23	Page 25
1 from so that the bill will get paid. I mean, it's 1 condominium association that was, in part,	to be used for
2 essentially, for example, like if the Town Pavilion next door 2 paying for electrical usage?	
3 just all of a sudden doesn't pay the bill. I mean, 3 A. Well, the the document would	have
4 eventually, you know, in that instance where they have 4 provisions that that for the homeowner	
5 individual tenants there as well, there's a there's a base 5 the bill. Again, you know, just like KCP&I	
6 moral obligation to ensure that the the bills get paid. 6 a certain amount of time, and give a certain	
7 Q. And these, I don't know, rules and 7 warning to individual homeowners before t	
8 regulations, or guidelines for the condominium association 8 cut the power off and remove the meter.	, ,
9 A. Uh-huh. 9 And in this case, it would be be	under the
10 Q is that something that's in a formal 10 same guidelines where where that individ	
11 document? 11 owner would would be afforded the oppo	
12 A. Yes, it is. 12 effort made so that they could be able to pa	
13 Q. And has it been executed and filed of record? 13 But in in the last resort, the the homeov	
14 A. I'm not I don't know. I don't know if it 14 power would be disconnected until such a t	
15 has been or not, but we're making provisions in that document 15 pay the bill.	
16 so that the the membership of the the homeowner's 16 Q. And who would make that decisi	ion about
17 association, or the individual condominium owners, will not 17 disconnection?	
18have the power to vote not to pay the bill.18A.It would be the the the home	eowner's
19Q. Is this a plan of the developer that hasn't19association as a group.	
20 been formalized yet, pending, perhaps, on the outcome of this 20 Q. What is the current status of the	
21 proceeding? 21 developer's well, back up.	
22A. No, the the from what I understand that,22Is the developer taking power curr	rently from
23 we're there's just a few other items, issues not related 23 Kansas City Power & Light currently that y	ou know of?
24 to this this hearing today that need to get fulfilled 24 A. Yes.	
25before that document is final.25Q.And what is the current status of	the

7 (Pages 22 to 25)

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Page 7 of 30 to Exhibit F of Direct Testimony of Jeffrey G. Flathman

Page 26Page 281developer's billings from KCP&L?12A. Foh with ut diverstand, they're up to date.13Q. You talked about savings of a million dollars14in connection with the meters that you were planning on using for monitoring electrical usage to each condominum unit; the for monitoring electrical usage to ach condominum unit; the for monitoring used to the units, and they figure a above and ber the tennas would gight and run the submetering of the transf, and they - they - a above and ber the tennas were regifting this earch charge the up would gight and run the submetering of the transf, and they - they - a sub electrical usage to the developer, a work they may colic to the transf, and they - they - the submetering of that building avout the - the developer, to monitor where the tennas were regifting this earch charge the military. To ach ever were getting this earch charge the military. To ach ever were getting this earch charge to military. To ach ever were getting this earc		HEARING	10/1	12/2005
2A. From what I understand, they're up-to-duc.2in connection with the meters that you were planning on using3they would have any objection to that.4in connection with the meters that you were planning on using60. Do you have any familiarity with Kansas City5for monitoring electrical usage to each condominium unit, is7A. Yes, 1du77A. Yes, but I am not saying that the van anticle here70. Thave what's been marked as Exhibit 1 for9problem withwhen their renants came in they had as et70. Thave what's been marked as Exhibit 1 for10problem withwhen their renants came in they had as et70. Thave what's been marked as Exhibit 1 for11fee in theirin their rent for the units, and they figure117A. Ub-huh.12a certain percentage that has to be electrical use. Well,120. And in particular regoing to call it13their treanats would leave the lights on day an light and nu13section. Th not sare what they may call it, but five, that14different equipment and everything where their power usage.14addresses multiple occupancy buildings. Have you seen those tariff provisions18above and beyond their normal usage, that they would get a160. And dats, all or part of Section 6 on18above and beyond their normal usage, that they would get a160. Low towas come familiarity with them?19charge for Metal with e-int effer fier 4160. Do you have some familiarity with them?20morus where the tenants were getting		Page 26		Page 28
3 Q. Yout talked about savings of a million dollars 3 they would - that they would have any objection to that. 5 for monitoring electrical usage to each condominum muint is 6 Q. Do you have any familiarity with Kansas City 6 that correct? A. Yes, but an not saying that there's an article here 7 A. Yes, but an not saying that there's an article here 7 A. Yes, but an not saying that there's an article here 7 A. Yes, but any addition to that. 10 problem with when their tenants came in, they had a set 7 A. Ub-huh. 2 11 fee in their in their rent for the units, and they figure 11 A. Ub-huh. 2 12 a certain percentage that has to be electrical use. Well, 12 Q. And in particular. Some marked as Exhibit 1 for 13 their tenants would leave the lights on day and night and run 14 addresses multiple occupancy premisses. 3 14 different due in ormal usage, that they would get a 16 Q. And also, all or part of Section 6 on 17 system, they give encource to the tenants, and they - endy the first - after the first year, the - 2 A. Ub-huh. 18 above and beyond their in the ser - after th	1	developer's billings from KCP&L?	1	A. I'd have to present that to the to the
4 in connection with the meters that you were planning on using 4 0. Do you have any familiarity with Kansas City 5 for monitoring electrical usage to each condominium unit; is 5 for monitoring electrical usage to each condominium unit; is 5 7 A. Yes, but I am not saying that there's an article here 7 A. Yes, 1do. 7 9 that I have about the Bank of America Center. They had a 7 7 A. Un-huh. 12 accrain percentage that has to be electrical use. Well, 11 14 different equipment and everything where their power usage 11 14 A. Un-huh. 2 A. Un-huh. 2 A. Un-huh. 2 A. Un-huh. 2 4 A. Un-huh. 3 3 3 3 3 3 3 4 A. Un-huh. 3 <td>2</td> <td>A. From what I understand, they're up-to-date.</td> <td>2</td> <td>investor group, but from my knowledge, I don't believe that</td>	2	A. From what I understand, they're up-to-date.	2	investor group, but from my knowledge, I don't believe that
56 ror monitoring electrical usage to each condominium unit; is that accreer?5Power & Light's tariffs?6that accreer?6A. Yes, 1 do.7A. Yes, but I am not saying that there's an article here that I have about the Bank of America Center. They had a set a certain percentage that has to be electrical use. Well, their tenants with everything where their power usage910problem with when their tenants came in, they had a set a certain percentage that has to be electrical use. Well, their tenants would leave the lights on day and night and run their tenants would leave the lights and any and night and run system. they gave notice to the tenants, and they was beyond what they expected.10Q. And in particular. Some yang call it, but five, that deferses multiple occupancy premises. A. Ub-huh.16So when they paid when they installed this e charge for. Well, after the first + after the first year. The going so, the first after the first year. The 2210An also, all or part of Section 6 on metering, and in particular. 603, that talks about multiple occupancy buildings. Have you seen those tariff provisions before?11the submetering of that building saved the the developers, 2321A. Have some familiarity. 2424the submetering of that building saved the the developers, 2423A. I have some familiarity.25Now, in our situation, it will it will encourage each in individual homeowere to save power.24the building at 1101 Wahut Street, as you described with the streat as you desc	3	Q. You talked about savings of a million dollars	3	they would that they would have any objection to that.
6 A. Yes, but I am not saying that there's an article here 6 A. Yes, but I am not saying that there's an article here 9 that I have about the Bank of America Center. They had a 7 Q. I have what's been marked as Exhibit I for 9 that I have about the Bank of America Center. They had a 7 Q. Thave what's been marked as Exhibit I for 11 fee in their in their reant for the units, and they figure 10 Light's tariff. 12 a certain percentage that has to be electrical use. Well, 12 Q. And I particular, Tm going to call it 13 their reants would leave the lights on day and night and run 13 section, I'm not sure what they may call it, but five, that 14 different equipment and everything where their prover usage. 14 addresses multiple occupancy permisses. 15 So when they paid when they installed this 16 0. And diso, all or part of Section 6 on 19 charge for. Well, after the first - after the first forw 10 10 19 charge for. Well, after the first ever, the 20 A. I bleiver I have, yes. 10 charge for the bill, howe what the captific or the bill, hower, but the 21 24 or the owners, a million dollars in tectrical bill. 22 <td>4</td> <td>in connection with the meters that you were planning on using</td> <td>4</td> <td>Q. Do you have any familiarity with Kansas City</td>	4	in connection with the meters that you were planning on using	4	Q. Do you have any familiarity with Kansas City
7A. Yes, but I am not saying that we would save a million dollars. I'm saying that there's an article here that I have about the Bank of America Center. They had a their i - in their rent for the units, and they figure a certain percentage that has to be electrical use. Well, 12 a certain percentage that has to be electrical use. Well, different ediptiment and everything where their power usage 14 different ediptiment and everything where their power usage 15 was beyond what they expected.7Q. I have what's been marked as Exhibit I for purcluar - some particular - some particular - some particular - some particular, and what that is is a purcluar. Tim going to call it section. Tim not sure what they may call it, but five, that addresses multiple occupancy premises.16 17 18 above and beyond their normal usage, that they would gt a charge at the submetering of that building saved the - the first - at the submetering of that building saved the - the developers, 22 doing so, the first - the - after the first year, the - 23 to submetering of that building saved the - the developers, 20 ontom what the acquisition cost was of 41 the dividual homeoverer.7Q. Looking at Provision 5.01, can you tell me how the building at 1101 Walnut Street, as you described with the condominium association - metering and billing condominiur asys is that cash - acah multiple - or cench ceupant in a says is that cash as any "and supplied electric service as the Customer of the coupant', referring to Kanas 40 4021encourage the tenants to do the same thing, where we are not 40 coupant in a dividual homeoverer.13encourage the tenants to do the same thing, where we are not 40 coupant in a dividual homeoverer.24a. Do	5	for monitoring electrical usage to each condominium unit; is	5	Power & Light's tariffs?
8 million dollars. I'm saying that there's an article here 9 9 that I have about the Baak of America Center. They had a set 9 11 fee in their - nit their rent for the units, and they figure 11 12 a certain percentage that has to be electrical use. Well, 12 13 their tenants would leave the lights on day and night and run 13 14 different equipment and everything where their power usage 14 15 was beyond what they expected. 15 16 So when they paid – when they installed this 16 17 system, there guard notice to the tenants, and they - they 17 above and beyond their normal usage, that they would get a 16 19 charge for. Well, after the first - after the first few 10 20 months where the tenants were getrig this extra charge, the 10 21 theasubreeting of that building savel the - the developers, 21 22 or the owners, a million dollars in electrical bill. 22 24 encourage the tenants to do the same thing, where we are not 10 25 Now, in our situation, it will it will movere, thu the 23 3 <	6	that correct?	6	A. Yes, I do.
9 that I have about the Bank of America Center. They had a 9 particular - some particular pages from Kansas City Power & Light's tariff. 10 problem with	7	A. Yes, but I am not saying that we would save a	7	Q. I have what's been marked as Exhibit 1 for
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11 fee in their - in their rent for the units, and they figure 11 A. Ub-huh. 12 a certain percentage that has to be electrical use. Well, 12 Q. And in particular, I'm going to call it 14 different equipment and everything where their power usage 14 advesses multiple occupancy premises. 15 was beyond what they expected. 15 A. Ub-huh. 17 was beyond what they expected. 16 A. Ub-huh. 18 advesses multiple occupancy premises. 17 19 charge for. Well, after the first - after the first few 10 Q. And also, all or part of Section 6 on 19 charge for. Well, after the first - after the first year, the - 10 A. Ub-huh. 22 doing so, the first - the - after the first year, the - 20 A. I believe I have, yes. 23 the submetering of that building saved the he developers, 21 A. I have some familiarity. 24 ort he owners, a million dollars in electrical bill. 24 25 Now, in our situation, it will it will 25 26 Do you know what the equiption dollars in electrical bill. 24 4 individual homeowner to save power. 1 <	9	-	9	particular some particular pages from Kansas City Power &
12 a certain percentage that has to be electrical use. Well, 12 Q. And in particular. Img going to call it 13 their tenants would leave the lights on day and night and run 13 section, I'm not sure what they may call it, but five, that 14 different equipment and everything where their power uses 14 addresses multiple occupancy permises. 15 was beyond what they expected. 15 A. Uh-huh. 16 So when they paid – when they installed this 16 Q. And also, all or part of Section 6 on 17 system, they gave notice to the tenants, and they – they – 17 one transmuthility. 18 18 above and beyond their normal usage, that they would get a 18 occupancy buildings. Have you seen those tariff provisions 20 months where the tenants were getting this extra charge, the 20 A. I believe I have, yes. 21 21 tenants would leave the – after the first eyar, the – 22 A. I have some familiarity. 22 23 the submetering of that building saved the – the developers, 23 Q. Looking at Provision 5.01, can you tell me how 24 or the owners, a million dollars in electrical bill. 24 A. I mout sure i lunderstathand thewhole coupancy <t< td=""><td>10</td><td></td><td></td><td></td></t<>	10			
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22 us know that they that they have no have no desire to 22 supply us power up to the 20th floor. Well, they're not		·		
	23	do that.	23	willing to do that either.
24 Q. I'm asking whether or not the developer would 24 So so in essence, we're we're being				-
25have an objection to that being done.25penalized for having somebody live on the 20th floor of the				

8 (Pages 26 to 29)

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	Page 30		Page 32
1	building, and KCP&L is not wanting to provide power up to	1	Q. Okay. And what was in this building before
2	them.	2	you renovated it?
3	Q. Wouldn't WST require a variance from 5.01 as	3	A. There was a series of offices, law offices,
4	well, as I think it's asked for a variance from 5.03?	4	people of that nature were renting space in the building.
5	MR. STEWART: Your Honor, if I may. I'm going	5	Q. Okay. So it was just general commercial?
6	to object to this line of questioning. Mr. Fredock is a	6	A. Yes, uh-huh.
7	factual witness on behalf of WST, Inc. He's not an expert in	7	Q. Okay. And do you know when this building was
8	interpreting. I don't think his interpretation of Kansas	8	constructed?
9	City Power & Light's rules and regulations has any merit or	9	A. To the best of my knowledge, looking at the
10	relevancy in this case.	10	information that I had, the building started sometime in
11	JUDGE WOODRUFF: Mr. Williams, what's the	11	1973.
12	relevancy of this witness' testimony on this tariff?	12	Q. Okay. So it's a fairly new building then?
13	MR. WILLIAMS: I don't know that his	13	A. Well, it's about 30 years old.
14	interpretation is relevant. I think his understanding is,	14	Q. Yeah. 1973 sounds very current to me.
15	and how his view of what WST's doing complies with it may be	15	A. That's true. That's true.
16	relevant.	16	Q. It's all relative, I guess.
17	JUDGE WOODRUFF: Response?	17	A. I guess.
18	MR. STEWART: Your Honor, WST, Inc. has simply	18	Q. But anyways, it was constructed before 1981 is
19	said, and has indicated to the Commission, that if a variance	19	the key point?
20	is necessary from the tariffs, that that is what we are	20	A. Yes, yes.
21	asking for, but Mr. Fredock has no qualifications or ability	21	Q. Okay. And you've been talking about these
22	to make any kind of opinion based upon his interpretation of	22	individual meters.
23	Kansas City Power & Light's rules and regulations.	23	A. Uh-huh.
24	If Kansas City Power & Light wishes to make an	24	Q. And Mr. Williams asked you some questions
25	opinion on their own interpretation of their own rules and	25	about that as well, I know. Is there a technical reason why
	Page 31		Page 33
			rage 33
1	regulations, and subsequent to that, to the Commission, that	1	KCP&L could not just go ahead and bill off those meters? I
1 2	regulations, and subsequent to that, to the Commission, that would be appropriate. But to ask Mr. Fredock, who is not an	1 2	
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9 (Pages 30 to 33)

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Page 9 of 30 to Exhibit F of Direct Testimony of Jeffrey G. Flathman

HEARING 10/12/2005

	Page 34		Page 36
1	31st of October and the 4th of November. At that time, we'll	1	technical reasons why KCP&L couldn't rely on the meters that
2	have the upper four floors closed upon with as much as 30	2	the developer's planning on installing for use by the
3	clients, or 30 homeowners, up there. And then the the	3	homeowner's association. Do you recall that?
4	percentages and the usage would increase. I don't believe	4	A. I don't believe he said to rely on the meters.
5	that the the owners of the building would want to take on	5	I think he said that if there's any any any reason why
6	that responsibility of that part of the electric bill at that	6	KCP&L couldn't bill off the information that we provided
7	time.	7	them.
8	Q. Okay. So at this point, the tenants could get	8	Q. How could that information be provided? Could
9	electricity, but it would be up to the owners of the building	9	it be that the
10	to be paying the bill?	10	A. We can send it via computer modem to them.
11	A. Yes.	11	Any system that had capability of Microsoft 2000 can or
12	Q. And that obviously can't go on forever.	12	after that can read this information. And we would be
13	A. No, it can't.	13	willing to to download the software to to KCP&L's
14	Q. Okay. And as the condominium owner's	14	computer, if they requested that.
15	association, I assume at this point well, there are no	15	Q. Would the developer also be willing to allow
16	condominium owners at this point, so I assume the developer	16	KCP&L access to verify the meters and collect the information
17	the owner of the building, is is the association or the	17	directly?
18	only member of the association at this point?	18	A. I'd have to take a look and find if they can
19	A. It until until the first unit is closed	19	take all the information directly from the from the
20	on, there really is no active homeowner's association. And	20	meters. What the intent of the system is is to send all this
21	once there are people that close on the units, then yes,	21	information to one to one source, one computer or two
22	there will be one, and the the developer will have a a	22	computers or I don't believe now, they can test the
23	vote in the association.	23	meters for accuracy on each floor, if that's what you're
24		24	if that's what the intent of the question is, and absolutely.
24 25	Q. Is that based on the unsold units?A. Uh-huh.	25	And there's information here that has verified
25		25	
	Page 35		$D_{2} = 0.27$
	_		Page 37
1	Q. So once all the units are sold, then the	1	the meters within plus or minus .01 percent accurate through
2	Q. So once all the units are sold, then the developer is out of the picture?	2	the meters within plus or minus .01 percent accurate through anywhere from zero to maximum load on the meter. So by all
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q. So once all the units are sold, then the developer is out of the picture? A. Correct, yes. Q. Other than do they still have the voice for the common areas? A. No, no, it's going to be totally to the homeowner's association. The developers, once all the units are sold, will have no say in the association whatsoever. And yeah. Q. Okay. And it's the association that would be under your plan, would be paying the bill each month to KCP&L? A. Yes. Q. Okay. JUDGE WOODRUFF: Well, that's all the questions I have. I'll give you an opportunity for recross based on the questions from the bench, and then we'll come back to redirect. Mr. Williams, do you have any questions based on my questions? MR. WILLIAMS: Yes. JUDGE WOODRUFF: Go ahead. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 the meters within plus or minus .01 percent accurate through anywhere from zero to maximum load on the meter. So by all means, they would be able to come in and verify, you know, that information, if requested to do so. Q. Well, there are two aspects. One is the accuracy of the equipment, and the other is the accuracy of the information that was being transmitted by the third party. A. Sure. Q. So I was just asking if A. I believe I believe that the owners are going to be open to to any any, I guess, relevant requests or normal requests by KCP&L. You know, that's that would verify the accuracy of the meters and monitoring system, you know, up to a certain point, I believe. Q. Do you know if that would go so far as to provide an access easement to Kansas City Power & Light? A. Access easement? I'm not sure if I understand. Q. Giving KCP&L power, or the right, to come into the building to look at the meters or collect information. A. I couldn't answer that. I'd have to present

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HEARING 10/12/2005

	Page 38		Page 40
1	difference in that.	1	P.S.C. MO. No. 2, Fourth Sheet No. 1.21, and P.S.C. MO.
2	Q. Are those meters publicly accessible?	2	No. 2, Fifth Sheet No. 1.22.
3	A. No.	3	JUDGE WOODRUFF: Thank you. And these are the
4	Q. Whose meters are those?	4	sheets that you previously marked as Exhibit No. 1; is that
5	A. The meters are I mean, the meter heads and	5	correct?
б	everything are KCP&L's. They're just right outside of	6	MR. WILLIAMS: Exhibit No. 1 is copies of
7	their their transformer vault.	7	those particular tariff sheets, yes.
8	Q. And the meters we've been talking about going	8	JUDGE WOODRUFF: Yes. Okay. For convenience
9	to the individual condominium owners would not be KCP&L	9	sake, I'm going to take that as an offering of the exhibit
10	meters, correct?	10	itself.
11	A. Correct.	11	MR. WILLIAMS: I'll go ahead and offer the
12	MR. WILLIAMS: No further questions.	12	exhibit.
13	JUDGE WOODRUFF: KCP&L have any questions?	13	JUDGE WOODRUFF: Okay. I understand the
14	MR. BLANC: No recross, your Honor.	14	Commission will probably take administrative notice of those
15	JUDGE WOODRUFF: Any redirect?	15	tariffs as well, but just for convenience of the record, we
16	REDIRECT EXAMINATION	16	will take them in as Exhibit No. 1. Exhibit 1 has been
17	QUESTIONS BY MR. STEWART:	17	offered, is there any objections to its receipt? Hearing
18	Q. Mr. Fredock, let's take you back to the	18	none, it will be received into evidence.
19	declaration. Are you aware of any provisions that would	19	(EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE BY
20	require the association to grant easements to utility	20	THE JUDGE.)
21	companies for access to the common elements for purposes	21	JUDGE WOODRUFF: All right. You may inquire
22	relating to the services provided by those utility companies?	22	of Mr. Watkins.
23	A. I'm not aware of any declarations like that or	23	DIRECT EXAMINATION
24	anything.	24	QUESTIONS BY MR. WILLIAMS:
25	Q. Would that be possible, in the event that	25	Q. Mr. Watkins, will you please state and spell
	Page 39		Page 41
1	if you're not aware of it, is it possible for that provision	1	your name?
2	to be included in the declaration at this time?	2	A. James C. Watkins, W-A-T-K-I-N-S.
3	A. I'm sure it could be.	3	Q. By whom are you employed, Mr. Watkins?
4	Q. And again, the association will be comprised	4	A. Missouri Public Service Commission.
5	of the unit owners, correct?	5	Q. And what's your position with the Missouri
б	A. Absolutely, yes.	6	Public Service Commission?
7	Q. So the association is a group of the unit	7	A. I'm the manager of economic analysis.
8	owners?	8	Q. And in your position as manager of economic
9	A. Right.	9	analysis well, back up.
10	MR. STEWART: I have no further questions,	10	
11	-		How long have you been employed at the Public
12	your Honor.	11	Service Commission?
	your Honor. JUDGE WOODRUFF: All right. Thank you. And	11 12	Service Commission? A. Since August 1st, 1982.
13	your Honor. JUDGE WOODRUFF: All right. Thank you. And Mr. Fredock, you may step down.	11 12 13	Service Commission?A. Since August 1st, 1982.Q. And over the course of your employment, have
13 14	your Honor. JUDGE WOODRUFF: All right. Thank you. And Mr. Fredock, you may step down. THE WITNESS: Thank you.	11 12 13 14	Service Commission?A. Since August 1st, 1982.Q. And over the course of your employment, have you had involvement with the tariffs of utilities that are
13 14 15	your Honor. JUDGE WOODRUFF: All right. Thank you. And Mr. Fredock, you may step down. THE WITNESS: Thank you. JUDGE WOODRUFF: Does Staff have any witnesses	11 12 13 14 15	Service Commission? A. Since August 1st, 1982. Q. And over the course of your employment, have you had involvement with the tariffs of utilities that are now filed with the Commission?
13 14 15 16	your Honor. JUDGE WOODRUFF: All right. Thank you. And Mr. Fredock, you may step down. THE WITNESS: Thank you. JUDGE WOODRUFF: Does Staff have any witnesses they wish to call?	11 12 13 14 15 16	 Service Commission? A. Since August 1st, 1982. Q. And over the course of your employment, have you had involvement with the tariffs of utilities that are now filed with the Commission? A. Yes, limited to the electric utilities.
13 14 15 16 17	your Honor. JUDGE WOODRUFF: All right. Thank you. And Mr. Fredock, you may step down. THE WITNESS: Thank you. JUDGE WOODRUFF: Does Staff have any witnesses they wish to call? MR. WILLIAMS: Yeah, Staff calls James	11 12 13 14 15 16 17	 Service Commission? A. Since August 1st, 1982. Q. And over the course of your employment, have you had involvement with the tariffs of utilities that are now filed with the Commission? A. Yes, limited to the electric utilities. Q. And has that been over the course of your
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Page 42 Page 44 WST? 1 1 0. Are you familiar with the Commission's 2 variance committee? 2 **CROSS-EXAMINATION** 3 3 **QUESTIONS BY MR. STEWART:** Yes, I'm a member of that committee. A. 4 4 Q. And how long have you been a member of that Q. Mr. Watkins, you indicated that you're a 5 member of the Electric Meter Variance Committee. 5 committee? б A. I couldn't tell you the exact date, but for 6 A. Yes. 7 7 O. And can you tell me what your role on that several years. Do you have familiarity with Kansas City 8 committee is? Make recommendations to the Commission, is 8 **O**. 9 Power & Light's tariffs dealing with multiple occupancy 9 that effectively what you do? 10 premises? 10 A. That's the committee's role, yes. 11 11 That's the committee's role. And how many A. Yes. 0. 12 And what is the nature of your familiarity 12 members are on that committee? Q. 13 with those tariffs? 13 A. There are four. 14 A. I have a general understanding of what those 14 Has that committee ever received a request by Q. 15 any person to the Commission to vary the terms of a utility 15 tariffs have to say about metering -- master metering, and prohibitions against resale and redistribution, which are 16 company's tariff? 16 17 17 typically in all of the electric utility tariffs. A. I'd have to say yes. 18 Q. Can you go ahead and explain your 18 And specifically, this section that you're --0. 19 19 you have referred to with -- let me step back. understanding? 20 20 I don't know if you referred specifically to A. Basically, the Commission has a rule which Article 5 of the Kansas City Power & Light's general rules 21 each of the utilities have adopted, basically as the 21 22 Commission rule, or a more restrictive form of that rule, 22 and regulations, but you are familiar with those rules and 23 that prohibits the master metering of multiple-occupancy 23 regulations, correct? 24 A. Yes. buildings that were constructed after, like, June 1, 1981. 24 25 And in addition, there are prohibitions 25 О. Do you recall ever receiving a request from Page 43 Page 45 1 1 Kansas City Power & Light to vary -- to the Commission for against the customer of the company reselling or 2 the approval of a variance to Section 5.03? 2 redistributing electricity to basically anyone, whether that 3 3 be on a set per kilowatt hour basis or square foot basis or A. Yes, I recall that. 4 whatever -- whatever basis that would be, with the exclusion 4 Q. I have in my hand a memorandum that was 5 of those buildings that received service prior to -- that 5 prepared by the Electric Meter Variance Committee to Missouri 6 Public Service Commission on Case No. EE-2003-0199. I 6 were constructed prior to 1981 and have received service on 7 7 that basis since that time, on a rent-inclusion basis. apologize, I don't have an extra copy, but I'd like for you 8 Q. Do you have any knowledge of the basis for why 8 to --9 9 MR. STEWART: If I could, approach the there would be a prohibition against resale or redistribution 10 if power came from utilities regulated by the Commission, 10 witness? 11 JUDGE WOODRUFF: You may. 11 particularly regulated? 12 12 A. To me, the big reason is the Commission has a MR. STEWART: And if the Court would take that whole set of rules regarding how utilities relate to their 13 13 case under judicial notice. Again, that's -- for the court 14 customers and to the service that they provide. When you -14 reporter, did you get that case number? COURT REPORTER: I did. 15 when you separate the customer from the utility, then the 15 16 consumer no longer has those protections, you know, 16 BY MR. STEWART: 17 17 Q. If I could refer you to that memorandum, does protections, you know, as simple as, requirements that the 18 it state that -- does it cite to 4 CSR Division 240, Chapter 18 utility test and verify that the meters are reading 20.050(c), which states, the Commission, in its discretion, 19 19 accurately, provisions for notice of cutoffs, how many days 20 they get to pay their bill. You know, all the consumer 20 may approve tariffs filed by an electric corporation, which 21 21 are more restrictive of master metering than the provisions protections that are built into the Commission's rules would 22 not apply to a -- basically a third-party non-utility resale 22 of this rule. That would appear on the second page, I 23 or redistribute of electricity. 23 believe. 24 MR. WILLIAMS: No further questions. 24 2.0506? A. 25 JUDGE WOODRUFF: All right. For cross, then, 25 Uh-huh. Q.

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EXHIBIT F

EXHIBIT F

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	Page 46		Page 48
1	A. It appears at the top of Page 3, yeah.	1	Q. And does the the rule or the statute
2	Q. Page 3. Does it go on to refer to Section	2	distinguish the two?
3	5.03(b) of KCP&L's general rules and regulations supplying	3	A. I'm not familiar with the statute, and
4	electric service?	4	wouldn't venture to interpret it. My reading of the rule
5	A. Yes.	5	seems to indicate to me that it is aimed toward allowing
6	Q. And specifically, it states, with respect to	6	multiple metering on a rent-inclusion basis to
7	any multiple occupancy premises, the company will not supply	7	tenant-occupied buildings
8	electric service to the owner, lessee, or operator thereof as	8	Q. Is that on the rule?
9	the customer of the company and permit redistribution by such	9	A as a variance.
10	customer to his office or residential tenants therein, except	10	Q. Is that on the rule, or Kansas City Power &
11	for those premises being supplied such service on the	11	Light's rules and regulations?
12	effective date of this schedule?	12	A. I'm talking about the Commission's rule.
13	A. That's correct.	13	Q. But you don't have a cite that you could give
14	Q. Could you also confirm that the memorandum	14	me that distinguishes on distinguishes the rule on
15	concludes the Electric Meter Variance Committee recommends	15	rent-inclusion basis?
16	that the Commission grant KCP&L a variance from Section	16	A. The rule? Actually, I don't have the rule
17	5.03(b) of its tariff?	17	with me.
18	A. Yes, it does.	18	JUDGE WOODRUFF: I have a copy of the rule
19	Q. Could you explain why now you believe that	19	right here, Mr. Watkins, if you'd like to take a look at it.
20	there's no authority for the Commission to grant a variance	20	BY MR. STEWART:
21	when you indicated at least your committee indicated in	21	Q. If I could refer you to the rule
22	this case that the variance be granted to Section 5.03(b)?	22	A. Uh-huh.
23	A. That's based on advice of counsel.	23	Q Mr. Watkins, to Subsection 1(g), does that
24	Q. And could you also testify as to whether, and	24	section state that a residential unit is defined as one or
25	I believe you've already stated this actually, let me back	25	more rooms for the use of one or more persons as a
	Page 47		Page 49
1		1	
1 2	up. Do you know what the outcome of that case was	1 2	housekeeping unit with space for eating, living, and sleeping and permanent provisions for cooking and sanitation?
3	by the Commission?	3	A. Yes, it does.
4	A. The Commission approved the variance	4	Q. Does that section distinguish between
5	approved the recommendation, I'll say.	5	rent-inclusion and condominium units?
6	Q. And how was that case different than this	6	A. No, it does not.
7	case?	7	Q. Anywhere else do you see that it makes the
8	A. That's been a little while ago.	8	distinction?
9	Q. Are you familiar with and I know some of	9	A. I mean, my recollection is that that
10	these cases just don't appear to you off the top of your	10	
			distinction is not spelled out clearly in the rule at all
			distinction is not spelled out clearly in the rule at all, and and probably not in KCP&L's tariff
11	head. Are you familiar with, in the matter of the request of	11	and and probably not in KCP&L's tariff.
11 12	head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which grante	11 d 12	and and probably not in KCP&L's tariff. Q. Mr. Watkins, would it be more fair to say that
11 12 13	head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which grante the request variance the requested variance in ordering of	11 d 12 13	and and probably not in KCP&L's tariff.Q. Mr. Watkins, would it be more fair to say that it's more a policy of the committee and/or Staff to separate
11 12 13 14	head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which grante the request variance the requested variance in ordering of KCP&L to amend its tariff sheet? Are you familiar with that	11 d 12 13 14	 and and probably not in KCP&L's tariff. Q. Mr. Watkins, would it be more fair to say that it's more a policy of the committee and/or Staff to separate and distinguish the two, and that there is no distinguished
11 12 13 14 15	head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which grante the request variance the requested variance in ordering of KCP&L to amend its tariff sheet? Are you familiar with that case?	11 d 12 13 14 15	 and and probably not in KCP&L's tariff. Q. Mr. Watkins, would it be more fair to say that it's more a policy of the committee and/or Staff to separate and distinguish the two, and that there is no distinguished rule or regulation on the two?
11 12 13 14	 head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which granted the request variance the requested variance in ordering of KCP&L to amend its tariff sheet? Are you familiar with that case? A. I don't remember them by the case numbers. 	11 d 12 13 14 15 16	 and and probably not in KCP&L's tariff. Q. Mr. Watkins, would it be more fair to say that it's more a policy of the committee and/or Staff to separate and distinguish the two, and that there is no distinguished rule or regulation on the two? A. There's a couple of things that are that
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11 12 13 14 15 16 17 18 19 20 21	 head. Are you familiar with, in the matter of the request of Kansas City Power & Light Company, EE-2001-663, which granted the request variance the requested variance in ordering of KCP&L to amend its tariff sheet? Are you familiar with that case? A. I don't remember them by the case numbers. Q. The question would be, are you familiar with multiple cases where this Commission has granted variances to tariffs similar to the Kansas City Power & Light tariff that is present before the Commission today? A. Yes, and you asked before about the nature of 	11 d 12 13 14 15 16 17 18 19 20 21	 and and probably not in KCP&L's tariff. Q. Mr. Watkins, would it be more fair to say that it's more a policy of the committee and/or Staff to separate and distinguish the two, and that there is no distinguished rule or regulation on the two? A. There's a couple of things that are that are involved in that. One is that no variance request, to my knowledge, has come to the to the variance committee dealing with condominiums. Okay. Q. Again
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13 (Pages 46 to 49)

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1	Q. Well, my question is, would it be accurate?	1	A. I think the rule is directed at them, yes.
2	If you can cite if you cannot cite to any rule that	2	Q. But again, you've not cited any section of
3	distinguishes condominium units and apartment buildings o	3	this rule that states apartment buildings are exempt from the
4	rent-inclusion buildings, would it be more accurate to	4	rule?
5	testify that this is simply a recommendation of either yours,	5	A. You're correct. It allows for variances to be
6	or possibly the committee's, as opposed to authority that is	6	granted to the rule for apartment buildings.
7	provided in either a rule or a statute? If I could rephrase	7	Q. So if it
8	that.	8	A. It allows those those master-metered
9	A. Yeah, I don't understand the question.	9	apartment buildings that were buildings constructed prior to
10	Q. I understand that no request for a variance on	10	1981 to continue master metering.
	a condominium project has been presented to your committee.	11	Q. That's not what the rule says, right?
	That doesn't answer the question. The question is if you	12	A. Yeah.
	believe that a rule or a statute distinguishes between a	13	Q. Let's just read the rule.
	condominium project and a rental project? And if not, then	14	A. Okay.
	if your basis to distinguish the two is predicated on policy	15	Q. If we could refer you to 4 CSR 240-20.050(2),
	issues of yours or the committee's?	16	each residential and commercial unit in a multiple-occupancy
17	A. I agree there is no clear distinction within	17	building, construction which has begun after June 1, 1981,
	the rule or the tariff regarding tenants and owners. And	18	shall have installed a separate electric meter for each
	thus, that's that's, I guess, partly my policy belief	19	residential or commercial unit. So that doesn't distinguish
	and and it's partly that, you know, condominiums were	20	between apartments and condominiums, correct?
	probably not that big a deal back when this rule was adopted. They're they're listings of, you know, particular types of	21 22	A. That's correct.
	things which are excluded from requiring individual meters.	22	Q. Go on to subsection four, which is where I'm stating there's no exception for apartment buildings. It
23 24		23 24	
	Some of the things which have come into existence since then, like assisted living facilities, you	24 25	states, for the purpose of carrying out the provisions of section two and three, the following sections apply, and
20		20	
	Page 51		Page 53
	know, aren't listed, but at some point, a decision has to be	1	separate metering will not be required. There's A, B, C, D,
	made about whether they are similar enough to those things	2	E, F. Anywhere in there, does it exclude apartment
	that are listed, and have the same policy characteristics,	3	buildings?
	you know, that would allow granting a variance or a finding	4	A. There is no exception for apartment buildings.
	that the rule did not apply to them.	5	Q. So there's no distinction between apartment
6 7	Q. Would it be your belief that apartments were that big of a deal at the enactment of 240-220?	6 7	buildings and condominium projects under that rule?
8	A. Yes.	8	A. Let's back up to what I was saying, which was, at the time the rule was was adopted, I believe that it
9	Q. Apartments were a big deal?	9	was not uncommon in these older buildings to have to rent
		10	the apartments with utilities, or at least electric included.
10 11	A. And I think a lot of the apartments were master metered.	11	And this rule was adopted to end that practice, because it
12	Q. So if it were a big deal, do you also think it	12	does not it does not apply to buildings that were
	probably would have been a big deal to the Commission to	13	constructed prior to 1981. Only those buildings after that,
	exclude apartments from the individual metering requirement?		and it does not distinguish which of those new buildings,
15	MR. WILLIAMS: I'm going to object to that as	15	apartments, condominiums, commercial space, whatever, woul
	calling for speculation.	16	be exempt, other than those items that are listed as
17	JUDGE WOODRUFF: Overruled.	17	examples.
18	THE WITNESS: I think quite the opposite. I	18	Q. So getting back to the original question.
	think, if I understood your question correctly, I would	19	A. Okay.
	assume that the rule is aimed at multiple-occupancy rental	20	Q. The committee has recommended that the
20	apartment buildings, that condominiums were probably not	21	Commission grant variances to utility company's tariffs
	· · · · · · · · · · · · · · · · · · ·	22	
21	contemplated at that time.	22	similar to Kansas City Power & Light's Section 5.03 in the
21 22	contemplated at that time. BY MR. STEWART:	23	similar to Kansas City Power & Light's Section 5.03 in the past, correct?
21 22	-		

14 (Pages 50 to 53)

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	, _	
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Q. No, similar. Any utility company, and it	1	recommended to be granted. The tariffs of Union Electric
could be limited I guess the question, as we referred to	2	Company specifically states that variances can be granted to
case the case that you have in front of you, that case	3	the provision for mastering metering, they can be granted for
granted a variance to Section 5.03(b) of Kansas City Power &	4	the provisions that renovation projects that meet certain
Light's tariffs, correct?	5	circumstances can be provided a variance by application to
A. Yes, it has.	6	the Commission. It's basically the same same blurb, I
Q. And your reasoning I don't mean to put	7	believe, that's in the rule, or very similar language.
words in your mouth. I'm asking the question. Was it your	8	Q. But does the does the utility company grant
reasoning that the reason that they granted the variance was	9	the variance?
because it was an apartment building as opposed to a	10	A. The Commission grants the variance.
condominium project?	11	Q. So does it matter what's in the rules and
A. Yes.	12	regulations regarding granting variances? Does let me ask
Q. But nowhere in the rule does it does it	13	that question and then go on to the next.
make a distinction between an apartment building and a	14	A. I think you're getting into the legal
condominium project?	15	question.
A. I mean, as to whether a variance could be	16	Q. Okay.
granted?	17	A. So you can take my legal opinion for what it's
Q. Right.	18	worth, which is probably nothing. I mean, I think the the
A. No.	19	Commission's rules, and Union Electric's tariffs, for
Q. Are you familiar with Section 393.140(11) of	20	example, do provide for the Commission, for a good cause
the Missouri Statutes?	21	shown, to grant variances to those provisions restricting
A. No, or certainly not by that cite.	22	master metering. The Commission relies on its variance
Q. If I number I could give you a copy of	23	committee to look at the factual situation, and make a
this, if you'd like to read it, but if you don't have any	24	recommendation to the Commission about whether that variance
familiarity with it, it's regarding the power powers of	25	should be granted.
Page 55		Page 57
the Commission. Are you familiar with that section?	1	Q. Well, let's get
A. Well, I'm generally aware of it, but I'm not	2	A. The case with KCP&L is different. We have
an attorney.	3	learned now, which is there are the Commission has
Q. That's fair. Even though you're not an	4	approved tariffs for Kansas City Power & Light that do not
attorney, you make recommendations your committee makes	5	provide for the granting of variances of those provisions.
recommendations to the Commission, correct?	6	Q. Was that was their tariffs any different in
A. Yes, it does.	7	2003 on the case that you have in front of you, EE-2003-0199?
Q. And so in connection with making those	8	Have their tariffs, to your knowledge, changed since then?
recommendations, do you solely rely on advice of counsel, or	9	A. No, but my advice from counsel has changed.
do you analyze the provisions of the electric company's	10	Q. You mentioned the good cause shown section in
tariffs, analyze provisions of Missouri statutes, analyze	11	Union Electric's tariffs, and I'll just refer you to the
provisions of the Commission's rules, and then make a	12	statute Section 393.140(11), states that the Commission, for
determination?	13	good cause shown, may allow changes under such conditions a
A. I think, in general, the variance committee	14	it may prescribe. Would it be your opinion that that's
relies on its own understanding of the Commission's rules.	15	why that's where Union Electric gets their draws from
There is an attorney on that variance committee, so I assume	16	their the authority to insert a provision regarding
if we were doing something wrong, and he knew it, that he'd	17	granting variances to their tariffs, or did they just you
let us know. Actually, there are more than one attorney.	18	think they just inserted that on a collective decision on
Q. So when the committee recommended that	19	their own?
variances be granted to tariffs similar to Kansas City Power	20	A. Actually, I'm not sure I heard enough of
& Light's Section 5.03, at the time, you presumed that the	21	what's embodied in that section to understand that that's not
Commission would have the authority to grant the variance?	22	the Commission has the authority to approve tariff changes.
A. When you say, to utilities with provisions	23	Is there something other than that?
like 5.03, my only other recollection of another utility is	24	Q. Well, it states, unless the Commission
Union Electric Commony work granted workspace have been	25	otherwise orders no change shall be made in any rate or

15 (Pages 54 to 57)

otherwise orders, no change shall be made in any rate or

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Union Electric Company were granted -- variances have been

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1	charge, or in any form of contract or agreement, or any rule	1	A. Yes, it is.
2	or regulation relating to any rate charge or service, or in	2	Q. Is one of the goals that PURPA sought in
3	any general privilege or facility. So that section	3	connection with individual metering was to conserve energy?
4	authorizes the Commission to change an electric company's	4	A. Absolutely. That was the primary goal of that
5	tariff.	5	act
6	A. I think that's right.	6	Q. And would it be your opinion that
7	Q. If the Commission were to take a position that	7	A and provision.
8	it doesn't have the authority to grant this variance, could	8	Q that the metering system that WST has
9	you tell me what your position would be on how that effects	9	proposed would accomplish that goal?
10	the previous cases that the Commission did grant the	10	A. I really have very little knowledge of what
11 12	variances on?	11 12	that, quote, metering system is, other than what I've heard
	A. I don't really know the answer to that.		today, and in some previous discussions. I'm not an
13	Q. Would you, in your position, would you make	13	engineer, you know, to know what the latest things are in
14	any recommendations to the Commission that they should take	14 15	metering technology, and how reliable and accurate they are.
15 16	those cases back up for reconsideration?	15 16	But but on the basis of what's been presented, I mean, it
16 17	A. That would be a decision which would go	17	seemed like that type of metering, and you know, rebilling
	through general counsel's office. It wouldn't be up to me.	18	the electricity, would promote conservation as much as if
18 19	Q. You rely solely on legal on that?A. Huh?	19	they were individually metered and billed by the utility
		20	company. I don't see a distinction there in terms of the
20 21	Q. Your committee would rely solely on counsel for that?	20 21	goals of PURPA. MR. STEWART: Mr. Watkins, I really appreciate
21	A. Well, I don't think I don't think the	21	your time. I don't have any further questions at this time.
22	variance committee I don't think the role of the variance	22	JUDGE WOODRUFF: Thank you. Does KCP&L hav
23 24		23	any questions for Mr. Watkins?
24 25	committee is expanded to do anything other than make recommendations about whether a variance should be approved		MR. BLANC: No questions for Mr. Watkins, your
20		25	
	Page 59		Page 61
1	or not. I don't think they have any any purpose to go	1	Honor.
2	back and make recommendations about how things should have		JUDGE WOODRUFF: Okay. I don't have any
3	been differently. It would be the Staff of the Commission,	3	questions from the bench, so no recross. Any redirect?
4	or some other party that would have to try to correct those	4	MR. WILLIAMS: Yes.
5	changes.	5	REDIRECT EXAMINATION
6	Q. Do you believe that the installation of the	6	QUESTIONS BY MR. WILLIAMS:
7	metering devices that Mr. Fredock referred to would assist in	7	Q. Is it your understanding that WST has not
8	complying with the goal of energy conservation?	8	requested this Commission to change KCP&L's tariffs in this
9	A. Based on his testimony, it would it would	9	application?
10	appear that that would be the case, that when customers	10	A. As far as I know, all they've they've
11	or when energy consumers receive the financial benefits of	11	requested is a variance a variance from the tariff, and a
12	their own conservation efforts, that promotes the	12	ruling that the Commission's rule does not apply. They have
13	conservation goal. That appears to be the case, whether	13	not requested that KCP&L be ordered to change its tariff.
14 15	they're billed by the utility company or whether they're	14	Q. And in connection with master metering and the
15 16	billed by the condominium association. I mean, the financial	15 16	Commission's rule regarding variances for master metering,
16 17	incentive is the same.	16	you've drawn a distinction between condominiums and
17 10	Q. And are you familiar with the the PURPA Act	17 10	apartments. Can you explain the basis for your distinction?
18 19	that was passed by Congress, the Public Utilities Regulation	18 10	Does it pertain to relationships between different parties,
20	c	19 20	or what are the factors that make them different in your
20 21	A. I know what you're talking about, that was a	20 21	mind?
21 22	long, long time ago. I believe that was '79. That was	21 22	A. Are you asking me specifically related to the
	slightly before I was I came to the Commission, and I knew the	22 23	master metering rule?
23			Q. Yes.
	Q. But to your knowledge, that law is still in effect?	24 25	Q. Tes.A. Or other aspects of regulation?Q. Well, I think it's part of the master metering

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1	rule, but it could go beyond that.	1	so, if it were appropriate?
2	A. Okay. I mean, the master metering of	2	A. Yes.
3	apartments was in existence at the time the rule was adopted.	3	MR. WILLIAMS: No further questions.
4	And the decision was made to end that practice, except in	4	JUDGE WOODRUFF: All right. Well, with that,
5	certain circumstances that were listed. I apologize, but	5	then, Mr. Watkins, you can step down. And we're due for a
6	I've lost track of your question. Could you repeat it?	б	break. We'll take a break now and come back at 10:30.
7	Q. Well, you were drawing a distinction between	7	(A BREAK WAS HELD.)
8	condominiums and apartments.	8	JUDGE WOODRUFF: Let's go back on the record.
9	A. Yes.	9	We are back from our break, and Mr. Watkins has finished
10	Q. And I'm trying to get you to explain what, in	10	testifying. Did Staff have any other evidence?
11	your mind, the distinction is.	11	MR. WILLIAMS: No, Judge.
12	A. In my mind, that's not directly related to the	12	JUDGE WOODRUFF: All right. For KCP&L then?
13	Commission's rule, whether it's a condominium or a rental	13	MR. BLANC: Tim Rush.
14		14	(THE WITNESS WAS SWORN.)
15	unit, whether it's an ownership unit or a rental unit. To me, it's the and I can't point you to any specifics,	15	JUDGE WOODRUFF: You may be seated, and you
16	necessarily, but it's the the the body of the	16 17	may inquire.
17	Commission's rules, and in particular, Chapter 13, regarding		DIRECT EXAMINATION
18	the dealings of utilities with residential customers, you	18	QUESTIONS BY MR. BLANC:
19	know, that are certainly different, depending on whether it's	19	Q. Would you please state your name for the
20	a condominium or whether it's a tenant.	20	record, please?
21	To me, it just seems that you can be opening a	21	A. Tim Rush.
22	can of worms when you have individual residences that are	22	Q. And who is your employer?
23	owned and occupied, you know, for domestic use that are not	23	A. Kansas City Power & Light Company.
24	the direct customer of the utility. I have thought about	24	Q. And what is your position at KCP&L?
25	this situation, you know, and they present a rosy picture and	25	A. I'm the director of regulatory affairs.
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1	it seems fine, but if the tariffs of the utilities were	1	Q. And did you hear Mr. Fredock's testimony this
2	changed to permit this kind of resale and redistribution, I	2	morning?
3	can also imagine other situations like situations we've had	3	A. Yes, I did.
4	in the past that were extreme nightmares, because the link	4	Q. Okay. Very good. And you have a general
5	between the actual customer and user of the electric service	5	understanding of how their power usage, monitoring, and
6	and the electric utility was disconnected by some	б	billing procedures would work? In general, I understand.
7	intermediate party that may or may not pay the bill for	7	A. How they're recommending, yes.
8	electricity, you know, may or may not provide truly safe and	8	Q. Yes, their proposal. As you understand it,
9	adequate service to the actual user of the electricity, and	9	would that constitute a resale or redistribution under the
10	there have been examples that I have heard of.	10	provisions of KCP&L's tariff?
11	And I think KCP&L has had a recent example	11	A. Yes, it would.
12	with a trailer park where the I guess the owner or manager	12	Q. Does Kansas City Power & Light have a position
13	of the trailer park was actually their customer, but through	13	whether the Commission grants or does not grant the
14	some sort of wiring, they were they were able to hookup a	14	application for variance that WST has requested?
15	bunch of trailers around it, and I think they were ordered to	15	A. We do not. We would prefer that be a decision
16	shut off that meter by the fire department or fire marshal,	16	for the Commission to make.
17	you know, as an unsafe, you know, situation. So changing the	17	MR. BLANC: We have no further questions. I
18	tariff to permit that seems to me to be the wrong thing to	18	tender him for further examination.
19	do.	19	JUDGE WOODRUFF: All right. For cross, then
20	Q. Are the members of the variance committee	20	beginning with Staff.
21	infallible?	21	CROSS-EXAMINATION
	A. You want me to say just me? No. No, we're	22	QUESTIONS BY MR. WILLIAMS:
2.2			
22 23	all human	24	() Mr Rich are you also tamiliar with Section
23	all human.	23 24	Q. Mr. Rush, are you also familiar with Section 5.1 of KCP&I 's tariff under the general provisions?
	all human. Q. And if something came to the committee's attention that caused it to change its view, would it then do	23 24 25	 Q. Mr. Rush, are you also familiar with Section 5.1 of KCP&L's tariff under the general provisions? A. Reasonably familiar, yes.

17 (Pages 62 to 65)

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	Q. And if in your understanding of what WST is	1	Q. Do you have any idea as to how much time?
2	proposing to do with regard to electrical service to	2	A. Well, I would think, minimally, just to do the
3	condominium owners within the building at 1101 Walnut, woul		evaluation stage, we we actually talked to our metering
4	they also require a variance from Section 5.01, as well as	4	shop about that, and they felt that they would at least need
5	5.07?	5	90 days to do an evaluation, but that doesn't even get to the
6	A. Well, there's a possibility that they would	б	point of being able, then, to bill it, and how to deal with
7	require that. I would suggest that they receive a variance,	7	it. It doesn't address the issues of, you know, the typical
8	if the Commission so deems, that the variance would state	8	utility requirements of connections and disconnections, and
9	that they that states what they're allowed to do, and if	9	how that process would work.
10	that provision of 5.01 is one of those elements that they do.	10	It doesn't deal with many of the other aspects
11	If 5.07, I believe it was, that talks about if renovation is	11	of of just accesses and things that you've talked about
12	added, if that is a component, that they would receive a	12	this morning. So there are a lot of considerations that
13	variance associated with that, that we would address the	13	would have to be done in order to accomplish that. And from
14	whole thing in that order so by the Commission, if that's	14	what I gathered, 90 days just to simply do the evaluation of
15	what the Commission decided to do.	15	the metering would probably be, like, a minimal time. And
16	Q. Does KCP&L have a position as to whether or	16	I'm even I'm very nervous of that.
17	not 5.01 and 5.07, as well as 5.03, are applicable to the	17	We put in a meter technology not too long ago
18	facts as relayed in this hearing?	18	that we spent several years evaluating, and I mean, it was
19	A. They probably have some component part, yes.	19	just a very long process. I realize this is a much smaller
20	I mean, in general, the whole rules and regulations, as set	20	situation.
21	out by the KCP&L, you know, are at issue in this whole	21	Q. When did Kansas City Power & Light learn that
22	process, so if you grant a variance from one element, it	22	there was a desire by the developer to master meter
23	effects many other elements, too.	23	apartments or I'm sorry, individual residential units at
24	Q. There was a discussion about the use of meters	24	1101 Walnut?
25	to particular condominiums that would be owned by, at least	25	A. Well, from the records that I have, from
	Page 67		Page 69
1	initially, the developer. Is there any technical reason that	1	individual memos of people that have met, it would appear to
2	Kansas City Power & Light could not use that information to	2	
	bill condominium owners?		me that that sometime in October of last year we talked
3	bin condomination owners?	3	about separately metering and talked about metering on
3 4	A. Is there any technical we don't understand	3 4	
			about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that
4	A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably	4 5 6	about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST.
4 5	A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably the first thing that would start out.	4 5 6 7	about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST. But I believe each time WST would come back
4 5 6 7 8	A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably the first thing that would start out.Q. So at this point you do not know?	4 5 6 7 8	about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST. But I believe each time WST would come back and talk about, you know, master metering, and problems they
4 5 7 8 9	 A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably the first thing that would start out. Q. So at this point you do not know? A. We do not know. I mean, I think there are 	4 5 6 7 8 9	about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST. But I believe each time WST would come back and talk about, you know, master metering, and problems they were having, too. So I believe all that process, or the
4 5 7 8 9 10	 A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably the first thing that would start out. Q. So at this point you do not know? A. We do not know. I mean, I think there are some other components that talked about our ownership of 	4 5 7 8 9 10	about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST. But I believe each time WST would come back and talk about, you know, master metering, and problems they were having, too. So I believe all that process, or the discussion, was taking place throughout this whole time of
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4 5 7 8 9 10 11 12 13 14 15	 A. Is there any technical we don't understand enough of the technical requirements of the or specifications of the meters to be able to do it is probably the first thing that would start out. Q. So at this point you do not know? A. We do not know. I mean, I think there are some other components that talked about our ownership of equipment in our tariffs that we would have to address. It talks about the ownership of the metering. I think there are some issues about, you know, access and other things like that. I think I just think there are a lot of questions associated with it that were basically, we were unable to 	4 5 6 7 8 9 10 11 12 13 14 15	 about separately metering and talked about metering on individual floors or every other floor. It seems to me that about March, there was some kind of a letter sent that talked about individual metering from KCP&L to to WST. But I believe each time WST would come back and talk about, you know, master metering, and problems they were having, too. So I believe all that process, or the discussion, was taking place throughout this whole time of discussions that occurred. Q. Do you know when Kansas City Power & Light formally told WST that it would not be able to provide master metering service under its tariffs to the developer at that location, 1101 Walnut?
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18 (Pages 66 to 69)

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Page 18 of 30 to Exhibit F of Direct Testimony of Jeffrey G. Flathman

HEARING 10/12/2005

	Davia 70		D
	Page 70		Page 72
1	from the engineering group, but that talked about	1	MR. BLANC: No, your Honor.
2	individual metering, but I'm not sure I recall that, you	2	JUDGE WOODRUFF: Well, let's go ahead and do
3	know. That should have been inferred as a showstopper, that	3	it today then. We can get it out of the way. All right.
4	they needed to do something, but whether that's a formal	4	Well, beginning with WST then.
5	letter going to their corporate, I'm not sure. It could have	5	MR. STEWART: Thank you, your Honor. In WST's
6	gone to their engineering or construction manager, I am not	6	application, WST, Inc. indicated that based upon a letter
7	really sure.	7	that it received from Kansas City Power & Light suggesting
8	Q. Well, the way you described it, there were	8	that Kansas City Power & Light did not believe that WST, Inc.
9	discussions back and forth. What I'm looking for is the date	9	could master meter this project without a variance to its
10	that Kansas City Power & Light said, we're not going to do	10	tariffs, in good faith, WST, Inc. filed a request with the
11	this. And maybe that was at the beginning the discussion.	11	Commission, specifically in the application seeking a
12	A. It was probably the beginning of the	12	variance from the applicable tariffs of KCP&L on individual
13	discussions, but that doesn't talk about customers wanting	13	metering with respect to the Wall Street Tower condominium
14	or you know, the developer saying, I want you to look at	14	project located at 1101 Walnut Street.
15	alternatives and discussing those. I don't know.	15	JUDGE WOODRUFF: Slow down, I'm sure the Court
16	Q. I understand that.	16	Reporter will appreciate it.
17	MR. WILLIAMS: I don't have any further	17	MR. STEWART: I'll rephrase. Granting a
18	questions of this witness.	18	variance from the applicable tariffs of KCP&L on individual
19	JUDGE WOODRUFF: All right. Questions from	19	metering with respect to the Wall Street Tower condominium
20	WST?	20	project located at 1101 Walnut Street, Kansas City, Missouri,
21	MR. STEWART: I don't have any questions, your	21	including in that tariff, set forth in Section 5.03 of the
22	Honor.	22	general rules and regulations, applying to electric service
23	JUDGE WOODRUFF: All right. Well, I guess I	23	filed with the Commission by KCP&L on January 19th, 1981,
24	don't have any questions either. So no recross. Any	24	allowing a single master meter for the entire tour, and for
25	redirect?	25	such other in further relief as may be just and proper.
	Page 71		Page 73
1	MR. BLANC: No redirect, your Honor.	1	In this case, it may very well be the case
2	JUDGE WOODRUFF: All right. Then Mr. Rush,	~	
3		2	that Article 5 does not even apply to this project. Pursuant
5	you can step down.	3	that Article 5 does not even apply to this project. Pursuant to the general rules and regulations applying to electric
4	you can step down. THE WITNESS: Okay.		
		3	to the general rules and regulations applying to electric
4	THE WITNESS: Okay.	3 4	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power &
4 5	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order	3 4 5	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which
4 5 6	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be	3 4 5 6	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994,
4 5 6 7	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments	3 4 5 6 7	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began
4 5 6 7 8	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments instead on the legal issues. As I've been thinking about	3 4 5 6 7 8	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began after June 1, 1981, is occupied by more than one customer,
4 5 7 8 9	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments instead on the legal issues. As I've been thinking about that today, I may have changed my mind. Mr. Williams, you	3 4 5 6 7 8 9	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began after June 1, 1981, is occupied by more than one customer, the company shall will set as many meters as there are
4 5 7 8 9 10	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments instead on the legal issues. As I've been thinking about that today, I may have changed my mind. Mr. Williams, you don't have to grin too much back there.	3 4 5 6 7 8 9	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began after June 1, 1981, is occupied by more than one customer, the company shall will set as many meters as there are separate customers within the building, and will furnish
4 5 7 8 9 10 11	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments instead on the legal issues. As I've been thinking about that today, I may have changed my mind. Mr. Williams, you don't have to grin too much back there. MR. WILLIAMS: No, I would just rather get it over with. JUDGE WOODRUFF: I'll give you that option.	3 4 5 6 7 8 9 10 11	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began after June 1, 1981, is occupied by more than one customer, the company shall will set as many meters as there are separate customers within the building, and will furnish electric service conductors to the building sufficient to supply the requirements of all customers within the building. The internal building wiring and metering board shall be so
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: Okay. JUDGE WOODRUFF: Now, in the order establishing this hearing, I indicated there would not be post-hearing briefs, and that we would have oral arguments instead on the legal issues. As I've been thinking about that today, I may have changed my mind. Mr. Williams, you don't have to grin too much back there. MR. WILLIAMS: No, I would just rather get it over with. JUDGE WOODRUFF: I'll give you that option. The other option would be to have a written filings tomorrow, particularly on the legal issues. I'm going to expedite the transcript so we can get that as soon as possible, and just so you know, I'm looking to try to get this on agenda for next Tuesday, which would be the 18th. Anyone want to have any say on whether we do oral arguments now or written submissions tomorrow? MR. WILLIAMS: Well, Judge, I prefer to go ahead and state Staff's position orally and get it done	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	to the general rules and regulations applying to electric service, Article 6, Subsection 6.03, Kansas City Power & Light submitted to the Commission under Sheet No. 1.22, which was approved by the Commission on November 16th, 1994, indicating that when a building, construction of which began after June 1, 1981, is occupied by more than one customer, the company shall will set as many meters as there are separate customers within the building, and will furnish electric service conductors to the building sufficient to supply the requirements of all customers within the building. The internal building wiring and metering board shall be so arranged as to permit separate premises, and the installation of the company's meters immediately adjacent to each other. Again, that states, when a building construction of which began after June 1, 1981. If the section in question here, in Article 5, is relevant and is unambiguous, there would have been no need for KCP&L to submit Article 6, Subsection 03, to the Commission for approval. Effectively, there's an ambiguity between Article 5 and Article 6, where Article 5 talks about

19 (Pages 70 to 73)

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EXHIBIT F

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1	As was testified by Mr. Fredock in this case,	1	gets its power from the Missouri statutes. It cannot deviate
	the Wall Street Tower building was constructed in the early	2	from those statutes. The statutes specifically provides the
	1970's, probably around 1973, but in any event, before June 1	3	Commission with the authority to change the tariffs of
	of 1981. It is WST, Inc.'s position, and I will get to the	4	electric corporations. That is exactly what WST, Inc. is
	remaining legal arguments after making this position, but it	5	requesting. And furthermore, pursuant to the rules
	is WST, Inc.'s position that Article 5 was revised and made	6	promulgated by the Commission as is known, it's specifically
	subject to Article 6 by virtue of the fact that Article 6 was	7	exempts buildings that were constructed prior to June 1,
	filed and approved after Article 5 on November 16th, 1994,	8	1981, from installing a separate electric meter for each
	specifically applying the individual metering to buildings	9	residential or commercial unit.
	after June 1, 1981.	10	That rule goes on to provide that any person
11	And again, there would be no need for this	11	or entity affected by this rule may file an application with
	provision to be enacted by the Commission or submitted by	12	the Commission seeking a variance from all or parts of this
	KCP&L without a purpose. Rules and regulations have to have		rule, and for good cause shown, variances may be granted as
	a purpose, and there is an ambiguity if the determination is	14	follows. It talks about variance committees being formed.
	that Article 5 applies, which restricts resale and	15	It then goes on to state that the Commission, in its
	redistribution to all buildings, then 6.03 isn't necessary.	16	discretion, may approve tariffs filed by an electric
	There has to be an intent behind that, and the a very	17	corporation, which are more restrictive of master metering
	strong argument could be made that the intent is to comply	18	than the provisions of this rule.
	with the Commission's rule and to distinguish buildings that	19	Article 5 of KCP&L's general rules and
	were constructed prior to June 1, 1981, and buildings that	20	regulations, which are contained on Public Service Commission
	were constructed after June 1, 1981.	21	of Missouri NO. 2, Second Revised Sheet No. 1.18, and 1.19, 9
22	And those that were constructed prior to June	22	and 1.20, and 1.21 were the applicable sections were filed
23	1, 1981, do not qualify and are not required to have	23	with the Commission on January 19th, 1981. As I indicated
	individual meters installed. Even if the Commission elects	24	before, Article 6, subsection 6.03, which specifically
	to disagree with WST, Inc. on that position, this Commission	25	distinguishes buildings that were constructed after June 1,
	Page 75		Page 77
1	has the authority to grant a variance to Article 5. So if	1	1981, was filed some 13 years later.
	Article 6 doesn't apply, and by virtue of it not applying,	2	That filing is consistent with 4 CSR
	it's rendered irrelevant, which no section can have that	3	240-20.050. It's not more restrictive, but what it is is
	interpretation. It has to have relevance.	4	more restrictive than the tariff that had already been filed
5	If Article 5 applies, this Commission has the	5	by KCP&L under Article 5. In addition to the statutory
	authority to grant the variance. Pursuant to the revised	6	authority that the Commission has to grant the variance, and
	statutes of Missouri, 393.140(11) reads, the Commission shall	7	the authority under the rule to grant a variance, the
	have power to require every electrical corporation to file	8	Commission has, in the past, granted variances in cases very
	with the Commission and to print and keep open to public	9	identical to the case involved with Wall Street Tower
	inspections schedules showing all rates and charges made, and	10	project.
	all rules and regulations relating to rates, charges, or	11	That was made very clear in Case No.
	service used or to be used.	12	EE-2003-0199, where the Commission, in fact, granted a
13	Unless the Commission otherwise orders, no	13	variance to KCP&L's general rules and regulations applying to
	change shall be made in any rate or charge, or in any form of	14	electric service, Section 5.03(b). Furthermore, it has also
	contract or agreement, or any rule or regulation relating to	15	granted variances in case numbers I'll read them by
	any rate charged or service, or in any general privilege or	16	number EE-2001-663, EE-2003-0365, EE-2004-0092,
	facility, which shall have been filed and published by	17	EE-2003-0199 previously discussed, EE-2003-0282. Those are
	electrical corporation, except after 30 days notice to the	18	the cases that I'm aware of that this Commission has granted
	Commission, and publication for 30 days as required by order	19	variances on.
	of the Commission, which shall plainly state the changes	20	In Mr. Watkins' testimony, his opinion as to
	proposed to be made in the schedule then in force. And the	21	why his committee that he sits on recommended the approval of
		22	the variance to the Section 5.03(b) is because that case
22	time when the change will go into effect. The Commission,		the variance to the Section 5.05(6) is because that case
	for good cause shown, may allow changes without requiring th		involved an apartment building, and he believes that that can
23			

20 (Pages 74 to 77)

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	Page 78		Page 80
1	nowhere in the statute does it provide for such a	1	statutory authority for the regulation of electric companies,
2	distinction, and as a result, this Commission can grant a	2	subsection 15 provides that an electrical corporation
3	variance regardless of whether it's an apartment building or	3	includes every corporation, company, association, joint stock
4	a condominium project.	4	company or association, partnership, and person that are
5	Additionally, in Deaconess Manor Association,	5	lessees, trustees, or receivers appointed by any court
6	doing business as Orchard House versus Public Service	6	whatsoever, other than a railroad, light rail, or street
	-		-
7	Commission of the State of Missouri, cite for this case is	7	railroad corporation generating electricity solely for
8	994 S.W. 2d 602, the Western District of Missouri stated	8	railroad, light rail, or street railroad purposes, or for the
9	this: Presumably this is on Page 610. Presumably,	9	use of its tenants and not for sale to others, owning,
10	Orchard House contends that the Commission's Order upholding	-	operating, controlling, or managing any electric plant,
11	Union Electric's charges from 1989 to 1995 violated the	11	except where electricity is generated or distributed by the
12	statute by allowing the company to collect a residential	12	district solely on or through private property for railroad,
13	service fee contrary to its rate schedule, which required the	13	light rail, or street railroad purposes, or for its own use,
14	buildings to be constructed and served prior to June 1, 1981,	14	or the use of its tenants, and not for sale to others.
15	and should have obtained a waiver of its residential tariff	15	The association is using this for their own
16	provision.	16	use. There have been cases that were recently brought to my
17	Should have obtained a waiver of its	17	attention by Staff regarding where the Commission and the
18	residential tariff provision. That case was determined by	18	judicial system found that certain entities were public
19	Missouri Court of Appeals, June 22nd, 1999. Furthermore,	19	utilities, and electrical companies or gas companies
20	under the Kansas City Power & Light general rules and	20	effectively to be the purpose of which is to be regulated
21	regulations, 5.03(b) states that redistribution shall mean	21	under this statute. And it referred to a case in Dansiger
22	the furnishing of electric service by the customer,	22	[ph. sp.] versus the Public Service Commission where a
23	subsection two, to separate premises occupied by another	23	brewery sold the excess generation capacity to between 20 and
24	person, whether or not such premises are owned, leased, or	24	30 businesses, ten residences, and the town of Weston.
25	controlled by the customer without making a specific or	25	That is an entity that is selling
	Page 79		Page 81
1	separate charge for the electric service so furnished.	1	electricity, or any other source of energy, to third parties,
2	With respect to any multiple occupancy	2	to other people. The association is not doing that. The
3	premises, the company will not supply electric service to the	3	association is comprised of the unit owners who are receiving
4	owner, lessee, or operator thereof as the customer of the	4	the electricity. You can't the Commission cannot look at
5	company, and permit redistribution by such customer to his	5	the association as this separate body, and the unit owners as
6	office or residential tenants thereof therein, except for	б	a third party.
7	those premises being supplied such service on the effective	7	The unit owners, as I've said repeatedly, and
8	date of this schedule. This schedule was filed January 19th,	8	will be organized under the declaration, and as the
9	1981, and the premises were being supplied on that date with	9	association is organized within the Secretary of State, are
10	electric service by Kansas City Power & Light. That	10	the association. There is no resale here. There has not
11	provision would exclude Wall Street Tours' project from this	11	been a case cited that suggests otherwise. There's not been
12	redistribution prohibition, in the alternative, if the	12	any interpretation of resale, whether in KCP&L's tariffs or
13	argument is disagreed with by the Commission on the 6.03	13	in statute by Staff supporting that argument. They just
14	issue.	14	called it a resale.
15	The argument has been raised by Staff, and I	15	That is not the intent, and that is not the
16	want to respond by indicating that they have concerns that	16	that cannot be an interpretation of RSMo 386.020. There's no
17	the Wall Street Tower Condominiums Association, Inc., which	17	doubt that this Commission has the authority to grant the
18	is comprised of the unit owners of the building, nobody else,	18	variance before it today, if it's necessary. As indicated in
19	The very people who are receiving electricity from Kansas	19	this closing argument, it's very possible and plausible that
20	City Power & Light are members of the association. The	20	the variance is not even necessary. The very reason that we
21	association consists of the unit owners.	21	are here today is WST is here today is in response to the
22	Staff has, without citing its authority, said	22	letter from KCP&L, and rather than ignore the issue and make
23	the association may then be a utility company that is not	23	a legal determination on our own, it's advisable for us to
24	regulated by the Commission. WST disagrees. Pursuant to the	24	put the arguments in front of the Commission and let the
25	Revised Statutes of Missouri's Section 386.020, which is the	25	Commission decide. But by virtue of the fact that we are

21 (Pages 78 to 81)

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1 2	Page 82		Page 84
	here asking for a variance does not automatically conclude	1	were a variance was granted in this case, it would be
-	that we believe a variance is necessary. We've asked for the	2	violative of the law, and create an unduly preferential
3	necessary variances to the applicable tariffs.	3	treatment for WST. Staff disagrees with WST's
4	Staff raises the Supreme Court case from 1926,	4	characterization that it's asking for a modification of
5	suggesting that the Commission does not have the authority to	5	KCP&L's tariff. What it sought is, hey, the tariff applies
6	grant variances, when in fact, the statute provides them with	6	to everybody else, but not us. And that's the way I would
7	the authority. In that case, in that Supreme Court case, it	7	characterize what WST has requested.
8	was with respect to a charge that is imposed upon a purchaser	8	Staff has also provided some materials from a
9	of gas energy, and waiving that charge because the Commission		prior case involving Trigent Energy Corporation, where the
10	felt that that charge was unreasonable. Supreme Court said	10	
	ů i		Commission chose to disclaim jurisdiction over a chilled
11	that, in that situation, Commission can't do that.	11	water system. It's not that Staff's advocating this
12	Well, nearly 80 years later, we're bound by	12	proposition, but it is possible that the Commission could
13	the statute and the statutes that are in effect today, and	13	determine that while providing utility services, WST would
14	those statutes provide you with the authority. The rules	14	not be regulated by the Commission, and it could sell
15	provide you with the authority, and as I've said repeatedly,	15	services to the condominium owners without being subject to
16	the authority may not even be an issue and it may be moot	16	the Commission's jurisdiction. That would require that the
17	because the variance is not even necessary.	17	Commission make such a determination.
18	In conclusion, WST, Inc. is here before you	18	If that, in fact, were the case, then WST
19	today to obtain the authorization to master meter its project	19	would have to make arrangements in order to supply the power
20	as opposed to an individual electric metering system, whether	20	that it was going to then sell to the condominium owners.
21	that authorization comes from the Commission by virtue of a	21	And the reason for providing that position is to inform the
22	variance to KCP&L's rules and regulations, or a variance to	22	Commission not to advocate where, in fact, Staff's opposed to
23	the Commission's rules, or by a determination by the	23	doing so, and thinks it would be a bad rep for the Commission
24	Commission that Kansas City Power & Light's Article 5 doesn'	24	to follow. Certainly it if it were to be a route that was
25	even apply to this project. Regardless of how the Commission	25	chosen, it would need to be very restrictive in what
	Page 83		Page 85
1	gets there, the request is to obtain the authorization to	1	circumstances the Commission would disclaim jurisdiction.
2	proceed with the master metering system that is presently in	2	I'd also like to respond to WST's reference to
3	place at 1101 Walnut Street.	3	Deaconess Manor Association. In that case, the dispute is
4	I thank you for your time.	4	over what tariff rates a customer should have been paying
5	JUDGE WOODRUFF: Thank you, sir. All right.	5	
0	We'll move over to Staff then.		under Variances are mentioned in the decision but they
6		6	under. Variances are mentioned in the decision, but they were not a point of decision for the court. The Staff thinks
6 7	MR WILLIAMS: May it please the Commission	6 7	were not a point of decision for the court. The Staff thinks
7	MR. WILLIAMS: May it please the Commission.	7	were not a point of decision for the court. The Staff thinks that the best way for this to be resolved would be for a
7 8	Staff's position is basically unchanged from what it was	7 8	were not a point of decision for the court. The Staff thinks that the best way for this to be resolved would be for a tariff change, if something can be done that would leave
7 8 9	Staff's position is basically unchanged from what it was earlier, before evidence was taken. It's Staff's position	7 8 9	were not a point of decision for the court. The Staff thinks that the best way for this to be resolved would be for a tariff change, if something can be done that would leave leave it so that KCP&L was providing ultimately providing
7 8 9 10	Staff's position is basically unchanged from what it was earlier, before evidence was taken. It's Staff's position that 4 CSR 240-20.050 dealing with master metering is	7 8 9 10	were not a point of decision for the court. The Staff thinks that the best way for this to be resolved would be for a tariff change, if something can be done that would leave leave it so that KCP&L was providing ultimately providing the service to the individual condominium owners.
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EXHIBIT F

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1	requested here to provide that service.	1	preference would be the commercial rate schedule.
2	We agree with WST that the Commission does	2	JUDGE WOODRUFF: Is commercial rates higher
3	have authority to grant variances to tariffs. The statute	3	than residential rates?
4	quoted by WST, we would agree with that reading that the	4	MR. BLANC: I believe the demand charges are
5	Commission does have the statutory authority within its	5	higher, but the usage charges are less.
б	discretion to grant variances to tariff provisions. We would	6	MR. RUSH: Overall, their charge will be less
7	ask, if the Commission went down the if the Commission	7	per it's according to how you measure, but per kilowatt
8	ultimately decided to grant the variance and permit master	8	hour, it would probably be less.
9	metering, we would request a couple of clarifications.	9	JUDGE WOODRUFF: Okay. Do you know which
10	First, we would suggest that we not be put in	10	particular tariffs would need to be varied from?
11	the role of enforcing that the rates charged by WST to its	11	MR. RUSH: Whatever the applicable we don't
12	customers are just and reasonable in the Commission's	12	know what their usage would be on the residential on the
13	discretion or in the Commission's determination. We would	13	total aggregate of all these residences, so we would have to
14	suggest that data be given to the Commission staff as opposed	14	determine, you know, whatever the appropriate commercial rate
15	to us, as I believe was suggested today, and that it would be	15	would be.
16	more appropriate for the Commission to determine whether the	16	JUDGE WOODRUFF: Okay. I was talking about
17	rates being paid by the customers are appropriate as opposed	17	the tariffs we've been talking about today, about the
18	to us being put in that role.	18	multiple occupant, individual metering for separate premises
19	Also, we would seek the clarification that it	19	tariffs. Do you know which particular sections?
20	is our opinion that if we were to serve a master meter	20	MR. RUSH: If we had individual metering, it
21	building, that it would be pursuant to our commercial rate	21	would be the residential space heating rate, I believe,
22	schedule with the applicable terms and conditions of service	22	because it would still be only electric; is that correct?
23	that apply to that, most notably the discontinuing of service	23	MR. WILLIAMS: Tim, I think he's asking which
24	provisions, and we would ask for a clarification that that	24	of your tariff provisions would they have to vary to.
25	was the appropriate rate schedule.	25	JUDGE WOODRUFF: Yes.
	Page 87		Page 89
1	And finally, because we don't anticipate this	1	MR. RUSH: Okay.
2	being an isolated incident, we would seek Commission's	2	JUDGE WOODRUFF: It's more a question for your
3	guidance of how to treat developers that came to us in the	3	attorney.
4	future. There are a number of development projects that are	4	MR. BLANC: Undoubtedly, Section 5.3, which
5	ongoing or being contemplated in the KC metro area that	5	otherwise prohibits resale or redistribution, and likely
6	involve a pre-1981 building that's being rehabbed for	б	Section 5.01, which deals with individual metering, and I
7	condominium use, and we want to know if we should just	7	believe the other one that was discussed today is 5.07, which
8	continue to defer those to the Commission or refer those	8	pertains to renovation. As it's written, that appears to
9	to the Commission rather, or if we have some policy guidance		apply to apartment buildings, and most of the other or all
10	from the Commission of how to treat those projects.	10	of the other tariff provisions refer to the generic multiple
11	Thank you very much.	11	occupancy premises, but 5.07 refers specifically to apartment
12	JUDGE WOODRUFF: Thank you, sir. I have a	12	buildings. So based upon the language of that provision, I
13	couple of questions for you that were brought up in your	13	would say that that one wouldn't apply here.
14	closing statement here. It's my understanding that KCP&L's	14	JUDGE WOODRUFF: You say it would or would
15	position would be that if this variance is granted, that the	15	not?
16	condominium owners association would be that commercial	16	MR. BLANC: Would not. Sorry.
17	client.	17	JUDGE WOODRUFF: Okay. Thank you. Chairman
18	MR. BLANC: Correct.	18	Davis was able to join us during the process of the closing
19	JUDGE WOODRUFF: KCP&L?	19	statements here. As you're probably aware, we have another
20	MR. BLANC: Correct, your Honor.	20	hearing going on next door. I'm going to give him an
21	CHAIRMAN DAVIS: Is that your preference?	21 22	opportunity to ask any questions that he may have of the
22	MR. BLANC: If it's master metered, I think	22	attorneys or of the witnesses.
23	that's what we need to do, that it's a commercial customer in	23	Just to fill him in on what's happened, we've
24 25	that instance, and it would be pursuant to our commercial	24 25	had testimony from from James Watkins for the Staff, from Brion Eradoak for WST, and from Tim Bush for KCD&L. I'm
20	rate schedule. So assuming master metering is permitted, our	40	Brian Fredock for WST, and from Tim Rush for KCP&L. I'm

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EXHIBIT F

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1	going to ask that the transcript be expedited so we have it	1	you not serve Wall Street, or would you serve Wall Street
2	tomorrow. With that understanding, do you have any	2	or
3	questions, sir?	3	MR. BLANC: We would be faced with the
4	CHAIRMAN DAVIS: Isn't everything we do	4	position, then, of not serving a customer or serving a
5	expedited?	5	customer in a manner that we believe to be in violation of
6	JUDGE WOODRUFF: It seems to be these last few	6	our tariff, and given that provision or given that
7	months anyway.	7	CHAIRMAN DAVIS: Okay. So you believe and
8	CHAIRMAN DAVIS: Okay. KCP&L, your positior	8	you believe that we have the authority to modify this tariff?
9	is that you have no position; is that correct?	9	MR. BLANC: Yeah, Commission undoubtedly has
10	MR. BLANC: We believe it is a policy	10	the authority to modify tariffs or grant a variance.
11	determination best made by the Commission, whether or not to	11	CHAIRMAN DAVIS: Or grant a variance?
12	permit master metering for this building. We think that we	12	MR. BLANC: Both, yes.
13	can't provide master metering service under the terms of our	13	CHAIRMAN DAVIS: Okay. And normally
14	tariff, but defer to the Commission's policy-making authority	14	normally in these master metering cases, the utility itself
15	to determine that issue.	15	normally makes an application to the Commission. Why did
16	CHAIRMAN DAVIS: Okay.	16	KCP&L not do that in this case?
17	MR. BLANC: We're not trying to be cute or	17	MR. BLANC: Looking back, there are kind of
18	difficult, it's just that we don't think we're in the right	18	two categories of circumstances we've done that, and they're
19	position to make that determination.	19	both provided for in our tariff. The first is the company
20	CHAIRMAN DAVIS: Okay. So you're throwing it	20	believes it would be technically infeasible to separately
21	all up to us?	21	meter each of the units that's provided for in our tariff.
22	MR. BLANC: Yes, sir.	22	And that's one instance we do it.
23	CHAIRMAN DAVIS: Okay. So hypothetically	23	CHAIRMAN DAVIS: So you so you believe
24	speaking, if we did say we wanted to grant the master	24	you don't believe it's technically infeasible to individually
25	metering request, you'd want to charge the commercial rate;	25	meter every apartment, it just costs a lot more money; is
	Page 91		Page 93
1	Page 91 is that correct?	1	Page 93 that correct?
1 2	-	1 2	that correct? MR. BLANC: Correct. And then the second
	is that correct?		that correct? MR. BLANC: Correct. And then the second CHAIRMAN DAVIS: How much more money?
2	is that correct? MR. BLANC: Right, because we would view the customer to be the homeowner's association CHAIRMAN DAVIS: Right.	2 3 4	that correct? MR. BLANC: Correct. And then the second
2 3	is that correct? MR. BLANC: Right, because we would view the customer to be the homeowner's association CHAIRMAN DAVIS: Right. MR. BLANC: which is a corporate entity.	2 3 4 5	that correct? MR. BLANC: Correct. And then the second CHAIRMAN DAVIS: How much more money? MR. BLANC: There was testimony today MR. FREDOCK: About a million dollars.
2 3 4	is that correct? MR. BLANC: Right, because we would view the customer to be the homeowner's association CHAIRMAN DAVIS: Right. MR. BLANC: which is a corporate entity. CHAIRMAN DAVIS: All right. And demand charge	2 3 4 5 6	that correct? MR. BLANC: Correct. And then the second CHAIRMAN DAVIS: How much more money? MR. BLANC: There was testimony today MR. FREDOCK: About a million dollars. MR. BLANC: approaching a million dollars
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1	Commission clarifies that the commercial rate applies in that	1	their fellow unit owners. And that same hypothetical could
2	the association was the customer, that would address that	2	apply with respect to the water bill, if the association,
3	issue, that there are terms and conditions of service that go	3	which consists of the unit owners, decides not to pay the
4	along with our commercial rates, and in that instance, if the	4	water bill.
5	homeowner's association didn't pay the bill, we would notify	5	There are a lot of provisions and mechanisms
6	the homeowner's association, and if they didn't cure, we	6	in the declaration that provide unit owners with the
7	would discontinue service.	7	opportunity to call for a meeting of the unit owners, and
8	CHAIRMAN DAVIS: Okay. All right. Shawn, I'm	8	call for the board to act on any matter that affects that
9	sorry, I can't remember your last name.	9	unit owner directly or indirectly. And that, in and of
10	MR. STEWART: Stewart.	10	itself, would provide an internal mechanism to bring that
11	CHAIRMAN DAVIS: Mr. Stewart. Okay. If if	11	issue to a head.
12	we were to proceed as counsel for KCP&L has suggested, how	12	And obviously, the association has the ability
13	does I mean, we granted a variance, if we gave them the	13	to seek the recovery of the payments that are due, the
14	commercial rate, and they would be free to shut off the	14	association from the unit owner for attorney's fees, for
15	homeowner's association for nonpayment of, which I'm assumin	g 15	interest, and to and to place and file a lien upon that
16	the owner of the building is the homeowner's association	16	property and foreclose on that lien in the event that they
17	right now; is that correct?	17	decide not to pay their their bill, and so it works both
18	MR. STEWART: That's correct.	18	ways. The association is protected and the unit owners are
19	CHAIRMAN DAVIS: Okay. And these units are	19	protected.
20	scheduled for closing on the 19th?	20	So in the event that there are unit owners
21	MR. STEWART: That's correct.	21	that, for whatever reason, don't pay their if they don't
22	CHAIRMAN DAVIS: Correct.	22	pay their bill, or if the association doesn't pay the bill,
23	JUDGE WOODRUFF: The first one is.	23	the unit owners have the ability to get that issue at a
24	CHAIRMAN DAVIS: The first the first unit	24	table, and we could put a place of provision that indicates
25	is. I guess I'm trying to think about how to phrase these	25	that the association must pay their invoice on a monthly
	Page 95		Page 97
1	questions here. I guess my first question would be you	1	basis

1	questions here. I guess my first question would be, you	1	basis.
2	know, would you think your client would be amenable to us	2	CHAIRMAN DAVIS: Okay. All right. Now,
3	putting some, you know, expressed notice into	3	assuming and I'm assuming that PURPA applies in this case,
4	hypothetically speaking, if we were to approve this order,	4 how would you respond to the how do you respond to	
5	that I think this Commission would be very concerned about	5	argument, and if I missed this already, I'm sorry. How do
6	homeowners and future homeowners future members of this	6	you respond to the argument that master metering is a
7	condo association having adequate notice of how their	7	disincentive to conservation, and therefore, your application
8	electric bill is being paid, as well as the fact that even if	8	should be rejected?
9	they paid their own bills, that their service could still be	9	MR. STEWART: Because, as Mr. Fredock
10	disconnected if enough customers didn't pay, or if the	10	discussed at length, WST, Inc. has proposed, and will, in the
11	building became, you know, more vacant than not or something	, 11	event that this Commission authorizes the master metering
12	of that. You know, have you thought about that at all?	12	concept with KCP&L, install individual meters at its own
13	MR. STEWART: Yeah, we would have WST, Inc.	13	expense that specifically monitors and records data from the
14	would have no objection to including additional provisions in	14	use of the individual unit, therefore, which was suggested by
15	the declaration requiring that the unit owners be entitled to	15	Mr. Fredock and was later suggested by Mr. Watkins, advances
16	notice from KCP&L with respect to any electrical issues.	16	the goals of PURPA in electric conservation.
17	This issue is no different to the unit owners on other	17	CHAIRMAN DAVIS: Okay. So if we approve it,
18	issues other matters that will require one payment by the	18	the building owners shall install meters, but these meters
19	association with respect to maintenance, with respect to the	19	aren't in compliance with KCP&L's individual metering,
20	billing of the usage of water.	20	correct or individual metering?
21	CHAIRMAN DAVIS: Uh-huh.	21	MR. STEWART: Correct.
22	MR. STEWART: No difference. And the the	22	CHAIRMAN DAVIS: Is it the way the building's
23	unit owners the prospective unit owners have acquiesced to	23	wired, they won't be able to shut off one unit It's either
24	that fact, and understand that this is different than owning	24	shut the whole thing off or not, but yet
25	a single-family residence. They have an association with	25	MR. STEWART: With the

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EXHIBIT F

1 2	Page 98		Page 100			
С	CHAIRMAN DAVIS: each meter and each	1	MR. STEWART: And I do			
<u>ک</u>	apartment, you'll be able to track the electricity usage for	2	CHAIRMAN DAVIS: I've got to ask them			
3	that space? Is that	3	MR. STEWART: They have several policy			
4	MR. STEWART: If I if I speak out of turn,	4	concerns.			
5	let me know, but I believe that the association will have the	5	CHAIRMAN DAVIS: because it is a safety			
6	ability to shut off the power of each individual unit owner's	6	issue, and we need to vent these issues out. I don't want			
7	electricity in the event that they don't pay for that	7	anybody getting electrocuted, or people just arbitrarily			
8	electrical power. And so it's not a case where you just	8				
9	terminate the power altogether. The association has the	9	off someone else's power.			
10	ability to terminate the power on a unit-by-unit basis.	10	MR. STEWART: Well, the question has to be			
11	CHAIRMAN DAVIS: Doesn't that statement,	11	asked, what happens on projects where there's master			
12	though, lend credence to the theory that you are not	12	existing projects where you have master metering, and then			
13	necessarily reselling, but redistributing power? Maybe	13	CHAIRMAN DAVIS: Are you aware of any more			
14	reselling, I don't know, depending on what the definitions	14	master metering projects like this in the Kansas City area?			
15	are.	15	MR. STEWART: I'm not.			
16	MR. STEWART: Well, you continue you refer	16	CHAIRMAN DAVIS: Okay. Is anybody else here?			
17	to to "we". It's the association. You're talking about	17	Okay.			
18	unit owners here. You're talking about the very people who	18	MR. WILLIAMS: Not yet.			
19	are receiving the power. I know it's I know we're the	19	CHAIRMAN DAVIS: Not yet? All right. KCP&L			
20	I know WST, Inc. is the applicant here.	20	do you have a response to that about disconnecting unit's			
21	CHAIRMAN DAVIS: Right.	21	electricity, about who should be who should be responsible			
22	MR. STEWART: And so there's the tendency for	22	for that?			
23	people to think WST, Inc. is going to be the entity that's	23	MR. BLANC: Sure. I guess our position would			
24	passing along some bills to unit owners.	24	be that it depends on who owns the equipment at issue. We			
25	CHAIRMAN DAVIS: Right.	25	own up to the master meter, and the master meter, assuming			
	Page 99		Page 101			
1	MR. STEWART: That's not the case. The unit	1	that the building is master metered. And so it would be with			
2	owners are the association. The association is monitoring	2	our authority, under certain circumstances, provided we			
3	their use and invoicing those unit owners.	3	follow the provisions of our tariff, to cut services at that			
4	CHAIRMAN DAVIS: And I guess so you're sort	4	master meter, but I don't think there's any authority we have			
5	of making the analogy, then, that the homeowner's association					
5	would function, you know, more like, I guess, a municipal	0	in our tariff or otherwise that would permit us to go in			
6	would function, you know, more like, I guess, a municipal	6	in our tariff or otherwise that would permit us to go in CHAIRMAN DAVIS: To go past the master meter			
	utility would, in that it would be able to disconnect members					
6		6	CHAIRMAN DAVIS: To go past the master meter			
6 7	utility would, in that it would be able to disconnect members and things like that? MR. STEWART: Correct. Well, I say correct.	6 7	CHAIRMAN DAVIS: To go past the master meter and individual?			
6 7 8	utility would, in that it would be able to disconnect members and things like that?	6 7 8	CHAIRMAN DAVIS: To go past the master meter and individual? MR. BLANC: to go into what they own.			
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26 (Pages 98 to 101)

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EXHIBIT F

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1	breaker, put a lock out on it, and that unit is shut down.	1	1 individual customer. And we would prefer		
2	CHAIRMAN DAVIS: All right. Back to KCP&L.	2	CHAIRMAN DAVIS: Okay. So let's stop there		
3	Okay. PURPA and all this master metering came into effect in	3	for a minute. What does that mean?		
4	approximately 1981. Do you have people operating	4	MR. WILLIAMS: It would mean that KCP&L would		
5	commercially, you know, on one meter, like apartment	5	have to file a tariff and ask the Commission to approve it.		
6	buildings or anything like that, who have been in existence	6	And the tariff would be in such a form that it would		
7	prior to 1981 that are that are still operating out there?	7	CHAIRMAN DAVIS: treat all customers all		
8	MR. RUSH: Yes, we do.	8	similarly situated customers equally?		
9	CHAIRMAN DAVIS: And how does that work?	9	MR. WILLIAMS: Right, and would accommodate		
10	MR. RUSH: Well, there's several ways that it	10	what needs to be done in order to get power to this		
11	works. Basically, we deal with a landlord, and a situation	11	particular facility. I mean, our preference would be that		
12	we recently had, like, for example, a trailer park that had a	12	the end users are the ones that's getting billed by KCP&L.		
13	lot of wiring issues, is we went through a process of	13	CHAIRMAN DAVIS: Right.		
14	actually notifying each one of the tenants of the problems.	14	MR. WILLIAMS: Even if there's master metering		
15	I mean, we had the fire marshal say you need to close this	15	up to a point where later the owner of the facility is		
16	place down, you need to shut them off, and yet we were trying	16	controlling the lines and monitoring the usage.		
17	to struggle between, you know, putting people out on the	17	CHAIRMAN DAVIS: And even though KCP&L doesn't		
18	street and getting the landlord to fix his wiring, and	18	have a position in this, they're opposed to your ideas?		
19	getting the landlord to pay his bill.	19	MR. WILLIAMS: Something like that.		
20	And so we struggled through that process.	20	CHAIRMAN DAVIS: Is that a fair assessment?		
21	There's some hoops that have to be gone through. When we	21	Is that a fair assessment, KCP&L?		
22	shut tenant shut we really don't shut many places where	22	MR. BLANC: I guess our assessment is we don't		
23	there's a landlord that has a number of tenants. We have had	23	know and don't have time to determine whether we could use		
24	that happen. We typically notify each one of the tenants by	24	their monitoring system as a basis for billing power.		
25	putting a sticker on the door that says your electricity will	25	Mr. Rush gave testimony that it would take approximately 90		
	Page 103		Page 105		
1	be shut off on such and such a time, and then we shut that	1	days just to study the feasibility of doing something like		
2	service off.	2	that. He mentioned when we adopted our last meter reading		
3	The landlord, you know, then has the pressure	3	technology, it took several years to study that, and we're		
4	to pay the bill or not get his rent. That's typically what	4	not proposing that we take that here.		
5	happens. So it's somewhat of a rare situation, but it has	5	We're talking about one building in the Kansas		
6	occurred.	6	City area. But point being, with our obligation to serve, we		
7	CHAIRMAN DAVIS: Okay. All right. Back to	7	would have to be very comfortable with the technology before		
8	you, Mr. Williams. So you're just saying, reject all this	8	we adopted it and sent out our bills based on its output.		
9	nonsense, don't let these people move in on the 19th? Is	9	CHAIRMAN DAVIS: Okay.		
10	that what you're telling me?	10	MR. RUSH: I think one of the things		
11	MR. WILLIAMS: We're telling you we don't	11	CHAIRMAN DAVIS: And you'll be coming back to		
12	think a variance is the route to go.	12	see us in February, won't you, Mr. Giles.		
13	CHAIRMAN DAVIS: Okay. So what route are you		MR. RUSH: We will.		
14	suggesting?	14	CHAIRMAN DAVIS: Rush.		
15	MR. WILLIAMS: Well, it's a route that the	15	MR. RUSH: That's all right.		
16	parties haven't been able to agree to yet.	16	CHAIRMAN DAVIS: I'm sorry. Normally it's		
17	CHAIRMAN DAVIS: I understand that, but I'm	17	Mr. Giles who's here. I mean, one of the things that we're		
18	asking you, you know, this is your chance. You've only got	18	concerned about is we're taking over the responsibility, if		
19	one of your five fact-finders here, but this is your chance	19	this were to occur, of representing that those meters are		
20	to persuade me, Mr. Williams. So what would you have us	20	accurate, and we are billing what we're to be billing, and		
21	what would you have the Commission do in this case?	21	then that we have control to manage that. So there are some		
22	MR. WILLIAMS: Well, in order to get any	22	significant points we need to evaluate in order to do that.		
23	relief to the applicant, it's the Staff's view that it would	23	And so I don't think time allows us to do that.		
24	require a change in the tariff, and it should be to a class	24	CHAIRMAN DAVIS: And I understand. I mean,		
25	of similarly situated customers, not just for a particular	25	Wall Street has people moving in a week from or people		

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EXHIBIT F

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1	signing the papers a week from today here, so obviously,	1	that they would have to WST, the association, would have				
2	that but	2	to address, you know, in their association meetings.				
3	MR. RUSH: And it does go against our tariffs,	3	It's not a situation where KCP&L's biggest				
4	so we need to figure out how to bill and address that issue.	4	concern is ten years from now. We're still expected to bill				
5	CHAIRMAN DAVIS: Right.	5	this, if that were the case, if the technology has changed				
6	MR. WILLIAMS: Commissioner, the Commission	6	and this monitoring equipment is no longer the same, and I				
7	has approved pilot programs on tariffs in the past.	7	mean we would have to be keeping up with whatever technolog				
8	CHAIRMAN DAVIS: So what would KCP&L think	8	some other entity was directing. And that is a big concern				
9	about if we made this a pilot program?	9					
10	MR. RUSH: We've made our suggestion of how	10	CHAIRMAN DAVIS: Right. Okay.				
11	that might be handled as a pilot, and I think that would be a	11	MR. RUSH: But if WST had that responsibility				
12	wonderful way to do it.	12	on themselves, and they were simply reporting it to the				
13	CHAIRMAN DAVIS: And refresh for my	13	Commission, then you would be aware of the activities of what				
14	recollection what was your pilot suggestion?	14	was going on with that entity. That was that was				
15	MR. RUSH: My pilot suggestion is if you allow	15	basically our proposal.				
16	them to master meter it, and you allow the tenants to measure	16	CHAIRMAN DAVIS: All right. Now, let me ask				
17	whatever that may monitor their own individual usage, that	17	you this: I know that the first closing is scheduled for the				
18	they could bill in some proportionment to that usage, and	18	19th; is that correct?				
19	that they would then provide a report to the Staff on a	19	MR. STEWART: Right.				
20	regular the Staff of the Commission on a regular basis	20	CHAIRMAN DAVIS: Do you have all the units				
21	CHAIRMAN DAVIS: On a regular basis?	21	sold in the building?				
22	MR. RUSH: to show what actions are taking	22	MR. STEWART: I do not believe so. I believe				
23	place. And that that would simply say that there is some	23	there's 10 to 15 percent.				
24	monitoring process and ownerance [ph. sp.] is not put on	24	MR. FREDOCK: There's just a few left.				
25	KCP&L to situations that we don't have control over.	25	CHAIRMAN DAVIS: There's just a few left? So				
	Page 107		Page 109				
1		1					
1 2	CHAIRMAN DAVIS: Right.	1 2	I guess my question is, once the homeowners once all the				
			I guess my question is, once the homeowners once all the units are sold and closed on, you know, is WST just going to				
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	Page 110		Page 112
1	MR. STEWART: At the time of of the closing	1	CHAIRMAN DAVIS: Has Wall Street ever set up a
2	of the units, the unit owners are required to deposit two	2	homeowner's association before, condo association, whatever?
3	months' worth, in addition to the month that they are	3	MR. STEWART: WST, Inc. has not.
4	acquiring the unit. Two months' worth of a deposit.	4	CHAIRMAN DAVIS: WST has not. Have you,
5	CHAIRMAN DAVIS: Of fees, or	5	counselor?
6	MR. STEWART: On their homeowner's association	6	MR. STEWART: I've been involved on others at
7	dues, so there's going to be substantial amount of excess	7	other firms, yes.
8	deposits.	8	CHAIRMAN DAVIS: Okay.
9	CHAIRMAN DAVIS: How much are those dues?	9	MR. WILLIAMS: Commissioner, do you have any
10	MR. STEWART: They're based upon the budget,	10	interest on Staff's view of a pilot program?
11	so effectively at this point, they're \$.28 a square foot.	11	CHAIRMAN DAVIS: Oh, Mr. Williams, I am
12	CHAIRMAN DAVIS: \$.28 a square foot?	12	waiting to hear I am waiting to hear what you and
13	MR. STEWART: Per unit.	13	Mr. Watkins have to say about the pilot program.
14	CHAIRMAN DAVIS: So what's the average-sized	14	MR. WILLIAMS: Well, as we indicated, or as
15	unit?	15	Staff has indicated, our preference would be that KCP&L is
16	MR. STEWART: Oh, probably 1,200 to 1,400	16	providing service to the condominium owners, so what we would
17	square feet.	17	suggest for a pilot program would be KCP&L look at a
18	CHAIRMAN DAVIS: 1,200 to 1,400 square feet.	18	customer-owned metering device in order to utilize
19	MR. STEWART: So you're looking at 300 bucks,	19	information in order to bill those customers.
20	or I don't have my calculator.	20	CHAIRMAN DAVIS: A customer-owned metering
21	MR. RUSH: \$420 a month.	21	device?
22	MR. STEWART: So you're looking at \$840 a unit	22	MR. WILLIAMS: Well, non-KCP&L-owned, let's
23	that is going to be deposited with the association.	23	put it that way.
24	CHAIRMAN DAVIS: Okay.	24	CHAIRMAN DAVIS: I'm sure I can see the
25	MR. STEWART: Times a hundred at this	25	expression on his face. He's excited about this project.
	Page 111		Page 113
1	point, 147.	1	MR. WILLIAMS: And a pilot project could be
2	MR. FREDOCK: Roughly about \$4,500 a month.	2	done to see how that works, the accuracy of the meters, and
3	MR. STEWART: The total reserves	3	just how how it would work.
4	CHAIRMAN DAVIS: Okay. And then what's the	4	CHAIRMAN DAVIS: He's not raising his hand.
5	average sale price on the units that have been sold so far,	5	Wait, he's raised his hand.
6	or just give me some ballpark examples of what the range is	6	MR. RUSH: The only concern I would have about
7	for.	7	the pilot in the sense of what you talked about is that
8	MR. WILLIAMS: They indicated the unit that's	8	typically identifies a time frame that it will have a
9	closing plan to close October 19th is something like	9	conclusion to it, and this will not have a conclusion. This
10	\$475,000.	10	will be go on forever. If it was so elected or determined
11	CHAIRMAN DAVIS: I'm sorry? 475,000?	11	that this is not workable, that the technology of a
12	MR. WILLIAMS: And I don't recall the range	12	customer-owned metering device needs to be modified or
13	you gave for all.	13	changed or whatever
14	MR. FREDOCK: Roughly the average throughout	14	CHAIRMAN DAVIS: Right.
15	the building is \$300,000.	15	MR. RUSH: down the road, that would have
16	CHAIRMAN DAVIS: Okay. So could we infer from		some possible problems.
17	that, then, that if they have \$300,000 to afford one of these	17	CHAIRMAN DAVIS: Right.
18	units, then we could expect at least a modest degree of	18	MR. RUSH: And it will not be able to reverse
19	sophistication on the part of the purchasers?	19	it.
20	MR. FREDOCK: I know that they're not going to	20	CHAIRMAN DAVIS: Right. You're stuck for all
21	be running extension cords from one unit to the other, yes.	21	perpetuity.
22	I can pretty much assure you that.	22	MR. RUSH: Why I made the suggestion that I
23	MR. STEWART: And if I could also mention, the	23	made is we do have instances in our system where there is
24	budget does provide for an annual allocation for attorney's	24	master metering going on pre-1981.
25	fees and that amount will	25	CHAIRMAN DAVIS: Uh-huh.

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1	MR. RUSH: And I understand they are for	1	INDEX		
2	apartments, but that happens. We do have, and there are	2	BRIAN FREDOCK:		
3	instances where there have been master metering for oh, I	3	Direct Examination by Mr. Stewart 8 Cross-Examination by Mr. Williams 17		
4	think the St. Louis one was talking about worry-free type	5	Questions by Judge Woodruff 31		
5	homes where the utilities were included with whatever was	4	Recross-Examination by Mr. Williams 3		
6	being paid.	5	Redirect Examination by Mr. Stewart 38		
7	CHAIRMAN DAVIS: Right. Come here, pay your	5	JAMES WILLIAMS:		
8	\$10,000 a month, and don't worry about anything, we will take	6	Direct Examination by Mr. Williams 40		
9	care of it all.	7	Cross-Examination by Mr. Stewart 44 Redirect Examination by Mr. Williams 6	1	
10	MR. RUSH: But it was not put on the utility	8	TIM RUSH:	I	
11	to manage billing or anything for those places.		Direct Examination by Mr. Blanc 64		
12	CHAIRMAN DAVIS: Right.	9	Cross-Examination by Mr. Williams 65		
13	MR. RUSH: I am just very nervous about	10 11			
14	customer-owned metering, and then having this go on for	12			
15	long-term. That's kind of where I am at.	13			
16	CHAIRMAN DAVIS: Right.	14 15			
17	MR. RUSH: Now, if it were a short-term with	16	EXHIBITS INDEX		
18	some knowledge of the ability to change, that would be a very	17	MARKED REC'D		
19	different story.	18	EXHIBIT NO. 1 KCP&L's General Rules & Regulations 3	40	
20	CHAIRMAN DAVIS: Okay.	19	Ref el s'echeral Raies el Regulations	10	
21	JUDGE WOODRUFF: Anything else?	20			
22	CHAIRMAN DAVIS: I think I've about exhausted	21 22			
23	my supply of questions here, but I guess you can give them	23			
24 25	all one final one final shot to get one last word in the record here.	24			
25		25			
	Page 115				
1	JUDGE WOODRUFF: All right. Does anyone want				
2	to add anything else for the record before we adjourn? All				
3	right. With that, then, we are adjourned. Thank you.				
4	WHEREUPON, the recorded portion of the hearing				
5	was concluded.				
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30 (Pages 114 to 116)

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