

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Complaint Against Kansas                      )  
City Power & Light Company Arthur J.                      )      Docket No. 17-KCPE-433-COM  
Chartrand.                      )

**ORDER GRANTING COMPLAINANT'S MOTION TO  
FILE RESPONSE OUT OF TIME**

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the files and records, the Commission finds:

1.        During a March 7, 2017 storm, Kansas City Power & Light Company (KCP&L)'s service line to Arthur J. Chartrand's residence was damaged by a falling limb from one of Mr. Chartrand's trees.<sup>1</sup> The mast (conduit riser) attached to the residence was damaged and pulled away from the side of the house.<sup>2</sup> The next day, KCP&L made temporary repairs and restored Chartrand's electric service.<sup>3</sup> KCP&L informed Chartrand that he was responsible for any repairs to the mast.<sup>4</sup>

2.        On March 21, 2017, Arthur J. Chartrand filed a formal complaint against Kansas City Power & Light Company (KCP&L), alleging KCP&L failed to maintain or replace a downed power line to a residence, in violation of Sections 6.01 and 1.11 of its Tariff.

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<sup>1</sup> Answer and Motion to Dismiss of Kansas City Power & Light Company, May 31, 2017, ¶ 6.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*, 7.

<sup>4</sup> *Id.*

3. On May 2, 2017, Commission Staff (Staff) filed Notice of Filing Legal Memorandum, advising the Commission that Chartrand's Complaint complies with the procedural requirements set forth in K.A.R. 82-1-220 and recommending the Complaint be served upon KCP&L for an Answer. Staff's Memorandum made no recommendation regarding the validity or merits of the Complaint.<sup>5</sup> On May 11, 2017, the Commission issued an Order Adopting Staff's Memorandum.<sup>6</sup>

4. On May 31, 2017, KCP&L filed its Answer and Motion to Dismiss,<sup>7</sup> on grounds that under its Tariff, it is not responsible to maintain the wiring, mast, conduit or other installation on the property at issue.<sup>8</sup> KCP&L explains Chartrand owns the mast and is responsible for repairing or replacing the mast.<sup>9</sup>

5. Chartrand did not file a response to KCP&L's Motion to Dismiss.

6. On February 13, 2018, Staff filed its Report and Recommendation suggesting KCP&L: (1) modify its tariff in its next rate case to more clearly define "point of service;" (2) inspect the damaged service riser at Chartrand's residence; and (3) notify Chartrand and the local building code authorities if the service connection does not meet applicable building codes.<sup>10</sup>

7. On February 23, 2018, KCP&L filed its Response to Staff's Report and Recommendation, pledging to work with Staff to revise its Tariff language on "point of delivery" in its next rate case and expressing its willingness to perform an additional visual inspection of the

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<sup>5</sup> Notice of Filing of Legal Memorandum, May 2, 2017, p. 3.

<sup>6</sup> Order Adopting Staff's Memorandum, May 11, 2017, ¶ 5.

<sup>7</sup> On June 2, 2017, KCP&L filed a Motion for Leave to File Out of Time, explaining it filed its motion three minutes late. Since the minor delay did not prejudice any of the parties, the Commission grants the Motion for Leave pursuant to K.A.R. 82-1-217(b).

<sup>8</sup> Answer and Motion to Dismiss of Kansas City Power & Light Company, May 31, 2017, ¶ 30.

<sup>9</sup> *Id.*

<sup>10</sup> Notice of Filing of Staff Report & Recommendation, Feb. 13, 2018, p. 1.

service riser for obvious safety concerns in the presence of a Lenexa city code inspector.<sup>11</sup> KCP&L argues that the Complaint be dismissed with prejudice based on Staff's determination that there was no tariff violation.<sup>12</sup>

8. On March 2, 2018, Chartrand served his response to Staff's Report and Recommendation and KCP&L's Response to the parties, but failed to file his response with the Commission. While Chartrand claims to act "on behalf of himself and pro bono on behalf of the people of the State of Kansas,"<sup>13</sup> the Commission notes that he lacks authority to appear on behalf of the people of the State of Kansas.

9. On March 28, 2018, the Prehearing Officer advised Chartrand that he failed to file his response and "that even if your reply had been properly filed on March 2, 2018, the date it was served, it would still be untimely under our rules. Therefore, any filing should be accompanied by a motion to file out of time."<sup>14</sup>

10. On March 30, 2018, Chartrand filed a Motion to File Out of Time, accompanied by his Response to Staff's Report and Recommendation and KCP&L's Response.

11. None of the Parties have filed opposition to Chartrand's Motion to File Out of Time.

12. K.A.R. 82-1-217(b) allows the Commission to extend filing deadlines for good cause. Since the Motion is unopposed, the Commission concludes allowing Chartrand to file out of time will not prejudice any of the Parties. Therefore, the Commission grants Chartrand's Motion to File Out of Time. Accordingly, the Commission treats the Response of Arthur J. Chartrand as timely filed, but makes no findings as to the merits of his Response. Since Chartrand

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<sup>11</sup> Response of Kansas City Power & Light Company to Staff's Report and Recommendation, Feb. 23, 2018, ¶¶ 1-2.

<sup>12</sup> *Id.*, ¶ 3.

<sup>13</sup> Response of Arthur J. Chartrand, Mar. 2, 2018, p. 1.

<sup>14</sup> March 28, 2018 email from Brian G. Fedotin to Arthur D. Chartrand.

lacks statutory authority to appear on behalf of the people of Kansas, his Response is only on behalf of Chartrand personally.

**THEREFORE, THE COMMISSION ORDERS:**

A. Mr. Chartrand's Motion to File Out of Time is granted. The Commission accepts his Response into the record.

B. The parties have 15 days from the date this Order was served plus three days, if by mail to petition for reconsideration.<sup>15</sup>

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner.

Dated: 05/01/2018



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Lynn M. Retz  
Secretary to the Commission

BGF

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<sup>15</sup> K.S.A. 66-118b; K.S.A. 77-529(a)(1).

## CERTIFICATE OF SERVICE

17-KCPE-433-COM

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 05/01/2018.

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/S/ DeeAnn Shupe  
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