

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

In the Matter of KCP&L)	<u>File No. ER-2014-0373</u>
Greater Missouri Operations Company's)	Tariff Tracking No. JE-2014-0566
FAC Tariff Revision)	

**STAFF'S SURRESPONSE TO PUBLIC COUNSEL'S
REPLY TO STAFF'S RESPONSE**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its Surrespnse to Public Counsel's ("OPC") Reply to Staff's Response, respectfully states:

1. OPC's Reply is premised on the mistaken notion that it is unlawful for the Commission to allow any Renewable Energy Standard¹ ("RES") compliance costs (in this case the St. Joseph Landfill gas costs) to flow through an interim rate mechanism other than that provided for by the RES.² Public Counsel's assertion that the Commission has exceeded its authority by permitting RES compliance costs to flow through an interim rate mechanism is not founded in the law. Public Counsel offers no legal support for its assertion because there is none. The plain language of Missouri's RES statute does not prohibit the Commission from allowing the St. Joseph Landfill gas costs to flow through KCP&L Greater Missouri Operations Company's ("GMO") fuel adjustment clause ("FAC"), an interim energy charge.

2. Section 393.1030.2 states in relevant part "*[T]he commission, except where the department is specified, shall make whatever rules are necessary to enforce the renewable energy standard. Such rules shall include.....(4) Provision for recovery*

¹ Section 393.1030 RSMO Supp 2013

² OPC's Reply, paragraphs 1 and 9.

outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.” Nowhere in this statute is it unlawful for the Commission to flow landfill gas costs through the FAC. Nowhere does this statute mandate the Commission to include the St. Joseph Landfill gas costs in a Renewable Energy Standard Rate Adjustment Mechanism (“RESRAM”).

3. Only Commission Rule 4 CSR 240-20.100(6)(A)16, not the statute, prohibits a RES cost from being recovered through an environmental cost recovery mechanism or fuel adjustment clause or interim energy charge. Even so, the rule allows the Commission to grant GMO a waiver of that provision for good cause which the Commission granted in Case No.’s ER-2012-0175 and ER-2013-0341. At that time Public Counsel did not oppose GMO’s waiver, did not file comments on it, and did not request a hearing on the merits of it.

4. As Staff explained in its *Response To Public Counsel’s Reply to the Staff’s Recommendation* filed on August 8th, the result of the waiver was to allow GMO to collect its St. Joseph Landfill gas costs by including them in GMO’s base factor rate of its FAC. Section 386.266.4 expressly limits the Commission to modifying GMO’s base factor rate in a general rate proceeding³.

5. Because the Commission properly granted GMO the waiver in its last general rate case and because the statute only allows the FAC to be modified in a general rate case, the waiver necessarily remains in effect until GMO’s next general

³ 4 CSR 240-20.090(2) flows from Sect. 386.266 RSMo and it prohibits an electric corporation from applying to the Commission to modify its FAC outside of a general rate case proceeding. This rule also provides for any party to challenge an FAC or rate adjustment mechanism in a full hearing in a general rate proceeding.

rate case proceeding when a party may properly challenge the base factor rates of the company's FAC. If the Commission were to do as Public Counsel proposed in this FAC case, the Commission would exceed its authority because it would be in violation of Section 386.266.4.

6. Furthermore, Public Counsel misunderstands how the landfill gas costs are flowed through the FAC. GMO's current FAC contains a set amount of landfill gas costs in its base factor rate as a result of the waiver granted in GMO's last rate case. If GMO under-collects or over-collects its landfill gas costs after those costs are compared to the amount of landfill gas costs⁴ included in the base factor rate, then the under-collected or over-collected amount is charged to or returned to customers through the FAC. In this case GMO over-collected \$521 of which \$495 is to be returned to customers through the FAC over the twelve month period of Recovery Period 14 ("RP 14")⁵.

7. In summary, whether landfill gas costs are to be collected through an FAC or through a RESRAM is a matter that can only be properly addressed in a general rate case proceeding because Section 386.266.4 only allows an FAC to be modified in a general rate proceeding. Because Public Counsel's proposal requires the improper modification of GMO's FAC outside of a general rate case, the Commission should reject Public Counsel's proposal.

⁴ This amount is ** [REDACTED] ** and is contained in Exhibit 1 to the *Staff's Reply to Public Counsel's Reply to Staff's Recommendation* filed on August 8, 2014.

⁵ Under GMO's FAC tariff, 95% of the over-recovered amount is returned to customers due to the risk-sharing mechanism. If GMO should under-recover its landfill gas costs compared to the amount already built into rates, then GMO would collect the under-recovered amount in its FAC. The FAC for RP 14 collects or returns to customers the difference between the amount over- or under-recovered when compared to the amount build into base rates from the last rate case (Case No. ER-2012-0175).

WHEREFORE, the Staff prays the Commission accept its surresponse.

Respectfully submitted,

/s/ Robert S. Berlin

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 21st day of August, 2014.

/s/ Robert S. Berlin