

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

Ag Processing, Inc.,)	
)	
)	
Complainant,)	
)	
v.)	File No. HC-2012-0259
)	
KCP&L Greater Missouri Operations)	
Company,)	
)	
Respondent.)	

**AG PROCESSING INC A COOPERATIVE
MOTION TO COMPEL RESPONSES TO DATA REQUESTS**

COMES NOW AG PROCESSING INC A COOPERATIVE ("AGP") and for its Motion to Compel Responses by KCP&L Greater Missouri Operations Company ("GMO") states as follows:

1. On August 29, 2012 AGP submitted data requests to GMO in this matter.

2. On September 6, 2012 GMO, through its counsel, submitted objections to certain of these data requests. Outstanding are GMO objections to DRS 17, 44, 46 and 48 which AGP would address through this Motion. The individual data requests and GMO's objection letter are attached to this motion.

3. Data Request No. 17 requested the following information:

17. Please provide a copy each and every monthly surveillance report showing the financial condition of the steam business for the monthly periods of January, 2006, through December, 2009.

to which AGP received the following objection:

GMO objects to this data request as calling for information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence because it seeks monthly surveillance financial reports for years that are not at issue in this case.

a. First, GMO misstates the standard for discovery.

It is not whether data requested is not relevant and not reasonably calculated to lead to the discovery of "admissible evidence," rather is whether the data request is reasonably calculated to lead to the discovery of **relevant** evidence.

b. Second, GMO's surveillance reports, among other things, could lead to the discovery of relevant evidence in the potential profitability of its GMO's steam operations.

c. Third, and moreover, this dispute does concern the period 2009, but the dispute runs back to the period beginning in 2006 when the hedges were originally purchased and the framework for dealing with the natural gas hedges arose.

4. AGP Data Request No 44 requested the following information:

Please provide for each customer the Budget and Actual Steam Sales for each year that would correspond to dates and presentation of Schedule TAN-3.

to which AGP received the following objection:

GMO objects to this data request as vague and ambiguous regarding the phrase "correspond to dates and presentation of Schedule TAN-3."

Schedule TAN-3 refers to a schedule that is part of Mr. Nelson's testimony. Mr. Nelson's testimony (which was missing in

the prior case), describes the process that Mr. Nelson went through to calculate the amount of natural gas hedges that were purchased.

a. This is a schedule in Mr. Nelson's testimony and the data request simply asks for substantiation of these calculations.

b. The dates and presentation of Schedule TAN-3 are certainly relevant in that GMO has submitted this schedule as a means of explaining Mr. Nelson's activity in this case.

c. We do not believe that there is anything that is "vague and ambiguous" about this request. It obviously pertains to Mr. Nelson's exhibit. The objection is not well taken and a response should be compelled.

5. AGP Data Request No. 46 requested the following information:

Please explain which budget is used for each year of the TAN-3 schedule.

to which the following objection was received:

GMO objects to this data request as vague and ambiguous.

a. There is nothing vague or ambiguous about this request. The budgets that were used by Mr. Nelson in making his calculations are clearly relevant and were made so by his inclusion of his Schedule TAN-3.

b. Nor is there or could there be any argument about the years that are included in Mr. Nelson's Schedule. That schedule clearly puts in issue the years in TAN-3.

6. AGP Data Request No. 48 requested the following information:

Please provide Mr. Nelson's "budget" of monthly Steam Sales and monthly Steam Volumes for each customer for the years 2005.

to which the following objection was received:

GMO objects to this data request as calling for information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The request seeks information relating to the year 2005 while the complaint in this case only relates to matters occurring in 2009.

a. Setting aside for a moment GMO's misstatement of the scope of discovery that was mentioned with respect to AGP Data Request No. 17, we would grant that GMO has some merit in this objection because it is (or should be) obvious that what AGP is seeking is data with respect to all years that are involved or potentially involved in this matter. That was, however, not explicitly referenced.

b. That said, GMO could have easily picked up the telephone and obtained clarification and, indeed, has objected to other requests as not covering the period that GMO claims are in dispute. We agree that this matter relates to the specific year of 2009, however, 2009 is not a year that is isolated, nor for that matter is 2005. In both cases the context of the dispute requires that GMO respond to the overall scope of this dispute which does stretch back to 2005.

c. If necessary we will resubmit this data request however, it will simply cover the years 2006 through 2009 inclu-

sive and we should not be subject to an objection because it covers years that set the context for this dispute.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

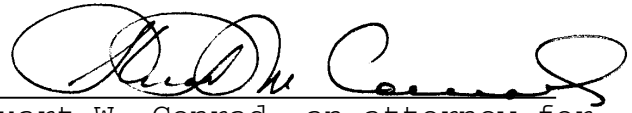
A handwritten signature in black ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

Stuart W. Conrad Mo. Bar #23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR AG PROCESSING INC

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing complaint upon identified representatives of KCP&L Greater Missouri Operations Company and upon representatives of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel by United States Mail, postage prepaid, and by electronic means as an attachment to e-mail, all on the date shown below.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad, an attorney for
Ag Processing Inc a Cooperative

Dated: September 21, 2012

MISSOURI-AMERICAN WATER COMPANY

HC-2012-0259

Data Request
of
Ag Processing Inc a Cooperative
to

KCP&L Greater Missouri Operations Company

August 29, 2012

<u>Item No.</u>	<u>Description</u>
17.	Please provide a copy each and every monthly surveillance report showing the financial condition of the steam business for the monthly periods of January, 2006, through December, 2009.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

MISSOURI-AMERICAN WATER COMPANY

HC-2012-0259

Data Request
of
Ag Processing Inc a Cooperative
to

KCP&L Greater Missouri Operations Company

August 29, 2012

<u>Item No.</u>	<u>Description</u>
44.	Please provide for each customer the Budget and Actual Steam Sales for each year that would correspond to dates and presentation of Schedule TMN-3.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

MISSOURI-AMERICAN WATER COMPANY

HC-2012-0259

Data Request
of
Ag Processing Inc a Cooperative
to

KCP&L Greater Missouri Operations Company

August 29, 2012

<u>Item No.</u>	<u>Description</u>
46.	Please explain which budget is used for each year of the TMN-3 schedule.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

MISSOURI-AMERICAN WATER COMPANY

HC-2012-0259

Data Request
of
Ag Processing Inc a Cooperative
to

KCP&L Greater Missouri Operations Company

August 29, 2012

<u>Item No.</u>	<u>Description</u>
48.	Please provide Mr. Nelson's "budget" of monthly Steam Sales and monthly Steam Volumes for each customer for the years 2005.

The attached or above information provided to the requesting party or parties in response to this data or information request is accurate and complete and contains no material misrepresentations or omissions, based upon present facts to the best of the knowledge, information or belief of the undersigned. The undersigned agrees to immediately inform the requesting party or parties if during the pendency of this case any matters are discovered which would materially affect the accuracy or completeness of the attached information and agrees to regard this as a continuing data request.

As used in this request the term "document" includes publications in any format, work papers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data recordings, transcriptions and printer, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to the party to whom this request is tendered and named above and includes its employees, contractors, agents or others employed by or acting in its behalf.

Signed: _____

Date: _____

September 6, 2012

Mr. Stuart W. Conrad
Finnegan Conrad & Peterson, L.C.
3100 Broadway, Suite 1209
Kansas City, MO 64111

Re: Ag Processing, Inc. Data Requests No. 17-50
Case No. HC-2012-0259

Dear Stu:

KCP&L Greater Missouri Operations Company ("GMO" or "Company") provides the following objections to certain of the above data requests that you served on August 29, 2012.

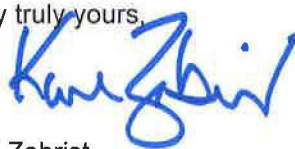
DR No. 17. GMO objects to this data request as calling for information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence because it seeks monthly surveillance financial reports for years that are not at issue in this case.

DR No. 44. GMO objects to this data request as vague and ambiguous regarding the phrase "correspond to dates and presentation of Schedule TMN-3."

DR No. 46. GMO objects to this data request as vague and ambiguous.

DR No. 48. GMO objects to this data request as calling for information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. The request seeks information relating to the year 2005 while the complaint in this case only relates to matters occurring in 2009.

Very truly yours,



Karl Zobrist

KZ/cjn

cc: Mr. Roger W. Steiner