

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

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for)
Approval to Make Certain Changes in its Charges) Case No. ER-2010-0356
For Electric Service)

OBJECTION TO GMO FAC TARIFFS

COME NOW the Office of the Public Counsel, Ag Processing, Inc. a cooperative, and the Sedalia Industrial Energy Users’ Association by and through undersigned counsel, and for their Objection to the FAC Compliance Tariffs filed by KCP&L Greater Missouri Operations (“GMO”) respectfully state as follows:

1. On May 16, 2011, GMO filed its substitute tariff sheets implementing its modified fuel adjustment clause. While carrying a June 15, 2011 effective date, GMO asks that the FAC tariff sheets become effective on an expedited basis. Specifically, in its Motion for Expedited Treatment, GMO requests an effective date of June 4, 2011. Indeed, the FAC tariff sheets themselves proclaim that they are applicable to service provided on an after June 4, 2011.

2. Section 386.266.4(2) expressly provides that all amounts collected under a fuel adjustment clause shall be subjected to an annual true-up. In order to implement this requirement, the Commission has promulgated 4 CSR 240-3.161(1)(G). This definition provides as follows:

True-up year means the twelve (12) month period ***beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM*** unless the effective date is on the first day of the calendar month.

The rationale for this rule is founded in the fact that utilities keep financial books on a monthly, not daily, basis. Given the lack of daily financial information, it is impossible for the Commission to meet the requirement contained in Section 386.266.4(2) and conduct an accurate true-up of any adjustment clause that commences on a day other than that first day of a month. Instead, any true-up would be, at best, an approximation. Therefore, the practical effect of the Commission's true-up year definition and the statutory requirement that the Commission conduct a true-up is that any fuel adjustment clause must commence on the first day of a calendar month.

3. These requirements all lead to the inevitable conclusion that GMO's new fuel adjustment clause cannot legally commence on June 4, 2011. Instead, in order to provide the accurate true-up required by the statute, GMO's fuel adjustment clause must begin on the first day of the month. Therefore, unless the Commission's order approving the FAC tariffs is effective on or before June 1, 2011, the true-up year must begin on July 1, 2011. Importantly, Staff has recently conceded this issue. During cross-examination on this very point at the evidentiary hearing in Case No. EO-2008-0216, Staff Witness Loos conceded this very point.

4. Consider the legal and practical implications of GMO's request to have its FAC tariff become effective on June 4, 2011. Effectively, GMO is asking that the Commission conduct a true-up audit for the first three days of the month under the terms and rates of its previous fuel adjustment. Then, the remaining 27 days of June would be true-up under the terms and rates of a different fuel adjustment clause. Given the lack of daily financial information, it would be impossible to conduct an accurate true-up of

either portion of the month. Instead, both true-up periods would be tainted by approximations instead of the accurate true-up envisioned by the statute.

5. For this reason, the OPC and the Industrial Intervenors request that, while approving the rate schedules for a different date, the Commission make the FAC tariffs effective on July 1, 2011. Only by making the tariffs effective on such a date may the Commission give meaning to both: (1) the requirement that all FAC revenues be subjected to true-up and (2) that a true-up commence on the first day of a calendar month.

6. Even if delayed until July 1, 2011, it is important to recognize that GMO will still be protected from fluctuations in fuel and purchased power expense through the existence of the current fuel adjustment clause. That FAC will continue to exist until replaced by the Commission. Therefore, under this proposal, that FAC will continue until replaced on July 1, 2011.

WHEREFORE, OPC and the Industrial Intervenors respectfully request that the Commission reject GMO's request to make its FAC tariffs effective for service on June 4, 2011 and instead make those tariffs effective either on June 1, 2011 or July 1, 2011.

Respectfully submitted,

AG PROCESSING INC. AND THE
SEDALIA INDUSTRIAL ENERGY
USERS' ASSOCIATION

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



David L. Woodsmall

Dated: May 20, 2011