

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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

## ORDER STAYING CASE AND HOLDING CASE IN ABEYANCE

Issue Date: September 25, 2012

Effective Date: September 25, 2012

On September 4, 2012, KCP&L Greater Missouri Operations Company ("GMO") filed a motion for a stay of this matter. In its motion, GMO asserts that Ag Processing's first complaint case, File Number HC-2010-0235, related to the hedging practices of GMO's predecessor Aquila, Inc. that occurred in 2006 and 2007 is currently before the Missouri Court of Appeals for the Western District.<sup>1</sup> GMO states there are a number of issues pending in the appeal that will have direct implications for this proceeding, including whether the burden of proof was properly applied and if damages were properly calculated. GMO maintains that the decisions by the Court of Appeals on these and other issues related to 2006-07 hedging issues will govern not only that first steam complaint, which could be remanded to the Commission for further proceedings, but also this second complaint case related to 2009 hedging issues. Consequently, GMO seeks a stay of this case until such time as the Court of Appeals issues its decision. No party responded to GMO's motion or opposed it.

The Commission agrees, there are identical issues in the current matter that could be affected by the Court of Appeals' decision. Once the Court of Appeals issues its decision, the

parties, and the Commission, will be able to better assess the legal and factual issues in both steam complaint cases. Consequently, the Commission will grant GMO's motion for a stay and hold this matter in abeyance until such time as the Court of Appeals renders its decision.

**THE COMMISSION ORDERS THAT:**

1. KCP&L Greater Missouri Operations Company's motion for a stay is granted.
2. The procedural schedule is suspended.
3. This matter shall be held in abeyance until such time as the Missouri Court of Appeals for the Western District issues the mandate for its decision in the appeal of File Number HC-2010-0235.
4. KCP&L Greater Missouri Operations Company shall file a copy of the Missouri Court of Appeals' decision in the appeal of File Number HC-2010-0235 as soon as possible following its issuance.
5. KCP&L Greater Missouri Operations Company shall file a copy of the Missouri Court of Appeals' mandate, when it is issued in the appeal of File Number HC-2010-0235 as soon as possible following its issuance.
6. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Harold Stearley, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 25<sup>th</sup> day of September, 2012.

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<sup>1</sup> Oral argument was on September 19, 2012. The case is now submitted to the Court of Appeals for decision.