

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

Midwest Energy Consumers Group,)	
)	
Complainant,)	
)	Case No. EC-2017-0107
v.)	
)	
Great Plains Energy Incorporated,)	
)	
Respondent.)	

**GREAT PLAINS ENERGY INCORPORATED’S
REPLY TO STAFF’S RECOMMENDATION**

Great Plains Energy Incorporated (“GPE” or “Company”) states the following in reply to the Staff’s Recommendation filed on November 22, 2016:

1. On November 22, 2016, Staff recommended that “the Commission take up and approve the **Staff Stipulation** and the **OPC Stipulation** [filed in Case No. EE-2017-0113] in order to preserve the negotiated conditions and concessions contained therein.” (Staff Recommendation, p. 7). GPE wholeheartedly agrees with Staff that this portion of the Staff Recommendation should be approved by the Commission—i.e., the Commission should expeditiously approve the Staff Stipulation and the OPC Stipulation in Case No. EE-2017-0113.

2. Staff made the additional recommendation that “if the Commission determines after hearing that GPE violated § 393.190., RSMo., and/or the **First Amended Stipulation and Agreement** and the Commission’s order approving it, Staff recommends that there be no penalties.” (Staff Recommendation, p. 7 (*footnote omitted*)). GPE has already explained in numerous pleadings in this case¹ and in Case No. EM-2016-0324² that it has not violated §

¹ See Answer To First Amended Complaint And Affirmative Defenses Of Great Plains Energy Incorporated, and Supplemental Motion To Dismiss Of Great Plains Energy Incorporated And Suggestions In Support (both filed 12/2/2016); Answer and Affirmative Defenses of Great Plains Energy Incorporated, and Motion To Dismiss of Great Plains Energy Incorporated and Suggestions In Support, Case No. EC-2017-0107 (both filed 10/31/2016).

393.190 or the First Amended Stipulation and Agreement in Case No. EM-2011-464 (“First Amended Stipulation”). Rather than repeating these lengthy pleadings, GPE incorporates herein by reference the pleadings cited in footnotes 1 and 2. Since there has been no violations of § 393.190 or the First Amended Stipulation and Agreement, there is no basis for penalties, and the First Amended Complaint filed by MECG in this matter should be dismissed.

3. With respect to Staff’s novel theory that the word “controlling” in § 386.250(1) gives the Commission jurisdiction over holding companies, Staff candidly conceded that “Staff’s theory requires recognition of a basis for regulation that has gone unnoticed for over a hundred years and which the Commission itself has, in past cases, denied.” (Staff Recommendation, p. 6). GPE has already addressed this argument in its *Response of Great Plains Energy Incorporated to Staff’s Investigation Report* in Case No. EM-2016-0324, pp. 20-26 (filed 8/1/2016). The Commission should maintain its long-standing interpretation of its jurisdiction and statutory authority over the mergers and acquisitions of non-Missouri companies by parent holding companies, and find that GPE has not violated any statutory provisions or the 2001 Stipulation in Case No. EM-2001-464.

4. In summary, there is no legal basis for the Commission to exercise jurisdiction over GPE’s acquisition of Westar Energy. Similarly, there are no facts that support the MECG’s Complaint regarding this acquisition. Had the 2001 Stipulation been intended to extend the Commission’s jurisdiction in an extraterritorial fashion, it would have been clear. In any event, such an agreement cannot give this Commission jurisdiction which it does not have under

² Great Plains Energy Incorporated’s Verified Opposition to Staff’s Motion To Open Investigation and Request for Order Declining Jurisdiction (6/2/2016); Response of Great Plains Energy Incorporated’s Reply to Public Counsel and Staff’s Response (6/7/2016); Great Plains Energy Incorporated’s Verified Motion For Reconsideration (6/13/2016); Great Plains Energy Incorporated’s Reply to Staff Response to Verified Motion For Reconsideration (6/15/2016); Supplement to Great Plains Energy Incorporated June 15, 2016 Reply to Staff’s Response to Verified Motion For Reconsideration (6-21-2016); and Response of Great Plains Energy Incorporated to Staff’s Investigation Report (8/1/2016)(all filed in Case No. EM-2016-0324).

Missouri statutes. See Livingston Manor, Inc. v. Dep't of Soc. Serv., 809 S.W.2d 153, 156 (Mo. App. W.D. 1991). “As a basic tenet of administrative law, an administrative agency has only such jurisdiction that may be granted by the legislature.” Tetzner v. Dep't of Social Services, 446 S.W.3d 689, 692 (Mo. App. W.D. 2014) (*citations omitted*).

WHEREFORE, Great Plains Energy Incorporated requests that the Commission accept its Reply to the Staff Recommendation, approve the Staff Stipulation and OPC Stipulation in Case No. EE-2017-0113, and dismiss the Complaint filed by MECG.

Respectfully submitted,

/s/ Robert J. Hack

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on all counsel of record this 2nd day of December, 2016.

/s/ Robert J. Hack

Attorney for Great Plains Energy Incorporated