

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

Melanie and James Coney, )

Complainants, )

v. )

File No. EC-2015-0185

KCP&L Greater Missouri Operations  
Company, )

Respondent. )

**ANSWER AND MOTION TO DISMISS OF  
KCP&L GREATER MISSOURI OPERATIONS COMPANY**

COMES NOW KCP&L Greater Missouri Operations Company (“GMO” or “Respondent”) and hereby submits its answer and its Motion to Dismiss to the Missouri Public Service Commission (“Commission”) in response to Melanie and James Coney (“Complainants”) complaint in this proceeding.

In support, GMO states as follows:

**BACKGROUND**

1. Complainants reside at 504 NW Magnolia Circle, Grain Valley, Missouri 64029. Complainants’ residence is in GMO service territory.

2. Complainants submitted via mail an incomplete net metering application to Kansas City Power & Light Company prior to June 27, 2014.

3. On June 27, 2014 Ms. Coney was advised that her application was rejected because it did not include designs and specification sheets.

4. On July 2, 2014 Complainants submitted a KCP&L net metering application. Upon review, it was discovered Complainants completed a KCP&L net metering application rather than the appropriate GMO net metering application based on their address. A Company

representative contacted Complainants on July 3, 2014 to advise them that they would need to complete the correct GMO net metering application and emailed the form to them.

5. On July 3, 2014 a Company representative contacted the solar installer via email (Robert Lagos, American Home Services) to advise that Complainants would not be eligible for a solar rebate. See Exhibit A (HC).

6. On July 21, 2014 Complainants submitted to GMO via email a net metering and rebate application.

7. On July 22, 2014 a Company representative advised both Complainants and their solar installer that the net metering application was deficient. See Exhibit B (HC).

8. On August 18, 2014 Complainants submitted a revised GMO net metering application. A copy of the email and application are attached as Exhibit C (HC). As part of the application, Complainants and their solar installer acknowledged that the solar rebate program has a limited budget and that the application for solar rebate will be accepted on a first come, first served basis, while funds are available.

9. On August 25, 2014, GMO sent notice to Complainants indicating that it would not be able to provide a solar rebate offer due to the fact that GMO had already committed solar rebate funds equal to the \$50 million cap. The notice indicated that Complainants' application would remain in the queue in the event funds became available. A copy of the denial notice is attached as Exhibit D (HC).

10. After the August 25, 2014 notice, Complainants canceled their August 18, 2014 application and resubmitted their application. The new application has been rejected due to incomplete information. GMO also sent Complainants another notice similar to Exhibit D (HC) dated November 10, 2014.

11. Complainants filed a formal complaint with the Commission on February 6, 2015 initiating the above-captioned proceeding.

12. The Commission issued its Notice of Contested Case and Order Directing Filing on February 6, 2015. Pursuant to that Notice, GMO's answer is due March 9, 2015.

### **ANSWER**

1. GMO admits the allegations in paragraph 1 of the complaint.

2. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 1.

3. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 2.

4. GMO admits that American Home Services contacted GMO on two occasions and denies all other allegations in paragraph 2, sentence 3.

5. GMO denies the allegations in paragraph 2, sentence 4.

6. GMO denies the allegations in paragraph 2, sentence 5.

7. GMO denies the allegations in paragraph 2, sentence 6.

8. GMO denies the allegations in paragraph 2, sentence 7.

9. GMO denies the allegations in paragraph 2, sentence 8.

10. GMO admits that Complainants were advised that they would not receive a rebate because rebates for the GMO area were exhausted and denies all other allegations in paragraph 2, sentence 9.

11. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 10.

12. GMO admits that Complainants filed applications on multiple occasions and denies all other allegations in paragraph 3, sentence 1.

13. GMO admits that Complainants' applications were deficient and denies all other allegations in paragraph 3, sentence 2.

14. GMO admits that it informed Complainants that their applications were deficient and denies all other allegations in paragraph 3, sentence 3.

15. GMO denies the allegations in paragraph 3, sentence 4.

16. GMO admits that Complainants were informed they would not receive a rebate and denies all other allegations in paragraph 3, sentence 5.

17. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 3, sentence 6.

18. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 3, sentence 7.

19. GMO denies all allegations in the WHEREFORE clause of the complaint.

20. Except as expressly admitted in this Answer, GMO denies each and every other allegation contained in the complaint. Additionally, Respondent reserves the right to supplement this pleading to add additional defenses and claims in connection with this complaint.

#### **AFFIRMATIVE DEFENSES**

21. The complaint fails to state a claim upon which relief can be granted.

22. GMO has acted in accordance with its tariffs and the Missouri Code of State Regulations.

#### **MOTION TO DISMISS**

23. The Commission's rules provide that "The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted." 4 CSR 240-2.070(6). When evaluating such a motion "the petition is reviewed in an almost academic manner, to determine if the facts alleged meet the elements of a

recognized cause of action, or of a cause that might be adopted in that case.”<sup>1</sup> In other words, the Commission should ask, assuming the allegations are true, whether the complainant would have a right to the relief he seeks. Under this standard, the complaint must fail. Even if each fact Complainants allege were accurate, they are not entitled to the relief they seek from the Commission.

24. GMO Tariff Sheet No. R-62.19, states in part:

The Company will pay solar rebates for all valid applications received by the Company by November 15, 2013 at 10 AM CST, which are preapproved by the Company and which result in the installation and operation of a Solar Electric System pursuant to the Company’s rules and tariffs. Applications received after November 15, 2013 at 10 AM CST may receive a solar rebate payment if the total amount of solar rebates paid by the Company for those applications received on or before November 15, 2013 at 10 AM CST are less than \$50,000,000.

Complainant’s solar net metering and rebate application was received by the Company on August 18, 2014 (see Exhibit C (HC), attached hereto). In File No. ET-2014-0277, which approved the above tariff, the Commission ordered GMO to file a notice, including supporting documentation, when it reached the \$50 million rebate payment limit. GMO filed such notice on July 1, 2014. Therefore, under the terms of GMO’s tariff, Complainants were not entitled to receive a solar rebate since the \$50 million cap has been met. The Complainants have not established that they are entitled to a rebate under GMO’s tariffs and therefore, the complaint should be dismissed with prejudice.

WHEREFORE, having fully answered and set forth its affirmative defenses, Respondent GMO prays the Commission dismiss the complaint with prejudice and grant such other relief as the Commission deems reasonable and just.

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<sup>1</sup> *Richardson v. Richardson*, 218 S.W. 3d. 426, 428 (Mo. 2007).

Respectfully submitted,

/s/ Roger W. Steiner

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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties of record on this 9<sup>th</sup> day of March, 2015.

/s/ Roger W. Steiner

Attorney for KCP&L Greater Missouri Operations Company