BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the KCP&L Greater Missouri Operations Company's Request for Authority to Implement A General Rate Increase for Electric Service	))))	Case No. ER-2012-0175

STATEMENT OF POSITION OF
MIDWEST ENERGY CONSUMER'S GROUP

COMES NOW the Midwest Energy Consumer's Group, pursuant to the Commission's April 26, 2012 Order Consolidating Cases for Hearing and Setting Procedural Schedule and Amending Notice of Hearing, and provides the following Statement of Positions MECG provides this Statement of Positions for issues on which it filed testimony or has already formed a position. MECG reserves the right to cross-examine, provide evidence or file briefs on additional issues.

Table of Contents

Payroll (Non-Wolf Creek Overtime):

ISSUE: Payroll: What amount should be included in cost of service for overtime?

Position: The level of non-Wolf Creek overtime has declined since the end of the test year. As such, the use of a multi-year average, such as that proposed by GMO, will result in overstating the amount of GMO overtime. MECG recommends that the Commission disallow any proposed increase in the actual level of overtime experienced during the test year.

Witness: Greg Meyer

Testimony: Meyer Direct, page 18; Surrebuttal, pages 14-15.

Fuel and Purchased Power Expense:

ISSUE: What is the equivalent forced outage rate for Iatan 2?

Position: GMO's equivalent forced outage rate for Iatan 2 is unnecessarily high. This understates the generating unit's historical availability when not down for scheduled outages. MECG recommends using an Iatan 2 equivalent forced outage rate of 5.5%, as compared to GMO's unreasonably high 10.5%. In its rebuttal testimony, GMO admits that the Iatan 2 equivalent forced outage rate "needs to be reduced." (Crawford Rebuttal, page 11). Rather than make such correction immediately, however, GMO chose to wait until true-up direct. Therefore, given the rate included in GMO's true-up direct, this may still be an issue.

Witness: Nicholas Phillips

Testimony: Phillips Direct, pages 8-9.

Bad Debt Expense:

ISSUE: Should bad debt expense and forfeited discount revenue included in rates in this case include a provision for the respective impacts resulting from the revenue increase in this case?

Position: The incurrence of any bad debt cost resulting from the rate increase in this case will not be realized until approximately 22 months after the true-up date in this case. Given GMO's plans for its next case, any increased bad debt expense will be in the test year of GMO's next rate case.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 14-15; Surrebuttal, pages 10-11.

ISSUE: How should normalized bad debt expense be determined?

Position: GMO's proposed bad debt write-off factor is significantly greater than any level that it has experienced in the last four years. Given its inflated nature, the GMO bad debt write off factor should be rejected. Instead, given recent fluctuations in the write-off factor, the Commission should utilize a weighted four-year average bad debt factor for write-offs through June 30, 2011.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 12-14; Surrebuttal, pages 9-10.

Transmission Tracker:

ISSUE: Should the Commission implement a tracker mechanism for transmission costs that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. In *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41 (1979), the Missouri Supreme Court stated that:

> The utilities take the risk that rates filed by them will be inadequate, or excessive, each time they seek rate approval. To permit them to collect additional amounts simply because they had additional past expenses . . . is retroactive rate making. . . . Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses, but under the prospective language of the statutes, §§ 393.270(3) and 393.140(5) they cannot be used to set future rates to recover for past losses due to imperfect matching of rates with expenses. *Id.* at page 59.

The GMO transmission tracker is unlawful in that it seeks to retroactively charge ratepayers "additional amounts simply because [GMO] had additional past expenses."

Furthermore, tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Specifically, the Commission will not be able to consider whether other cost of service items have decreased or other revenue items have increased in such a manner as to offset the alleged increase in transmission expense. Additionally, because the tracker virtually guarantees recovery of the entirety of a specific cost item, the utility has no incentive to minimize the level of cost incurred. When a utility is allowed to track an expense, it can become indifferent with regard to minimizing that expense.

Finally, GMO's transmission expenses have not been shown to meet the criteria for the extraordinary treatment of a tracker mechanism. Specifically, GMO's transmission expenses: (1)

are not volatile, (2) are not large enough to pose a threat to GMO's financial condition, and (3) are capable of being reasonably managed by the utility.

Witness: Jim Dauphinais

Testimony: Dauphinais Direct, pages 5-9; Surrebuttal, pages 2-4.

ISSUE: What is the appropriate level of transmission revenues?

Position: According to the testimony of Company witness Weisensee, the R-80 transmission revenue adjustment is necessary to ensure the return on equity ("ROE") included in retail rates is not less than authorized by the Commission (Weisensee Direct at 30-31). It appears that GMO is removing from the revenue credits applied against its gross revenue requirement the additional return it receives for FERC-jurisdictional transmission revenues that is derived from non-GMO sources at the FERC-authorized ROE of 11.1% versus the Company's proposed Commission jurisdictional ROE of 10.4%. In effect, the Company is proposing to be allowed to keep any return it earns for its transmission investment under FERC-jurisdictional transmission rates in excess of what it would have earned if that return was instead at the level authorized by the Commission.

The Company's proposal should be denied because its retail customers are ultimately responsible for supporting the revenue requirement of the Company's transmission facilities and, as such, should be entitled to all FERC-jurisdictional transmission revenues the Company is able to earn as an offset against the Company's transmission revenue requirement. The Company's proposal would be akin to allowing the Company to retain the difference between its non-firm off-system energy revenues received at market prices and the Company's fuel cost to produce that energy. The proposal should be denied.

Witness: Jim Dauphinais

Testimony: Dauphinais Direct, pages

Property Tax Tracker

ISSUE: Should the Commission implement a tracker mechanism for property taxes that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. In *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41 (1979), the Missouri Supreme Court stated that:

> The utilities take the risk that rates filed by them will be inadequate, or excessive, each time they seek rate approval. To permit them to collect additional amounts simply because they had additional past expenses not covered by either clause is retroactive rate making. . . . Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses, but under the prospective language of the statutes, §§ 393.270(3) and 393.140(5) they cannot be used to set future rates to recover for past losses due to imperfect matching of rates with expenses. *Id.* at page 59.

The GMO property tax tracker is unlawful in that it seeks to retroactively charge ratepayers "additional amounts simply because [GMO] had additional past expenses."

Furthermore, tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Specifically, the Commission will not be able to consider whether other cost of service items have decreased or other revenue items have increased in such a manner as to offset the alleged increase in property taxes.

Finally, given the 12 month delay between when property is assessed (January 1) and the date that the tax is due, GMO is able to time its rate cases to reflect any increase in property tax expense.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 15-17; Surrebuttal, pages 12-14.

RES and RES Tracker

ISSUE: Should RES Costs be included in GMO's revenue requirement?

Position: In November 2008, Missouri voters approved Proposition C mandating renewable energy standards ("RES"). In June 2010, the Commission promulgated 4 CSR 240-20.100 designed to implement Proposition C and addressing recovery of costs associated with RES. That rule provides for **two** recovery methods: (1) deferral of costs with subsequent recovery including carrying costs or (2) the implementation of a Renewable Energy Standard Regulatory Accounting Mechanism (RESRAM). Noticeably, however, without a RESRAM, the rule does not provide for the inclusion of a certain level of RES costs to be included in rates on a going forward basis. Therefore, the Commission should not include an ongoing level of RES costs in GMO's revenue requirement. Instead, recognizing that GMO has not requested a RESRAM, GMO should be required to continue to defer these RES costs, with carrying costs, for later amortization.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 5-6; Surrebuttal, page 4.

ISSUE: Should RES costs KCPL and GMO incurred from 2010 through 2012 that exceed the level of RES costs included in cost of service be given rate base treatment, i.e., should they not only get a return of those costs, but also a return on them?

Position: GMO should be allowed to include the unamortized balance in rate base.

Witness: Greg Meyer

Testimony: Meyer Direct, page 7; Surrebuttal, page 3.

ISSUE: What amortization period should be used to determine the annual level to include in KCPL's and GMO's revenue requirements for recovery of the RES costs KCPL and GMO incurred from 2010 through 2012 that exceed the level of RES costs used in the revenue requirements upon which their current permanent rates are based?

Position: To date, most of the RES costs incurred by GMO relate to solar rebates. In order to qualify for such rebates, solar electric systems must remain operational for 10 years. Recognizing that the benefits of the solar rebates will be 10 years, the solar rebate costs should be amortized over a similar time period. In an effort to be conservative, MECG recommends that the Commission amortize such costs over 6 years. This matches the amortization period for deferred energy efficiency costs.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 7-8; Surrebuttal, page 4.

ISSUE: Should the Commission implement a tracker mechanism for RES costs that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. Tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Furthermore, the Commission rule does not provide for implementation of a tracker as one of the recovery mechanisms.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 8-9; Surrebuttal, pages 5-6.

Organizational Realignment and Voluntary Separation

ISSUE: Have KCPL and GMO recovered in rates at a minimum the dollar amount severance costs related to the ORVS Program employees who left the employ of KCPL in March 2011?

Position: Yes. In March 2011, shortly after the December 31, 2010 true-up date in its last case, GMO announced its Organization Realignment and Voluntary Separation Program ("ORVS"). In order to maintain a proper matching of expenses, revenues and rate base, no party proposed to reduce payroll to reflect the reduced level of employees. Instead, payroll expense was included in rates at the inflated pre-ORVS levels. Therefore, GMO realized an immediate windfall associated with its decision to delay the ORVS program until after the true-up date. This windfall will continue until rates are established in this case reflecting the reduced employee levels after ORVS. GMO shareholders will retain the entirety of its share of the $35.4 million windfall. Recognizing that the cost of implementing the ORVS program was $12.7 million, GMO has already fully recovered its portion of these costs and retained its share of the excess profits of $22.7 million.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 9-11; Surrebuttal, pages 6-8

ISSUE: Should the annual amount based on a five-year amortization of the severance and related costs associated with KCPL's ORVS Program be included in revenue requirement?

Position: No. As indicated, GMO has already completely recovered the costs associated with implementing the ORVS program through its retained savings. Through its proposal, GMO seeks to separate the costs of the ORVS program from the benefits of that program. The MECG proposal maintains the proper matching of costs with benefits.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 9-11; Surrebuttal, pages 6-8.

Crossroads

ISSUE: What should be the value of Crossroads included in rate base?

Position: In Case No. ER-2010-0356, the Commission addressed the appropriate value for Crossroads. In its Report and Order in that case, the Commission found that the Crossroads valuation had three distinct components. ***First***, the value of Crossroads was based upon the proxy sale of identical combustion turbines by Aquila Merchant to Union Electric Company. The sale of the Raccoon Creek and Goose Creek turbines demonstrate a value $205.88 / installed kW. Recognizing that Crossroads consists of 300 MWs, one component of the value of Crossroads is the proxy sale at $61.8 million. ***Second***, the Commission held that GPE's purchase of Aquila would necessarily have included due diligence regarding the total accumulated deferred taxes associated with the Crossroads unit. For this reason, the total accumulated deferred taxes as an offset to rate base is the second component of the value of Crossroads. ***Third***, the Commission held that, since Crossroads is not contiguously located in SPP with the MPS service area and must incur expenses to transmit energy to MPS, any transmission expenses should be disallowed. In making this decision, the Commission noted that the proxy sale of Raccoon Creek and Goose Creek involved the sale of combustion turbines to Union Electric involved a generating facility in the same RTO as the service area and no transmission expenses were necessary to transmit power to the service area. In order to place the proxy sale on an apples-to-apples basis, the Commission disallowed any transmission expenses as the third component of its valuation. (Meyer Surrebuttal, pages 15-20).

In this case, MECG asserts that the Commission should maintain its valuation methodology from the last case. All three valuation components form a critical whole of the valuation of Crossroads and serve to protect ratepayers from harm associated with the transfer of

this generating asset from a non-regulated entity to its regulated affiliate. In the event that the Commission reconsiders any component of its prior valuation, MECG maintains that the Commission should reduce the value of Crossroads to $51.6 million. As set forth in SEC filings made at the time of the purchase of Aquila, this is the fair market value placed on Crossroads by Great Plains Energy at the time it acquired Aquila. The Commission's affiliate transaction rule states that the purchase of goods or services from an affiliate shall be at the lesser of (a) fair market price; or (b) the fully distributed cost. $51.6 million is the fair market cost of Crossroads as evidenced by Great Plains Energy's SEC filings.

ISSUE: What amount of accumulated deferred taxes associated with Crossroads should offset the value of Crossroads in rate base?

Position: As indicated in the response to the previous issue, the Commission's valuation of Crossroads in Case No. ER-2010-0356 included recognition of all accumulated deferred taxes. This was one of three critical components of the Commission's valuation package.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 17-19; Surrebuttal, pages 15-20.

ISSUE: What transmission costs for energy from Crossroads should be included in revenue requirement?

Position: The Commission's valuation of Crossroads in Case No. ER-2010-0356 excluded any expenses associated with transmitting the Crossroads energy from Mississippi to Missouri. The Commission's primary valuation of Crossroads was based upon the proxy sale by Aquila Merchant of Raccoon Creek and Goose Creek to Union Electric. Because Raccoon Creek and

Goose Creek were located in the same RTO as the UE service area, there were no additional transmission expenses associated with transmitting the energy to the service area. In contrast, while Crossroads is in SPP, it is not contiguous with the remainder of SPP. As such, the transmission of energy from Crossroads to the MPS service area involves additional expense in transmitting across the Entergy service area. In order to place the Crossroads sale on an apples-to-apples basis with the proxy sale of Raccoon Creek and Goose Creek, the Commission disallowed all transmission expenses.

It is critical to note that the Commission's disallowance of transmission expense was not an effort to intrude on the ratemaking jurisdiction of FERC. Rather, the Commission's disallowance was an exercise of its jurisdiction to establish the appropriate valuation of a Missouri regulated generating facility. In this case, it was not prudent of GMO to purchase a generating facility that was located in Mississippi. In order to protect ratepayers, the Commission disallowed all transmission expenses as part of its valuation authority.

St. Joseph Infrastructure

ISSUE: Should the Commission authorize construction accounting for GMO's proposed St. Joseph infrastructure program?

Position: No. GMO's proposed construction accounting for the replacement of certain St. Joseph distribution facilities is a one-sided proposition. As GMO readily admits, the replacement program is designed to replace the worst performing portions of the St. Joseph distribution system. Once replaced, it is unquestioned that these new facilities will provide an increased level of reliability for its customers. Nevertheless, GMO has failed to account for the increased revenues that will necessarily accompany the increased reliability provided to the affected customers. Additionally, GMO has failed to reduce its proposal to account for the decreased maintenance expense that will accompany the replacement of these worst performing distribution facilities. Finally, the capital costs associated with this project are very small and immaterial to GMO's overall financial picture. Certainly, it does not warrant the extraordinary step of construction accounting that only recently has been granted to large construction projects like the construction of Iatan 2.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 20-23; S, pages 20-23.

Rate Design / Class Cost of Service Issues

ISSUE: How should the class cost of service studies be relied on for determining shifts in customer class revenue responsibilities that are revenue neutral on an overall company basis?

i. What methodology should be used to allocate demand-related (fixed) production costs in KCPL's class cost-of-service study?

Position: The Average and Excess methodology proposed by Industrial Witness Brubaker is clearly superior to the other methodologies proposed in this case. Under this superior methodology, consideration is given to both the maximum rate of use (demand) and the duration of use (energy). When looking at the system peak then, each customer class' average demand (the total kWh usage divided by the total number of hours in the year) is allocated on the basis of energy. The difference between the system peak and the system average demand is then allocated to the classes on the basis of their variability in usage.

As Mr. Brubaker points out, his Average & Excess methodology is consistent with recent Commission decisions on this issue. As the Commission recently held in the AmerenUE Report and Order, the Average and Excess method proposed by Brubaker is superior to the other class cost of service methodologies.

> Some customer classes, such as large industrials, may run factories at a constant rate, 24 hours a day, 7 days a week. Therefore, their usage of electricity does not vary significantly by hour or by season. Thus, while they use a lot of electricity, that usage does not cause demand on the system to hit peaks for which the utility must build or acquire additional capacity. Another customer class, for example, the residential class, will contribute to the average amount of electricity used on the system, but it will also contribute a great deal to the peaks on system usage, as residential usage will tend to vary a great deal from season to season, day to day, and hour to hour.
>
> To recognize that pattern of usage, the Average and Excess method separately allocates energy cost based on the average usage of the system by the various customer classes. It then allocates the excess of the system peaks to the various customer classes by a measure of that class' contribution to the peak. In other

> words, the average and excess costs are each allocated to the customer classes once.
>
> **Since the class cost of service studies offered by Staff and Public Counsel are unreliable, the Commission must choose between the Average and Excess method studies submitted by AmerenUE and MIEC.** [Emphasis added.] (Report and Order, Case No. ER-2010-0036, May 28, 2010, pp. 84-86)

In contrast, the Commission recognized that the methodologies that are heavily dependent on energy usage for the allocation of generation costs, including that advocated by GMO, are inherently unreliable.

> As a first step, the Commission will discard the Staff and Public Counsel studies that utilize a Peak and Average Demand production demand allocation method. … The Peak and Average demand method double counts the average demand of the customer classes. (Report and Order, Case No. ER-2010-0036, May 28, 2010, p. 84)

As Mr. Brubaker further explains, the class cost of service methodology advocated by GMO witness Normand is similar with those methodologies previously rejected by this Commission. (Brubaker Rebuttal, pages 3-6). While he has been advocating the Base, Intermediate, Peak ("BIP") methodology for over 30 years, Mr. Normand has only been able to reference one case where it has been adopted. As Mr. Brubaker notes, "[t]he BIP method is certainly not among the frequently used mainstream cost allocation methodologies, and lacks precedent for its use." (Brubaker Rebuttal, page 4).

As Mr. Brubaker continues to point out, the primary flaw in the BIP methodology is that is attempts to allocate baseload plant costs and transmission costs on the basis of a measure of class energy usage. This allocation methodology fails to recognize the obvious capacity value of these plants. It is unquestioned that utility planners make decisions based upon the peak demand (capacity) placed on the system. (Brubaker Rebuttal, pages 3-6).

For all these reasons, the Commission should continue to recognize the logic expressed in its recent AmerenUE decision and again adopt the results of the Average & Excess methodology for allocating generation and transmission costs between the classes.

ISSUE: What methodology should be used in the CCOS to allocate OSS margins?

Position: Off-system sales margins should be allocated between the customer classes in the same manner that it is allocated between the various KCPL jurisdictions. In several recent decisions, the Commission has held that off-system sales margins should be allocated on the basis of the energy allocator.

Witness: Maurice Brubaker

Testimony: Brubaker Direct, pages 23-24; Rebuttal, pages 6-7.

ISSUE: How should any rate increase be allocated among the various customer classes?

Position: The A&E methodology used in conjunction with the allocation of off-system sales based upon relative energy usage results in the following revenue neutral class allocations.

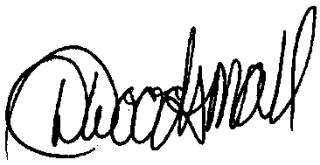
	MPS	L&P
Residential	5.6% Increase	10.0% Increase
Small General Service	8.5% Decrease	10.2% Decrease
Large General Service	5.3% Decrease	7.7% Decrease
Large Power Service	6.0% Decrease	5.5% Decrease
Total Lighting	9.7% Decrease	21.0% Decrease

For several reasons, Mr. Brubaker recommends that the Commission move each class 25% of the way toward cost of service.

Witness: Maurice Brubaker

Testimony: Brubaker Direct, pages 26- 28 and Schedule MEB-COS-5 and 6.

Respectfully submitted,



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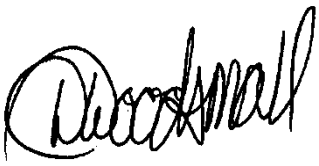
CERTIFICATE OF SERVICE

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: October 12, 2012