

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

In the matter of KCP&L Greater)
Missouri Operations Company for)
Authority to File Tariffs Changing) File No. HT-2013-0456
The Steam QCA for Service Provided)
To Customers in its Service Territory)

RESPONSE OF KCP&L GREATER MISSOURI OPERATIONS COMPANY

KCP&L Greater Missouri Operations Company (“GMO” or “Company”) hereby responds to the Protest, Application to Intervene, Motion to Suspend and Motion to Set Hearing and Suggestions in Support (“Protest”) of Ag Processing Inc. (“AGP”) filed November 15, 2013:

1. Background.

The Quarterly Cost Adjustment (“QCA”) in the tariff sheet submitted by GMO on October 15 is similar to those filed by the Company on April 15 and July 15, 2013 in this matter. Both of those tariff filings received the favorable recommendation of Staff. Despite similar protests by AGP, the Commission allowed them to go into effect on June 1 and September 1, 2013, respectively, after consideration of AGP’s arguments. See PSC Mo. No. 1, 16th Revised Sheet No. 6.10 and PSC Mo. No. 1, 17th Revised Sheet No. 6.10.

There is no reason for a different result in this filing.

The Protest of this QCA tariff sheet, like the protests filed in April and July, arise out of AGP’s complaint case (No. HC-2010-0235), which objected to the 2006 and 2007 costs of the natural gas hedging program for steam operations that was established by GMO’s predecessor Aquila, Inc. (“hedging program”). After an evidentiary hearing in that case, the Commission issued its Report and Order in September 2011 and ordered a \$2,885,456 refund to customers.

However, that decision was reversed by the Missouri Court of Appeals, which remanded the case to the Commission after holding that it employed the wrong burden of proof. The

Commission, thereafter, determined to return the parties to their original pre-complaint position and directed GMO to file tariffs to return the refunded amounts to the Company. See Ag Processing, Inc. v. KCP&L Greater Mo. Operations Co., Report and Order, No. HC-2010-0235 (2011), rev'd and remanded, 385 S.W.3d 511, 516 (Mo. App. W.D. 2012), on remand, Order Regarding Remand at 10-11 (Feb. 27, 2013).

It is the return of the refund that is at the heart of AGP's Protest. Rather than repeat in detail its arguments in opposition to the Protest, GMO incorporates by reference its May 28, 2013 Response to AGP's May 17 Protest, as well as its August 26, 2013 Response to AGP's August 16 Protest. The major points made in those responses were: (1) the QCA permits GMO to recover its fuel-related costs through a regular process of quarterly adjustments and "reconciling adjustments" as a result of other factors like refunds or credits; (2) the Commission's order that returns to GMO the erroneously refunded amounts was proper, given the decision of the Court of Appeals; (3) QCA filings do not initiate general rate cases under the "file and suspend" process under Section 393.150; and (4) AGP's protests are an improper collateral attack on the Court of Appeals' decision.

GMO will, however, address AGP's claims that alleged "overearning" by GMO necessitates the suspension of the QCA filing and a hearing by the Commission, and that GMO's explanation of a misclassification of hedging costs between its MPS electric customers and its industrial steam customers must be verified.

2. **The Commission Has No Duty to Suspend the Tariff Sheets, to Hold a Hearing or to Conduct an Investigation into this QCA Filing.**

AGP requests that the Commission suspend GMO's tariff sheets and order an investigation regarding "the need for the recovery" of the costs included in the QCA filing, as well as "the necessity of any QCA adjustment," given what AGP characterizes as the

"overearning status" of GMO. See Protest at ¶ 8. However, there is no reason for a suspension and no legal basis for an investigation.

As GMO explained in its August 26, 2013 Response, AGP's contentions regarding GMO's earnings ignore the fact that the QCA is a quarterly adjustment of fuel costs, not a rate case initiating a new rate proceeding. Since the Court of Appeals' reversal of the 2011 Report and Order, the Commission has also directed that the QCA return to GMO the sums that the Commission had previously ordered be refunded to the steam customers. See GMO Response at 2-5 (Aug. 26, 2013).

Nevertheless, AGP alleges that GMO's earnings are a relevant factor that must be considered by the Commission in determining whether to allow the QCA filing that AGP protests to go into effect without suspension. See Protest at ¶ 4. AGP relies on 30-year-old dicta in State ex rel. Utility Consumers' Council of Missouri, Inc. v. PSC, 585 S.W.2d 41 (Mo. en banc 1979) ("UCCM"), apparently in support of its contention that the Commission "acts in violation of the law either by approving this tariff or permitting it to go into effect without suspension." See Protest at ¶ 5.

The UCCM case was decided years before GMO's QCA was established by the 2006 Stipulation and Agreement that resolved Aquila's steam rate case (No. HR-2005-0450). That settlement was agreed to by numerous parties, including AGP, and was approved by the Commission. Likewise, UCCM predates Missouri's 2005 legislation that now permits "periodic rate adjustments" in tariffs "outside of general rate proceedings." See § 386.266.1.

The UCCM passage that AGP relies on concerns Section 393.150 ratemaking filings pursuant to the "file-and-suspend" method of ratemaking. See Protest at ¶ 4; UCCM, 585 S.W.2d at 49. The purpose of the 2006 Stipulation that established the QCA process was to settle Aquila's general rate case relating to its steam operations. In such rate cases, factors like

operating expenses and rate of return are indeed relevant. However, UCCM did not concern a quarterly fuel cost adjustment that occurred under a Commission-approved tariff that has operated for almost eight years.

Finally, AGP continues to pursue its remedies with regard to the challenged costs that are being flowed back to GMO through the QCA in the remanded and pending complaint (No. HC-2010-0235), now consolidated with a second complaint (No. HC-2012-0259) regarding 2009 hedging charges. Should the Commission ultimately find on remand that the hedging program costs reflected in this QCA filing are imprudent, it can refund such costs to AGP because “[o]ther fuel cost refunds, or credits related to the operation of this rider may also flow through this reconciliation process, as ordered by the Commission.” See PSC Mo. No. 1, Original Sheet No. 6.7.

3. There is no Evidence of Over-Earning by GMO.

Apart from the absence of any legal basis for the Commission to suspend the tariff sheets and order an investigation, there is no factual basis to believe that GMO is over-earning. As explained in the attached Affidavit of Tim M. Rush, the surveillance report contained earnings figures both with and without consideration of the refunds ordered by the Commission as a result of the Court of Appeals decision that reversed the 2011 Report and Order. See Exhibit A, Rush Affidavit at ¶ 4.

When the appropriate lines on the two earnings statements are compared, it is clear that any allegation of over-earning has no support. The financial results that prompted AGP’s allegations of GMO “substantially over-recovering its costs and expenses” and an “increase in its rate of return” (Protest, ¶ 3) have no merit because the increase in steam revenues is solely attributable to the return to GMO of the refund previously made to steam customers.

4. No Statute or Tariff Requires Verified Submissions in a QCA Filing.

AGP further argues that the Commission should accord some significance to the fact that GMO's explanation of the misclassification of costs reflected in the October 15 tariff filing is not verified. See Protest at ¶¶ 6-7. However, it cites no support for its contention that GMO must file a verified explanation of the costs to be recovered in its QCA filing. Instead, it quotes an unrelated Fuel Adjustment Clause ("FAC") true-up *application* by the Empire District Electric Company ("Empire"), made pursuant to Section 386.266 and 4 CSR 240-20.090(5) which contained verified filings. Id. at ¶ 7.

Applications submitted to the Commission must be verified. See 4 CSR 240-2.060(M) ("verified by affidavit under oath"). Similarly, when testimony accompanies an application, as it did in Empire's FAC submission, it must also be under oath. See 4 CSR 240-2.130(19) ("All testimony shall be taken under oath"). Therefore, Empire followed the proper procedures when it submitted a true-up rate adjustment mechanism filing under oath to the Commission. See 4 CSR 240-20.090(5) (requiring the filing of an "application")

However, there is nothing in the QCA tariff that requires GMO to provide the quarterly tariff sheets under oath or to verify explanations which accompany the filing. Since 2006 when the QCA became effective, no one including AGP has ever objected to a proposed tariff adjustment sheet and related submissions on the basis that they were not verified. Section 393.140 also does not require verified submissions of cost data that is contained in GMO's QCA filing.

Staff's Recommendation, which is verified, confirms the details of the misclassification. See Staff Recommendation (Nov. 13, 2013) & Appendix A (Memorandum). As noted in Mr. Rush's affidavit, GMO agrees with the Staff's assessment. See Exhibit A, Rush Affidavit at ¶ 5.

WHEREFORE, GMO respectfully requests that the Commission deny AGP's Protest, Application to Intervene, Motion to Suspend and Motion to Set Hearing and Suggestions in Support, and that it approve the Quarterly Cost Adjustment Tariff Sheet filed on October 15, 2013.

Respectfully submitted,

/s/ Karl Zobrist

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Co.

Certificate of Service

A copy of the foregoing has been emailed this 25th day of November, 2013 to all counsel of record.

/s/ Lisa A. Gilbreath

Attorney for KCP&L Greater Missouri
Operations Co.

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

In the matter of KCP&L Greater Missouri Operations Company for Authority to File Tariffs Changing The Steam QCA for Service Provided To Customers in its Service Territory)
)
) File No. HT-2013-0456
)
)

AFFIDAVIT OF TIM M. RUSH

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Tim M. Rush, being first duly sworn on his oath, states:

1. My name is Tim M. Rush. I am employed by Kansas City Power & Light Company (“KCP&L”) as Director - Regulatory Affairs. My business address is 1200 Main Street, Kansas City, Missouri 64105.

2. My general responsibilities include overseeing the preparation of rate cases, class cost of service studies, and rate design proposals for both KCP&L and KCP&L Greater Missouri Operations Company (“GMO” or “Company”). I am also responsible for overseeing the regulatory reporting and general activities of these public utilities as they relate to the Missouri Public Service Commission.

3. On November 15, 2013 Ag Processing Inc. (“AGP”) filed its Protest, Application to Intervene, Motion to Suspend and Notice to Set Hearing and Suggestions in Support (“Protest”) in this case. The Protest refers to GMO’s “October 15, 2013 management surveillance report” provided to the Commission and certain customers, and concludes that GMO is in what AGP characterizes as “overearning status.” See Protest, ¶¶ 3, 8.

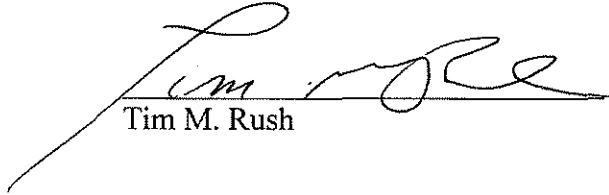
4. Contrary to AGP’s view, GMO is not over-earning. A simple comparison of the “Steam Revenues” line on the first two pages of the report shows that if GMO’s recovery of the

refunded hedging costs (as a result of the Court of Appeals reversal of the Commission's 2011 Report and Order in No. HC-2011-0235) is not considered, there is no over-earning. The first page sets forth GMO's earnings; the second page sets forth "Earnings without Refund Recovery." The difference between the two "Steam Revenues" lines is the exact amount of the refund awarded in the Report and Order, and then refunded: \$2,885,456. The return of that refund to GMO causes its financial picture to appear as if it has excessive earnings.

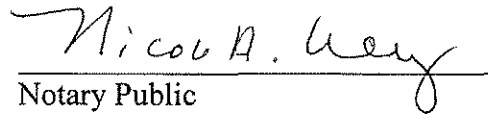
5. Regarding the misclassification of hedging costs, as indicated in the Staff Recommendation, I verbally advised members of the Staff about this issue in a telephone call on June 12, 2013. Staff's explanation in its memorandum attached to the Staff Recommendation of November 13, 2013 is correct. See Staff Recommendation, Appendix A at 2. Because of the misclassification of hedging costs between GMO's MPS electric customers and its steam customers, MPS customers will receive a \$1,454,190 refund in the January 2014 FAC semi-annual rate adjustment and steam customers will be charged an additional \$1,208,550 in the "R-factor" calculation, as noted in the October 15 QCA filing now pending in this matter.

6. After GMO filed its October 15 QCA tariff sheet, Staff requested that additional workpapers be supplied to Staff, which GMO provided in an EFIS filing. See GMO Letter to Secretary Woodruff (Oct. 29, 2013). As Staff noted, its recommendation to the Commission to approve this QCA change "is not indicative of the prudence of the fuel costs included in the QCA." Id. at 3.

7. I have knowledge of the matters set forth therein. I hereby swear and affirm that the foregoing is true and accurate to the best of my knowledge, information and belief.


Tim M. Rush

Subscribed and sworn before me this 25th day of November, 2013.


Notary Public

My commission expires: Feb. 4 2015

NICOLE A. WEHRY
Notary Public - Notary Seal
State of Missouri
Commissioned for Jackson County
My Commission Expires: February 04, 2015
Commission Number: 11391200