

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

R & S HOME BUILDERS, INC., AND)	
CAROL AND ARVEL ALLMAN,)	
)	
Complainants,)	
)	
v.)	File No. EC-2014-0343
)	
KCP&L GREATER MISSOURI OPERATIONS)	
COMPANY,)	
)	
Respondent.)	

ANSWER

COMES NOW Respondent, KCP&L Greater Missouri Operations Company (“GMO” or “Respondent”), pursuant to the Commission’s *Notice of Contested Case and Order Directing Filings* issued in this matter on May 15, 2014, and for its Answer to the Complaint filed by R & S Home Builders, Inc. and Carol and Arvel Allman (“Complainants”) on May 14, 2014, states as follows:

1. Respondent admits that Complainants are electric customers of GMO at the addresses listed in Paragraph 1.
2. Respondent is without knowledge of the allegations and information stated in Paragraph 2 and therefore denies same.
3. Respondent admits the allegations contained in Paragraph 3 of the Complaint.

COMPLAINANTS’ INJURIES / INTERESTS IN THIS CASE

4. Respondent admits that Complainants have contacted Respondent in the form of a rebate application. GMO further states that it received Complainants’ rebate applications on November 20, 2013 (R & S Lawn & Sprinkler) and April 8, 2014 (Carol J. Allman), but denies all other allegations contained in Paragraph 4.

JURISDICTION

5. GMO admits that the allegation in Paragraph 5 that Commission has general jurisdiction over GMO as an electrical corporation, but denies the remaining allegation contained in Paragraph 5 of the Complaint.

BACKGROUND

6. Respondent neither admits nor denies the allegations contained in Paragraph 6, as Missouri statutes speak for themselves.

7. Respondent neither admits nor denies the allegations contained in Paragraph 7, as Missouri statutes speak for themselves.

8. Respondent neither admits nor denies the allegations contained in Paragraph 8, as Missouri statutes speak for themselves.

9. Respondent denies that it filed an Application for Authority to Suspend Payment of Solar Rebates on August 28, 2013 with the Commission in File No. ET-2014-0059, as alleged in Paragraph 9. However, GMO admits that it filed an Application for Authority to Suspend Payment of Solar Rebates in File No. ET-2014-0059 on September 4, 2013. Respondent denies that the application was filed “because the Company believed it would reach or exceed its retail impact calculation within 60 days” as alleged in Paragraph 9. Respondent admits that the Commission approved a Non-Unanimous Stipulation and Agreement in File No. ET-2014-0059 on October 30, 2013, and that Complainants were not parties to File No. ET-2014-0059, but denies all other allegations contained in Paragraph 9.

10. Respondent admits that it filed an Application for Authority to Suspend Payment of Solar Rebates in File No. ET-2014-0277 on April 9, 2014. Respondent admits that Tim Rush filed Direct Testimony in File No. ET-2014-0277 which testimony speaks for itself. GMO

admits that in that Direct Testimony (at page 5, lines 23-27) Tim Rush testified that GMO had not yet made solar rebate payments that equal the aggregate level of \$50 million, but that “. . . the Company has provided commitments to applicants for solar rebates, that when paid, will reach the \$50 million level.” GMO denies the remaining allegations contained in Paragraph 10 of the Complaint.

COUNT I

11. With respect to that portion of the Complaint appearing before numbered Paragraph 11 in the heading, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same. For its response to the numbered portion of Paragraph 11 of the Complaint, GMO restates and incorporates by reference as if fully set forth herein its responses to Paragraphs 1 through 10 hereof.

12. With respect to the allegations contained in Paragraph 12, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

13. With respect to the allegations contained in Paragraph 13, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

14. With respect to the allegations contained in Paragraph 14, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same. Additionally GMO states that in its October 30, 2013 Order Approving Stipulation and Agreement in File No. ET-2014-0059, the Commission approved the Non-Unanimous Stipulation and Agreement which

provided (at pages 3-4), among other things, “[I]f and when the solar rebate payments are anticipated to reach the specified level [\$50 million for GMO], GMO . . . will file with the Commission an application under the 60-day process as outlined in section 393.1030.3 RSMo. to cease payments beyond the specified level in the year in which the specified level is reached and all future calendar years.” No timely application for rehearing has been filed with the Commission regarding its October 30, 2013 Order Approving Stipulation and Agreement in File No. ET-2014-0059. GMO further states that on May 28, 2014, the Commission issued its Order Approving Tariff in File No. ET-2014-0277, with an effective date of June 8, 2014, finding with respect to GMO “. . . that the maximum retail rate increase will be reached . . .” and that “. . . GMO has correctly calculated the maximum average retail rate increase . . .”. The Commission therefore approved GMO’s tariff, also effective on June 8, 2014, which provides, among other things:

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.

No timely application for rehearing has been filed with the Commission regarding its May 28, 2014 Order Approving Tariff in File No. ET-2014-0277.

15. With respect to the allegations contained in Paragraph 15, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

16. With respect to the allegations contained in Paragraph 16, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

17. With respect to the allegations contained in Paragraph 17, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same. Additionally GMO states that in its October 30, 2013 Order Approving Stipulation and Agreement in File No. ET-2014-0059, the Commission approved the Non-Unanimous Stipulation and Agreement which provided (at pages 3-4), among other things, “[I]f and when the solar rebate payments are anticipated to reach the specified level [\$50 million for GMO], GMO . . . will file with the Commission an application under the 60-day process as outlined in section 393.1030.3 RSMo. to cease payments beyond the specified level in the year in which the specified level is reached and all future calendar years.” No timely application for rehearing has been filed with the Commisison regarding its October 30, 2013 Order Approving Stipulation and Agreement in File No. ET-2014-0059. GMO further states that on May 28, 2014, the Commission issued its Order Approving Tariff in File No. ET-2014-0277, with an effective date of June 8, 2014, finding with respect to GMO “. . . that the maximum retail rate increase will be reached . . .” and that “. . . GMO has correctly calculated the maximum average retail rate increase . . .”. The Commission therefore approved GMO’s tariff, also effective on June 8, 2014, which provides, among other things:

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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.

No timely application for rehearing has been filed with the Commission regarding its May 28, 2014 Order Approving Tariff in File No. ET-2014-0277¹.

18. With respect to the allegations contained in Paragraph 18, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

COUNT II

19. With respect to that portion of the Complaint appearing before numbered Paragraph 19 in the heading, GMO denies the same. For its response to the numbered portion of Paragraph 19 of the Complaint, GMO restates and incorporates by reference as if fully set forth herein its responses to Paragraphs 1 through 18 hereof.

20. With respect to the allegations contained in Paragraph 20, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

21. With respect to the allegations contained in Paragraph 21, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

22. With respect to the allegations contained in Paragraph 22, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same. GMO admits that the 2013 Annual RES Compliance Report filed in File No. EO-2014-0290 contains the

¹ On June 9, 2014 at 5:00 PM, after the June 8, 2014 effective date of the Tariff Order and the related tariff sheet (3rd Revised Sheet No. 62.19), Renew Missouri filed its Application For Rehearing. However, pursuant to Section 386.500 and 4 CSR 240-2.160, this application for rehearing was untimely

quoted sentence. GMO further admits that its 2014 Annual RES Compliance Plan filed with the Commission in File No. EO-2014-0288 on or about April 15, 2014 contains the retail impact limit for 2014, 2015, and 2016 as stated in Paragraph 22. Additionally, however, GMO further states that the 2013 Annual RES Compliance Report cited in the Complaint was filed with the Commission on April 15, 2014 and prepared on the basis of calendar year 2013 data, assumptions and variables, and the 2014 Annual RES Compliance Plan was filed on or about April 15, 2014 on the basis of 2014-2025 projected data, assumptions and variables. As the Commission is aware, there has never been consensus regarding the methodology for calculating the 1% cap. Moreover, even assuming resolution of all issues regarding the methodology to calculate the 1% cap, the results produced by such methodology will change every year because the underlying data, assumptions and variables on which the calculation is based will change. In further answer, GMO states that its 3rd Revised Sheet No. R-62.19, providing the conditions under which solar rebates received – respectively, either before or after 10 AM on November 15, 2013 – will be paid, took effect on June 8, 2014. GMO admits that it reported 169 solar rebate applicants as being “denied” in 2013, but that in communicating with the affected customers notified them (or agents on their behalf) that:

. . . KCP&L has committed rebate funds equal to the \$50 million in your service area. As a result, we will not be able to provide you with a solar rebate offer following your administrative review. However, if any solar rebate application submitted in your service area is rejected or approved applications not completed within the defined construction period, those funds will be made available to the next qualifying customer in the queue.

GMO denies the remaining allegations contained in Paragraph 22.

23. With respect to the allegations contained in Paragraph 23, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

24. GMO denies the allegations contained in Paragraph 24.

25. With respect to the allegations contained in Paragraph 25, GMO states that to the extent said portion of the Complaint contains legal conclusions rather than factual allegations, no answer is required, but to the extent an answer is required, GMO denies the same.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

1. The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

2. GMO has performed its obligations under the Non-Unanimous Stipulation and Agreement filed in File Nos. ET-2014-0059 and ET-2014-0071 on October 3, 2014, and it is in compliance with the Commission's *Order Approving Stipulation And Agreement* issued on October 30, 2013 and effective on November 10, 2013 in the same files.

THIRD DEFENSE

3. The Complaint is a collateral attack upon the Commission's *Order Approving Stipulation And Agreement* issued on October 30, 2013 and effective on November 10, 2013 in File Nos. ET-2014-0059 and ET-2014-0071 in violation of Section 386.550, RSMo.

FOURTH DEFENSE

4. GMO has performed its obligations under the statutory requirements contained in Renewable Energy Standard contained in Sections 393.1020-1045, RSMo.

FIFTH DEFENSE

5. GMO has performed its obligations and is compliance with the Commission's Renewable Energy Standards Rule, 4 CSR 240-20.100.

SIXTH DEFENSE

6. The Complaint is a collateral attack upon the Commission's *Order Approving Tariff* issued on May 28, 2014 and effective on June 8, 2014 in File No. ET-2014-0277 as well as 3rd Revised Sheet No. R-62.19 in violation of Section 386.550, RSMo.

SEVENTH DEFENSE

7. The Complaint requests relief that would violate GMO's approved tariffs.

EIGHTH DEFENSE

8. The Complaint requests relief that the Commission sanction the granting of an undue or unreasonable preference or advantage to Complainants in violation of Section 393.130(3) RSMo.

NINTH DEFENSE

9. The Complaint requests relief that the Commission sanction undue discrimination against other GMO customers in violation of Section 386.130(2), RSMo.

TENTH DEFENSE

10. The Complaint should be dismissed since it fails to allege a "violation of any provision of law, or of any rule or order or decision of the commission" in violation of Sections 386.390 and 386.400, RSMo.

Unless affirmatively admitted herein in its responses above, GMO denies the allegations contained in the Complaint. Additionally, GMO reserves the right to supplement this pleading to add additional defenses and claims in connection with this Complaint.

WHEREFORE, having fully answered the Complaint, KCP&L Greater Missouri Operations Company prays the Commission dismiss the Complaint for the reasons aforesaid.

Respectfully submitted,

/s/ Robert J. Hack

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**ATTORNEYS FOR
KCP&L GREATER MISSOURI OPERATIONS
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on this 16th day of June, 2014, to the following:

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