

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

In the Matter of KCP&L Greater Missouri                    )  
Operations Company Request for Authority to            )            Case No. ER-2019-0198  
Implement Rate Adjustments Required by 4 CSR        )  
240-20.090(4) and the Company’s Approved Fuel       )  
and Purchased Power Cost Recovery Mechanism        )

**RESPONSE OF KCP&L GREATER MISSOURI OPERATIONS COMPANY  
TO PUBLIC COUNSEL’S INITIAL REPLY**

COMES NOW, KCP&L Greater Missouri Operations Company (“GMO” or the “Company”) and responds to both (a) the Missouri Public Service Commission’s (“Commission”) *Order Directing Responses* issued February 8, 2019 (“Order”) in this docket and (b) the Office of the Public Counsel’s (“OPC”) *Initial Reply to Staff’s Recommendation* (“OPC Reply”), as follows:

**I. INTRODUCTION**

1. On December 31, 2018, GMO made this tariff filing to adjust its Fuel Adjustment Clause Rate (“FAR”) with a proposed effective date of March 1, 2019. If approved according to Staff’s recommendation, this FAR filing is designed to recover approximately \$27 million on an interim and subject to refund basis pending the undertaking of both a true-up and a prudence review. OPC’s recommendation, described in more detail below, disputes less than \$300,000 of this amount on the basis of OPC’s flawed assertion that a stipulation and agreement approved by the Commission in 1995 for St. Joseph Light & Power Company (“SJLP”)<sup>1</sup> continues to bind GMO. Moreover, OPC can, and almost certainly will, raise the issue on which its recommendation is based during the prudence review covering the FAR tariff sheet that is the subject of this filing. Consequently, there is no need for the Commission to grant OPC’s request to rush to judgment in this FAR proceeding which, by design, has a limited time for Commission

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<sup>1</sup> SJLP was a predecessor in interest of GMO. Aquila, whose Missouri electric utility operations became GMO after the acquisition by Great Plains Energy Incorporated in 2008, acquired the electric, gas and steam operations of SJLP in the late 1990s.

review. GMO therefore requests that the Commission reject OPC's recommendation while making it clear that OPC is fully within its rights to raise the issue during the prudence review for the period applicable to this FAR filing.

## **II. RESPONSE TO OPC REPLY**

A. *OPC's Recommendation and its Basis.*

2. OPC recommends that the Commission order GMO to reduce Fuel and Purchased Power Costs to be recovered during Recovery Period 23 ("RP23") of its Fuel Adjustment Clause ("FAC") charges by \$275,648 for auxiliary power used for GMO's steam operations during Accumulation Period 23 ("AP23").<sup>2</sup> Based on its assumption that the Commission will grant that request, OPC further recommends that the foregoing amount be adjusted to the actual cost for auxiliary power used for GMO's steam operations during AP23 when truing-up GMO's FAC cost recovery for AP23.<sup>3</sup>

3. This recommendation is based on OPC's assertion that GMO remains bound to observe the allocation methodology for the cost of auxiliary power used for GMO's steam operations set forth in the Allocations Procedures manual approved for use by SJLP (a predecessor in interest of GMO) in Case No. EO-94-36.<sup>4</sup>

4. The language upon which OPC relies from the Stipulation and Agreement approved by the Commission in EO-94-36 reads as follows:

For settlement purposes, the parties agree that SJLP will allocate costs between its electric, gas and steam jurisdictions according to the Allocations Procedures manual (attached as Schedule A)<sup>5</sup> until the Commission orders SJLP to use a different allocation method.<sup>6</sup>

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<sup>2</sup> Recommendation of Lena Mantle, p. 1.

<sup>3</sup> Recommendation of Lena Mantle, p. 1.

<sup>4</sup> Recommendation of Lena Mantle, pp. 2-3.

<sup>5</sup> As can be seen by reviewing Attachment A to the Recommendation of Lena Mantle, the Allocations Procedures manual approved by the Commission in EO-94-36 provides for a multiple-step process to allocate costs between steam and electric operations, many of which involved the direct assignment of costs to the steam operation. Notably, auxiliary power was an item for which the Allocation Procedures manual required direct assignment. See Attachment A, 2 of 3, Item VI. B. to the Recommendation of Lena Mantle in Case No. ER-2019-0198

<sup>6</sup> In the matter of the allocation of St. Joseph Light & Power Company's costs between its electric, gas and steam jurisdictions, Report and Order, Case No. EO-94-36, February 10, 1995; and Stipulation and Agreement, Case No. EO-94-36, para. 5. 1995 Mo. PSC Lexis 13; 3 Mo.P.S.C. 3<sup>rd</sup> 353. See Recommendation of Lena Mantle, p. 3.

In support of its assertion that this language continues to obligate GMO to use the Allocations Procedures manual approved through the EO-94-36 order, Ms. Mantle goes on to explain that “I found no subsequent Commission order that allows or requires GMO to use a different methodology.”<sup>7</sup>

*B. The Basis of OPC’s Recommendation is Flawed.*

5. OPC’s assertion is incorrect; the parties and the Commission have taken action in numerous GMO general rate cases subsequent to EO-94-36 which obviates any need for GMO to continue observing the Allocations Procedure manual approved in that case.

6. Ms. Mantle failed to disclose in her recommendation the following language from the Stipulation and Agreement approved by the Commission in Case No. HR-2005-0450 which provides that

Aquila [another predecessor in interest to GMO] will continue to allocate the cost of Lake Road operations between steam and electric in the Aquila Networks - - L&P division, and between steam and Aquila, Inc. and any other entities, in accordance with recent practice and as set forth in the steam cost allocation manual and as provided in stipulated agreements in Commission Case Nos. ER-2004-0034 combined with HR-2004-0024 and incorporating the agreements from Case No. EO-94-36. The allocation method(s) will continue until another approach is presented and approved or agreed among parties in a general rate proceeding.<sup>8</sup> (emphasis supplied)

7. Subsequently, in Case Nos. ER-2009-0090 and HR-2009-0092, general rate proceedings for GMO’s electric and steam operations that were filed and processed simultaneously, GMO proposed to separate rate base and cost of service between electric and steam products by use of seven allocation factors.<sup>9</sup> Importantly, costs for auxiliary power were not directly assigned to the steam operation through the allocation methodology used in this case. No witness for any other party to Case Nos. ER-2009-0090 and HR-2009-0092 disputed the electric/steam allocations

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<sup>7</sup> Recommendation of Lena Mantle, p. 3.

<sup>8</sup> Order Regarding Stipulation and Agreement, Case No. HR-2005-0450, paragraph 9, pp. 8-9, February 28, 2006.

<sup>9</sup> Direct Testimony of Ronald Klote in Case No. ER-2009-0090, pp. 4-6, September 5, 2008; and Direct Testimony of Ronald Klote in Case No. HR-2009-0092, pp. 4-6, September 5, 2008.

methodology proposed by GMO. Case No. ER-2009-0090 was resolved by the Commission's approval of Non-Unanimous Stipulations and Agreements. In its order approving the Non-Unanimous Stipulations and Agreements, the Commission noted that "[N]o party objected to the Agreements within the deadlines set by the Commission. Consequently, pursuant to the Commission's rules, the Agreement [sic] shall be treated as though they are unanimous . . .".<sup>10</sup> The Commission further noted in that order that "no party has objected to the proposed annual revenue requirement, or to any component of any calculations, allocations, negotiations or compromise resulting in the proposed annual revenue requirement as set forth in the Global Agreement."<sup>11</sup> Case No. HR-2009-0092 was resolved by the Commission's approval of a Unanimous Stipulation and Agreement. In its order approving the Unanimous Stipulation and Agreement in Case No. HR-2009-0092, the Commission noted "that no party has objected to the proposed annual revenue requirement, or to any component of any calculations, allocations, negotiations or compromise resulting in the proposed annual revenue requirement as set forth in the Agreement."<sup>12</sup>

8. While GMO has not filed a general rate case for its steam operations since the resolution of Case No. HR-2009-0092, GMO has filed a number of general rate cases for its electric operations since June 10, 2009 (the date on which the Commission issued its decisions in Case Nos. ER-2009-0090 and HR-2009-0092). The rates finally established for electric service in each general rate case for GMO's electric operations since 2009, have been based on the seven-allocation-factor methodology proposed by GMO in Case Nos. ER-2009-0090 and HR-2009-0092 which did not involve direct assignment of auxiliary power costs to the steam operation as set forth in the Allocation Procedures manual from EO-94-36.<sup>13</sup> In fact, when GMO proposed a more

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<sup>10</sup> Order Approving Non-Unanimous Stipulations and Agreements and Authorizing Tariff Filing, Case No. ER-2009-0090, p. 8, June 10, 2009.

<sup>11</sup> Order Approving Non-Unanimous Stipulations and Agreements and Authorizing Tariff Filing, Case No. ER-2009-0090, pp. 9-10, June 10, 2009.

<sup>12</sup> Order Approving Unanimous Stipulation and Agreement and Authorizing Tariff Filing, Case No. HR-2009-0092, p. 7, June 10, 2009.

<sup>13</sup> Direct Testimony of Ronald Klote in Case No. ER-2009-0090, pp. 4-6, September 5, 2008; Direct Testimony of

detailed allocation methodology involving direct assignment of auxiliary power costs more akin to the methodology from EO-94-36 in its most recently concluded general rate case for its electric operations<sup>14</sup>, Staff objected<sup>15</sup> and the electric/steam allocations issue was resolved by going back to the allocators developed by Staff in the immediately preceding general rate case (Case No. ER-2016-0156)<sup>16</sup>. Therefore, from the 2009 case forward, the Company has used the allocation method, not the direct assignment methodology approved in ER-94-36, to distribute costs between its electric and steam jurisdictions.

9. As the foregoing demonstrates, GMO has allocated costs between its electric and steam operations in one steam general rate case and five separate general rate cases for its electric operations since 2009 using a methodology different than that which was prescribed in EO-94-36. In GMO's opinion the parties to those rate proceedings agreed, at least implicitly, to use a methodology different than that which was prescribed in EO-94-36. For OPC to now suggest that GMO is bound to the methodology prescribed in EO-94-36 makes no sense, and the Commission should therefore reject OPC's recommendation.<sup>17</sup>

*C. OPC Will Have Ample Opportunity to Recommend the Same Adjustment in the Prudence Review Applicable to AP23 and, Likewise, the Commission will have a reasonable amount of time to deliberate on the issue.*

10. Although GMO vigorously disputes the validity of OPC's recommendation, GMO does not seek to deprive OPC of the opportunity to support that recommendation in a litigated proceeding, provided the forum used for such litigation is proper and does not interfere with the orderly administration of GMO FAC filings by the Commission. OPC's recommendation does not

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John Weisensee in Case No. ER-2010-0356, pp. 4-6 and Schedule JPW2010-6(L&P), June 4, 2010; Direct Testimony of John Weisensee in Case No. ER-2012-0175, pp. 5-6 and Schedule JPW-6(L&P), February 27, 2010; and Direct Testimony of Ronald Klote in Case No. ER-2016-0156, pp. 7-9 and Schedule RAK-20(SJLP), February 23, 2016.

<sup>14</sup> Direct Testimony of Tim Rush in Case No. ER-2018-0146, pp. 9-12, January 30, 2018.

<sup>15</sup> Rebuttal Testimony of Charles Poston in Case No. ER-2018-0146, pp. 1-5, July 27, 2018.

<sup>16</sup> Non-Unanimous Partial Stipulation and Agreement filed on September 19, 2018, paragraph 10 on p. 5.

<sup>17</sup> It is important to note that the issue of electric/steam allocations will be addressed by GMO, Staff and other parties as a result of the recent rate case settlement approved by the Commission which provided, in part, that "GMO agrees to work with Staff, OPC and MECG to develop new steam allocation procedures prior to GMO's next general electric rate case." Non-Unanimous Partial Stipulation and Agreement filed on September 19, 2018, paragraph 10, p. 5.

belong in this FAR filing which has a short, 60-day time frame between the issue and effective dates of the proposed tariff sheets. It is unreasonable and unfair for OPC to seek to resolve this issue in this FAR filing when the resulting rate elements will be approved on an interim and subject to refund basis that provides for both a true-up and prudence review. OPC's recommendation properly belongs in the prudence review, where the parties will have ample time to fully vet the issue and, if necessary, present it to the Commission for decision on a litigated basis.<sup>18</sup> In that event, the Commission will be able to consider the issue based on a full presentation of the issues and deliberate in a reasonable and thoughtful manner before making a decision. If OPC ultimately persuades the Commission to adopt its recommendation, then any amounts due to customers will be accompanied by interest in accordance with the terms of GMO's tariff and the Commission's FAC rule. OPC's rush to judgment is simply unnecessary under the circumstances.

*D. Summary Regarding OPC's Recommendation*

11. OPC has presented no compelling evidence that the FAR tariff sheet filed by GMO in this docket is not in accordance with the provisions of the Commission's FAC rule (4 CSR 240-090), section 386.266 RSMo. or the FAC mechanism established in GMO's most recent general rate proceeding. As such, there is no basis for the Commission to suspend the effectiveness of the FAR tariff sheet filed by GMO in this docket under the Commission's FAC rule.<sup>19</sup>

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<sup>18</sup> In fact, GMO believes that unless OPC decides to drop the issue in the meantime, OPC will necessarily be required to raise its recommendation in the prudence review for AP23. This is because the time period covered by this FAR filing comprises just one of the six-month periods included in the 18-month period that will be covered by that prudence review.

<sup>19</sup> See 4 CSR 240.090(8)(H)3.

**III. RESPONSE TO COMMISSION INQUIRY ON WHETHER THE CURRENTLY FILED FAC RATE ADJUSTMENT COMPLIES WITH SECTION 386.266 RSMo. AND FAC MECHANISM ESTABLISHED IN GMO'S MOST RECENT RATE CASE**

12. Yes, GMO's currently filed FAR tariff sheet in this docket complies with both section 386.266, RSMo and the FAC mechanism established in Case No. ER-2018-0146 (GMO's most recently concluded general rate case).

**IV. RESPONSE TO COMMISSION INQUIRY ON WHETHER THE MARCH 1, 2019 DEADLINE CAN BE EXTENDED UNDER THE WAIVER PROVISION OF 4 CSR 240-20.090(15).**

13. GMO is reluctant to take the position that the Commission has no authority to extend (i.e., suspend) the March 1, 2019, effective date of the FAR tariff sheet filed by GMO in this docket because the Commission possesses substantial discretion. However, GMO firmly believes that the Commission should not do so because (1) the substance of OPC's recommendation can be fully and fairly dealt with on a litigated basis, if necessary, in the course of the prudence review for AP23, and (2) attempting to resolve the substance of OPC's recommendation on an expedited basis in this FAR tariff filing may well lead to unintended negative consequences that could be avoided by addressing the issue in the prudence review where it belongs.

**V. CONCLUSION**

14. GMO vigorously disputes the validity of OPC's assertion that the Allocation Procedures manual approved for use by the Commission in EO-94-36 remains binding on GMO because actions of the parties and the Commission in subsequent general rate proceedings has obviated the need for GMO to use that method of directly assigning costs to its steam operations. Because rejection of OPC's recommendation in this FAR tariff filing will not preclude OPC from making, or the Commission from adopting, the same recommendation in the prudence review covering the time period to which this FAR tariff filing will apply, there is no need for the Commission to grant OPC's request to rush to judgment in this proceeding. The Commission

should therefore reject OPC's recommendation while making it clear that OPC may pursue its recommendation in the applicable subsequent prudence review if OPC so chooses.

15. GMO holds the firm opinion that this FAR tariff filing is in accordance with section 386.266 RSMo., the FAC tariff recently approved by the Commission in GMO's most recently concluded general rate case (ER-2018-0146) and the Commission's FAC rule (4 CSR 240-20.090).

16. GMO strongly believes that the Commission should not suspend the effectiveness of this FAR tariff filing for all of the reasons set forth in this pleading.

WHEREFORE, GMO respectfully requests that the Commission reject OPC's recommendation and permit the FAR tariff filing submitted by GMO herein to take effect on March 1, 2019.

Respectfully submitted,

*/s/ Roger W. Steiner*

Robert J. Hack, MBN 36496

Phone: (816) 556-2791

E-mail: [rob.hack@kcpl.com](mailto:rob.hack@kcpl.com)

Roger W. Steiner, MBN 39586

Phone: (816) 556-2314

E-mail: [roger.steiner@kcpl.com](mailto:roger.steiner@kcpl.com)

Kansas City Power & Light Company

1200 Main – 16<sup>th</sup> Floor

Kansas City, Missouri 64105

Fax: (816) 556-2787

**Attorneys for KCP&L Greater Missouri Operations  
Company**

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Application was served on all counsel of record either by electronic mail or by first class mail, postage prepaid, on this 14<sup>th</sup> day of February 2019.

*/s/ Roger W. Steiner*

Roger W. Steiner