

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

In the Matter of the Resource Plan of	)	
KCP&L Greater Missouri Operations	)	File No. EO-2012-0324
Company	)	

**KCP&L GREATER MISSOURI OPERATIONS COMPANY’S  
RESPONSE TO THE REQUEST FOR HEARING**

COMES NOW KCP&L Greater Missouri Operations Company (“GMO” or “Company”) and hereby files its Response to the Request for Hearing (“Request”) filed by Dogwood Energy, LLC, Sierra Club, the Office of the Public Counsel and Natural Resources Defense Council (collectively “Stakeholders”) filed on October 21, 2013. In support of its Response, the Company states as follows:

1. On October 21, 2013, the Stakeholders requested hearings in this proceeding. For the reasons stated herein, the Commission should deny the Stakeholders’ Request.
2. The Stakeholders’ request is inappropriate and untimely. On April 29, 2013, the Commission issued its *Notice Closing File* in this proceeding stating: “No further action is required by the Commission in this matter so this file will be closed.” (*Notice Closing File*, p. 1)
3. Simultaneously with the filing of their Request in this proceeding, the Stakeholders filed a Motion for Reconsideration and Rehearing (“Motion”) in File No. EO-2013-0538 requesting that the Commission reconsider its decision not to hold a hearing in the Company’s 2013 Annual IRP Update case. In its *Notice Acknowledging KCP&L Greater Missouri Operation Company’s Annual Update Report and Closing Filing* (“Notice”) in File No. EO-2013-0358, pp. 2-3, the Commission correctly stated: “4 CSR 240-22.080(3)(D) . . . does not allow for a hearing regarding the annual update report and it does not authorize the Commission to take any action regarding that report. As a result, there is no need for further

decision or action by the Commission at this time. Therefore, the Commission will close this file.” (*Notice*, pp. 2-3) The Commission is correct in its legal analysis. The rule does not specifically authorize a hearing for the Annual IRP Update process, and the Stakeholders are not entitled to a hearing as a matter of law to consider their comments to the Company’s Annual IRP Update Report.

4. The Stakeholders themselves candidly acknowledge that “The cited rule does not specifically state that a hearing will be held . . . .” (*Motion*, p. 3) In fact, there is no hearing required by 4 CSR 240-22.080 for consideration of the Stakeholders’ comments in the annual IRP update process at all.<sup>1</sup>

5. Nevertheless, the Stakeholders have raised the specter that they will be unwilling to work with the public utilities to improve the IRP filing in the annual IRP update process if the Commission does not grant them a hearing in this case. According to the Stakeholders, “the Commission will be sending a message to Stakeholders and others that there is no room for flexibility in resolving deficiencies and concerns with future triennial compliance filings by allowing the company to address them in its next annual update.” (*Motion*, p. 4) Apparently, the Stakeholders are under the incorrect impression that they have a right to a hearing after the triennial IRP filing. Contrary to the underlying assumption of the Stakeholders’ argument, there is no right to a hearing in the triennial review process itself. In fact, the Commission has already addressed this issue in the Company’s last triennial IRP filing and held that there are no requirements for a hearing after a triennial IRP filing:

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<sup>1</sup> In its *Order Establishing Special Contemporary Resource Planning Issues, Re: Special Contemporary Planning Issues by KCP&L Greater Missouri Operations Company*, File No. EO-2014-0065, p.2 (issued October 23, 2013), the Commission reaffirmed that IRP cases are not contested cases: “This is not a contested case. The Commission does not need to hear evidence before reaching a decision and does not need to make findings of fact and conclusions of law in announcing that decision.” (citing *State ex rel. Public Counsel v. Public Service Com’n*, 259 S.W.3d 23, 29 (Mo App. W.D. 2008).

The Commission's rules outline the procedure for the IRP process. There are no requirements for a hearing on these filings. Consequently, this is a non-contested case, and the Commission may dispose of this matter informally at its discretion.<sup>2</sup>

6. Under Section 4 CSR 240-22.080(8) and (9) stakeholders are given the opportunity to file a report or comments which may identify any deficiencies in the electric utility's compliance with the provisions of 4 CSR 240-22, and the rule provides a process for resolving those deficiencies among the electric utility and the stakeholders.

7. If full agreement is not reached, then Section 240-22.080(10) states in part: "The commission will issue an order which indicates on what items, **if any**, a hearing will be held and which establishes a procedural schedule." (*emphasis added*) Stakeholders have no statutory right or other right to a hearing in this process. No hearing is required under the triennial review process, as the Commission has found, and it is not required in the annual IRP update process, as requested by the Stakeholders in their Motion.

8. The stated purpose of 4 CSR 240-22.080, the Stakeholder process section of the rule, is as follows: "*This rule also establishes a mechanism for the utility to solicit and receive stakeholder input to its resource planning process.*" In this case, the Stakeholders provided comments, as authorized by the rule. However, nothing in 4 CSR 240-22.080 gives the Stakeholders any right to a hearing to resolve any alleged "deficiencies" or to have any legal rights, duties or privileges of specific parties adjudicated. The Stakeholders have only the right to file comments and reports.

9. On November 19, 2012, the Company, Staff, the Office of the Public Counsel, the Missouri Department of Natural Resources, the Natural Resources Defense Council, and the Sierra Club (collectively, the "Signatories") submitted to the Commission a *Joint Filing* that

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<sup>2</sup> *Order Regarding 2012 Integrated Resource Plan, Re Resource Plan of KCP&L Greater Missouri Operations Company*, File No. EO-2012-0324, p. 2 (issued December 19, 2012).

included a remedy to many alleged deficiencies and concerns expressed by the Signatories of the *Joint Filing* regarding the compliance filing GMO submitted in this proceeding on April 9, 2012. Additionally, the *Joint Filing* also identified those alleged deficiencies that could not be resolved by the Signatories.

10. On December 19, 2012, the Commission directed the Company to address the nine (9) alleged deficiencies and concerns identified as unresolved in the *Joint Filing* in its 2013 annual update report.<sup>3</sup> Subsequently, the Commission directed that that the 2013 annual update report and associated filings should be made in a new file number.<sup>4</sup>

11. On June 20, the Company submitted its 2013 Annual IRP Update Report in File No. EO-2013-0538. As referenced in the Motion, the Stakeholders submitted various pleadings in File No. EO-2013-0538 which included alleged deficiencies and other concerns. (Motion, p. 2). The Company responded to the comments and reports that were provided by the Stakeholders in File No. EO-2013-0538.<sup>5</sup>

12. In its *Notice* in File No. EO-2013-0538, the Commission has not found it necessary to hold hearings to review the highly technical “deficiencies” alleged by the Stakeholders. The Commission should not reverse itself at this juncture of the process by ordering a hearing in this closed matter, File No. EO-2012-0324.

13. In addition, the Company will be filing another Annual IRP Update Report in March, 2014, and this report may resolve or at least mitigate some, if not all, of the alleged “deficiencies” of the Stakeholders.

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<sup>3</sup> *Order Regarding 2012 Integrated Resource Plan*, p. 3, File No. EO-2012-0324 (issued December 19, 2012).

<sup>4</sup> *Order Granting Motion For Clarification*, p. 2, File No. EO-2012-0324 (issued January 9, 2013).

<sup>5</sup> KCP&L Greater Missouri Operations Company’s Response To Order Directing Filing, File No. EO2013-0538 (filed September 13, 2013).

**WHEREFORE**, KCP&L Greater Missouri Operations Company respectfully requests that the Commission deny the Stakeholders' *Request for Hearing* in this file.

Respectfully submitted,

/s/ James M. Fischer

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ATTORNEYS FOR  
KCP&L GREATER MISSOURI OPERATIONS  
COMPANY

### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, this 31<sup>st</sup> day October, 2013 to all counsel of record in this case.

/s/ James M. Fischer

James M. Fischer