

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

Monty Scroggins,)	
)	
Complainant,)	
)	
v.)	File No. EC-2015-0155
)	
KCP&L Greater Missouri Operations Company,)	
)	
Respondent.)	

**ANSWER AND MOTION TO DISMISS OF
KCP&L GREATER MISSOURI OPERATIONS COMPANY**

COMES NOW KCP&L Greater Missouri Operations Company (“Company” or “GMO”) and hereby submits its answer and its Motion to Dismiss to the Missouri Public Service Commission (“Commission”) in response to Monty Scroggins (“Complainant”) complaint in this proceeding.

In support, GMO states as follows:

BACKGROUND

1. Monty and Lisa Scroggins, through their installer Ampray, submitted via email a solar net metering and rebate application to GMO on November 19, 2013. A copy of the email and application are attached as Exhibit A (HC). As part of the application, Complaint and Ampray acknowledged that the solar rebate program has a limited budget and that the application for solar rebate will be accepted on a first come, first served basis, while funds are available.

2. On November 21, 2013, GMO sent notice to Ampray indicating that it would not be able to provide a solar rebate offer due to the fact that the Company had already committed solar rebate funds equal to the \$50 million cap. A copy of the denial notice is attached as Exhibit B (HC). This denial notice was also emailed to Monty and Linda Scroggins (at

lscroggins64@hotmail.com) on January 24, 2014. The January 24, 2014 email indicated that the net metering application was approved. Approval of a system for net metering does not mean that the system is entitled to a solar rebate.

3. Complainant proceeded with the solar installation. The installation was inspected and approved for net metering by GMO and became operational on July 3, 2014.

4. Complainant filed a formal complaint with the Commission on January 6, 2015 initiating the above-captioned proceeding.

5. The Commission issued its Notice of Contested Case and Order Directing Filing on January 6, 2015. Pursuant to that Notice, GMO's answer is due February 5, 2015.

ANSWER

1. GMO admits the allegations in paragraph 1 of the complaint. GMO is the electric utility serving Complainant.

2. GMO denies the allegations in paragraph 2, sentence 1.

3. GMO admits that Ampray was the installer and denies all other allegations in paragraph 2, sentence 2.

4. GMO admits a KCP&L employee performed a net metering inspection and denies all other allegations in paragraph 2, sentence 3.

5. GMO admits that a KCP&L employee performed a net metering inspection and denies all other allegations in paragraph 2, sentence 4.

6. GMO admits that it advised Complainant that he was ineligible for a rebate and denies all other allegations in paragraph 2, sentence 5.

7. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 6.

8. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 7.

9. GMO completed and approved the net metering inspection on June 30, 2014 and denies all other allegations paragraph 2, sentence 8.

10. GMO denies the allegations in paragraph 2, sentence 9.

11. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 2, sentence 10.

12. GMO admits that Complainant contacted Vernon Croy and is without knowledge to admit or deny the allegations and therefore denies same in paragraph 3, sentence 1.

13. GMO admits that Complainant contacted its offices on August 15, 2014 and is without knowledge to admit or deny the allegations and therefore denies same in paragraph 3, sentence 2.

14. GMO is without knowledge to admit or deny the allegations and therefore denies same in paragraph 3, sentence 3.

15. GMO admits the allegations in paragraph 3, sentence 4.

16. GMO denies all allegations in the WHEREFORE clause of the complaint.

17. Except as expressly admitted in this Answer, GMO denies each and every other allegation contained in the complaint. Additionally, Respondent reserves the right to supplement this pleading to add additional defenses and claims in connection with this complaint.

AFFIRMATIVE DEFENSES

18. The complaint fails to state a claim upon which relief can be granted.

19. GMO has acted in accordance with its tariffs and the Missouri Code of State Regulations.

MOTION TO DISMISS

20. The Commission's rules provide that "The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted." 4 CSR 240-2.070(6). When evaluating such a motion "the petition is reviewed in an almost academic manner, to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in that case."¹ In other words, the Commission should ask, assuming the allegations are true, whether the complainant would have a right to the relief he seeks. Under this standard, the complaint must fail. Even if each fact Complainant alleges were accurate, he is not entitled to the relief he seeks from the Commission.

21. GMO Tariff Sheet No. R-62.19, states in part:

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.

Complainant's solar net metering and rebate application was received by the Company on November 19, 2013 (see Exhibit A (HC), attached hereto). In File No. ET-2014-0277, which approved the above tariff, the Commission ordered GMO to file a notice, including supporting documentation, when it reached the \$50 million rebate payment limit. GMO filed such notice on July 1, 2014. Therefore, under the terms of GMO's tariff, Complainant was not entitled to receive a solar rebate since the \$50 million cap has been met. The Complainant has not established that he is entitled to a rebate under GMO's tariffs and therefore, the complaint should be dismissed with prejudice.

¹ *Richardson v. Richardson*, 218 S.W. 3d. 426, 428 (Mo. 2007).

WHEREFORE, having fully answered and set forth its affirmative defenses, Respondent GMO prays the Commission dismiss the complaint with prejudice and grant such other relief as the Commission deems reasonable and just.

Respectfully submitted,

/s/ Roger W. Steiner

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties of record on this 5th day of February, 2015.

/s/ Roger W. Steiner

Attorney for KCP&L Greater Missouri Operations Company