

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

In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement General Rate Increase for Electric Service )  
Case No. ER-2012-0175

In the Matter of the Application of KCP&L Greater Missouri Operations Company for Authority to Implement Rate Adjustments Required by 4 CSR 240-2.090(4) and the Company's Approved Fuel Adjustment Clause )  
Case No. ER-2013-0341

**APPLICATION FOR WAIVER OR VARIANCE OF 4 CSR 240-20.100(6)(A)16 FOR  
ST. JOSEPH LANDFILL GAS FACILITY  
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW KCP&L Greater Missouri Operations Company ("GMO" or the "Company"), by and through counsel and, pursuant to 4 CSR 240-20.100(10), requests the Missouri Public Service Commission ("Commission") to grant it a waiver of or variance from 4 CSR 240-20.100(6)(A)16 for landfill gas costs for its St. Joseph Landfill Gas Facility ("St. Joseph Facility"), and requests expedited treatment of its request pursuant to 4 CSR 240-2.080(14).

1. GMO is a Delaware corporation with its principal office and place of business at 1200 Main Street, Kansas City, Missouri 64105. GMO is primarily engaged in the business of providing electric and steam utility service in Missouri to the public in its certificated areas. GMO is an electrical corporation and public utility as defined in Mo. Rev. Stat. § 386.020 (2000). A Certificate of Authority for a foreign corporation to do business in the State of Missouri, evidencing GMO's authority under the law to conduct business in the State of Missouri, was filed with the Commission in Case No. EN-2009-0164 and is incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). GMO's fictitious name registration

was filed in Case No. EN-2009-0015 and is incorporated herein by reference.

2. GMO holds Certificates of Convenience and Necessity from the Commission to transact business as an electric public utility in certain areas of the State of Missouri and is principally engaged in the generation, transmission, distribution and sale of electric power and energy. GMO has one pending action<sup>1</sup> against it from any state or federal agency or court that involve customer service or rates, which has occurred within three years of the date of this Application. In addition, no annual report or assessment fees are overdue.

In support of its requests the Company states as follows:

### **REQUEST FOR VARIANCE OR WAIVER**

3. 4 CSR-20.100(6)(A)16 provides that “RES compliance costs” are not to be considered for cost recovery through a fuel adjustment clause (“FAC”) or interim energy charge. “RES compliance costs” are “prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard.” 4 CSR 240-20.100(1)(N).

4. GMO incurred cost for landfill gas purchased from the landfill owner for operation of the Company’s St. Joseph Facility for the 11<sup>th</sup> accumulation period of GMO’s FAC, which is the subject of GMO’s FAC rate adjustment filing in the above-captioned case. A question has arisen regarding whether the cost of landfill gas purchased from the landfill owner for operation of the Company’s St. Joseph Facility is, or may be, a Renewable Energy Standard (“RES”) compliance cost. Missouri Public Service Commission Staff (“Staff”) first alerted GMO to the question on December 6, 2012, and representatives of Staff and GMO began discussing it on a conference call the afternoon of December 11, 2012.<sup>2</sup> If it is a RES

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<sup>1</sup> *Ag Processing, Inc. v. KCP&L Greater Missouri Operations Company*, Case No. HC-2012-0259.

<sup>2</sup> These discussions began during the discussions between Staff and the Company relating to the FAC exemplary tariffs to be filed in the current GMO rate case. The definition for fuel costs under FERC account 547 included the landfill gas costs.

compliance cost, then either the waiver or variance requested by this Application is necessary. Moreover, a recalculation of the above-captioned pending adjustment to the Company's FAC rate, and resubmission of the FAC tariff sheet to reflect that recalculation, will have to occur.

5. The FAC tariff sheet that GMO is planning to file in the GMO rate case includes the words "landfill gas" in the section describing fuel costs incurred to support sales. The Company is requesting the variance so that the words "landfill gas" can be included in the tariff sheet.

6. Landfill gas costs recorded in the most recent six months of June to November, 2012, made up only a very small portion (a little more than .064%) of the total fuel and purchased power costs during that six-month accumulation period. Consequently, the impact of the St. Joseph Facility on the net base energy costs and on overall net fuel costs in the FAC is very small. Moreover, if some or all of the fuel costs are RES costs and were removed from the FAC, they would have to be included in the RES cost recovery mechanism, which would result in no material change in prudently incurred costs ultimately paid by customers.

7. Because of the extremely small impact of this change on the FAC, and given the very late stage of the rate case, the Company respectfully suggests that good cause exists to grant it a variance or waiver from the above-cited rule. Granting the variance or waiver will allow the parties to avoid the uncertainty of whether the words "landfill gas" can be included in GMO's tariff sheet, and will provide clarity for the FAC rate adjustments. The Commission clearly has the authority to make such a good cause finding, because the Missouri Supreme Court has declared that, at its core, "good cause depends upon the circumstances of the individual case, and a finding of its existence lies largely in the discretion of the officer to which the decision is committed." *Wilson v. M.E. Morris*, 369 S.W.2d 402, 407 (Mo. 1963). Similarly, the Missouri

Supreme Court has held that good cause is "...a cause or reason sufficient in law; one that is based on equity or justice or that would motivate a reasonable man under all the circumstances."

*State v. Davis*, 469 S.W.2d 1, 5 (Mo. 1971).

8. The Company has consulted with the Staff, which supports this request for a limited variance so long as the Company commits to working with the Staff and other interested parties to resolve the issue of whether and to what extent some or all of the fuel costs for the St. Joseph Facility and other potential renewable generation energy costs are RES compliance costs, and committing to have that work completed before another Company general electric rate case would be filed. The Company hereby makes that commitment. In that way, the parties can ensure that a similar issue does not come up in a future rate case. If it is determined that any of the cost of St. Joseph Facility fuel is a cost directly related to RES compliance, then it (or the appropriate portion of it) would not be included in net base fuel costs in a future rate proceeding. On the other hand, if it is determined that the fuel cost, or some portion of it, is not directly related to RES compliance, it could be considered for inclusion.

9. The Company also commits to keep track of the RES compliance cost of the St. Joseph landfill gas facility so that it can and will properly be taken into account for purposes of applying the one percent rate cap provided for in the RES statute and the Commission's RES rules. Consequently, granting the requested waiver or variance will have no impact on the application of that rate cap.

10. The Company would note that it has included both the fuel for the St. Joseph Facility and the kilowatt-hours of generation from the plant in the calculation of its FAC rate in the above-captioned pending FAC rate adjustment filing. The Company has discussed the

request for a variance with the Commission Staff, and was encouraged by the Staff to seek the variance.

11. On December 21, 2012 the Company contacted all parties to the pending GMO rate case and provided a copy of this Application. At the time of filing, Southern Union Company d/b/a Missouri Gas Energy; Missouri Industrial Energy Consumers; Office of the Public Counsel; City of Kansas City, Missouri; Dogwood Energy, LLC; Union Electric Company d/b/a Ameren Missouri; Missouri Department of Natural Resources; AARP and, Consumers Council of Missouri have indicated that they do not object to this request.

#### **MOTION FOR EXPEDITED TREATMENT**

12. The Company requests that the Commission rule upon the limited waiver or variance requested herein by Friday, January 4, 2013. The harm that will be avoided by ruling on the request by that date is the loss of precious time to make necessary changes in the rate case or other filings that would be needed if the request were to ultimately be denied. Ruling by that date should have no negative effect on customers or the general public.<sup>3</sup> The Company also requests that the time for responses, if any, ordinarily allowed under 4 CSR 240-20.080(13) be shortened to require responses to be filed no later than 5 p.m. Friday, December 28, 2012.

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<sup>3</sup> As previously mentioned, whether some or all of the fuel costs are covered by the FAC or not, the prudently incurred costs will be recovered, either through the FAC or, eventually, through a RES cost recovery mechanism.

WHEREFORE, the Company prays that the Commission expeditiously make and enter its order granting a variance or waiver from 4 CSR 240-20.100(6)(A)16 for landfill gas costs for its St. Joseph landfill gas facility requested herein.

Respectfully submitted,

**/s/ Roger W. Steiner**

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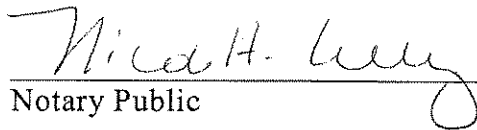
**AFFIDAVIT**

State of Missouri     )  
                                  ) ss  
County of Jackson    )

I, Darrin R. Ives, having been duly sworn upon my oath, state that I am Sr. Director, Regulatory Affairs of Kansas City Power & Light Company, that I am duly authorized to make this affidavit on behalf of KCP&L Greater Missouri Operations Company, and that the matters and things stated in the foregoing application and appendices thereto are true and correct to the best of my information, knowledge and belief.

  
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Darrin R. Ives

Subscribed and sworn before me this 21<sup>st</sup> day of December 2012.

  
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Notary Public

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

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on all parties of record via electronic mail (e-mail) on this 21st day of December, 2012.

**/s/ Roger W. Steiner**

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Roger W. Steiner