

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	File No. EC-2016-0012
)	
KCP&L Greater Missouri Operations Company,)	
)	
Respondent.)	

**KCP&L GREATER MISSOURI OPERATIONS COMPANY’S REPLY
TO PUBLIC COUNSEL’S RESPONSE IN OPPOSITION TO
MOTION TO HOLD IN ABEYANCE**

COMES NOW KCP&L Greater Missouri Operations Company (“GMO”) and hereby files its Reply to Public Counsel’s Response in Opposition to Motion to Hold in Abeyance pending judicial review of the Missouri Public Service Commission (“MPSC” or “Commission”) Order issued in Case No. EC-2015-0315¹.

1. The Office of the Public Counsel (“Public Counsel”) opposes GMO’s motion to hold in abeyance on two grounds. First, Public Counsel argues that the Commission has already decided the issue raised by this Staff complaint (related to the application of Commission rule 4 CSR 240-20.093(1)(F)) in its decision in Case No. EC-2015-0315 and that decision is the law (Public Counsel Opposition, paragraphs 2 and 7). Second, Public Counsel argues that GMO has no right to collect a performance incentive calculated in a manner inconsistent with the Commission’s decision in Case No. EC-2015-0315. Public Counsel’s erroneous and premature arguments miss the point and would cause the Commission, its Staff and GMO to devote needless additional time and cost to this matter. In this regard, GMO believes it is notable that

¹ *The Staff of the Missouri Public Service Commission, Complainants v. Union Electric Company d/b/a Ameren Missouri, Respondent*

Staff – the Complainant and moving party in this proceeding – supports GMO’s motion, and therefore suggests that Public Counsel’s position on this issue should be accorded no weight. Consequently, the Commission should reject Public Counsel’s opposition and grant GMO’s motion to hold in abeyance.

2. First, Public Counsel’s assertion that the Commission’s decision in Case No. EC-2015-0315 “is the law” is unfounded. GMO was not a party to Case No. EC-2015-0315 and, as such, is not bound by that Commission order. Moreover, while the Commission’s decision in Case No. EC-2015-0315 is binding on Ameren, it is not final because it is currently undergoing judicial review. Although it is possible and perhaps likely that if the Commission were to decide this proceeding prior to resolution of that judicial review, the Commission would reach the same result in this proceeding as it reached in Case No. EC-2015-0315, GMO cannot acquiesce to that result while that judicial review is pending. Moving this case forward to Commission resolution during the pendency of judicial review of Case No. EC-2015-0315 would certainly be followed by a GMO application for judicial review. GMO fails to see how such duplicative and wasteful efforts would be beneficial to customers, and Public Counsel’s opposition sheds no light on this topic.

3. GMO submits that the second ground of Public Counsel’s opposition – that GMO has no right to collect a performance incentive calculated in a manner inconsistent with the Commission’s decision in Case No. EC-2015-0315 – is premature and provides no basis for granting the relief Public Counsel requests. GMO has not yet asked the Commission to approve collection of a MEEIA Cycle 1 performance incentive – whether calculated inconsistent with the Commission’s decision in Case No. EC-2015-0315 or otherwise. By committing to collect any such amounts on an interim subject to refund basis in the event such collections begin prior to

resolution of this matter (which would presumably occur after the judicial review of Case No. EC-2015-0315 becomes final), GMO directly resolved a concern expressed by Staff. GMO made this commitment to evidence its intent to hold customers harmless in the event the timing of the resolution of these various proceedings is not perfectly synchronized, but this GMO commitment does not bar Public Counsel from taking – or the Commission from adopting – any position regarding a future request by GMO to begin collecting the MEEIA Cycle 1 performance incentive. Simply put, the second ground of Public Counsel’s opposition is based on a concern regarding a request that GMO has not made and is, therefore, premature. Unless and until such a request has been made, GMO fails to see how proceeding in the manner suggested by Public Counsel – which would require duplicative and wasteful efforts by the Commission, its Staff and GMO – is in any way reasonable, necessary or in the public interest.

4. Nor does Public Counsel offer any rationale for why this matter needs to proceed to oral argument before the end of April. In light of the fact that the Commission is unlikely to rule on GMO’s motion to hold in abeyance before early March and given the press of other business as well as Public Counsel’s utter failure to articulate any rationale for such an expedited schedule, GMO cannot agree to the schedule proposed by Public Counsel. To the extent the Commission denies GMO’s motion to hold in abeyance, GMO would request a reasonable amount of time thereafter to propose a procedural schedule.

WHEREFORE, GMO respectfully requests that the Commission reject Public Counsel’s opposition and hold the above-captioned proceeding in abeyance pending judicial review of the Commission’s order in Case No. EC-2015-0315.

Respectfully submitted,

/s/ Robert J. Hack

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**Counsel for KCP&L Greater Missouri
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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, to all parties of record this 29th day of February, 2016.

/s/ Robert J. Hack

Robert J. Hack