

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of KCP&L Greater)	
Missouri Operations Company for)	
Authority to File Tariffs Changing)	HT-2013-0456
the Steam QCA for Service Provided)	YH-2014-0175
to Customers in its Service Terri-)	
tory		

PROTEST, APPLICATION TO INTERVENE, MOTION TO SUSPEND
AND MOTION TO SET HEARING AND SUGGESTIONS IN SUPPORT

COMES NOW AG PROCESSING INC A COOPERATIVE ("AGP") and for its Protest of Tariff, Request for Suspension and Request to Set Hearing states as follows:

1. On October 15, 2013 KCP&L Greater Missouri Operations Company ("GMO") filed a new tariff purporting to modify its existing Quarterly Cost Adjustment ("QCA") tariff.

2. To avoid needless duplication, AGP incorporates by reference its May 17, 2013 Protest, Application to Intervene, Request to Suspend and Request to Set Hearing and Suggestions in Support in this same file as fully as though set out herein, except that any internal references therein should be taken to apply to the proposed QCA adjustment that was proposed on October 15, 2013 as Tariff Reference Number YH-2014-0175.

3. In a October 15, 2013 surveillance report, titled "KCP&L Greater Missouri Operations Company -- L&P Steam, Management Report", GMO reports that it is substantially overrecovering its costs and expenses other than for fuel and further reports a

corresponding increase in its rate of return well in excess of that allowed by the Commission in its prior order referenced in that report. Although this report was labelled as "HIGHLY CONFIDENTIAL" by GMO and therefore may not be openly discussed in this public pleading, it is available to the Commission and to Commission Staff.

4. According to Missouri law, overearning by a utility is a relevant factor that must be considered by the Commission. As stated in *State ex re. Utility Consumers' Council of Missouri, et. al. v. Public Service Commission of Missouri*, 585 S.W.2d 41 (Mo. 1979) ("UCCM").

Even under the file and suspend method, by which a utility's rates may be increased without requirement of a public hearing, **the commission must of course consider all relevant factors including all operating expenses and the utility's rate of return, in determining that no hearing is required and that the filed rate should not be suspended.** See *State ex rel. Missouri Water Co. v. Public Service Comm'n*, 308 S.W.2d 704, 718-- 19, 720 (Mo. 1957).

UCCM, supra, at 49 (emphasis added). And see, Section 386.266.4 RSMo. regarding the importance of the consideration of all relevant factors. Industrial steam customers are entitled to the same consideration as regards overearning by their serving utility.

5. On November 13, 2013, Commission Staff submitted its recommendation that the proposed tariff be approved. Commission Staff continues in its insouciance that the proposed tariff reflects a significant and admitted overearning by the subject

utility, includes an amount of "interest" that is not authorized by the underlying Quarterly Cost Adjustment Tariff (and in fact was explicitly rejected by the Commission when interest was sought by steam customers for the original overcharge), and includes an unlawful effort at recoupment by the utility. The Commission, charged as it is with the obligation to protect captive ratepayers, acts in violation of the law either by approving this tariff or permitting it to go into effect without suspension. Staff claims that the calculations are "correct and satisf[y] the standards set forth in GMO's Tariff Sheet Nos. 6.6 through 6.10." They do not.

6. Additionally, in an **unverified** (and even unauthored) "Explanation," GMO attempts to "explain" its misallocation between its steam and electric systems in St. Joseph as a "misclassification." In this unverified "explanation," GMO even acknowledges that: "It is unclear what caused the misclassification of costs as both personnel and systems have changed in the ensuing time." This is no explanation at all and should raise far more questions than it "explains." Yet Commission Staff ignores these questions or concerns.

7. In an November 13, 2013 order in File No. EO-2014-0088, the Commission accorded significance to verified testimony in making a decision not to initiate a contested case. The Commission stated:

Based on the Commission's **independent and impartial review of the verified filings**, the Commission finds that it is in the public interest to approve Empire's application and

authorize Empire to include the calculated under-recovery in its next FAC accumulation period as previously described. (Emphasis added).

Here, unless it acts to suspend this proposed tariff and initiate a contested case, it will break new ground in that **none** of the documents filed by GMO have been verified and simply may not be accepted as evidence even by a sophistic application of that term.

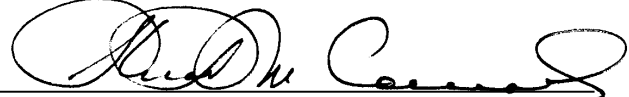
8. AGP seeks an investigation by the Commission as regards the need for the recovery of these costs and the necessity of any QCA adjustment given the significant overearning status of this utility. Such an investigation will require that there be a sufficient and reasonable time for discovery and for testimony regarding these costs which will therefore require that the tariff be suspended to facilitate those processes.

WHEREFORE AGP moves and requests: (1) that this protest be received and the matter be set at issue in a contested case; (2) that the proposed tariff be suspended for an appropriate period including the maximum period of suspension to permit investigation, a hearing and other appropriate process; (3) that AGP be permitted to intervene in the matter so as to protect its interests as a steam customer; (4) that proper notice to steam customers be issued by or at the direction of the Commission; and (5) a hearing and initial procedural schedule be set by the Commission and a scheduling conference be established so that the

Commission and all appropriate parties may develop such other procedural schedule as may be necessary in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

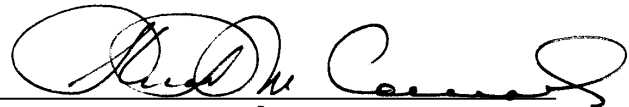


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ATTORNEYS FOR AG PROCESSING INC A
COOPERATIVE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by U.S. mail, postage prepaid, or by attachment to e-mail, addressed to all parties by their attorneys of record as disclosed by the pleadings and orders herein according to the record maintained by the Secretary of the Commission in EFIS.



Stuart W. Conrad

Dated: November 15, 2013