

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

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for)
Approval to Make Certain Changes in its)
Charges for Electric Service) Case No. ER-2010-0356

**PUBLIC COUNSEL’S APPLICATION FOR REHEARING OF ORDER APPROVING
TARIFF SHEETS AND SETTING PROCEDURAL CONFERENCE**

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its Application for Rehearing of Order Approving Tariff Sheets and Setting Procedural Conference states as follows:

1. On May 4, 2011, the Commission issued its Report and Order with an effective date of May 14, 2011. On May 27, the Commission issued an Order of Clarification and Modification which rejected tariffs filed in an attempt to comply with the Report and Order and required the filing of additional tariff sheets.

2. On May 31, KCP&L Greater Missouri Operations Company (GMO) filed tariff sheets that bear an issue date of May 31 and an effective date of June 4.

3. On June 1, GMO filed tariff sheets purporting to be “substitute sheets” that bear an issue date of the day before filing (May 31) and an effective date of June 4.

4. After suspending all of the tariff sheets referenced in paragraphs 2 and 3 above, the Commission approved many of the sheets in an order entitled “Order Approving Tariff Sheets and Setting Procedural Conference” issued on June 15 and effective on June 25.

5. Section 393.140(11) RSMo 2000 provides that no increase in rates can take effect “except after thirty days’ notice to the commission **and publication for thirty days** as required by order of the commission, which shall plainly state the changes proposed to be made in the

schedule then in force and the time when the change will go into effect.” It further provides that “The commission for good cause shown may allow changes without requiring the **thirty days' notice** under such conditions as it may prescribe.” Nothing in the statute allows the Commission to waive thirty days’ publication, even though it may waive the thirty days’ notice to the Commission itself. Moreover, the tariffs themselves are unlawful because they could have gone into effect in less than thirty days if the Commission had not acted. The Commission cannot find good cause to approve tariffs before it has even seen the tariffs, so the tariffs themselves must bear a thirty day effective date which the Commission may be able to shorten if it finds good cause to do so.

6. It was unlawful for the Commission to approve the tariffs that failed to comply with the thirty days’ publication requirement.

7. It was unlawful for the Commission to approve the tariff sheets that were filed and published bearing an issue date that is earlier than the filing date (and which also fail to comply with the thirty days’ publication requirement).

WHEREFORE Public Counsel respectfully requests that the Commission grant rehearing of its June 15, 2011 Order Approving Tariff Sheets and Setting Procedural Conference.

Respectfully submitted,

OFFICE OF THE Public Counsel

/s/ Lewis R. Mills, Jr.

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the parties of record this 24th day of June 2011.

/s/ Lewis R. Mills, Jr.
