

**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 of a Special Rate for a Facility)	File No. EO-2019-0244
Whose Primary Industry is the Production or)	
Fabrication of Steel in or Around Sedalia, Missouri.)	

INITIAL BRIEF

COMES NOW, the Midwest Energy Consumers Group (“MECG”), and for its Initial Brief respectfully states as follows:

1. On September 19, 2019, Staff, GMO and Nucor filed their Non-Unanimous Stipulation and Agreement. Through that Stipulation, the Signatories ask that the Commission approve GMO's Schedule SIL as well as a special contract between GMO and Nucor. By its express terms, the special contract seeks to bind future commissions for a period of 10 years to the terms and provisions contained therein. In other words, the Signatories believe that this Commission can preclude future commissions from reviewing the terms of the contract and establishing other rates or terms of service.

2. As it has previously recognized,¹ the Commission lacks the authority to approve the 10 year term set forth in the GMO / Nucor special contract. While newly enacted Section 393.355 would provide such authority, the Signatories expressly acknowledge that approval is not sought pursuant to Section 393.355. Indeed, the special contract does not comply with Section 393.355 in that it does not contact a tracker to ensure that GMO’s net income does not increase or decrease. Absent compliance with Section 393.355, including the mandated tracker mechanism, the Commission lacks statutory authority to bind future commissions to the rates and terms of the GMO / Nucor special contract for the stated 10 year term. Indeed, in response to a question during opening statements, counsel for GMO appeared to acknowledge that the Commission lacked the

¹ Exhibit 7.

authority to bind a future commission and that future commissions could review the GMO / Nucor special contract despite the suggested 10 year term.

I think that if the Commission that at some future date wanted to look at a contract and -- and it determined that for some reason that it was not an appropriate rate under changed circumstances, I think there's some old -- old case law that probably suggests that the Commission has authority to look at that and to do it in the future.²

3. To date, either through testimony, position statements or opening statements, the Signatories have failed to provide any statutory authority or case law which would call into question the Commission's finding in the Ameren case (Exhibit 7) or provide a basis for this Commission to bind future commissions to the terms and conditions of the GMO / Nucor special contract for a 10 year term. Given this, if the 10 year term is critical as Nucor's witness suggested, then MCEG would suggest that the stipulation be modified to be consistent with Section 393.355. If the 10 year term is not critical, and future Commissions can review the contract in the future as GMO's counsel acknowledges, then the contract should remain unaltered.

Respectfully submitted,

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**ATTORNEY FOR THE MIDWEST
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² Tr. 80.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

 /s/ David Woodsmall
David L. Woodsmall

Dated: November 1, 2019