

FINNEGAN, CONRAD & PETERSON, L.C.

ATTORNEYS AND COUNSELORS AT LAW

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**JEREMIAH FINNEGAN, P.C.
STUART W. CONRAD
C. EDWARD PETERSON***

***ALSO ADMITTED IN
KANSAS AND MASSACHUSETTS**

July 20, 2012

FILED

JUL 23 2012

Mr. Steven C. Reed, Secretary
Missouri Public Service Commission
200 Madison Street, 9th Floor
Jefferson City, MO 65101

**Missouri Public
Service Commission**
1:30 pm
DS

Re: Case No. ER-2012-0024 - AG Processing Inc - Notice of Appeal

Dear Mr. Reed:

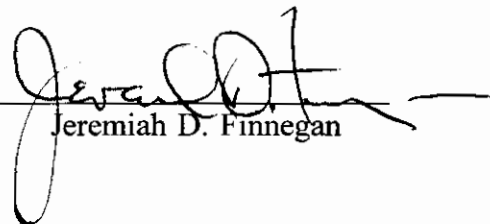
Enclosed for filing find the following:

1. Original and two copies of the Notice of Appeal filed by AG Processing Inc. accompanied by Application for Rehearing, the Order Approving Tariffs, the Order Denying Rehearing, the Concise Statement of Issues Being Appealed and the List of Parties to Case No. ER-2012-0024. There was no Reconciliation.
2. Our firm check made payable to the Missouri Court of Appeals in the sum of \$70.00.

Very truly yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By:


Jeremiah D. Finnegan

JDF:ach

Enclosures

cc: All parties of record
Gary Chesnut



Missouri Public Service Commission

FILED

JUL 28 2012

Missouri Public Service Commission

1:30 pm DS

Judge or Division:	Appellate Number:
Appellant: AG Processing Inc. a Cooperative	Missouri Public Service Commission File Number: ER-2012-0024
vs.	
Respondent: Missouri Public Service Commission	

(Date File Stamp)

Notice of Appeal

Notice is given that AG Processing Inc. a Cooperative appeals to the Missouri Court of Appeals Western Eastern Southern District.

Signature of Attorney or Appellant

Date Notice of Appeal Filed
(to be filled in by Secretary of Commission)

The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. The appellant(s) must file the original and (2) two copies and pay the docket fee required by court rule to the Secretary of the Commission within the time specified by law. **Please make checks or money orders payable to the Missouri Court of Appeals.** At the same time, Appellant must serve a copy of the Notice of Appeal on attorneys of record of all parties other than appellant(s), and on all parties not represented by an attorney.

CASE INFORMATION

Appellant Name / Bar Number: Stuart W. Conrad, MBN 23966 Jeremiah D. Finnegan, MBN 18416	Respondent's Attorney / Bar Number: Kevin Thompson, MBN 36288	
Address: Finnegan, Conrad & Peterson 3100 Broadway, Suite 1209 Kansas City, MO 64111	Address: P.O. Box 360 200 Madison St., Suite 800 Jefferson City, MO 65102	
Telephone: (816) 753-1122 Fax: (816) 756-0373	Telephone: (573) 751-2690 Fax: (573) 526-6969	
Date of Commission Decision: May 9, 2009	Date of Application for Rehearing Filed: May 29, 2009	Date Application for Rehearing Ruled On: June 20, 2012

DIRECTIONS TO COMMISSION

A copy of the notice of appeal and the docket fee shall be mailed to the clerk of the appellate court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.

Certificate of Service

I certify that on 7/26/2012 (date), I served a copy of the notice of appeal on the following parties, at the following address(es), by the method of service indicated.

(See attached service list)
(By electronic mail)

Appellant or Attorney for Appellant

MISSOURI PUBLIC SERVICE COMMISSION

June 20, 2012

File/Case No. ER-2012-0024

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sarah.mangelsdorf@ago.mo.gov

Enclosed find a certified copy of an ORDER in the above-numbered matter(s).

Sincerely,



**Steven C. Reed
Secretary**

Individuals listed above with a valid e-mail address will receive electronic service. Individuals listed above without a valid e-mail address will receive paper service.

APPLICATION FOR REHEARING

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

In the Matter of the Determination)
of Carrying Costs for the Phase-In) **ER-2012-0024**
Tariffs of KCP&L Greater Missouri)
Operations Company)

APPLICATION FOR REHEARING

COMES NOW Ag Processing Inc a Cooperative (AGP) and applies for rehearing of the Order Approving Tariffs dated June 8, 2012 and states:

1. The Commission has failed to consider all relevant factors in approving a tariff to be effective on June 25, 2012 in obvious violation of the requirements of *State ex rel. Utility Consumers Council of Missouri, Inc., et al. v. Public Service Commission of Missouri, et. al.*, 585 S.W.2d 41; 1979 Mo. LEXIS 292; 33 P.U.R.4th 273 (Mo. 1979) ("UCCM").^{1/} Therefore the

^{1/} "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.

tariff is unlawful and the order approving same is also unlawful and void.

2. The Commission has failed to give proper notice of its action to ratepayers in the affected district and in so doing has issued an unlawful and void order.

3. The Order Approving Tariff is not supported by competent and substantial evidence on the whole record as required by Mo. Const. Art. V, Sec, 18 and is therefore unreasonable.

WHEREFORE for the foregoing reasons, rehearing should be granted.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



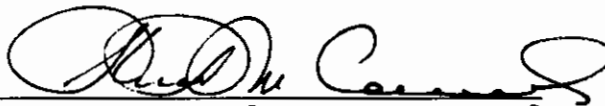
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Facsimile (816)756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR AG PROCESSING INC A
COOPERATIVE

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing pleading on the designated attorneys or representatives of each party in accord with Commission Orders and the service list maintained in this proceeding by the Secretary of the Commission on EFIS.

Dated: May 29, 2012

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad, an attorney for
Ag Processing Inc a Cooperative

ORDER APPROVING TARIFFS

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

In the Matter of the Determination of Carrying)	
Costs for the Phase-In Tariffs of KCP&L)	File No. ER-2012-0024
Greater Missouri Operations Company.)	Tariff No. YE-2012-0429

ORDER APPROVING TARIFFS

Issue Date: May 9, 2012

Effective Date: June 8, 2012

The Commission issued a Report and Order on March 7, 2012, which bears an effective date April 6.¹ On March 9, KCP&L Greater Missouri Operations Company (“GMO”) filed phase-in tariffs effective June 25, 2012, as permitted by the Report and Order.² On March 12, the Commission ordered responses to the tariffs no later than March 19.

The Staff of the Commission (“Staff”) filed a recommendation on March 19, stating that the Commission should approve the specific tariff sheets identified therein. Also on March 19, AG Processing, Inc., (“AGP”) responded, stating that it would be inappropriate and possibly unlawful to approve tariff sheets before the effective date of the Report and Order. Further, AGP stated that it intended to file a timely application for rehearing.

AGP did not file an application for rehearing before the Report and Order became effective. AGP moved to suspend or reject the tariff sheets on April 9. That objection, however, is nothing more than an untimely collateral attack on the Report and

¹ Calendar references are to 2012 unless otherwise noted.

² GMO filed substitute tariff sheets on March 14 at Staff’s request.

Order. What is more, the Commission has already addressed those objections in the Report and Order.

After reviewing the tariff sheets, and determining that the tariff sheets comply with the Report and Order, the Commission will approve the tariff sheets as recommended by Staff.

THE COMMISSION ORDERS THAT:

1. The following tariff sheets in Tariff No. YE-2012-0429, issued March 9, 2012, as amended by substitute sheets filed on March 14, 2012, are hereby approved to become effective for service on and after June 25, 2012:

P.S.C. Mo. No. 1

5 th Revised Sheet No. 18, Canceling	4 th Revised Sheet No. 18
5 th Revised Sheet No. 19, Canceling	4 th Revised Sheet No. 19
5 th Revised Sheet No. 21, Canceling	4 th Revised Sheet No. 21
5 th Revised Sheet No. 22, Canceling	4 th Revised Sheet No. 22
5 th Revised Sheet No. 23, Canceling	4 th Revised Sheet No. 23
5 th Revised Sheet No. 24, Canceling	4 th Revised Sheet No. 24
5 th Revised Sheet No. 25, Canceling	4 th Revised Sheet No. 25
5 th Revised Sheet No. 28, Canceling	4 th Revised Sheet No. 28
5 th Revised Sheet No.29, Canceling	4 th Revised Sheet No. 29
5 th Revised Sheet No. 31, Canceling	4 th Revised Sheet No. 31
5 th Revised Sheet No. 34, Canceling	4 th Revised Sheet No. 34
5 th Revised Sheet No. 35, Canceling	4 th Revised Sheet No. 35
5 th Revised Sheet No. 41, Canceling	4 th Revised Sheet No. 41
5 th Revised Sheet No. 42, Canceling	4 th Revised Sheet No. 42
5 th Revised Sheet No. 43, Canceling	4 th Revised Sheet No. 43
5 th Revised Sheet No. 44, Canceling	4 th Revised Sheet No. 44
5 th Revised Sheet No. 47, Canceling	4 th Revised Sheet No. 47
5 th Revised Sheet No. 48, Canceling	4 th Revised Sheet No. 48
5 th Revised Sheet No. 50, Canceling	4 th Revised Sheet No. 50

2. This order shall be effective on June 8, 2012.

BY THE COMMISSION

Steven C. Reed
Secretary

(S E A L)

Ronald D. Pridgin, Senior Regulatory Law
Judge, by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 9th day of May, 2012.

ORDER DENYING APPLICATION FOR REHEARING

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 20th day of June, 2012.

In the Matter of the Determination of Carrying)
Costs for the Phase-In Tariffs of KCP&L)
Greater Missouri Operations Company.)

File No. ER-2012-0024

ORDER DENYING APPLICATION FOR REHEARING

Issue Date: June 20, 2012

Effective Date: June 25, 2012

On May 9, 2012¹, the Commission issued an Order Approving Tariffs. AG Processing, Inc., filed an Application for Rehearing on May 29.

Section 386.500.1, RSMo (2000), provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." The Commission finds that the applicant failed to establish sufficient reason to grant the application. The Commission will deny it.

THE COMMISSION ORDERS THAT:

1. The Application for Rehearing is denied.

¹ Calendar references are to 2012 unless otherwise noted.

2. This order shall become effective on June 25, 2012.

BY THE COMMISSION

Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Jarrett, Kenney,
and Stoll, CC., concur.

Pridgin, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 20th day of June 2012.



A handwritten signature in black ink, appearing to read "S. C. Reed", is written over a horizontal line.

Steven C. Reed
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 20, 2012

File/Case No. ER-2012-0024

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**Missouri Department of Natural
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Enclosed find a certified copy of an ORDER in the above-numbered matter(s).

Sincerely,



**Steven C. Reed
Secretary**

Individuals listed above with a valid e-mail address will receive electronic service. Individuals listed above without a valid e-mail address will receive paper service.

CONCISE STATEMENT OF ISSUES BEING APPEALED

The general issue is that the Commission in approving a tariff to be effective on June 25, 2012, has failed to consider all relevant factors, including all operating expenses and rate of return, in obvious violation of the requirements of *State ex rel. Utility Consumers Council of Missouri, Inc., et al. v. Public Service Commission of Missouri, et. al.*, 585 S.W.2d 41; 1979 Mo. LEXIS 292; 33 P.U.R.4th 273 (Mo. 1979) ("UCCM").^{1/} Therefore the tariff is unlawful and the order approving same is also unlawful and void.

The Commission has failed to give proper notice of its actions to ratepayers in the affected district and in so doing has issued an unlawful and void order.

The Order Approving Tariff is not supported by competent and substantial evidence on the whole record as required by Mo. Const. Art. V, Sec, 18 and is therefore unreasonable.

^{1/} 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.

LIST OF PARTIES TO CASE NO. ER-2012-0024

MISSOURI PUBLIC SERVICE COMMISSION

June 20, 2012

File/Case No. ER-2012-0024

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Sincerely,



**Steven C. Reed
Secretary**

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DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
07/20/12	Filing fee for Notice of Appeal	ER-2012-0024	70.00		70.00

CHECK # 07/20/12	CONTROL NUMBER	TOTALS ▶	Gross: 70.00	Ded: 0.00	Net: 70.00
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THE BACK OF THIS DOCUMENT HAS A SECURITY BACKGROUND ON WHITE PAPER

FINNEGAN, CONRAD & PETERSON, L.C.
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 (816) 753-1122

COMMERCE BANK
 KANSAS CITY, MO 64112

5718

18-1/1010

DATE 07/20/12 CHECK AMOUNT *****\$70.00

*** SEVENTY & 00/100 DOLLARS

PAY TO THE ORDER OF Missouri Court of Appeals

NOTICE OF APPEAL - NO. ER-2012-0024 PSC



[Handwritten Signature]

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

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