

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

In the Matter of KCP&L Greater Missouri)
Operations Company’s Request for Authority to) Case No. ER-2012-0175
Implement a General Rate Increase for Electric)
Service.)

**MOTION TO STRIKE PORTIONS OF
TRUE-UP TESTIMONY OF V. WILLIAM HARRIS**

KCP&L Greater Missouri Operations Company (“GMO” or “Company”), pursuant to Missouri Rule of Civil Procedure 55.27(e) and 4 CSR 240-2.130(10), moves to strike those portions of the True-Up Direct Testimony of V. William Harris relating to off-system sales (“OSS”) margin.

None of the testimony that Mr. Harris presents regarding OSS margin is proper true-up testimony. As such it violates 4 CSR 240-2.130(10), as well as longstanding Commission practice that limits true-up proceedings to an update of historical test-year figures with known and measurable subsequent or future changes. GMO therefore asks that the Commission strike that portion of Mr. Harris’s True-Up Direct Testimony in this case beginning at page 3, line 3 until its conclusion at page 6, line 9.

In support of its Motion to Strike, GMO states as follows:

1. On April 26, 2012, the Commission ordered a procedural schedule in this case, calling for True-Up Direct Testimony to be filed on November 6, 2012 and True-Up Rebuttal Testimony on November 13, 2012.

2. Staff Witness V. William Harris was responsible for that portion of the Staff Report related to cash working capital, off-system sales, transmission revenue, SO2 emissions allowances, and accounts receivable bank fees. He also filed Rebuttal Testimony on natural gas costs and off-system sales on September 12, 2012, and Surrebuttal Testimony on off-system sales on October 10, 2012. Mr. Harris now improperly attempts to rehash his prior testimony on

off-system sales and OSS margin that is contained in six pages of True-Up Direct Testimony filed on November 8, 2012.

3. In the 2009 general rate cases of KCP&L and GMO, the Commission explained the purpose of a rate case true-up as follows:

The use of a True-Up audit and hearing in ratemaking is a compromise between the use of a historical test year and the use of a projected or future test year. It involves adjustment of the historical test year figures for known and measurable subsequent or future changes. However, while the “test year as updated” involves all accounts, the True-Up is generally limited to only those accounts necessarily affected by some significant known and measurable change, such as a new labor contract, a new tax rate, or the completion of a new capital asset. Both the “test year as updated” and the True-Up are devices employed to reduce regulatory lag, which is “the lapse of time between a change in revenue requirement and the reflection of that change in rates.”

See Order Modifying Procedural Schedules For True-Up Proceedings and Formally Adopting Test Year And Update Period (Mar. 18, 2009) (internal citations omitted).

4. The true-up process is the fundamental way in which this Commission addresses regulatory lag. During this process, figures that were not available during the presentation of the case are added to the record. The test year is adjusted to take into account known and measurable future changes. See State ex rel. GTE North, Inc. v. PSC, 835 S.W.2d 356, 368 (Mo. App. W.D. 1992); State ex rel. Missouri PSC v. Fraas, 627 S.W.2d 882, 888 (Mo. App. W.D. 1981). The true-up is limited to updating information provided during the case-in-chief so as to allow rates to be based upon more current cost data. Issues previously known were to have been raised in the case-in-chief, and addressed in direct, rebuttal, or surrebuttal Testimony pursuant to 4 CSR 240-2.130(7).

5. Neither the presiding officer nor the Commission in this case has ordered that matters outside of traditional true-up issues be addressed in true-up testimony or at the true-up hearing, other than the Commission’s November 5, 2012 order permitting the true-up hearing to

include any stipulation and agreement not approved by the Commission as of the date of that hearing. See Notice and Order Regarding True-Up Hearing Dates and Stipulations and Agreements, Case Nos. ER-2012-0174 and ER-2012-0175 (Nov. 5, 2012).

6. Nevertheless, Mr. Harris spends the majority of his True-Up Direct Testimony addressing issues not subject to true-up. He provides no adjustment of the historical test year figures for known and measurable subsequent or future changes. In fact, he provides no new figures to update the test year whatsoever. Instead, through Mr. Harris's True-Up Direct Testimony, Staff improperly attempts to use the true-up process to rehash arguments previously made and to make arguments that it should have made in Rebuttal and/or Surrebuttal testimony or at the October hearings. Mr. Harris's True-Up Direct Testimony amounts to nothing more than a supplement to Staff's prefiled testimony on OSS margins. Such supplementation of testimony on an issue previously disclosed, fully covered in prefiled testimony, and addressed at hearing violates 4 CSR 240-2.130(10) which prohibits such supplemental evidence.

7. Mr. Harris admits in his True-Up Direct Testimony that Staff has previously made many of the arguments he repeats. See Harris True-Up Direct Testimony at 3:12-13; 4:5-8. As his testimony is redundant, it is properly stricken pursuant to Missouri Rule of Civil Procedure 55.27(e). What testimony is not redundant is plainly not proper true-up testimony, as described above. Because his testimony is not pertinent to the true-up process, it must be stricken pursuant to Missouri Rule of Civil Procedure 55.27(e).

WHEREFORE, KCP&L Greater Missouri Operations Company requests that this Motion to Strike be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing was served upon counsel of record on this 14th day of November , 2012.

/s/ Karl Zobrist _____
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