BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the 2009 Resource Plan of	)	
KCP&L Greater Missouri Operations Company	)	Case No. EE-2009-0237
Pursuant to 4 CSR 240-22.	)	

Missouri Department of Natural Resources Reply Brief

COMES NOW the Missouri Department of Natural Resources (MDNR), by and through counsel, and for its Reply Brief, states as follows:

MDNR is not seeking penalties for KCP&L General Missouri Operations' (GMO) non-compliance with the Stipulation and Agreement (S&A) and the stakeholder process in this case. MDNR agrees with the Office of the Public Counsel (OPC) that GMO's three filings should be viewed individually rather than cumulatively (OPC Post-Hearing Brief, p. 4-5), and that GMO failed to include retirement of the Sibley Unit 3 in at least one alternative resource plan despite a specific agreement to do so (OPC Post-Hearing Brief p. 7). MDNR requests the Commission to affirm the significance of and specific commitments to the stakeholder process that GMO made and that this Commission approved on June 2, 2010, by finding that GMO's failure to fulfill the agreements made in and throughout the stakeholder process constitute violations of the S&A and the Commission's June 2, 2010, Order (GMO Post-Hearing Brief, p. 8-9). Finally, MDNR urges the Commission to not allow GMO to avoid its current obligations by simply appealing to expediency and deferral to "the future" (GMO Post-Hearing Brief, p. 6, 7, 11).

Analysis of DSM Cost Effectiveness

GMO claims MDNR's expectation that GMO would provide a revised set of cost-effectiveness measures is "unrealistic" (GMO Post-Hearing Brief, p. 11). MDNR grants that the filing of additional cost-effectiveness tests is based on the expectation that GMO would support

its DSM analysis by submitting its revised DSM programs to the analysis steps, as **required by the rule**. (Tr. 87). To quote from the existing IRP rules at the time of GMO's initial filing:

> (55) Total resource cost test is a test of the cost-effectiveness of demand-side programs that compares the sum of avoided utility costs plus avoided probable environmental costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver and evaluate each demand-side program to quantify the net savings obtained by substituting the demand-side program for supply resources. 4 CSR 240-22.010(55)

In this case, GMO insists that it was not required to submit a revised cost-effectiveness analysis because such revised analyses were not mentioned in the text of the S&A (GMO Post Hearing-Brief, p. 12). GMO also maintains that any agreements made during the stakeholder process with respect to the level of savings produced by GMO's DSM portfolio were not binding because they were not filed with the Commission (GMO Post-Hearing Brief p. 8). However, MDNR asserts that not only do the Commission's rules require DSM programs to be submitted to analysis but also that the stakeholders and GMO agreed to a specific level of DSM savings that would be used in the integration analysis on two separate occasions, on July 21, 2010 and October 15, 2010 (MDNR Ex. 4; Tr. 71-73). These exhibits speak for themselves.

In addition, GMO's witness, Kevin Bryant, testified that GMO already completed a cost-effectiveness analysis in its August 5, 2009 filing (Tr. 12-18 and 137). However, GMO changed its DSM portfolio three times between its initial presentation of the "All DSM" portfolio used in the August 5, 2009 preferred plan and the filing on July 1, 2011 (MDNR Ex. 7 (HC)). The range of differences between these filings is significant. *Id.* In other words, rather than providing quantitative evidence supporting its claims about the expected savings levels of their DSM programs, as the IRP rules require (4 CSR 240-22.010(C)), GMO is asking all parties to rely on results that are both out of date and inapplicable. However, because of the differences in DSM

portfolios, it is not possible for MDNR to assess whether the savings levels reported by GMO are credible and whether the ratepayers are likely to benefit from GMO's proposed programs (Tr. 79-80). Therefore, at the end of this IRP process, MDNR is left not knowing what level of DSM savings GMO's preferred plan is likely to achieve.

The Integrity of the Stakeholder Process

GMO encourages the Commission to "focus on the future" by approving its submitted plans and closing the IRP case (GMO Brief, p. 4, 7; Tr. 14-21 and 27). However, by doing this, GMO is asking the Commission to ignore its failure to provide planning analyses that address the deficiencies and concerns raised by the stakeholders during the stakeholder process. GMO's assertion that agreements made during the stakeholder process are not enforceable because they have not been filed with the Commission (GMO Post-Hearing Brief p. 8) undermines the purpose and intent of the stakeholder process that was contemplated by and agreed to in the S&A. GMO's position regarding the stakeholder process agreements threatens a significant tool that the parties agreed to undertake in the interest of improving the integrated resource planning processes and in lieu of a hearing before this Commission (Staff Ex. 1). MDNR entered into the stakeholder process with the expectation that GMO and the stakeholders would use the S&A as the starting point for a series of subsequent agreements to resolve deficiencies with the previous IRP filing and that would also be included in a revised IRP filing (Tr. 124). Now, to find that GMO is claiming that it is only bound by the S&A and not the subsequent agreements reached during the stakeholder process (MDNR Ex 4, 5) is quite surprising and sets a dangerous precedent for resolving controversies over a utility's resource planning process in the future.

To cite Missouri's IRP rules: "The fundamental objective of resource planning is to provide the public with energy services that are safe, reliable and efficient, at just and reasonable

rates, in a manner that serves the public interest" (4 CSR 240-22.010 (2)). Part of providing "safe, reliable and efficient" electric service is the act of submitting plans for meeting a public utility's generation needs for public review. During this review, MDNR, as a stakeholder, found deficiencies and concerns in GMO's filing. MDNR expected GMO to address these deficiencies and concerns in good faith through the stakeholder process that was agreed to in the S&A. However, after two separate, discrete analyses and filings on January 18, 2011 and July 1, 2011, GMO has yet to adequately address MDNR's concerns.

WHEREFORE, MDNR respectfully submits its Reply Brief in this matter.

Respectfully submitted,

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I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 22nd day of September, 2011.

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