

**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

**RESPONSE OF KCP&L GREATER MISSOURI OPERATIONS COMPANY TO
OBJECTION TO FUEL ADJUSTMENT CLAUSE COMPLIANCE TARIFFS**

KCP&L Greater Missouri Operations Company (“GMO” or “Company”) states the following in response to the Objection to GMO Fuel Adjustment Clause (FAC) Tariffs filed on Friday, May 20, 2011 by the Office of the Public Counsel, AG Processing, Inc., and the Sedalia Industrial Energy Users’ Association (the “Objection”):

1. GMO filed its substitute tariff sheets on May 16 and requested in its Motion for Expedited Consideration that the tariffs become effective on June 4, 2011. The Objection filed on May 20 is premised upon the Commission’s regulation 4 CSR 240-3.161(1)(G), which states that the “true-up year” for any FAC is the 12-month period “beginning on the first day of the first calendar month following the effective date of the Commission order approving a RAM unless the effective date is on the first day of the calendar month.”¹

2. Contrary to the Objection, there is no basis for the Company’s Motion for Expedited Consideration to be denied. First, the request that the tariffs become effective on June 4 does not relate to the definition of “true-up year” in the regulations. The calculation of fuel and fuel-related expenses as part of an annual true-up examination does not prohibit the Commission from determining the effective date of a tariff, as requested by GMO. Similarly, definitions in the true-up provision do not control the commencement of an accumulation period

¹ RAM is defined as a rate adjustment mechanism, which includes fuel adjustment clauses. See 4 CSR 240-3.161(1)(E).

under the Company's tariff and do not mandate that FAC accumulation periods begin on the first day of a month.

3. There is also nothing in either the Commission's regulations or in Section 386.266.4(2) that limits the Commission's authority under Section 393.140(11) which permits it to order a change in any rate or charge "for good cause shown ... without requiring the thirty days' notice under such conditions as it may prescribe."

4. As stated in the Company's Motion for Expedited Consideration and Approval of Tariff Sheets filed on May 16, good cause existed to approve the revised tariff sheets effective on June 4 because they are in compliance with the Commission's May 4, 2011 Report and Order which was intended to establish just and reasonable rates according to law.

5. Furthermore, this is consistent with the Commission's August order in this case that directed the signatories to the non-unanimous stipulation relating to procedural matters to comply with its terms, "including KPC&L Greater Missouri Operations Company's agreement to extend the effective date of its tariff sheets to June 4, 2011." See ¶ 2, Order Approving Nonunanimous Stipulation and Agreement, Setting Procedural Schedule, and Clarifying Order Regarding Construction and Prudence Audit (Aug. 18, 2010).

6. On May 17 the Staff Recommendation to Approve Tariff Sheets advised the Commission that the tariffs proposed by the Company and submitted for approval as of May 16 should be approved. Staff recommended that they become "effective on the requested effective date of June 4, 2011, for good cause as authorized by Section 393.140(11) RSMo. - said good cause being their compliance with the Commission's May 4, 2011 Report and Order." See Staff Recommendation at 4 (May 17, 2011) (emphasis added).

7. Contrary to the Objection, there is no legal impediment to the Commission taking the action requested by the Company, which Staff found appropriate and lawful. The

Commission's Regulation itself contemplates situations like the current one where waiver and approval may occur, pursuant to 4 CSR 240-3.161(16): "Provisions of this rule may be waived by the commission for good cause shown."

8. The final point raised by the Objection is that a Staff witness during the evidentiary hearing conducted on Tuesday, May 17, 2011 in the GMO FAC remand proceeding, Case No. EO-2008-0216, made a statement that undermines the position of the Company and Staff in this case. Staff witness David C. Roos did agree that his calculation of the four days of fuel costs for July 1-4, 2007 was "an approximation." See Hearing Tr. at 156, In re KCP&L Greater Missouri Operations Co. Authority to Implement Rate Adjustments, Case No. EO-2008-0216 (May 17, 2011). But, he clearly asserted that Staff's calculation followed a reasonable allocation method to determine fuel usage and costs "on a weighted average based on energy usage" for that month. Id. at 154. While Mr. Roos noted that there were other reasonable ways to calculate fuel use for those four days in July 2007, he stated that Staff's calculation, agreed to by GMO, was the "most reasonable" method. Id. at 155.

9. Given that Missouri law requires that rates be "just and reasonable" under Section 393.130.1, there is no basis for the Commission to conclude that allowing rates in this case to become effective on June 4, 2011 is contrary to law, particularly since a "most reasonable" allocation method can be used to determine fuel costs for a period that is less than a month.

WHEREFORE, KCP&L Greater Missouri Operations Company requests that the Commission grant its Motion for Expedited Consideration and Approval of Tariff Sheets, filed on May 16, 2011, which is consistent with the Staff Recommendation to Approve Tariff Sheets filed on May 17.

Respectfully submitted,

/s/ Roger W. Steiner

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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 25th day of May, 2011.

/s/ Roger W. Steiner

Roger W. Steiner