

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

R & S Homebuilders, Inc., and  
Carol and Arvel Allman,

Complainants,

v.

KCP&L Greater Missouri Operations Company,

Respondent.

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**Case No. EC-2014-0343**

**STAFF RECOMMENDATION TO DENY COMPLAINT**

**COMES NOW** Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and recommends that it deny R&S Homebuilders, Inc.'s, and Carol and Arvel Allman's ("Complainants") *Complaint*. In support of its Recommendation Staff states:

Summary

1. On May 14, 2014,<sup>1</sup> Complainants filed a *Complaint* with the Commission asserting KCP&L Greater Missouri Operations Company ("GMO") unlawfully denied their solar rebate applications submitted under the Renewable Energy Standard ("RES"), Section 393.1030, RSMo (Supp. 2013) and the Commission's RES rules at 4 CSR 240-20.100.

2. On May 15, the Commission issued notice of the *Complaint* and ordered Staff to complete an investigation and file a report with its recommendation no later than June 30. This is Staff's report and recommendation.

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<sup>1</sup> All dates herein refer to calendar year 2014 unless otherwise specified.

3. Staff reviewed the filings in this case and has issued several data requests to the Complainants, but their responses are not due until July 9. Staff plans to update its report, and may revise its recommendation once it receives and reviews the responses.

4. Staff's Recommendation is intricately linked with the Commission's findings in Case No. ET-2014-0277. In that case the Commission found that GMO will reach the maximum average retail rate increase and that GMO had correctly calculated the maximum average retail rate increase. If GMO had sufficient solar rebate applications pending, that were made before the Complainants filed their applications and that aggregate to the \$50 million payment limit the Commission approved in Case No. ET-2014-0059, Staff recommends the Commission find in this case that GMO has not violated any Commission statute, rule, order or Commission-approved tariff by denying Complainants' solar rebate applications.

#### Discussion and Recommendation

5. On October 30, 2013, the Commission approved a *Non-Unanimous Stipulation and Agreement* ("Stipulation and Agreement") in Case No. ET-2014-0059. The *Stipulation and Agreement* established a \$50.0 million solar rebate payment limit, as well as an agreement on the process once solar rebate payments were anticipated to reach the agreed-upon level. Paragraph 7.a. of the *Stipulation and Agreement* provides:

If and when the solar rebate payments are anticipated to reach the specified level, GMO...will file with the Commission an application under the 60-day process as outlined in §393.1030.3 RSMo. to cease payments beyond the specified level in the year which the specified level is reached and all future calendar years. The Signatories agree that they will not

object to an application that is designed to cease payments beyond the specified level.

The Commission approved GMO's tariff sheet to cease solar rebate payments above the agreed-upon level in Case No. ET-2014-0277, with an effective date of June 8, 2014.

6. On June 16, GMO filed a *Motion to Dismiss* the *Complaint* for the Complainants' failure to state a claim upon which the Commission can grant relief. On June 24, the Complainants requested an extension of time to respond to the *Motion to Dismiss* and the Commission issued an *Order Extending Time To Respond* until July 16. Staff will also file a response on the *Motion to Dismiss* by July 16.

7. Based on the Commission's findings in Case No. ET-2014-0277 and GMO's currently effective tariff sheet suspending solar rebate payments past the aggregate \$50 million limit, Staff recommends that the Commission find in this case that GMO has not violated any Commission statute, rule, order or Commission-approved tariff by denying Complainants' solar rebate applications. Attached hereto and incorporated herein is the affidavit of Staff witness Daniel I. Beck concerning Staff's investigation and recommendation in this case.

8. Currently, there are several cases that relate to the RES and the Commission's RES rule that are pending either before the Commission or in external litigation: Case Nos. EO-2014-0288 and EO-2014-0290 (both the RES Compliance Plan and RES Compliance Report) and AP14AC-CC00316.

**WHEREFORE**, Staff recommends that if the Commission finds GMO had sufficient solar rebate applications pending, that were made before the Complainants filed their applications and that aggregate to the \$50 million payment limit the

Commission approved in Case No. ET-2014-0059, Staff recommends the Commission find in this case that GMO has not violated any Commission statute, rule, order or Commission-approved tariff by denying Complainants' solar rebate applications.

Respectfully submitted,

**/s/ Jennifer Hernandez**

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically on this 30<sup>th</sup> day of June 2014, to counsel of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

**/s/ Jennifer Hernandez**