

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of KCP&L Greater Missouri)
Operations Company Request for Authority to)
Implement Rate Adjustments Required by 4 CSR) Case No. ER-2019-0198
240-20.090(4) and the Company's Approved Fuel)
and Purchased Power Cost Recovery Mechanism)

In the Matter of the Application of KCP&L Greater)
Missouri Operations Company Containing Its Semi-) Case No. ER-2019-0199
Annual Fuel Adjustment Clause True-Up)

**PUBLIC COUNSEL’S RESPONSE TO COMMISSION ORDERS
AND MOTION FOR LEAVE TO FILE LATE**

COMES NOW the Office of the Public Counsel (“OPC”) and responds to the Commission’s February 8, 2019, orders in the above cases where it directed that by February 14, 2019, the parties file a recommendation as to how the Commission should proceed in these matters, as follows:

1. Commission rule 4 CSR 240-20.090(9)(F) provides the Commission with two paths. The first is for the Commission to approve KCP&L Greater Missouri Operations Company’s (“GMO”) true-up filing and true-up amount. The second is for the Commission to determine GMO’s true-up amount is incorrect, reject GMO’s proposed tariff sheet(s) containing GMO’s true-up amount, suspend the true-up timeline, set a prehearing date, and order the parties to propose a procedural schedule.
2. The Commission should proceed down the second path.
3. The disputed amount is \$55,005 relating to accumulation period 22—December 2017 through May 2018, not the true-up of the recovery period (September 2017 through August

2018) for accumulation period 20—December 2016 through May 2017, and Commission rule 4 CSR 240-20.090(9)(F), in part, provides:

The commission shall allow the electric utility to file tariff sheet(s) to implement interim FARs reflecting any part of the true-up amount that is not in question, and questions about the correctness of the true-up amount will not delay adjustment

4. Since GMO designed its proposed rates in Case No. ER-2019-0198 to recover the disputed \$55,005, implementation of Commission rule 4 CSR 240-20.090(9)(F) requires the Commission to act in Case No. ER-2019-0198.

5. It is significant that GMO intentionally and expressly excluded from recovery in recovery period 22 the \$55,005 relating to accumulation period 22 for which GMO is seeking to include in its true-up of recovery period 20.

6. In the past, where such disputes have arisen, the Commission has excluded the disputed amounts from immediate recovery and proceeded on the path to hearing on the disputed issues. The following two cases are representative: *In the Matter of the Application of KCP&L Greater Missouri Operations Company Containing its Annual Fuel Adjustment Clause True-Up*, Case No. EO-2009-0431, and *In the Matter of the First True-Up Filing Under the Commission-Approved Fuel Adjustment Clause of Union Electric Company d/b/a Ameren Missouri*, Case No. ER-2010-0274.

7. In response to the Commission's directive to explain whether the FAC rate adjustment GMO filed complies with 386.266 RSMo, and the FAC mechanism established in the GMO's most recent rate case, it is OPC's position that it does not. That FAC rate adjustment includes recovery of the disputed \$55,005 true-up amount from accumulation period 22—December 2017 through May 2018, which predates the Commission's *Order Approving Stipulations and Agreements* it issued on October 31, 2018, and made effective November 10, 2018.

8. In response to the Commission's directive to "state whether the March 1, 2019, deadline can be extended under the waiver provision of Commission Rule 4 CSR 240-20.090(15)," OPC responds that that rule provides:

Pre-Existing Adjustment Mechanisms, Tariffs, and Regulatory Plans. The provisions of this rule shall not affect—

(A) Any adjustment mechanism, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

That rule originally took effect Jan. 30, 2007. With regard to the Commission's authority to act on GMO's FAC rate adjustment filing based on OPC's challenge to GMO's inclusion of \$55,005 in its true-up amount from accumulation period 22, OPC directs the Commission to rule 4 CSR 240-20.090(9)(F), and the part of that rule quoted in paragraph no. three above.

9. Due to the press of other matters, OPC was unable to file this pleading by the due date of February 14, 2019, and, therefore, asks the Commission leave to file its response one day late.

WHEREFORE, the Office of the Public Counsel moves the Commission to accept its response late, responds to the Commission's orders as set forth above, and recommends that the Commission determine GMO's true-up amount is incorrect (Case No. ER-2019-0199), reject GMO's proposed tariff sheet(s) containing GMO's true-up amount (Case No. ER-2019-0198),

suspend the true-up timeline, set a prehearing date, and order the parties to propose a procedural schedule.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 15th day of February 2019.

/s/ Nathan Williams