

**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) **File No. ER-2012-0175**
Implement a General Rate Increase)
for Electric Service)

**STAFF'S RESPONSE TO KCP&L GREATER MISSOURI OPERATIONS
COMPANY'S MOTION TO STRIKE PORTIONS OF TRUE-UP TESTIMONY
OF V. WILLIAM HARRIS**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), by and through counsel, and for its response to KCP&L Greater Missouri Operations Company's ("GMO" or "Company") motion to strike portions of the true-up testimony of Staff witness V. William Harris hereby states as follows:

On November 14,¹ GMO filed a motion to strike portions of Mr. Harris' testimony relating to off-system sales ("OSS") margins.² GMO argues that the testimony violates 4 CSR 240-2.130(10), which prohibits any party from supplementing pre-filed direct, rebuttal or surrebuttal testimony unless ordered by the presiding officer or the commission. GMO also argues that Mr. Harris' testimony is improper because it is not limited to an update of historical test-year figures.

The Missouri Western District Court of Appeals explained that the "true-up" hearing is a device to respond to problems of inflation that allows the most current information to be used to estimate the revenue requirement that is used to set rates.³

The Commission described the true-up audit and hearing as:

¹ All dates are in 2012 unless otherwise noted.

² Specifically, GMO moved to strike Mr. Harris' True-Up Direct Testimony beginning at page 3, line 3, to page 6, line 9.

³ State ex rel. Missouri Public Service Co. v. Fraas, 627 S.W.2d 882, 888 (Mo.App.W.D. 1981).

...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.”⁴

Mr. Harris’ testimony falls within this definition, because it addresses “significant known and measurable change” in a manner designed to reduce regulatory lag by incorporating into rates the most accurate, up-to-date picture of GMO’s off-system sales margin. His true-up direct testimony recommends an amount of OSS margin that is based on the latest known and measurable amount of actual OSS.

This has been Mr. Harris’ approach from the very beginning of this case. In Staff’s Cost of Service Report, Mr. Harris stated:

Since there have been significant downward trends in OSS levels and net margins for both MPS and L&P since the merger and Staff cannot explain or accept negative sales margins, Staff is including in its direct filing the margins for MPS and L&P that GMO included in its updated case as of March 31, 2012. *Staff will continue to monitor GMO’s off-system data as it becomes available during the true-up period ending August 31, 2012. At the end of the true-up period, Staff may propose other appropriate adjustments as necessary.*⁵

This is what Mr. Harris did. His true-up testimony contains the final number Staff recommends for GMO’s OSS margins. The fact that the final number in his true-up direct is the same as GMO’s March 31 number does not mean that this true-up direct is improper.

⁴ ER-2009-0090, *Order Modifying Procedural Schedules for True-Up Proceedings and Formally Adopting Test Year and Update Period*, March 18, 2009.

⁵ ER-2012-0175, *Staff’s Cost of Service Report*, p. 108-9.

Quite the contrary. During the pre-filed testimony phase of this case, Mr. Harris did, in fact, continue to investigate the issue of GMO's consistently negative margins. GMO witnesses proffered some explanations for the negative margins, which Mr. Harris rebutted with specific data in his pre-filed rebuttal and surrebuttal testimony. This back-and-forth exchange functioned exactly the way pre-filed testimony is supposed to—the process gave the Company a chance to explain its negative margins, and gave Staff the chance to show why those explanations did not allay its concerns.

Then, in true-up direct, Mr. Harris used those facts to justify his true-up position on off-system sales. In order to fully inform the Commission, Mr. Harris needed to clearly articulate *why* Staff recommended a specific level of OSS margin, so Mr. Harris' true-up direct testimony accounts for the facts as they have been fleshed out throughout this case. The testimony that GMO characterizes as “redundant” simply ties together all the facts from the record into a coherent justification for his position. Stating the facts that support a true-up position is not redundant—that's what the Commission needs to write an order that is lawful, reasonable, and supported by the facts in the record.

If, however, the Commission grants GMO's motion to strike Mr. Harris' direct true-up testimony, then the Commission should also strike the following testimony GMO provided in response:

True-Up Rebuttal Testimony of Tim M. Rush, p.3, Ins 10-20.

True-Up Rebuttal Testimony of Burton L. Crawford;

True-Up Rebuttal Testimony of Wm. Edward Blunk;

True-Up Rebuttal Testimony of Ryan A. Bresette.

WHEREFORE, Staff requests the Commission issue an order denying GMO's Motion to Strike Portions of True-Up Testimony of V. William Harris, or, in the alternative, issue an order striking GMO's true-up rebuttal testimony referenced above.

Respectfully Submitted,

**STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION**

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 16th day of November, 2012.

/s/ John D. Borgmeyer