

**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    )     Case No. ER-2010-0356  
For Electric Service                                        )

**INDUSTRIALS STATEMENT OF POSITION**

COMES NOW, AG Processing, Inc., a cooperative, and the Sedalia Industrial Energy Users' Association ("Industrials"), pursuant to the Commission's April 5, 2007 Order Setting Procedural Schedule, and for its Statement of Position states as follows:

**CASH WORKING CAPITAL ISSUES:**

▶4a. Are municipal gross receipts taxes collected from customers before or after they are paid?

Position: The various municipal ordinances clearly indicate that municipal gross receipts taxes are collected from customers before they are remitted to the municipalities. (Greg Meyer Direct, pages 15-19).

▶4b. What is the cash working capital expense lag?

Position: The appropriate expense lag for city franchise taxes should be 57.84 days. This lag is consistent with the Municipal Codes and Ordinances for the municipalities served by GMO. (Greg Meyer Direct, pages 15-19).

▶4c. What is the cash working capital revenue lag?

Position: The appropriate revenue lag for all Franchise Taxes should be 0 days. This lag is consistent with the fact that Gross Receipts Taxes are based upon actual electric sales revenue collections, as discussed in the various municipal codes. The tax reflected on a customer's bill is calculated **assuming** that the customer pays. If the customer does not

pay, there is no tax. The appropriate revenue lag for Missouri Sales and Use Tax is 26.48 days. This lag is consistent Section 144.020 of the Revised Missouri Statutes. (Greg Meyer Direct, pages 19-21).

**DEPRECIATION ISSUES:**

- ▶ 6b. What is the appropriate life estimate to use for calculating Iatan 2's remaining life depreciation rates?

Position: The Commission should adopt a 60 year service life for purposes of establishing depreciation rates on Iatan 2. This service life is consistent with the service lives used by the Kansas Commission for the same Iatan 2 generating station. In addition, the 60 year service life matches the service life established by the Colorado, Wisconsin and Michigan Public Utility Commissions for new coal fired generating units. Finally, the recommended 60 year service life is consistent with the service lives recently adopted by the Commission for the AmerenUE generating units. (Greg Meyer Direct, pages 4-7; Surrebuttal, pages 2-8).

- ▶ 82d(i). Should the Company be allowed to amortize over 20 years the unrecovered General Plant?

Position: No. The assets in question were purchased and utilized for the benefit of all of Aquila's service territories. There is no evidence to support the conclusion that the unrecovered depreciation reserve is a function of Missouri operations. As such, it would be inappropriate to impose this rate burden on Missouri ratepayers. Instead, it is a possibility that this unrecovered reserve resulted from depreciation recovery in these other jurisdictions. In this case, it is a fair assumption that the purchase price of those service territories reflected recognition of this unrecovered depreciation reserve. It is

inequitable to believe that Missouri ratepayers should shoulder this burden simply because they were the last ratepayers remaining with Aquila.

Furthermore, there are fundamental questions regarding the method by which GMO has quantified this unrecovered reserve. Specifically, for certain accounts, GMO seeks recovery for an alleged unrecovered reserve in an amount that exceeds the plant in service balance. Finally, GMO's request is problematic in that it seeks recovery for assets that may have already been retired. (Greg Meyer Direct, pages 7-11; Surrebuttal, pages 8-12).

**RATE DESIGN / CLASS COST OF SERVICE:**

- ▶ 14. Which class cost of service study provides the best guidance for determining shifts in customer class revenue responsibilities that are revenue neutral on an overall company basis?

Position: The Average and Excess methodology proposed by Industrial Witness Brubaker is clearly superior to the other methodologies proposed in this case. Under this superior methodology, consideration is given to both the maximum rate of use (demand) and the duration of use (energy). When looking at the system peak then, each customer class' average demand (the total kWh usage divided by the total number of hours in the year) is allocated on the basis of energy. The difference between the system peak and the system average demand is then allocated to the classes on the basis of their variability in usage. (Brubaker Direct, pages 18-21).

As Mr. Brubaker points out, only his Average & Excess methodology is consistent with recent Commission decisions on this issue. As the Commission recently held in the AmerenUE Report and Order, the Average and Excess method proposed by Brubaker is superior to the other class cost of service methodologies.

Some customer classes, such as large industrials, may run factories at a constant rate, 24 hours a day, 7 days a week. Therefore, their usage of electricity does not vary significantly by hour or by season. Thus, while they use a lot of electricity, that usage does not cause demand on the system to hit peaks for which the utility must build or acquire additional capacity. Another customer class, for example, the residential class, will contribute to the average amount of electricity used on the system, but it will also contribute a great deal to the peaks on system usage, as residential usage will tend to vary a great deal from season to season, day to day, and hour to hour.

To recognize that pattern of usage, the Average and Excess method separately allocates energy cost based on the average usage of the system by the various customer classes. It then allocates the excess of the system peaks to the various customer classes by a measure of that class' contribution to the peak. In other words, the average and excess costs are each allocated to the customer classes once.

**Since the class cost of service studies offered by Staff and Public Counsel are unreliable, the Commission must choose between the Average and Excess method studies submitted by AmerenUE and MIEC.** [Emphasis added.] (Report and Order, Case No. ER-2010-0036, May 28, 2010, pp. 84-86)

In contrast, the Commission recognized that the methodologies that are heavily dependent on energy usage for the allocation of generation costs, including those advocated by Staff and GMO, are inherently unreliable.

As a first step, the Commission will discard the Staff and Public Counsel studies that utilize a Peak and Average Demand production demand allocation method. ... The Peak and Average demand method double counts the average demand of the customer classes. (Report and Order, Case No. ER-2010-0036, May 28, 2010, p. 84)

As Mr. Brubaker further explains, the class cost of service methodology advocated by GMO witness Normand and by Staff witness Scheperle are similar with those methodologies previously rejected by this Commission. (Brubaker Rebuttal, pages 3-9). While he has been advocating the Base, Intermediate, Peak (“BIP”) methodology for over 30 years, Mr. Normand has only been able to reference one case where it has

been adopted. As Mr. Brubaker notes, “[t]he BIP method is certainly not among the frequently used mainstream cost allocation methodologies, and lacks precedent for its use.” (Brubaker Rebuttal, page 4).

As Mr. Brubaker continues to point out, the primary flaw in the BIP methodology is that it attempts to allocate baseload plant costs and transmission costs on the basis of a measure of class energy usage. This allocation methodology fails to recognize the obvious capacity value of these plants. It is unquestioned that utility planners make decisions based upon the peak demand (capacity) placed on the system. Proving the fact that baseload generation capital decisions are not based upon energy usage, Mr. Brubaker showed that a baseload unit would be more economical than a peaking unit anytime it is expected to have a capacity factor greater than 47%. Just as it is inappropriate to make a generation capacity decision based upon energy usage, it is also inappropriate to allocate the costs of that generation on the basis of energy. For this and other reasons, the BIP methodology proposed by GMO is flawed. (Brubaker Rebuttal, pages 3-8).

For all these reasons, the Commission should continue to recognize the logic expressed in its recent AmerenUE decision and again adopt the results of the Average & Excess methodology for allocating generation and transmission costs between the classes.

- ▶ 15. Allocation of Increase Among Customer Classes: How should any rate increase be allocated among the various customer classes?

What allocation methodology should be used for determining off-system sales between classes of customers?

Position: Off-system sales margins should be allocated between the customer classes on the basis of the energy allocator. (Brubaker Direct, page 23; Rebuttal, pages 8-9).

The Average & Excess methodology used in conjunction with the allocation of off-system sales based upon relative energy usage results in the following revenue neutral class allocations. (Brubaker Direct, Schedule MEB-COS-5)

<u>Class</u>	<u>MPS Change</u>	<u>L&amp;P Change</u>
Residential	1.4% Increase	5.9% Increase
Small General Service	7.3% Decrease	18.8% Decrease
Large General Service	0.5% Increase	5.8% Decrease
Large Power Service	0.0% Change	1.2% Decrease
Total Lighting	13.4% Increase	11.0% Increase

For several reasons, Mr. Brubaker recommends that the Commission move each class 25% of the way toward cost of service. (Brubaker Direct, page 28).

- ▶ 73. What methodology should be used to develop the class cost-of-service study production-capacity allocator?

Position: See the position provided in response to Issue No. 14.

**IATAN 1, IATAN 2, AND IATAN COMMON ISSUES** (Issues 21-54)

Position: Industrials support the positions advanced by the Staff in this proceeding. It is important for the Commission to remember, as with all issues, that KCPL bears the burden of proof to show that its actions and the increased rates that are resulting from its actions are just and reasonable. This is not a mythical concept that should be summarily dismissed by the Commission. This is the law! A thorough review of the evidence in this case readily reveals that KCPL has not met its burden in this case.

Indeed, Staff's evidence reveals that there are costs that unexplained for which KCPL seeks recovery. In addition, Staff has revealed a multitude of costs that are solely

beneficial to KCPL shareholders. Expense items that are not associated with the construction of the Iatan 2 units should not have been capitalized and recovered through rate base. Moreover, Staff's evidence reveals that numerous cost overruns are associated with KCPL mismanagement. Decisions related to KCPL's decision to fast-track the construction of the Iatan units and its decision to utilize the multi-prime approach without the necessary management experience to supervise such an approach has led to tens of millions of dollars of unnecessary costs that are not beneficial to ratepayers and should not be recovered through rates.

At its core, the Commission needs to realize, at all times, that KCPL must justify its costs. If there is a question about the legitimacy of such costs, if KCPL fails to adequately explain such costs, if the Commission simply doesn't understand KCPL's argument, then all of these are reasons for the exclusion of such costs. Burden of proof is provided and by statute and must be properly applied to this proceeding.

#### **COST OF CAPITAL:**

- ▶ 57. Return on Common Equity: What return on common equity should be used for determining rate of return?

Position: The Commission should grant GMO a return on equity of 9.5%. In arriving at this recommendation, Industrial Witness Gorman utilized: (1) a constant growth DCF model; (2) a sustainable growth DCF analysis; (3) a multi-stage growth DCF analysis; (4) a risk premium analysis; and (5) a Capital Asset Pricing Model. As reflected in Mr. Gorman's testimony, his analysis avoids many of the pitfalls that are ubiquitous in the GMO analysis.

In undertaking his analysis, Mr. Gorman avoided the subjective inputs that plagued Dr. Hadaway's analysis. For instance, Mr. Gorman relied upon growth rates for his DCF analysis that are derived from consensus analyst estimates provided by Zacks, SNL Financial and Reuters. (Gorman Direct, pages 18-19). In contrast, Dr. Hadaway relies upon a GDP growth rate that was prepared by him and is not publicly available. (Gorman Rebuttal, pages 7-9). As shown by Mr. Gorman, these growth rates have been soundly rejected by numerous public utility commissions and lead to an inflated return on equity. (Gorman Direct, pages 8-9).

Still again, Mr. Gorman recognized the opinion held by consensus analysts that the growth rate of the electric industry cannot, in the long term, exceed the growth in Gross Domestic Product. At some point, such a growth rate would lead to the preposterous conclusion that the electric industry becomes 100% of the entire U.S. economy. Recognizing then that the DCF analysis is perpetual in nature, it is appropriate to limit the expected growth to that expected in GDP (Gorman Direct, pages 20-23). As mentioned, the growth developed by Dr. Hadaway is well in excess of the consensus growth rate for GDP. In his attempt to inflate his return on equity recommendation, Dr. Hadaway refuses to recognize the economic limitations on the growth rate for the electric industry. (Gorman Rebuttal, pages 7-9).

As reflected in Mr. Gorman's testimony, a 9.5% return on equity reflects the continued strengthening of the electric utility industry (Gorman Direct, pages 3-8). Furthermore, as Mr. Gorman demonstrates, a 9.5% return on equity will allow GMO to meet all of the credit ratios necessary to maintain its current investment grade credit rating (Gorman Direct, pages 38-42). Finally, a 9.5% return on equity reflects the fact



that return on equity authorizations from other public utility commissions continue to decline.

- ▶ 58. Capital Structure: What capital structure should be used for determining rate of return?

Position: Industrial Intervenors have not taken a position with regard to this issue.

▶ 71. **Transmission Expense and Revenue Tracker:** Should the Commission authorize the use of a tracker for changes in certain transmission related expenses? If so, should changes in transmission related-revenues be included in that tracker?

Position: GMO's request for a transmission tracker should be rejected. GMO's request constitutes an unreasonable attempt to shift risk to ratepayers by tracking all expenditures between cases and providing for future recovery. These costs include administrative and general expenses for membership in the Southwest Power Pool. Including these A&G expenses in a tracker will decrease GMO's incentive to control these costs. In addition, the capital costs that would be included in the tracker should be treated like all other capital costs – through the rate case process. In any event, any tracking mechanism should also reflect any offsetting benefit including transmission related-revenues. (Greg Meyer Direct, pages 31-32; Surrebuttal, pages 14-17).

#### **PRUDENCE OF MPS GENERATING CAPACITY ADDITIONS (CROSSROADS)**

- ▶ 78d. If the Commission determines the addition of the approximately 300 MW of capacity from Crossroads was prudent, should the accumulated deferred taxes associated with Crossroads be used as an offset to rate base?

Position: In the event that the Commission finds that the addition of the Crossroads unit was prudent, then the Commission should order the transfer of the deferred taxes to be used as an offset to rate base. These taxes are associated with the accelerated depreciation permitted by the ITS. It is well established, that deferred taxes should follow the sale of an asset. In fact, such treatment has been required by the Commission in past asset sales. (Greg Meyer Direct, pages 11-13; Surrebuttal, pages 12-14).

- ▶ 78e. Was the transfer on GMO's books of Crossroads from non-regulated operations to the regulated operations of MPS at cost permitted by the Commission's Affiliated Transaction Rule without a variance from the Commission?

Position: The Commission's affiliate transaction rule requires regulated utilities to purchase goods and services from affiliates at the lesser of market value or cost. It is well established that the existence of deferred taxes decreases the "cost" of an asset. As such, in order to comply with the Commission's affiliate transaction rule, these deferred taxes should be transferred to GMO and reflected as an offset to rate base. (Greg Meyer Direct, pages 11-13; Surrebuttal, pages 12-14).

Respectfully submitted,



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ATTORNEYS FOR AG PROCESSING,  
INC. AND THE SEDALIA INDUSTRIAL  
ENERGY USERS' ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



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David L. Woodsmall

Dated: January 12, 2010