

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

In the Matter of the Application of)	
Kansas City Power & Light Greater)	
Missouri Operations Company's Application)	
For Approval of Demand-Side Management)	EO-2012-0009
Programs and for Authority to Establish a)	
Demand-Side Programs Investment Mechanism)	

WALMART RESPONSE TO MOTION TO EXTEND PROCEDURAL SCHEDULE

COMES NOW Wal-Mart Stores East, Inc. and Sam's Club, LLP ("Wal-Mart") and for their Response to the Motion to Extend Procedural Schedule respectfully state as follows:

1. On April 6, 2012, GMO, Staff and other non-customer intervenors filed their Motion to Modify Procedural Schedule.

2. On April 9, 2012, the Office of the Public Counsel, Walmart, Missouri Industrial Energy Consumers, Ag Processing, Inc. and the Sedalia Industrial Energy Users' Association, representing the entirety of all the customers represented in this proceeding, filed their response urging the Commission to deny the Motion to Modify Procedural Schedule. In its Response, the Customer Groups noted that the Motion to Modify the Procedural Schedule was designed to disadvantage the GMO customers.

As it pertains to the request to extend the filing of surrebuttal testimony, the Motion would allow GMO over two months in which to review the Customer Groups' rebuttal testimony and prepare itself for the evidentiary hearing. In contrast, given the requested extension of the filing of surrebuttal testimony, the Customer Groups would be permitted a short two weeks to review GMO's surrebuttal (when filed), conduct any necessary discovery and prepare for the evidentiary hearing.

As it pertains to the request to extend the hearing dates, the Motion would disadvantage the Consumer Groups in multiple ways. First, these entities are involved in not only the GMO MEEIA filing, but the Empire and Ameren filings as well. By moving the evidentiary hearing, the already limited resources of the Consumer Groups would be further stretched by attempting to litigate the GMO and Ameren MEEIA in immediate succession. This is on top of the work that is already being done to process and prepare for the pending KCPL, GMO and Ameren rate proceedings. Furthermore, the request to move the evidentiary hearing would work a significant disadvantage for these entities in that witnesses that have relied upon the Commission-ordered procedural schedule, would be required to shuffle work and hearings in other jurisdictions in order to meet this late change in the procedural schedule.

3. On April 10, GMO and Staff filed their pleadings in support of the Motion. Neither Staff nor GMO dispute all of the points raised by the Customer Group. Rather, Staff simply confirms that the Motion, at least the request to extend the date for surrebuttal testimony, was designed for the sole purpose of disadvantaging any parties that did not join in on any stipulation. As Staff points out in its pleading,

Given that evidentiary issues often arise when parties settle on positions that differ from those they have supported in testimony, Staff prefers delay in the filing of surrebuttal testimony so that should it enter into a settlement that becomes a change in position, that change in position is supported by the evidentiary record.

The procedural schedule in this case provided the Customer Groups a single opportunity (rebuttal testimony) to file evidence and refute the requests contained in GMO's application. That opportunity has now passed with the Customer Groups filing testimony which addresses GMO's application.

Now, that the Customer Groups have availed itself of this single opportunity, Staff and GMO ask that the Commission extend the filing date for surrebuttal testimony so that they can change their positions to support a settlement that is otherwise unsupported by their testimony. Such use of surrebuttal testimony would not only be contrary to the Commission's rules, it would also make it impossible for the Customer Groups to adequately prepare for hearing. Given that there would only be two weeks between the surrebuttal testimony and the hearing, the Customer Groups would be faced with the impossible task of conducting discovery and depositions in two short weeks, all without the opportunity to file any testimony in rebuttal to Staff and GMO's changed position.

4. At a minimum, Walmart urges the Commission to require the parties to file surrebuttal immediately. Such a requirement would allow all parties approximately the same amount of time to prepare for the evidentiary hearing in this case. Furthermore, such a requirement would reduce the opportunity for Staff and GMO to use surrebuttal testimony for the purpose of supporting a change in position.

5. In its order of April 9, the Commission temporarily suspended the procedural schedule. Recognizing that the original procedural schedule called for Staff and GMO to file surrebuttal testimony on April 10 (one day after the Commission suspension), that testimony should be largely completed. As such, once the Commission denies Staff and GMO's request to extend the procedural schedule, it should require Staff and GMO to file its surrebuttal testimony by the close of business on April 11, 2012.

WHEREFORE, Walmart respectfully requests that the Commission deny Staff and GMO's request to extend the procedural schedule and order Staff and GMO to file its surrebuttal testimony by the close of business on April 11, 2012.

Respectfully submitted,

WOODSMALL LAW OFFICE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have that the foregoing pleading has been served by electronic means on all parties of record as reflected in the records maintained by the Secretary of the Commission through the EFIS system.

David Woodsmall

Dated: April 10, 2012