

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

In the Matter of the Application of KCP&L           )  
Greater Missouri Operations Company for        )  
Permission and Approval of a Certificate of       )  
Public Convenience and Necessity Authorizing   )  
It to Construct, Install, Own, Operate, Maintain   )  
and Otherwise Control and Manage Solar        )  
Generation Facilities in Western Missouri.        )

Case No. EA-2015-0256

**STAFF POSITION STATEMENT**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), and states its positions regarding the previously filed issue statements.

*1. Does the evidence establish that the Solar Generation project, as described in KCP&L Greater Missouri Operations Company's ("GMO") application in this docket, and for which GMO is seeking a certificate of convenience and necessity ("CCN"), is "necessary or convenient for the public service" under § 393.170, RSMo?*

Staff's position: Unless the Commission adopts the conditions proposed below, the Commission should not grant a CCN for the solar generation project proposed for Greenwood, Missouri, ("the Project"), as described in GMO's application, because GMO has not demonstrated that the Project is necessary or convenient for public service.

In evaluating whether or not the Project is "necessary or convenient," Staff considers the Commission's "Tartan" factors from its 1994 report and order in the case, *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994). They are:

- There must be a need for the service;
- The applicant must be qualified to provide the proposed service;
- The applicant must have the financial ability to provide the service;
- The applicant's proposal must be economically feasible; and
- The service must promote the public interest.

The Commission first articulated these five general principles in its report and order in *Re Intercon Gas, Inc.*, 30 Mo.P.S.C.(N.S.) 554, 561 (1991), where it developed them as summaries

of what it had reviewed in earlier certificate cases. On appellate court review of the Commission's report and order in the *Intercon Gas* case, the court said:

The PSC has authority to grant certificates of convenience and necessity when it is determined after due hearing that construction is "necessary or convenient for the public service." § 393.170.3. The term "necessity" does not mean "essential" or "absolutely indispensable," but that an additional service would be an improvement justifying its cost. [State ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d at 219.](#) . . . . The safety and adequacy of facilities are proper criteria in evaluating necessity and convenience as are the relative experience and reliability of competing suppliers. [State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n, 527 S.W.2d 390, 394 \(Mo.App.1975\).](#) Furthermore, it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award of the certificate. [Id. at 392.](#)<sup>1</sup>

In *Tartan*, in considering whether there was public interest in granting a CCN, the Commission stated that "[g]enerally speaking, positive findings with respect to the other four standards *will in most instances* support a finding that an application for a certificate of convenience and necessity will promote the public interest."<sup>2</sup>

In evaluating GMO's application, Staff examined the various Tartan factors, and concluded that the cost to GMO's consumers outweighed the benefits asserted by GMO. Staff will address in more detail the consideration given to each factor below.

*A: Does the evidence establish that there is a need for the project?*

Staff's position: No. GMO has not demonstrated that the construction of the Project will be a service that justifies its additional cost. While GMO is short on capacity and uses Purchase Power Agreements ("PPAs") to meet the demand of its customers, the Project will not materially affect the gap between GMO's supply needs and its customers' demands.<sup>3</sup>

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<sup>1</sup> *State ex rel. Intercon Gas, Inc. v. Public Service Commission*, 848 S.W.2d 593, 597-98 (Mo. App. 1993).

<sup>2</sup> Emphasis added. *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994).

<sup>3</sup> GMO Integrated Resource Plan ("IRP"), EO-2015-0252, [Volume 1: Executive Summary; Table 16: GMO Forecast of Capacity Balance - Preferred Plan](#) **\*\*Highly Confidential\*\***.

Further, currently GMO does not need Solar Renewable Energy Credits (“S-RECs”) until 2027 to comply with the Missouri Renewable Energy Standard (“RES”).<sup>4</sup> Thus, the S-RECs the Project would create before 2027 would not help GMO to comply with the solar requirement of the Missouri RES.<sup>5</sup> With its planned, less expensive non-solar renewable resource additions and without this solar facility, GMO will have sufficient Renewable Energy Credits (“RECs”) to comply with the non-solar goals of the RES until 2030.

*B: Is GMO qualified to provide the proposed project services?*

Staff’s position: Yes. GMO is qualified to operate and maintain the Project, because it currently manages a number of non-solar plants that require more involvement from operators and maintenance technicians than a solar plant of this size. GMO has experience with rooftop solar that is interconnected to its system.

One of GMO’s main arguments for building the Project now is its need to gain hands-on experience in operating a solar electrical production facility.<sup>6</sup> This argument creates the underlying impression that GMO’s other experience is inadequate, because the solar facility and GMO’s system itself are somehow unique enough that GMO would be unable to learn the requisite information to potentially operate a larger scale solar facility in the future.

GMO has contracted with Sungevity, and other solar subcontractors, to design, build, operate, and maintain for the completion of the Project so it can learn from a company with ample experience managing and operating solar facilities.

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<sup>4</sup> GMO, *Application*, p. 5, ¶ 14.

<sup>5</sup> *Id.*

<sup>6</sup> GMO, Data Request Response 14, 20.

*C: Does GMO have the financial ability to provide the project services?*

Staff's position: Yes. GMO has the financial ability to build the project and to provide the resulting services. If approved, the project will be financed using general GMO funds<sup>7</sup>, and thus, at least during construction, GMO will bear the financial responsibility for the Project.

*D: Is GMO's proposed project economically feasible?*

Staff's position: No. The project is not the least cost option.<sup>8</sup> GMO states in response to a Staff data request that the decision to construct the Project "was not based on least-cost compliance with the Missouri RES or as an alternative to other compliance options."<sup>9</sup>

Further, the timing of this project leads to an unnecessary cost with potentially fewer benefits than a future project. Recent solar industry trends are that solar conversion efficiencies have improved while photovoltaic (PV) solar costs have significantly declined and are expected to continue to decline.<sup>10</sup> Building a solar project now would forego future economic and efficiency benefits.

While building this project now would allow GMO to take advantage of the Investment Tax Credit (ITC), Congress extended the energy credit for solar facilities in December of 2015.<sup>11</sup> The credit will continue at 30% of qualifying costs through tax year 2019.<sup>12</sup> GMO ratepayers will

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<sup>7</sup> GMO, *Application*, p. 4, ¶ 12.

<sup>8</sup> GMO, Data Request Response 14, 20; see also, GMO IRP, EO-2015-0252, **Volume 4: Supply-Side Resource Analysis** **\*\*Highly Confidential\*\***.

<sup>9</sup> *Id.* See also, Deposition of Darrin Ives, 98:4 – 5 "I would stipulate that as part of this deposition that we are aware that solar is not the least cost option for generation supply."

<sup>10</sup> GMO, Data Request Response 32; see also, Solar Energy Industries Association ("SIEA"), "Solar Market Insight Q3 2015", <http://www.seia.org/research-resources/solar-market-insight-2015-q3>. Last accessed Feb. 8, 2016.

<sup>11</sup> Energy.Gov. <http://energy.gov/savings/business-energy-investment-tax-credit-itc>. Last accessed Feb. 8, 2016.

<sup>12</sup> *Id.*

not receive the benefit of the ITC until after 2021 because GMO does “not expect to utilize ITC until after 2021 due to existing net operating loss carryforwards that must be used first.”<sup>13</sup>

*E: Does GMO’s proposed project promote the public interest?*

Staff’s position: No. Staff agrees with GMO that ultimately, solar as a renewable resource is beneficial to, and promotes, the public interest. Staff does not contend that increased use of renewable sources is detrimental to the public interest. Nevertheless, in the context of: 1) the recent continuation of tax incentives, 2) that GMO already has S-RECs sufficient to satisfy the Missouri RES until 2027, 3) that the size and scope of the Project does not significantly reduce GMO’s capacity gap, 4) that the project is not the least cost alternative, and 5) that GMO’s primary reason for development is for its own experience, Staff does not agree that this project is in the public interest, but rather solely GMO’s own interest.

#### *Conclusion*

The Commission must consider, in light of the Tartan factors, whether each factor supports if the Project is “necessary and convenient for public service.” GMO does not need the Project’s S-RECs until 2027 to comply with the Missouri RES. Congress has extended the ITC through tax year 2019. Photovoltaic costs continue to trend downward, while solar conversion efficiencies continue to improve. The Project does not substantively change GMO’s capacity gap. The Project is not the least cost alternative for the service that would be provided to consumers. Given these considerations, GMO has not shown why this project is necessary and convenient at this time. This is particularly true when GMO asserts one reason for proposing the construction of the Project now is for its own experience<sup>14</sup> and GMO’s assertion that the timing of this filing to recover the cost of the project in the current-filed rate case.<sup>15</sup> Because the

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<sup>13</sup> GMO, Data Request Response 15.1.

<sup>14</sup> GMO, Data Request Response 20; GMO, *Application*, p. 5, ¶ 14.

<sup>15</sup> Deposition of Darrin Ives, 87:21 – 88:6

Q. If the commission approves the CCN request, does GMO intend to seek a rate recovery for that investment?

company alone has control over the filing of its cases, filing timing should not be the factor that pushes the balance in favor of the CCN. As a result, GMO's application for a CCN for the Project does not balance the Tartan criteria in favor of the project being necessary and convenient for the public service.

Staff witnesses will testify as follows:

- Dan Beck – overview of Staff's position, the issue of need, GMO's qualification to do the project, economic feasibility, public interest, conditions to be imposed if the CCN is granted
- Claire Eubanks – engineering issues, S-RECs, renewables generally, public interest, conditions to be imposed if the CCN is granted
- Karen Lyons – tax credit, financial ability, economic impacts, public interest

*2. If GMO's CCN Application does not meet the criteria set forth by Tartan, is there an exception that would still permit the Commission to grant the CCN?*

Staff's Position: Staff does not agree that there is an "exception" to the Tartan criteria. However, the Commission's own language in *Tartan* states that "[g]enerally speaking, positive findings with respect to the other four standards *will in most instances* support a finding that an application for a certificate of convenience and necessity will promote the public interest."<sup>16</sup> This language suggests that even when the Commission finds there is need, economic and financial feasibility, and that the utility is qualified, the Commission may not find the project to be in the public interest.

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A. We do.

Q. And when would GMO's rate recovery request occur?

A. Our expectation will be that we'll -- we will reflect consideration of it in our GMO case that is due to be filed by the end of February with an expectation that the construction will be completed before the true-up in the case.

<sup>16</sup> Emphasis added. *In Re Tartan Energy*, GA-94-127, 3 Mo.P.S.C.3d 173, 177 (1994).

3: *Should the impact on rate payers be considered by the Commission when weighing GMO's CCN application?*

Staff Position: Yes, Staff agrees that the effect on rate payers be considered by the Commission when weighing the Tartan criteria while evaluating GMO's CCN application. Staff argues that those effects are taken into consideration when weighing the factors; and, for all the reasons stated in response to Issue 1 above, the effect on the rate payer is more detrimental than any benefits that could be afforded.

In *In re UtiliCorp United Inc.*, GA-95-216, 4 Mo.P.S.C.3d 7 (1995), the Commission evaluated an application for a CCN by UtiliCorp United Inc. to construct and operate a gas distribution system into the City of Salem and other unincorporated areas of Phelps County and Dent County, Missouri. In evaluating the financial and economic feasibility of the gas distribution project, the Commission stated that "[t]here is little question that UtiliCorp can suffer a complete loss on this project without appreciable damage to its Missouri operation or harm to its ratepayers."<sup>17</sup> However, the Commission went on to find that:

the expansion into the Salem area will be allowed, but solely at the risk of the shareholders of UtiliCorp. Should the proposed project fail or, for any reason, prove to be economically inefficient or unsound, the Commission will likely assess project costs and operational losses against UtiliCorp and its shareholders.<sup>18</sup>

The Commission granted the CCN, but required the company to keep separate accounting records for the Salem service area, to be examined at the time of the next general rate case.<sup>19</sup> Moreover, the Commission noted that "it makes no finding or determination as to the prudence or ratemaking treatment to be given to this project and its associated costs."<sup>20</sup> Whether or not a project has a specific effect on rates should be reserved for determination during a rate case; however, any CCN that approves the construction of a generation facility has an impact on rates

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<sup>17</sup> *Id.*, at 10

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*, at 11.

<sup>20</sup> *Id.*

and rate payers, so its cost should be considered in determining whether it is in the public interest.

*4: Who will benefit from any tax credits extended by the U.S. government should the project be approved?*

Staff's Position: Great Plains Energy Inc., GMO's parent company, will be the entity that uses the tax credits.

*5. If the Commission decides to grant the CCN, what conditions, if any, should the Commission impose?*

Staff's position: Staff recommends the Commission not grant the CCN. However, should the Commission choose to grant the CCN, Staff proposes six conditions that would help balance the project in favor of the public interest, as well as two economic alternatives that would create a stronger economic and public interest in support of granting a CCN to GMO for the Project.

Staff recommends the Commission include the following operational conditions.

- 1) GMO will file with the Commission a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks, or any underground facility the proposed construction will cross as required by 4 CSR 240-3.105(1)(B)1 or a statement that there are no electric and telephone lines, railroad tracks, or underground facilities on the project site.
- 2) The complete plans and specifications for construction of the proposed Greenwood Solar Facility that GMO has developed shall be filed with the Commission as required by 4 CSR 240-3.105(1)(B)2.



- 3) GMO will file with the Commission all required approvals 4 CSR 240-3.105(1)(D) or seek an appropriate waiver prior to the granting of the authority sought, as provided by 4 CSR 240-3.105(2).
- 4) GMO will perform and file with the Commission an Interconnection Study demonstrating the project will not cause an adverse impact to the Company's distribution system prior to commencing construction. The major components of this study should include: an executive summary, description of the Solar PV equipment and point of interconnection, the projected distribution system conditions, load flow analysis, and fault analysis.
- 5) GMO will develop and file with the Commission a plan outlining its learning objectives for the Greenwood Solar Facility and a description of how GMO will evaluate those objectives prior to commencing construction.
- 6) GMO will file with the Commission an evaluation of its Plan required by Condition 5 after the Greenwood Solar Facility has operated for a period of 5 years or prior to GMO's application for a CCN for its next utility-scale solar facility.

Last, and similar to the Commission's decision in *UtiliCorp United Inc.*, Staff proposes the Commission adopt one of the following economic considerations:

Economic Alternative 1: If the Commission were to grant a CCN, Staff recommends that, as GMO has admitted that the Project "is not the least cost option for the generation" and is an opportunity for GMO to gain "hands-on experience," the Commission find that the Project be allowed, "but solely at the risk of the shareholders" of GMO. If GMO were to request recovery of the project costs in its next rate case, the Commission should disallow the costs from being recovered in rates.

Economic Alternative 2: If the Commission were to grant a CCN, and decide to allow recovery of costs from ratepayers in GMO's next rate case, Staff recommends that the Commission allow a recovery of not more than the amount of the least cost alternative to provide the same service as the Project. All costs above the least cost alternative would be borne by GMO's shareholders.

In either instance, Staff recommends that the Commission make no finding or determination as to the prudence or specific ratemaking treatment to be given to the project and its associated costs.

WHEREFORE, Staff respectfully requests the Commission accept this Staff Position Statement regarding the issues in this matter before the Commission.

Respectfully submitted,

/s/ Marcella L. Mueth

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#### **Certificate of Service**

I hereby certify that copies of the foregoing have been delivered, transmitted by facsimile, or by electronic mail, to all counsel of record on this 8th day of February, 2016.

/s/ Marcella L. Mueth