

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

The Office of the Public Counsel and)	
The Midwest Energy Consumers Group,)	
)	
Petitioners,)	
)	
v.)	File No. EC-2019-0200
)	
KCP&L Greater Missouri Operations Company)	
)	
Respondent.)	

POSITION STATEMENT OF THE OFFICE OF THE PUBLIC COUNSEL

COME NOW the Office of the Public Counsel (“OPC”), by and through counsel, to respectfully submit the following Position Statement:

- 1. Does the retirement of Sibley Units 1, 2, and 3 and common plant constitute an extraordinary event as interpreted by the Commission justifying the imposition of an AAO or other deferral mechanism to record a Regulatory Liability under the Uniform System of Accounts (“USoA”) in connection with GMO’s retirement of Sibley Units 1, 2 and 3 and common plant?**

Yes, the retirement of the Sibley units and common plant was extraordinary and material, and thus justifies the imposition of an accounting order or other deferral mechanism to record a regulatory liability under the Federal Energy Regulatory Commission (FERC) USoA. The retirement was extraordinary because, among other reasons, it occurred far before the end of its projected remaining life, during a pending rate case, and left customers to continue paying for a fictional coal plant as if it was still in service. Further compounding the extraordinary nature of the retirement is KCP&L Greater Missouri Operation’s (GMO) intent to seek recovery of

retirement costs without calculating any offsetting cost savings incurred by customers continuing to pay for a fictional plant.¹

The FERC USOA's guidance on deferral accounting is that such treatment is proper when the subject measured expense or item is extraordinary and material. This Commission has adopted the language "accounting authority order" (AAO) to describe this deferral accounting.² Deferral accounting under an AAO or other mechanism is not ratemaking, retroactive or otherwise, but preserves numbers in controversy for future adjudication. Although parties may differ as to the full extent of dollars implicated by GMO's retirement of the Sibley facility, no party is asserting that the amount in controversy is immaterial. Therefore, whether an accounting order is justified turns on GMO's retirement of the Sibley station being extraordinary.

GMO's retirement of the Sibley facility is extraordinary due to its unique nature and surrounding circumstances. Initially, one should consider that until Sibley's retirement, GMO had not shut down a major generating facility in thirty years.³ Retiring generation facilities is simply not within the day-to-day operations of a utility. Rather, it is an extraordinary and unique event, of one-time occurrence, with impacts throughout an entire utility's operations.

In fact, the Sibley station was so important to GMO's energy fleet that the Company announced the retirement through two separate press releases. The OPC has tracked this issue since the announcement through integrated resource plan filings and other dockets, all with the intention

¹ See *Direct Testimony of Robert E. Schallenberg* p. 4-14; see also *Surrebuttal Testimony of Robert E. Schallenberg* p. 3-12; *Surrebuttal Testimony of Dr. Geoff Marke* p. 8-14.

² The OPC is not attempting to make a substantive distinction between AAOs or other deferral accounting tracking mechanisms, but will note in the case of any confusion that the OPC uses the verbiage "accounting order" as opposed to "AAO," because the OPC and Midwest Energy Consumers Group are not asking for the "authority" for GMO to use deferral tracking, but rather are requesting that the Commission order GMO to do so.

³ *Direct Testimony of Robert E. Schallenberg* p. 12.

that ratemaking properly account for the loss of GMO's largest baseload generating unit, and the largest coal plant to be retired in Missouri thus far.⁴ GMO's announcement also effectively sped up the facility's expected retirement by twenty two years.⁵ The OPC wished to address the Sibley retirement during GMO's latest rate case in 2018, but GMO protested due to the retirement date being beyond the applicable test year. GMO also indicated that the Sibley plant may very well not retire, but did not address the test year timeline being determined by when GMO chose to initiate its rate case. In fact, GMO has already communicated to the Staff of the Public Service Commission (Staff) as early as August of 2017, that the Company planned to file a rate case with a test year excluding the Sibley retirement.⁶

Ironically, while GMO was still maintaining that Sibley could remain operational, it had ceased operations during the rate case due to a forced outage on September 6, 2018.⁷ Meanwhile, various settlements resolving GMO's rate case were entered into in early September. GMO discussed the forced outage with the OPC and Staff later on November 1, 2018, the very next day from when the Commission approved the stipulations and agreements setting GMO's rates. This was the first moment that the OPC learned about the forced outage. At this meeting, GMO indicated that it was still undecided as to whether the Sibley station would be repaired. The Commission Order approving the stipulations and agreements became effective November 10, 2018. Ten days after the Commission's Order became effective, GMO informed the OPC that the Company retired the Sibley facility in early November.⁸ GMO specifically logged the plant as retired on November 13, 2018. However, internal communications between GMO's personnel

⁴ See *Surrebuttal Testimony of Dr. Geoff Marke* p. 12.

⁵ *Id.*

⁶ See *Surrebuttal Testimony of Robert E. Schallenberg*, Schedule RES-S-1 part 1.

⁷ *Id.*, Schedule RES-S-1 part 4, OPC DR 1043.

⁸ *Id.* p. 3.

reveal that GMO was treating the plant as retired as early as October 2, 2018.⁹ The Commission's later order approving the tariffs setting GMO's rates then became effective on December 6, 2018. Those rates include the operation costs of and return on the Sibley facility.

Having such a significant baseload facility retire mere moments after rates are set is extraordinary enough. Treating the plant as operational for ratemaking purposes despite its imminent retirement is extraordinary. Having customers continue to pay for a shuttered plant, while receiving no credit is extraordinary. Instead, GMO's filings before the U.S. Securities and Exchange Commission demonstrate its intent to record and seek recovery of Sibley's retirement costs without any offset for customers continuing to pay for the shuttered plant.¹⁰ This inconsistent accounting is extraordinary, and can be remedied by the ordering of an accounting order directing GMO to record the cost savings it is currently enjoying.

2. If the Commission determines that an AAO or other deferral accounting mechanism should be ordered in connection with GMO's retirement of Sibley Units 1, 2 and 3 and common plant, how should amounts to be recorded to the Regulatory Liability be quantified?

The basis for the quantification of the amounts recorded to a regulatory liability should be the same as that used in any rate case. Similar to the method used for previous accounting authority orders, simply use the cost of service calculations from GMO's immediately prior rate case to determine the expected revenues and recurring expenses to operate the Sibley facility, and then have these amounts applied to the relevant billing units or revenue to determine the actual amounts

⁹ *Id.* Schedule RES-S-1 part 4, OPC DR 1039.

¹⁰ *Direct Testimony of Robert E. Schallenberg*, p. 6-9.

of Sibley costs recovered. This process should be applied until GMO's base rates can be reset in a future rate case.¹¹

WHEREFORE, the OPC prays that the Commission will accept this Position Statement.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 22nd Day of July, 2019, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall

¹¹ See *Surrebuttal Testimony of Robert E. Schallenberg* p. 4.