

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

In the Matter of the 2009 Resource Plan)	
of KCP&L Greater Missouri Operations)	<u>Case No. EE-2009-0237</u>
Company Pursuant to 4 CSR 240-22)	
The Staff of the Missouri Public Service)	
Commission)	
v.)	<u>Case No. EC-2011-0250</u>
KCP&L Greater Missouri Operations)	
Company)	

PUBLIC COUNSEL’S MOTION FOR CLARIFICATION

COMES NOW the Office of the Public Counsel (“Public Counsel”) and for its Motion for Clarification states as follows:

1. On April 12, 2010, most of the parties in Case No. EE-2009-0237, including KCP&L Greater Missouri Operations Company (GMO), filed a Nonunanimous Stipulation and Agreement (the Agreement), which required the filing by GMO of a revised IRP. GMO subsequently filed an incomplete revised IRP.

2. On February 8, 2011, the Staff of the Commission filed a complaint against GMO alleging that GMO’s incomplete revised IRP was not in compliance with the Agreement and that GMO had therefore violated the Agreement. That complaint was docketed as Case No. EC-2011-0250.

3. On April 27, 2011, the Commission issued an order in Case No. EE-2009-0237 that, *inter alia*, set “an evidentiary hearing ... to determine whether [GMO] violated the terms and conditions of the [Agreement].....”

4. In another order issued on July 5, 2011, in Case No EE-2009-0237, the Commission reiterated that the purpose of the evidentiary hearing is “to determine whether KCP&L Greater Missouri Operations Company (“GMO”) violated the terms and conditions of the Nonunanimous Stipulation” Neither the April 27 order nor the July 5 order was issued in Case No. EC-2011-0250.

5. The factual issue that the Commission proposes to address in an evidentiary hearing in Case No. EE-2009-0237 is the exact same factual issue that will be presented in EC-2010-0250. Case No. EE-2009-0237 and Case No. EC-2009-0250 do not have the same parties, may not have the same status as contested cases, and may not have the same party or parties bearing the burden of proof.

6. It is unclear to Public Counsel (and from informal conversations with other parties, it may be unclear to others as well) exactly what the purpose of the August 1-2 evidentiary hearing in Case No. EE-2009-0237 is. If the purpose of the hearing in Case No. EE-2009-0237 really is to make a determination based upon record evidence of the factual issue that is the sole factual issue in EC-2011-0250, it will be an inefficient use of the parties’ and the Commission’s time and resources. It is not clear which party or parties bears the burden of proof in Case No. EE-2009-0237. It is not clear to what extent the record of the evidentiary hearing in Case No. EE-2009-0237 will be used in Case No. EC-2011-0250. It is not clear how the Commission’s decision on the evidence in Case No. EE-2009-0237 will affect the proceedings in Case No. EC-2011-0255. If the evidentiary hearing in Case No. EE-2009-0237 is for something other than taking evidence on and deciding the issue in Case No. EC-2011-0250, that purpose is not clear from the two orders in Case. No. EE-2009-0237 addressing the evidentiary hearing.

WHEREFORE Public Counsel respectfully requests that the Commission issue an order clarifying the purpose of the evidentiary hearing in Case No. EE-2009-0237, and in particular how that hearing and the decision based upon that hearing affects the processing and disposition of Case No. EC-2011-0250.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 21st day of July 2011:

Missouri Public Service Commission

Service List for Case No. **EE-2009-0237** Last Updated: **4/20/2011**

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