

**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 of June-November 2007 Accumulation)
Period True-up Amounts of the Commission-)
Approved Fuel Adjustment Clause of KCP&L)
Greater Missouri Operations Company.)

Case No. EO-2009-0431

STAFF RECOMMENDATION

Comes now the Staff of the Missouri Public Service Commission, by counsel, and for its recommendation, states:

1. As explained in the paragraphs following and in the attached Memorandum (Appendix A), the Staff recommends to the Commission that, rather than the KCP&L Greater Missouri Operations Company (GMO) proposal that it has *under-recovered* during its fuel adjustment clause (FAC) recovery period of March 2007 through February 2008 by \$1,136,160 from its customers in its MPS area and by \$188,893 from its customers in its L&P area; instead, GMO has *over-recovered* during that recovery period \$2,963,976 from its customers in its MPS area and \$1,015,531 from its customers in its L&P area. The Staff adjustments from GMO's proposal to Staff's recommendation are shown in the table following:

**Accumulation Period: June 1, 2007 through November 30, 2007
Recovery Period: March 1, 2008 through February 28, 2009**

	GMO Proposed	Staff Adjustment	Staff Recommendation
MPS True-up Amount	\$1,136,160	(\$4,100,136)	(\$2,963,976)
L&P True-up Amount	\$188,893	(\$1,204,424)	(\$1,015,531)

2. In determining its respective adjustments of (\$4,100,136) and (\$1,204,424), the Staff adjusted the short-term interest rates for four months and netted 100% of off-system sales revenue against fuel and purchased power costs prior to calculating the 95% of fuel and purchased power costs that should have been recovered in the FAC recovery period. GMO has indicated it agrees with Staff's short-term interest rate adjustments. On a stand alone basis, those adjustments would reduce GMO's proposed under-recovery from its customers in MPS and its customers in L&P by \$3,729 and \$968, respectively. It is the cumulative impact of the Staff's short-term interest rate adjustments and the netting of 100% of off-system sales revenue against fuel and purchased power costs that result in the Staff's (\$4,100,136) and (\$1,204,424) adjustments.

3. As explained in detail following, the Staff's basis for netting 100% of off-system sales revenue against fuel and purchased power costs prior to calculating the 95% of fuel and purchased power costs that should have been recovered in the FAC recovery period is (1) language in the Commission's *Report and Order* in the case where the Commission first authorized a FAC for GMO, Case No. ER-2009-0004, and in a Commission order in that case clarifying that *Report and Order*; (2) that the base fuel cost used both for both GMO's FAC and the general rate increase established in Case No. ER-2007-0004 included off-system sales margins; and (3) the timing of when the Commission's rate adjustment mechanism rules became effective and when Case No. ER-2007-0004 occurred.

4. GMO, then known as Aquila, Inc. and doing business as Aquila Networks-MPS and Aquila Networks-L&P, initiated Case No. ER-2007-0004 by filing on July 3, 2006 tariff sheets that it designed to produce additional revenues and to establish a fuel adjustment clause, the first periodic rate adjustment mechanism sought under § 386.266.1 RSMo Supp. 2008.

5. The Commission's rules specific to periodic rate adjustment mechanisms are 4 CSR 240-3.161 and 4 CSR 240-20.090. The Missouri Secretary of State published final orders of rulemaking for both in the *Missouri Register* on December 1, 2006, and both became effective January 30, 2007.

6. At page 30 of its *Report and Order* in Case No. ER-2007-0004, the Commission described the fuel adjustment clause Aquila proposed as follows:

Aquila has requested a fuel adjustment clause in this rate case and has modified the details of its proposed fuel adjustment clause several times during the course of this proceeding in response to concerns expressed by various parties. The details of the fuel adjustment clause Aquila asks the Commission to approve are found in the surrebuttal testimony of Dennis R. Williams, as modified by further concessions set out in Aquila's Post Hearing Brief at pages 43 to 47. *The fuel adjustment clause Aquila proposes would net 100% of off-system sales revenue against fuel and purchased power costs. In other words, off-system sales revenue increases would offset rising fuel and purchased power costs.* The proposed fuel adjustment clause would spread recovery or return of over or under-collections over a subsequent 12-month period, and no more than two to four fuel adjustment clause rate adjustments would be allowed per true-up year. Only fluctuations in actual fuel costs, fuel transportation costs, and purchase power costs would be flowed through the proposed fuel adjustment clause. The fuel adjustment clause would also contain provisions for heat rate testing and line loss factors. (Emphasis added; footnote omitted.)

7. The parties in that case disputed whether a fuel adjustment clause for Aquila was warranted at the time. The Commission determined it was. The parties also disputed what costs should flow through the fuel adjustment clause, the frequency of fuel rate adjustment and other aspects of the fuel adjustment clause, but they did not dispute the netting of 100% of off-system sales revenue against fuel and purchased power costs. In its *Report and Order*, the Commission explicitly addressed the issues of Aquila's fuel adjustment clause in dispute, and ordered that "Aquila, Inc., d/b/a Aquila Networks-MPS and Aquila Networks-L&P shall file proposed electric service tariff sheets in compliance with this *Report and Order* no later than midnight on May 20, 2007."

8. Commission Rule 4 CSR 240-3.161(1)(B) provides:

(B) Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect increases and decreases in an electric utility's prudently incurred fuel and purchased power costs. *The FAC may or may not include off-system sales revenues and associated costs. The commission shall determine whether or not to reflect off-system sales revenues and associated costs in a FAC in the general rate proceeding that establishes, continues or modifies the FAC;* (Emphasis added.)

9. Commission Rule 4 CSR 240-20.090(5)(D) addresses fuel adjustment clause true-ups that accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds and, in part, provides:

(D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.161 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo and the RAM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect by operation of law sixty (60) days after the utility's filing.

10. In addition to the Commission's statements on page 30 of its *Report and Order* in Case No. ER-2007-0004: "*The fuel adjustment clause Aquila proposes would net 100% of off-system sales revenue against fuel and purchased power costs. In other words, off-system sales revenue increases would offset rising fuel and purchased power costs*" (emphasis added); the Staff's view the fuel clause the Commission approved for Aquila includes the net of 100% of Aquila's off-system sales revenue against fuel and purchased power costs is supported by the Commission's June 14, 2007 *Order Rejecting Tariff, Granting Clarification, Directing Filing and Correcting Order Nunc Pro Tunc* made in Case No. ER-2007-0004. There, among other

things, the Commission, responded to the Staff's contention that "because SO₂ emission allowance costs do not vary directly with Aquila's kWh sales of electricity, they are not 'variable fuel and purchased power costs.'" As the Commission stated in that order,

At page 44 of the Report and Order [in Case No. ER-2007-0004], the Commission stated "Aquila will only be allowed to flow variable fuel and purchased power costs, including variable transportation costs, through its fuel adjustment clause." Although Staff supported inclusion of SO₂ emission allowance costs in the costs that should flow through a fuel adjustment clause, Staff interprets the language set out above as excluding these costs from recovery or refund through the fuel adjustment clause. Specifically, Staff contends that, because SO₂ emission allowance costs do not vary directly with Aquila's kWh sales of electricity, they are not "variable fuel and purchased power costs." (Footnote omitted.)

In response, in that order, the Commission stated,

The Commission herein clarifies that the language in question was intended to include SO₂ emission allowance costs. SO₂ emission allowance costs are variable fuel-related costs in that they vary based upon the volume of coal used, as well as, the market prices of the allowances themselves. *The Commission did not specifically list SO₂ emission allowance costs as costs that should flow through the fuel adjustment clause, because no party, including Staff, argued for their exclusion.* Further, other costs that do not vary directly with kWh sales, such as transportation costs, flow through the fuel adjustment clause. (Emphasis added; footnote omitted.)

Just like SO₂ emission allowance costs, by the time the case was before the Commission for decision, no party, including Aquila, argued that 100% of off-system sales revenue should not be netted against fuel and purchased power costs, and, as the Commission stated in its *Report in Order* in case No. ER-2007-0004, the fuel adjustment clause Aquila proposed to the Commission *included* 100% of off-system sales revenue being netted against fuel and purchased power costs. Moreover, again without dispute, off-system sales revenue was included in the calculation of the base fuel and purchased power cost for GMO's FAC.

11. In the attached Memorandum (Appendix A), the Staff presents its recommendation regarding its examination and analysis of whether the June-November 2007

accumulation period true-up amounts GMO proposes accord with Rule 4 CSR 240-20.090, § 386.266, RSMo Supp. 2008 and the Commission's *Report and Order* in Case No. ER-2007-0004, as clarified. In Appendix A the Staff recommends the Commission modify the amounts proposed by GMO to apply interest at KCP&L Greater Missouri Operations' short-term borrowing rates for July 31, 2008, August 31, 2008, September 30, 2008, and October 31, 2008, as required by Commission Rule 4 CSR 240-20.090(5)(A), rather than the incorrect rates it used, and to include 100% of off-system sales revenue as an offset against fuel and purchased power costs recovered through KCP&L Greater Missouri Operations' fuel adjustment clause authorized in Case No. ER-2007-0004, as required by the *Report and Order* in that case.

12. With these adjustments, rather than under-collecting, GMO over-collected during the recovery period for the June to November 2007 accumulation period. The impacts of these adjustments for MPS and L&P made by the Staff follow:

Accumulation Period: June 1, 2007 through November 30, 2007
Recovery Period: March 1, 2008 through February 28, 2009

	GMO Proposed	Staff Adjustment	Staff Recommendation
MPS			
Accumulation	\$12,206,130	(\$3,853,846)	\$8,352,284
Interest	\$698,591	(\$246,290)	\$452,301
Recovery	(\$11,768,561)	\$0	(\$11,768,561)
True-up Amount	<u>\$1,136,160</u>	<u>(\$4,100,136)</u>	<u>(\$2,963,976)</u>
L&P			
Accumulation	\$3,241,152	(\$1,129,892)	\$2,111,260
Interest	\$178,049	(\$74,532)	\$103,517
Recovery	(\$3,230,308)	(\$0)	(\$3,230,308)
True-up Amount	<u>\$188,893</u>	<u>(\$1,204,424)</u>	<u>(\$1,015,531)</u>

Thus, the Staff's analysis is that GMO over-recovered from its customers in MPS and in L&P, and that the true-up adjustment to the fuel adjustment clause rates should be designed to return to those customers in MPS and L&P \$2,963,976 and \$1,015,531, respectively.

13. In light of Rule 4 CSR 240-20.090(5), the Staff suggests the Commission order GMO to respond to the Staff's recommendation. If GMO's response shows there is a factual dispute, the Commission should set an evidentiary hearing, and if GMO's response shows there is no factual dispute, the Staff suggests the Commission should then decide the true-up amounts for the March 2008 to February 2009 recovery period for the June to November 2007 accumulation period. Ultimately, the Staff recommends the Commission issue an order that decides the true-up amounts for the March 2008 to February 2009 recovery period for the June to November 2007 accumulation period in accordance with the Staff's recommendation.

14. The Staff has verified that GMO has filed its 2008 annual report and is not delinquent on any assessment. The Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

WHEREFORE, the Staff recommends that the Commission issue an order that directs KCP&L Greater Missouri Operations Company to respond to the Staff's recommendation and, (2) (a) if GMO's response shows there is a factual dispute, set an evidentiary hearing, (2) (b) if GMO's response shows there is no factual dispute, decide the true-up amounts for the March 2008 to February 2009 recovery period for the June to November 2007 accumulation period, and (3) ultimately issue an order that, on the grounds set forth in Appendix A (the attached Memorandum), modifies the amounts proposed by KCP&L Greater Missouri Operations Company (3)(a) to apply interest at KCP&L Greater Missouri Operations' short-term borrowing rate for July 31, 2008, August 31, 2008, September 30, 2008, and October 31, 2008 as required

by Commission Rule 4 CSR 240-20.090(5)(A), and (3)(b) to include 100% of off-system sales revenue as an offset against fuel and purchased power costs recovered through KCP&L Greater Missouri Operations' fuel adjustment clause authorized in Case No. ER-2007-0004, as required by the *Report and Order* in that case.

Respectfully submitted,

/s/ Nathan Williams

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 25th day of June 2009.

/s/ Nathan Williams

Nathan Williams

MEMORANDUM

TO: Missouri Public Service Commission Official Case File, Case No. EO-2009-0431, KCP&L Greater Missouri Operations Company

FROM: Matthew Barnes, Utility Regulatory Auditor IV
David Roos, Regulatory Economist III

DATE: /s/ John Rogers 6-25-09 /s/ Nathan Williams 6-25-09
Energy Department / Date General Counsel's Office / Date

SUBJECT: Staff's Analysis and Recommendation in Response to KCP&L Greater Missouri Operations Company's First Annual True-up Filing under the provisions in 4 CSR 240-3.161(8) and 4 CSR 240-20.090(5).

DATE: June 25, 2009

On May 29, 2009, KCP&L Greater Missouri Operations Company (GMO) filed with the Commission in the form of direct testimony and supporting schedules by Tim M. Rush, its first annual true-up filing under the provisions in 4 CSR 240-3.161(8) and 4 CSR 240-20.090(5). According to GMO's true-up filing, GMO under-recovered \$1,136,160 from its customers in the territory it formerly served as Aquila Networks-MPS (MPS) and under-recovered \$188,893 from its customers in the territory it formerly served as Aquila Networks-L&P (L&P) during the first recovery period (March 2008 to February 2009) that followed its first accumulation period (June to November 2007).

Based on its examination and analysis of information, the Missouri Public Service Commission Staff (Staff) recommends the Commission determine that during the March 2008 to February 2009 recovery period GMO over-collected \$2,963,976 from its customer in MPS and over-collected \$1,015,531 from its customers in L&P. Staff examined the analysis GMO provided with its application in this case, the monthly information GMO provided to Staff, and GMO responses to data requests in this case and in the prudence audit case (Case No. EO-2009-0115). Based on its examination and analysis of the information, Staff has determined that two adjustments should be made that affect GMO's true-up results. The two adjustments are detailed below and are: 1) inclusion of off-system sales (OSS) margin in GMO's Fuel Adjustment Clause (FAC) and 2) correction to monthly interest rates GMO used. The following table summarizes GMO's proposed true-up recovery, Staff's adjustments and Staff's recommendation:

Accumulation Period: June 1, 2007 through November 30, 2007
Recovery Period: March 1, 2008 through February 28, 2009

	GMO Proposed	Staff Adjustment	Staff Recommendation
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Accumulation	\$12,206,130	(\$3,853,846)	\$8,352,284
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Recovery	(\$3,230,308)	(\$0)	(\$3,230,308)
True-up Amount	<u>\$188,893</u>	<u>(\$1,204,424)</u>	<u>(\$1,015,531)</u>

Concerning the inclusion of OSS margin in GMO's FAC, it is Staff's position that GMO's OSS margin should be included in the GMO FAC calculations; GMO did not do this. There are two reasons that Staff believes OSS margin is included in GMO's FAC. First, the OSS margin was included in the calculation of the base fuel and purchased power cost for GMO's FAC. Second, in its *Report and Order* in Case No. ER-2007-0004 where the Commission authorized GMO's FAC, the Commission stated that the FAC GMO proposed would net 100% of off-system sales revenue against fuel and purchased power costs. In that case, this proposed treatment of off-system sales revenue in GMO's FAC was not a contested issue before the Commission.

Specifically, on page 30 of the Commission's *Report and Order*, in *Section IV: Determining Whether a Fuel Cost Adjustment Mechanism is Appropriate*, the Commission, citing Mr. Dennis R. Williams' surrebuttal testimony "as modified by further concessions set out in Aquila's Post Hearing Brief" discusses how 100% of the margin from off system sales would pass through the FAC and "offset rising fuel and purchased power costs."

The basis for Staff's analysis is a GMO spreadsheet used to calculate the monthly accrual and allocation costs for GMO's FAC. GMO provided this spreadsheet to Staff in response to Staff data request no. 1 in Case No. EO-2009-0115, the case where the Staff first reviewed the prudence of costs included in GMO's FAC. In this spreadsheet Staff included GMO's OSS revenues and costs in GMO's FAC monthly cost accrual and allocation calculation for MPS and L&P. Staff then took the allocated costs from that spreadsheet and entered them into a second spreadsheet provided by GMO, in response to Staff data request no. 8 in this case, Case No. EO-2009-0431. Output from this second spreadsheet is Schedule TMR-1 of Tim M. Rush's Direct Testimony in this case, Case

No. EO-2009-0431, and provides the calculation of the over- or under-collection during GMO's first FAC recovery period.

Staff's adjustments to the accumulation period FAC costs for the inclusion of OSS margin in the FAC are (\$3,853,846) for MPS and (\$1,129,892) for L&P.

Concerning the correction to monthly interest rates, Staff submitted data requests pertaining to the calculation of GMO's monthly short-term borrowing interest rate that is a component in the proposed true-up amounts. GMO's response to Staff data request no. 6 follows:

The CSFB [Credit Suisse First Boston] credit facility was very expensive; as such, the Company moved quickly following the acquisition by Great Plains Energy to put a more cost-effective facility into place. The CSFB facility was terminated on July 17, 2008, just three days after the completion of the acquisition in July. A new \$400 million revolving credit facility was completed in September 2008. At GMO's credit rating of BBB at S&P and Baa3 at Moody's, the margin over LIBOR [London Interbank Offered Rate] under the new facility is 70 basis points, compared to a margin of 150 basis points under the old CSFB facility for the same rating.

Also, though not directly pertaining to this data request response, it should be noted that Schedule TMR-1 to Mr. Rush's testimony is incorrect:

- The Short-term Borrowing Rate for July 31, 2008 and August 29, 2008 includes the CSFB facility. As indicated above, that facility was terminated on July 17, 2008. Accordingly, the July 31, 2008 and August 31, 2008 Borrowing Rates should be revised downward from 4.14% to 3.875% to reflect just the A/R [Accounts Receivable] Program.
- The A/R facility was reduced from \$150 million to \$65 million upon the closing of the acquisition of GMO by Great Plains Energy in July, yet it incorrectly appears at the \$150 million level for July, August, September, and October. This does not impact the Borrowing Rate for July and August referenced in the first bullet since the A/R facility was the only facility. For September, the Weighted Cost of the A/R Program drops to 0.961% from 1.875%, the Weighted Cost of the \$400M Revolver increases to 5.763% from 4.873% and the Borrowing Rate drops to 6.72% from 6.75%. For October, the Weighted Cost of the A/R Program drops to 0.751% from 1.466%, the Weighted Cost of the \$400M Revolver increases to 4.473% from 3.782% and the Borrowing Rate drops to 5.22% from 5.25%.

The company will take the appropriate steps to make this correction on its books and in future FAC filings.

On a stand alone basis, these interest rate adjustments would reduce GMO's proposed under-recovery from its customers in MPS and from its customers in L&P by \$3,729 and \$968, respectively. Further, when the adjusted interest rates are applied to Staff's accumulation period adjustments for the inclusion of OSS margin in the FAC, the resulting interest costs impacts are an over-recovery of \$246,290 for MPS and an over-recovery of \$74,532 for L&P.

The cumulative impact of the Staff's short-term interest rate adjustments and the netting of 100% of off-system sales revenue against fuel and purchased power costs results in the Staff's \$4,100,136 (MPS) and \$1,204,424 (L&P) adjustments.

Staff has verified that GMO has filed its 2008 annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.