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EO-2012-0009

SURREBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

KCP&L GREATER MISSOURI OPERATIONS COMPANY

Case No. EO-2012-0009

May 10, 2012

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

In the Matter of KCP&L Greater Missouri)	
Operations Company's Notice of Intent)	
to File an Application for Authority to)	Case No. EO-2012-0009
Establish a Demand-Side Programs)	
Investment Mechanism)	

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.




Ryan Kind

Subscribed and sworn to me this 10th day of May 2012.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037



Jerene A. Buckman
Notary Public

My commission expires August 23, 2013.

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1 **1. INTRODUCTION AND QUALIFICATIONS**

2 **Q. Please state your name, title, and business address.**

3 A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,
4 Jefferson City, Missouri 65102.

5 **Q. Are you the same Ryan Kind that has previously filed rebuttal testimony in this**
6 **case?**

7 A. Yes.

8 **Q. What is the purpose of your surrebuttal testimony?**

9 A. This testimony responds to the rebuttal testimony of certain witnesses representing the
10 Commission Staff (Staff), MIEC, and NRDC, Sierra Club, and Renew Missouri (NRDC).

11 **2. RESPONSE TO NRDC REBUTTAL TESTIMONY**

12 **Q. What is your overall response to the rebuttal testimony filed by NRDC witness Phil**
13 **Mosenthal?**

14 A. The testimony of Mr. Mosenthal adds substantially to the record in this case by providing
15 analysis of a number of different aspects of GMO's MEEIA Application. In particular,
16 Mr. Mosenthal provides a substantial amount of feedback regarding certain shortcomings
17 with some of the programs that are part of GMO's DSM portfolio beginning on page 33
18 of his testimony and I generally support his feedback.

19 **Q. What are the key observations that Mr. Mosenthal makes regarding GMO's use of**
20 **gross savings instead of net savings in its calculation of net benefits and lost**
21 **margins?**

22 A. Beginning at line 5 on page 12 of his Rebuttal testimony, he states:

23 ... relying only on gross savings calculations... would provide GMO with
24 excess payments, because these 1.0 NTG assumptions appear to flow to
25 GMO's estimates of actual lost margins as well. What is perhaps more
26 important, deeming 1.0 NTG ratios creates perverse incentives to GMO
27 that could encourage it to pursue less than optimal strategies simply
28 because it could maximize its financial reward.

29 **Q Do you agree with these observations?**

30 A. Yes. The Commission's MEEIA rules prescribe a "net shared benefits" incentive
31 mechanism that is to be used to incentivize utilities so that their interest is aligned with

1 the interest of customers in having cost effective DSM programs that are implemented in
2 an effective and efficient manner. In order for this incentive mechanism to achieve the
3 desired outcomes, the incentive payments need to be based on outcomes (net reductions
4 in energy (kWh) and demand (kW)) that are actually achieved. In other words the
5 incentive payments should be based on the best estimates of the net load reduction
6 impacts where these impacts are calculated by applying verified estimates of NTG ratio
7 to verified estimates of gross impacts.

8 GMO has proposed that it be permitted to have two separate utility incentive components
9 in its DSIM (one to collect lost margins and the other as a performance incentive).
10 Neither of these incentive mechanisms will properly align the interests of the Company
11 and its customers if they calculate incentive payments based on the gross impacts instead
12 of the net impacts of approved programs. While OPC opposes GMO's proposal for an
13 incentive component designed to collect 100% of lost margins on both policy and legal
14 grounds, the Commission should be aware that this incentive component will likely
15 collect more than 100% of GMO's lost margins if the incentive payments are based on
16 gross impacts rather than net impacts. This would occur because the most common
17 reason for NTG ratios to be less than one is customers who have participated in a utility
18 program and received an incentive even though they would have made the same choice
19 for a more efficient measure (e.g. appliance or building shell enhancement) if they had
20 not been offered the utility incentive. Customers who behave in this manner are referred
21 to as "free riders" and including their energy efficiency related load reductions in the load
22 reductions and corresponding lost margins will improperly inflate the incentive payments
23 received by GMO under its proposal.

24 The other utility incentive component of GMO's DSIM that is intended to actually
25 incentivize good performance will also over-compensate the Company if the incentive
26 payments are calculated based on gross rather than net load reduction impacts for the
27 same reasons described in the above paragraph. When these two incentive components
28 are combined, they create a perverse incentive for GMO to not design and implement
29 programs in a manner that reduces NTG ratios and drives net impacts towards the level of
30 gross impacts. This occurs because if both mechanisms rely on gross impacts for the
31 calculation of incentive payments, the utility's incentive payments under the performance

1 incentive are unaffected by poor NTG ratios while the failure to account for poor NTG
2 ratios in the lost margin component means that GMO could be compensated for lost
3 margins that are not the result of its approved DSM programs because they are
4 attributable to free riders.

5 Another important usage of NTG ratios as part of a DSIM is in the calculation of the
6 DSIM utility lost revenue requirement. OPC proposed in its rebuttal testimony that the
7 Commission approve use of a lost revenue component of a DSIM. This lost revenue
8 component may over collect lost revenues from customers if the amount of the shortfall
9 of revenues for covering GMO's fixed costs is based on a revenue shortfall calculation
10 that reflects the gross impacts of usage reductions resulting from GMO's approved
11 demand-side programs, rather than the net impact of usage reductions (adjusted for
12 EM&V estimates of NTG).

13 **Q. What are the key observations that Mr. Mosenthal makes regarding GMO's**
14 **proposal to assume that most NTG ratios equal one, which would allow it to take**
15 **credit for gross savings?**

16 A. Beginning at the bottom of page 13 of his rebuttal testimony, Mr. Mosenthal summarizes
17 the problems associated with this approach where he states:

18 While the above is just one example, there are numerous ways a utility can
19 influence NTG ratios. As a result, rewarding the utility financially for only
20 gross rather than net savings can encourage a utility to pursue gross
21 savings that actually are less worthwhile in terms of net savings, or even
22 intentionally target free riders which would drive down actual NTG ratios.
23 Because actual net savings drive lost margins, GMO would benefit from
24 collecting DSIM on gross savings but actually minimizing the true net
25 savings. I am not suggesting GMO has any intent to do this, or that it
26 would. However, I believe it is bad policy to create perverse incentives,
27 and ultimately unfair to utility staff, who will naturally feel some conflict
28 between maximizing overall societal benefits versus maximizing
29 shareholder earnings.

30 The issues raised by Mr. Mosenthal regarding perverse incentives relate to important
31 consumer protections that should be fundamental concerns of the Commission as it
32 considers GMO's proposal to largely ignore the NTG ratios.

1 **Q. What are the key observations that Mr. Mosenthal makes regarding GMO's**
2 **approach to using program participation as the DSIM variable that is tracked and**
3 **used to quantify GMO's incentive payments and its recovery of lost revenues?**

4 A. Beginning on page 20 of his testimony, NRDC witness Mosenthal identifies his concerns
5 in the following paragraphs:

6 Rather than tracking savings at the measure level, along with actual
7 measure lives and load shapes, GMO has proposed simply scaling its
8 deemed assumptions by the actual program participants in each year.
9 Because GMO's planning analysis is based on an average savings and
10 benefits per participant, GMO argues this will result in the same numbers
11 in the end, and simplify the process. However, just as measure mixes can
12 change over time, so too the average savings per participant. Therefore,
13 this significantly reduces the accuracy of the DSIM calculations. Further,
14 it creates strong perverse incentives to focus efforts on smaller customers,
15 or on less comprehensive projects that have lower savings per customer.

16 Because of the extreme heterogeneity of commercial and industrial
17 customers, savings per participant can and typically do vary by orders of
18 magnitude. Under GMO's proposal, it would have an incentive to avoid
19 marketing to large customers and instead capture relatively small savings
20 from a large number of smaller customers. This would significantly
21 undermine efforts at all cost-effective DSM. Alternatively, GMO could
22 have good success capturing deep and comprehensive savings with a small
23 number of large customers and would effectively be financially penalized
24 for this success. Even a relatively minor program change — for example,
25 restricting the allowed number of CFLs a homeowner could purchase to
26 less than originally planned — could result in windfall savings to GMO
27 simply by driving down per participant impacts within a specific program.

28 If anything, GMO should have incentives to attempt to maximize per
29 participant savings by going as deep as possible and pursuing all cost-
30 effective opportunities with each participant. Therefore, relying on the
31 participant metric for DSIM directly encourages poor practices, cream
32 skimming, and a lack of comprehensive savings.

33 Public Counsel agrees with these observations and notes that there are good reasons for
34 the MEEIA rules to require that load reduction impacts be verified through EM&V as
35 part of the process of calculating incentive payments and amounts of lost revenues that
36 can be recovered from ratepayers. If incentive payments and lost revenue amounts to be
37 recovered from ratepayers are allowed to be calculated based on the streamlined approach
38 of using a deemed amount of savings per participant as proposed by GMO, ratepayers

1 will not be protected from the types of potential abuse described above by Mr.
2 Mosenthal.

3 **3. RESPONSE TO STAFF REBUTTAL TESTIMONY**

4 **Q. At the bottom of page 9 in his rebuttal testimony, Staff witness Mark Olighschlaeger**
5 **states that he believes that Rule 4 CSR 240-20.093(G)4 makes GMO's proposed**
6 **"quantification of its utility incentive component to be approximately equal to its**
7 **lost margins an acceptable approach under the MEEIA rules." Do you agree?**

8 A. No. GMO's proposed "quantification of its utility incentive component to be
9 approximately equal to its lost margins" is clearly not permitted by the rules because it
10 could allow recovery of a larger amount of dollars from customers than is permitted
11 under 4 CSR 240-20.093(G)1. There is nothing in the rule that permits a lost margin or
12 lost revenue recovery mechanism to NOT be in compliance with 4 CSR 240-20.093(G)1
13 so long as it complies with 4 CSR 240-20.093(G)4. Clearly all provisions in the rule
14 must be complied with unless the rule states otherwise or a variance has been granted that
15 permits non-compliance with specific rule provisions. Furthermore, there would be no
16 reason for the Commission to put specific provisions in the rule to address the recovery
17 of lost revenues and place specific limitations on the extent to which such recovery is
18 permitted, if utilities could blatantly ignore such provisions by choosing to recover lost
19 revenues under the utility incentive component of a DSIM.

20 **Q. On page 41 of his testimony, Mr. Rogers states "This under- or over-recovery of**
21 **DSM program costs from customers should be measured monthly and treated in the**
22 **same manner, i.e., interest provided at a short-term interest rate, as the under- or**
23 **over-recoveries of costs from customers are treated in Ameren Missouri's fuel**
24 **adjustment clause." Do you agree with this recommendation?**

25 A. Yes. If over and under recoveries are not measured monthly, then GMO would have an
26 incentive to delay or slow down the initial implementation of programs and incurrence of
27 program costs since it will be receiving up-front recovery of a levelized amount of
28 estimated future costs. Without the monthly measurement of cost incurrence and the
29 application of a short term interest rate for over-recovered amounts, the Company would
30 essentially be entitled to an interest free loan from customers, making the DSIM rate that
31 provides funding for such a loan both unjust and unreasonable.

1 **4. RESPONSE TO MIEC REBUTTAL TESTIMONY**

2 **Q. On page 3 of his testimony, MIEC witness Maurice Brubaker states “There simply**
3 **is no justification for spreading the costs of residential and commercial/industrial**
4 **customer programs across all customer classes. Costs associated with residential**
5 **customers should be assigned to and collected from only residential customers and**
6 **costs associated with commercial and industrial customers should be assigned to**
7 **and collected only from them.” Do you agree with this statement?**

8 A. No. There should be one very important exception to this cost allocation principle for
9 Residential Low Income programs. Both the MEEIA rules and statute allow for
10 Commission approval of low income programs that do not pass cost benefit tests if the
11 Commission makes a determination that the program is in the public interest. When the
12 Commission approves a demand-side program despite its failure to pass the Total
13 Resource Test (TRC) by determining that the program “is in the public interest,” the costs
14 of this program should be allocated to all segments of the public by allocating these costs
15 to all customer classes. There is no reason why residential customers should bear the
16 entire burden of paying for programs that are approved to serve a public interest purpose,
17 even though they are not cost effective. If the entire burden of these costs were passed on
18 to residential customers, then the rates paid by low income residential customers, who
19 already have difficulties affording their electric service, would be increased more than
20 they would if the costs are spread to all customer classes.

21 This Commission has approved low income weatherization for gas and electric utilities
22 for almost two decades and I am not aware of a single instance where the Commission
23 has determined that the cost of these weatherization programs should be allocated solely
24 to residential customers. No party has provided any evidence or analysis in this case that
25 would justify making a change in this prior Commission policy for the Low Income
26 program that GMO has proposed in this case.

27 **Q. Which part of the Commission’s MEEIA rules addresses Commission approval of**
28 **low income programs not passing the TRC test?**

29 A. This is addressed in 4 CSR 240-20.094(3)(B) which states:

30 (B) The commission shall approve demand-side programs having a total
31 resource cost test ratio less than one (1) for demand-side programs
32 targeted to low income customers or general education campaigns, if the
33 commission determines that the utility has met the filing and submission

1 requirements of 4 CSR 240-3.164(2), the program or program plan is in
2 the public interest, and meets the requirements stated in paragraphs
3 (3)(A)2. and 3. [Emphasis added]

4 **Q. Does this conclude your surrebuttal testimony?**

5 A. Yes, it does.