

The Office of the Public Counsel and  
The Midwest Energy Consumers Group,  
  
Complainants,  
  
v.  
  
KCP&L Greater Missouri Operations Company  
  
Respondent.

KCP&L Greater Missouri Operations Company )  
 )  
 Respondent. )

**COMES NOW** the Staff of the Missouri Public Service Commission, through the Chief Staff Counsel, and for its *Motion to Strike a portion of MEGC's Reply Brief*, states herein as follows:

Mr. Woodsmall goes on to discuss the Westar merger case, saying, “On October 12, 2016, Staff and Great Plains Energy submitted a stipulation which, while

resolving Staff's concerns with the proposed transaction, ultimately proved to be utterly inadequate in protecting customers." Notice that Woodsmall never points to any actual evidence that supports his conclusion that the stipulation is "utterly inadequate." When and how, the reader wonders, was it "proved to be utterly inadequate"? Woodsmall's tools are not evidence, but invective, mischaracterizations, sly insinuations, and unfounded assertions. For example, Woodsmall likes to count DRs to show that the KCC Staff is "more thorough and better prepared than the Missouri Staff," a matter that he contends "cannot be seriously debated." He fails, of course, to mention the very significant differences between the legal standards that govern mergers in Missouri and Kansas, or to consider how the much more detailed and specific nature of the Kansas standard might impact the number of DRs issued. He also fails to mention the issues and cases where Staff and KCPL and GMO have significant differences.<sup>1</sup>

Woodsmall now admits the point of his screed: "All of this is designed to demonstrate that, when it comes to matters involving KCPL and GMO, Staff has lost the "objectivity" that GMO now eagerly applauds. The Commission needs to be aware of this lack of objectivity so that it may adequately consider whether Staff's position establishes an appropriate balancing of the interest of ratepayers and shareholders." Woodsmall here actually frankly admits that the purpose of the section of his *Reply Brief* that Staff seeks to strike is to improperly poison the Commission's mind against Staff. Based on his admission, this *Motion to Strike* should be granted.

According to the American Bar Association, "The focus of any reply brief should be to respond to opposing counsel's arguments." The cited portion of Mr. Woodsmall's

---

<sup>1</sup> For instance, see Staff Rebuttal Report in Case Nos. EO-2019-0132 and EO-2019-0133.

Reply Brief does not respond to any arguments of opposing counsel; examine any pertinent assertions of fact; discuss any evidentiary matters; or otherwise address any issues appropriate to a reply brief or germane to this case. Thus, the section is irrelevant and impertinent. Rule 55.27(e) authorizes a court to “order stricken from any pleading any ... redundant, immaterial, impertinent, or scandalous matter.” While the Commission’s practice rules do not include an analog to Rule 55.27(e), the Commission possesses inherent authority to strike improper matter from pleadings and briefs. Commission Rule 4 CSR 240-2.080(6)(A) requires that arguments should not be “presented or maintained for any improper purpose, such as to harass[.]”

What is Mr. Woodsmall’s improper purpose? As he himself admits, it is to poison the Commission’s mind against Staff. Don’t listen to Staff, Woodsmall warns, Staff is not objective; Staff’s relationship with these companies is “cozy.” That purpose is improper, harassing, scandalous and impertinent, and should be stricken.

**WHEREFORE,** Staff prays that the Commission will strike pages 16 through 19 of MCEG’s *Reply Brief* filed herein, and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

**/s/ Kevin A. Thompson**

Kevin A. Thompson  
Missouri Bar Number 36288  
Chief Staff Counsel

Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-6514 Voice  
(573) 526-6968 FAX  
[kevin.thompson@psc.mo.gov](mailto:kevin.thompson@psc.mo.gov)

Attorney for the Staff of the  
Missouri Public Service Commission

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically or by First Class Mail, postage prepaid, upon all parties or their representatives pursuant to the Service List maintained by the Commission's Data Center, on this 12<sup>th</sup> day of September, 2019.

**Kevin A. Thompson**