

**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)	<u>Case No. EO-2012-0009</u>
Establish a Demand-Side Programs)	
Investment Mechanism)	

**JOINT RESPONSE OF PUBLIC COUNSEL, WALMART STORES, INC. AND SAM'S
EAST, INC., MISSOURI INDUSTRIAL ENERGY CONSUMERS, AND SEDALIA
INDUSTRIAL ENERGY USERS ASSOCIATION AND AG PROCESSING, INC. IN
OPPOSITION TO MOTION TO MODIFYPROCEDURAL SCHEDULE AND MOTION
FOR EXPEDITED TREATMENT**

COME NOW the Office of the Public Counsel, WalMart Stores, Inc. and Sam's East, Inc., the Missouri Industrial Energy Consumers, Sedalia Industrial Energy Users Association, and AG Processing, Inc. (collectively, the Signatories) and for their Response to Motion to Modify Procedural Schedule and Motion for Expedited Treatment states as follows:

1. The Signatories represent all the customer representatives in this case. While the Signatories are always interested in pursuing potentially productive settlement negotiations, they oppose the motion of KCP&L Greater Missouri Operations Company (GMO) to extend the filing date of its surrebuttal testimony (and other procedural dates) by one month.

2. GMO's professed desire to "continue" settlement discussions is disingenuous. A substantial majority of the parties to this case spent many hours creating a comprehensive settlement proposal. GMO quickly rejected that proposal and indicated that it did not intend to make a counteroffer. Thus GMO's statement at paragraph 2 that it wants to "continue"

settlement discussions is misleading, because it has effectively terminated negotiations by declining an offer and refusing to make a counteroffer. Unless some parties are willing to “bid against themselves” and continue to make offers to GMO in the hopes that GMO will accept one, there does not appear to be a framework for negotiations to continue. Certainly none of the Signatories intend to pursue such a counter-productive course of action.

3. Moreover, in the event that GMO does become willing to re-enter negotiations, those negotiations might be better served by having GMO’s surrebuttal testimony filed. Other parties will have a better understanding of GMO’s positions on the issues and the basis for them, and settlement discussions would be more productive. Of course, GMO may be worried that its surrebuttal positions may weaken its ability to negotiate (because it does not have an effective response to the positions of other parties), and thus wants to delay filing its testimony as long as possible.

4. The timing that GMO proposes works very much in its favor and very much to the detriment of other parties, particularly Public Counsel. GMO’s proposal would force Public Counsel to prepare for a hearing in this case immediately after the hearing in Union Electric Company’s MEEIA case, or force Public Counsel to agree to an undesirable settlement proposal because going to hearing under such circumstances would be so problematic. This concern is obviously of no consequence to GMO, because it does not have to worry about the Union Electric case. In addition, the Signatories (or some of them) are involved in the MEEIA filing for the Empire District Electric Company, rate cases for KCP&L, GMO and Union Electric, and many other cases. The process of getting to even marginally compatible and workable schedules for all these cases has been complicate, to say the least. Moving the schedule a month in this case will cause problems in other cases beyond this case and the Union Electric MEEIA case.

5. Furthermore, GMO's proposal would give it a much longer time to review other parties' testimony and prepare for hearing than the amount of time the other parties will have to review GMO's testimony. The one month extension for the filing of GMO's surrebuttal testimony would prejudice all the customer groups by providing GMO over 2 months to review the other parties single round of testimony and prepare for hearing while the other parties will be relegated to just two weeks.

6. The requested extension will not alleviate the Commission's need for an evidentiary hearing. Given GMO's unwillingness to engage the consumer representatives in any serious settlement dialogue, at best the Commission will be faced with a Non-Unanimous Stipulation. In such an instance, the Commission would still be required to conduct an evidentiary hearing. The dates for the evidentiary hearing were established by Commission order on January 31. Parties and their representatives relied upon that date in preparing their schedule. It will be difficult, given this late date, to ensure the availability of parties, their representatives and their witnesses at any hearing rescheduled on such short notice.

7. If there are indications that settlement negotiations have some chance of being productive, the parties can always jointly seek an extension of the schedule at a later time. But GMO's unilateral request appears to be driven more by a desire to delay filing its testimony than by any real desire to productively engage with the parties.

WHEREFORE the Office of the Public Counsel, WalMart Stores, Inc. and Sam's East, Inc., the Missouri Industrial Energy Consumers, Sedalia Industrial Energy Users Association, and AG Processing, Inc. respectfully request that the Commission deny the motion of KCP&L Greater Missouri Operations Company to modify the procedural schedule.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 9th day of April 2012.

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