

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

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for)
Approval of a Special Incremental Load)
Rate for a Steel Production Facility)
In Sedalia Missouri.)

Case No. EO-2019-0244

STAFF'S STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Statement of Positions* states herein as follows:

ISSUE 1. Must the proposed special incremental load tariff and Nucor special contract be approved pursuant to Section 393.355, RSMo.? If not, under what statutory authority is the Commission approving the terms of the SIL tariff and the Nucor special contract?

Staff's Position: No, the proposed special incremental load tariff and Nucor special contract need not be approved pursuant to Section 393.355, RSMo. While that section authorizes a special rate for steel smelters, it nowhere provides that it is the *exclusive* means by which a steel smelter may obtain an economic development rate. The Commission is authorized to take up, consider and approve both the proposed SIL Tariff and the Nucor special contract under § 393.150.1, RSMo., which provides in pertinent part:

Whenever there shall be filed with the commission by any ... electrical corporation ... any schedule stating a new rate or charge, or any new form of contract or agreement, ... the commission shall have, and it is hereby given, authority, ... upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of contract or agreement, rule, regulation or practice, and pending such hearing and the decision thereon, the commission upon filing with such schedule, and delivering to the gas corporation, electrical corporation, water corporation

or sewer corporation affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, form of contract or agreement, rule, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, form of contract or agreement, rule, regulation or practice as would be proper in a proceeding initiated after the rate, charge, form of contract or agreement, rule, regulation or practice had become effective.

Economic development rates and special contracts are not unusual. GMO itself has a tariff providing for special contracts, as do other utilities. As a new service offering, the proposed SIL Tariff need not be introduced in a general rate case. ***State ex rel. Sprint Spectrum L.P. v. Missouri Public Service Commission***, 112 S.W.3d 20, 28-29 (Mo. App., W.D. 2003).

ISSUE 2. Should the Commission approve the SIL tariff proposed by GMO and the special contract rate proposed for Nucor subject to the customer protections and monitoring and reporting requirements recommended by Staff, Nucor and GMO?

Staff's Position: Yes, the Commission should approve the SIL tariff proposed by GMO and the special contract rate proposed for Nucor, subject to the customer protections and monitoring and reporting requirements recommended by Staff, Nucor and GMO.

First, the proposed SIL Tariff and Nucor Special Contract are key to an important economic development initiative undertaken by the State of Missouri.

The Nucor project was developed by a statewide team that included the Governor's Office, the Missouri Department of Economic Development, and other

agencies that crafted an incentive package for Nucor. As part of this package, GMO is requesting a special incremental load contract rate for Nucor's proposed \$250 million steel mill in Sedalia.¹ When completed, the Nucor mill will employ more than 250 people. These positions include highly technical, skilled, and correspondingly well-compensated positions, estimated at \$65,000 in annual salary, on average. That represents almost 200% of the current average wage in Pettis County, which is \$33,564. Nucor has broken ground on the facility, has completed significant construction and installation of equipment, and plans to be fully operational by January 1, 2020. In order to meet this schedule, GMO requests a decision by the Commission by December 1, 2019, so that the special incremental load contract rate can be effective by January 1, 2020.² GMO and Nucor have signed a *Special Incremental Load Rate Contract*, which is attached to the testimony of witness Darrin R. Ives, which provides both the rate and terms of service.³ Nucor will be the largest single GMO customer. GMO indicates that to serve this load and better isolate the incremental cost, it intends to enter into a purchased power agreement for wind energy to serve Nucor.⁴

Concurrent with this application, GMO has filed a *Special Rate for Incremental Load Service Tariff* ("SIL Tariff") which GMO proposes to establish a Special Rate, significantly similar to § 393.355 RSMo., which gives the Commission the authority to approve a special rate contract for aluminum and steel producers or facilities resulting in

¹ *Application*, ¶ 5; *Direct Testimony of Darrin Ives*, pp. 3, 4.

² *Application*, ¶ 6; *Direct Testimony of Mark Stombaugh*, pp. 2-3; *Direct Testimony of Jessica L. Craig*, p. 2; *Direct Testimony of Kevin Van De Ven*, pp. 4-5; *Direct Testimony of Darrin Ives*, p. 3.

³ *Application*, ¶ 7; *Direct Testimony of Mark Stombaugh*, p. 2; *Direct Testimony of Kevin Van De Ven*, pp. 5-6.

⁴ *Application*, ¶ 8; *Direct Testimony of Darrin Ives*, pp. 8, 13.

incremental monthly load increases over 50 megawatts, outside of a general rate proceeding.⁵ The *Special Incremental Load Rate Contract* with Nucor is consistent with the terms of the proposed Schedule SIL tariff. The proposed Schedule SIL tariff provides that the Company will provide certain information to the Commission before the effective date of the contract with the customer.⁶ Electricity is one of the biggest inputs to the cost of making steel. Therefore, the electricity rate was very important to Nucor's decision to locate in Sedalia. In fact, without the special rate requested in GMO's *Application*, Nucor would not have located its mill in Sedalia.⁷

GMO participated in a competitive bidding process that included multiple other states, to attract Nucor to the State of Missouri. Nucor had competitive alternatives and selected the Sedalia, Missouri, site based upon the special incremental load rate. Nucor's decision to locate the facility in Sedalia, Missouri represents the single largest economic development success for the state in over 10 years, relative to capital investment. It is the most significant new facility launch throughout Sedalia and Pettis County. The project was extremely competitive amongst multiple other states vying to encourage this investment and employment growth in their states. This growth opportunity showcased the full teamwork necessary for economic development successes, a true public-private partnership including; state and local economic development teams, workforce training

⁵ *Application*, ¶ 9.

⁶ *Application*, ¶¶ 10, 11; *Direct Testimony of Darrin Ives*, pp. 11-12.

⁷ *Application*, ¶ 12; *Direct Testimony of Kevin Van De Ven*, pp. 6-8; *Direct Testimony of Darrin Ives*, pp. 5, 9.

and education providers, utility providers, and local and state elected officials and legislative bodies.⁸

Nucor is expected to invest over \$325 Million in new plant and equipment over the next 22 years with the majority of that by the end of this calendar year, directly benefiting the tax base of the Sedalia area. Estimates also indicate further increase in the tax base as a result of the estimated addition of \$16,575,000 annual payroll to the Sedalia area. Not only will this new facility employ more than 250 direct employees and invest \$250M directly, it will also have significant spinoff benefits. There are currently 450+ construction employees working at the site. These individuals are utilizing local lodging, eating and hospitality venues resulting in increased tax base and indirect jobs. Nucor has hired approximately 130 employees thus far and nearly half of those have moved here from outside the immediate area. This drives investment in Missouri's housing market and results in community growth.⁹ Nucor will serve as the anchor tenant for the new Sedalia Rail Industrial Park. This park will offer from 5 to 1,500 acres to industrial customers seeking rail-served sites to build new facilities. The commitment of capital investment and this new facility by Nucor allowed the City of Sedalia, Pettis County, and Sedalia Pettis County Community Service Corporation to establish a joint effort to build the infrastructure needed to establish the Sedalia Rail Industrial Park. When established, the Sedalia Rail Industrial Park will be the largest in the Midwest and on Union Pacific's service line throughout the United States, with the ability to grow to exceed 2,500 acres. The initial investment by Nucor will be leveraged to establish this new corridor of growth

⁸ *Application*, ¶ 13; *Direct Testimony of Mark Stombaugh*, p. 3, 4; *Direct Testimony of Jessica L. Craig*, p. 3; *Direct Testimony of Darrin Ives*, pp. 3, 9.

⁹ *Direct Testimony of Jessica L. Craig*, p. 3; *Direct Testimony of Darrin Ives*, p. 4.

for Sedalia's next 10-30 years of development. Securing this tenant allowed the community to leverage significant additional federal funding through the Better Utilizing Investments to Leverage Development transportation grant program, which awarded just over \$10,000,000 to match local strategic infrastructure investments. That was one of four awards made to the entire State of Missouri. That additional industrial and primary job growth will create many opportunities for supporting commercial and retail businesses to thrive and grow in and around Sedalia. In addition to the 250 new, full-time permanent Nucor jobs discussed previously, the construction of the new facility will also create jobs. Nucor expansions also typically attract other suppliers and downstream processors. Each of these jobs also has spin-off effects that positively impact the local and regional economy.¹⁰

Second, the Nucor Project, founded upon the proposed SIL Tariff and Nucor Special Contract, will be risk-free for GMO's other ratepayers.

Over the 10-year term of the special contract, GMO expects that revenues generated from the special contract will exceed the incremental cost to serve Nucor by a significant sum and, after GMO's next general rate case, the amount by which such revenues exceed the incremental cost to serve Nucor would contribute to recovery of fixed costs that would otherwise be borne by all other customers. More specifically, as clarified in the *Non-Unanimous Stipulation and Agreement*, ratemaking for contracts under the proposed SIL tariff will ensure benefit for other ratepayers. At the time of a general rate proceeding detailed information about the specific costs and revenues for

¹⁰ *Application*, ¶ 17; *Direct Testimony of Mark Stombaugh*, pp. 3-4; *Direct Testimony of Jessica L. Craig*, pp. 2, 3.

the Special Incremental Load Rate will be used to identify the net revenue impact to the Company. Any positive net revenue (i.e., revenue in excess of incremental cost to serve) received from the Special Incremental Load Rate during the test year of the rate proceeding will be identified in the revenue for the Company and would serve to reduce any increase in revenue requirement to all customers other than Nucor. In the event the revenues are deficient for the test year period, that is, revenues fall short of incremental cost to serve Nucor, an additional revenue adjustment covering the shortfall will be made to the revenue requirement calculation. This approach will serve to share the expected, positive benefit with all customers but will also provide protections to other customers if the revenues happen to be inadequate within the test year of the case.¹¹

To ensure that GMO's other ratepayers would not experience any deleterious effects from the proposed SIL Tariff and Nucor Special Contract, Staff, GMO and Nucor negotiated additional protections as set out in the *Non-Unanimous Stipulation and Agreement* filed herein, as follows:¹²

7. **Cost and Revenue Tracking** – GMO will monitor and report to Staff and OPC whether the revenues received under the special contract rate cover the incremental cost of providing service to Nucor. This reporting will be submitted quarterly for the first year following the effective date of the SIL tariff and the associated contract with Nucor, bi-annually for the second and third year, and annually thereafter. The Company will solicit feedback from Staff and the Office of Public Counsel up to and including meetings to

¹¹ *Application*, ¶¶ 15, 16; *Direct Testimony of Darrin Ives*, pp. 10, 15-16.

¹² The numbering mirrors the numbering in the *Non-Unanimous Stipulation and Agreement*.

evaluate and assess the content of the reports and any changes that may be needed to Exhibit 1 as a result of that feedback. The reporting will be submitted within 15 days after each of Evergy's SEC 10-Q or 10-K filings are made and will detail Nucor-related transactions on a rolling twelve-month basis. GMO will uniquely identify and track for reporting and general rate case purposes all incremental costs associated with serving Nucor.

a. GMO will identify and isolate the plant costs to provide service to Nucor.

b. GMO will identify and isolate supply costs attributable to Nucor. At this time these costs are expected to consist of:

i. energy as obtained through the SPP integrated marketplace including applicable ancillary services and transmission costs, and all transactions associated with the renewable supply source obtained via a Power Purchase Agreement ("PPA").

ii. Incremental capacity costs acquired from third parties, including affiliates, will be determined annually in the assessment of GMO capacity requirements. The portion of GMO capacity acquired attributable to Nucor will be separately identified for inclusion in Exhibit 1. Similarly, if GMO constructs or acquires capacity during the term of the contract rather than purchasing capacity, or otherwise modifies its capacity source, capacity costs to Nucor will be calculated annually using prices as follows and be separately identified for inclusion in Exhibit 1. The accredited capacity

attributable to Nucor's share of the PPA, will be netted against the capacity requirements of the Nucor load, including the SPP reserve margin requirements, prior to pricing as described above for inclusion in Exhibit 1.

c. GMO will modify its Fuel Adjustment Clause ("FAC") accounting to ensure Nucor-related costs are not included in the FAC charge recovered from other customers. Exhibit 2 to this Stipulation details the expected modifications, including:

i. **Power Purchase Agreement Cost** – Costs to follow conventional PPA accounting, with Nucor portion tracked separately from other PPA transactions completed by the Company. Costs to be recorded to a SIL-specific 555 subaccount and identifiable to Nucor. These costs will be specifically identified in the FAC monthly reports submitted to the Commission.

ii. **Production Market Cost** – Revenue from the sale of the energy from the PPA will be tracked in a separate SIL-specific 447 subaccount and identifiable to Nucor. These revenues will be specifically identified in the FAC monthly reports submitted to the Commission. The net effect of the sale of PPA purchase and the Nucor load are to be recorded within the SIL-specific 447 and 555 subaccounts and identifiable to Nucor.

iii. **Transmission Market Cost** – If occurring, costs would accompany the associated Southwest Power Pool ("SPP") sale or

purchase transactions and are to be recorded within SIL-specific 561, 565, and 575 subaccounts and identifiable to Nucor and created for the purpose of tracking these costs. These costs will be specifically identified in the FAC monthly reports submitted to the Commission.

Load purchased for Nucor will be calculated at the five minute level, aggregated to the hour, based upon GMO load node locational marginal price.

d. GMO will monitor Nucor operations and will identify additional SPP-related costs resulting from unexpected operational events. If actual Nucor load experiences a 25% deviation from the expected Nucor load for more than 4 hours and that load change is not reflected in the GMO day-ahead commitments, GMO will quantify the balancing relationship between the hourly and day-ahead prices to identify the effect of the unplanned load change to apportion any additional SPP balancing charges and will incorporate the effect attributed to Nucor into the tracking of Nucor costs. If the effect of this relationship increases costs to non-Nucor customers, the amount will be reflected in a subsequent FAC rate change filing and the portion attributed to Nucor will be identified with supporting work papers and removed from the Actual Net Energy Cost prior to the calculation of the FAC rates.

For any incremental Nucor costs not specifically listed in Exhibit 1, including GMO internal costs attributable to Nucor, the costs will be uniquely

recorded after they are incurred consistent with the cause of the cost and identified as contingency cost category within Exhibit 1.

8. **Ratemaking Treatment** – At the time of a general rate proceeding the portion of GMO’s revenue requirement associated with the incremental costs net of PPA net revenues to serve Nucor consistent with Exhibit 1 shall be assigned to Nucor. Nucor’s rate revenues shall be reflected in GMO’s net revenue requirement. If Nucor’s revenues do not exceed Nucor’s costs as reflected in the revenue requirement calculation through the true-up period, GMO will make an additional revenue adjustment covering the shortfall to the revenue requirement calculation through the true-up period, to ensure that non-Nucor GMO customers will be held harmless from such effects from the Nucor service. In no event shall any revenue deficiency (that is, a greater amount of Nucor incremental costs compared to Nucor revenues) be reflected in GMO’s cost of service in each general rate proceeding for the duration of Nucor service during the terms of the contract between GMO and Nucor (Confidential Schedule DRI-2 of GMO witness Darrin Ives).

9. **Section 393.1655 RSMo. treatment** – The Signatories agree that because Nucor’s rate will be fixed for ten years and because the incremental cost to serve Nucor will be excluded from the revenue requirement of other customers: (1) Nucor’s average rate and kilowatt hours usage shall not be included in the rate limitation calculations performed under section 393.1655 RSMo.; (2) Nucor’s rate shall not be affected by the rate limitation provisions of 393.1655, RSMo.; and (3)

Nucor shall not be considered to be, in whole or in part, a member of GMO's large power service rate class under section 393.1655.7(4) RSMo.

10. **Operational Communications** – Under the terms of the contract between GMO and Nucor (Confidential Schedule DRI-2), Nucor is obligated to notify GMO of planned outages, including maintenance outages, to a designated representative (section 4.3). Nucor is also obligated under the contract to notify GMO of any changes or additions of equipment or operations that would result in a material changes to the Nucor facility's peak demand that could impact GMO's transmission system (section 4.4). GMO has designated and will retain for the duration of service to Nucor a Customer Solutions Manager to Nucor to receive these notices. Nucor commits to providing the above notifications and coordinating with GMO to execute planned outages to minimize the impact on the GMO system.

Respectfully submitted.

/s/ Kevin A. Thompson

KEVIN A. THOMPSON

Chief Staff Counsel

Missouri Bar Number 36288

Missouri Public Service Commission

Post Office Box 360

Jefferson City, MO 65102

573-751-6514 Voice

573-526-6969 FAX

kevin.thompson@psc.mo.gov

Attorney for the Staff of the Missouri
Public Service Commission

Certificate of Service

The undersigned certifies that the foregoing was served electronically upon all parties of record or their representatives pursuant to the Service List maintained for this case by the Commission's Data Center **on this 15th day of October, 2019.**

/s/ Kevin A. Thompson