

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

In the Matter of KCP&L Greater Missouri Operations)	
Company for Authority to Implement Rate Adjustments)	<u>Case No. EO-2008-0216</u>
Required by 4 CSR 240-20.090(4) and the Company's)	
Approved Fuel and Purchased Power Cost Recovery)	
Mechanism)	

**DISSENTING OPINION OF COMMISSIONER TERRY M. JARRETT
IN THE ORDER DENYING REQUEST TO TAKE ADDITIONAL EVIDENCE
REGARDING RETROACTIVE RATEMAKING AND DIRECTING THE FILING OF
PROPOSED PROCEDURAL SCHEDULE**

I respectfully dissent because I believe that the KCP&L Greater Missouri Operations Company (GMO) should be allowed to present additional evidence on all issues relating to the Court of Appeals opinion, including evidence on the retroactive ratemaking issue, and not just on the issues that the majority allowed in the Order.

GMO (then Aquila) was the first company to file for a Fuel Adjustment Clause (FAC) under section 386.266, RSMo. Cum. Supp. 2009. This statute, enacted in 2005, changed the regulatory landscape in Missouri as far as rate adjustment mechanisms, including fuel costs. The statute was enacted in response to the Supreme Court of Missouri's decision in State ex rel. Utility Consumers' Council of Missouri, Inc. v. PSC, 585 S.W.2d 41 (Mo. banc 1979) (the UCCM case). That case held that a FAC was beyond the statutory authority of the PSC. Section 386.266 in effect overruled a portion of the UCCM case by allowing the Commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in prudently incurred fuel and purchased-power costs, including transportation.

The present case offered several issues of first impression to the Commission, and subsequently the Courts. It is possible that a full and complete record was not developed to adequately address the changes enacted by section 386.266, including the difference between “rates” and “rate adjustment mechanisms.” Given that the Court of Appeals may not have had a full and complete record on which to base its decision, I would afford GMO the opportunity to present additional evidence on this important issue, especially since the Commission will be taking additional evidence on other issues. Due process requires that the company have an opportunity to be heard.

Sincerely,



Terry M. Jarrett, Commissioner

Issued this 30th day of December, 2010.