

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

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

PUBLIC COUNSEL'S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel for its Statement of Positions on the List of
Issues filed and amended on June 7, 2012, by the Staff of the Commission states as follows:

I. Issues

1. Should the Commission approve GMO's application for approval of demand-side program plan, approve it with modification acceptable to GMO, or reject it, as provided in Rule 4 CSR 240-20.094(3)?

Public Counsel concurs with the Commission Staff's (Staff's) position on this issue.

- A. Is GMO's demand-side program plan achievable, realistic and specific? If not, should the Commission order GMO to file an achievable, realistic and specific demand-side program plan?

Public Counsel concurs with the Staff's position on this issue.

- B. What annual energy and demand savings targets should the Commission approve for each demand-side program? Should the annual energy and demand savings targets be based on assumed net-to-gross (NTG) ratios equal to 1.0 or should they be based on NTG from EM&V from Program Year 2 from GMO's prior cycle of programs (i.e., October 2009 to September 2010)? Should savings targets be "net savings" or "gross savings"? If the former, will it be necessary for GMO to increase its planned level of spending to achieve the annual energy savings levels on a net savings basis?

Public Counsel concurs with the Staff's position on this issue.

- i. Should the EM&V analysis and report be used to determine deemed energy and demand savings that will be applied on a prospective basis?

It depends upon the reasonableness of the EM&V analysis, the purposes for which these deemed values would be used, and whether such use is consistent with requirements in the rule.

- C. Should the Commission approve the form of GMO's DSM programs' tariff sheets (frozen and original) as filed?

No. See below.

- i. Should the Commission order GMO to file compliance tariff sheets that would provide additional detail in its DSM programs' tariff sheets? If so, what detail?

Tariffs should comply with the requirements of the MEEIA rules and the filing requirements for Promotional Practices so that customers will be able to find the relevant details for the terms and conditions of programs and incentives offered by those programs in tariffs that have been approved by the Commission.

- D. Should the Commission condition the approval of GMO's application upon GMO filing in this case a total resource cost test for its Appliance Turn-In program consistent with the definition in Rule 4 CSR 240-3.164(1)(X)?

Yes. Public Counsel concurs with the Staff's position on this issue.

- E. Should the Commission condition the approval of GMO's application upon GMO's commitment to conduct a careful and thorough review and analysis of demand response programs as part of its next DSM market potential study and subsequent Chapter 22 compliance filing and/or annual update filings?

Yes. Public Counsel concurs with the Staff's position on this issue.

- i. Should the Commission condition the approval of GMO's application upon GMO making a supplemental filing in this case that includes the program descriptions for the proposed MPower and Energy Optimizer programs the Company provided in their response to Staff's data requests 0028 and 0029?

Yes, the program descriptions should be included in a supplemental filing.

- F. Should the Commission grant the variances requested by GMO that are necessary to approve GMO's demand-side program plan, as filed?

No, the Commission should only grant any variances necessary for its approval of the DSIM as described in the testimony of Public Counsel witness Kind.

- G. Can the Commission order GMO to complete a new DSM Market Potential Study? If so, should it do so?

The Commission has the authority to do so, and it should do so.

- H. Can the Commission order GMO to include in all future MEEIA filings the Realistic achievable potential portfolio of the Company's Demand-side management Market Potential Study? If so, should it do so?

The Commission has the authority to do so, and it should do so.

- I. GMO's proposed Low Income Weatherization program has a TRC of less than one. Have the requirements in Rule 4 CSR 240-20.094(3)(B) been satisfied for this program?

No, the rule requirements have not been met because GMO's filing only contains information for its current Low Income Weatherization program, not its proposed program.

- J. Have all of the filing requirements contained in Rule 4 CSR 240-3.164(2)(C) been satisfied for all of GMO's proposed DSM programs which are also current programs of GMO?

No, the rule requirements have not been met. Public Counsel also agrees with the Staff's position on this issue.

2. Should the Commission approve the establishment of GMO's proposed Demand-side Programs Investment Mechanism (DSIM) as per Rule 4 CSR 240-20.093(2)(B)?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

A. How should program costs be collected?

Program costs should be directly allocated to two broad categories of customers, Residential and non-Residential. The only exception to this is the Low Income Weatherization program which should be allocated to both Residential and non-Residential customers on a kWh basis.

i. Should program costs be trued up for over- and under- collection?

Yes. There should be a true-up process that ensures the amount ultimately billed to customers is equal to the amount of actual program costs.

ii. Should carrying costs be applied to trued-up program costs? If so, at what rate?

Yes, the Commission should order that interest/carrying cost be paid on over- under-recoveries at the short-term interest rate.

B. Should the Commission allow GMO to include in its revenue requirement in Case No. ER-2012-0175 a percentage of expected net shared benefits?

Public Counsel takes no position on this issue at this time.

i. Should GMO's percentage of expected net shared benefits be calculated as a percentage of annual net shared benefits (i.e., the utility's avoided costs less program costs) as per Rule 4 CSR 240-3.163(1)(J) or a percentage of gross benefits (i.e., the utility's avoided costs only) as proposed by GMO?

Net benefits should be used. If gross benefits are used, GMO will have little incentive to minimize program costs.

ii. Should the annual percentage of shared benefits be based on net energy and demand savings taking into account net-to-gross factors such as free ridership and spillover as proposed by OPC and Staff or gross energy and demand savings as proposed by GMO?

The net-to-gross factors are critical to ensure that ratepayers are not providing incentives and lost revenue recovery to GMO for customer energy efficiency investments that GMO had no impact upon.

iii. Should the utility incentive component be based on net shared benefits (i.e. net of program costs) as proposed by OPC and Staff or gross shared benefits as proposed by GMO?

Net shared benefits.

C. Should the Commission allow GMO to collect a fixed dollar amount as an incentive after the three-year program plan is concluded, with that dollar amount dependent upon GMO meeting various savings (kWh/kW) thresholds? If so, are the thresholds and dollar amounts proposed by GMO appropriate?

Performance incentives based upon savings achieved by GMO are appropriate, but the thresholds and the incentive levels proposed by GMO are too low and too high, respectively. In addition, GMO's proposal to weight its kWh and kW savings achieved on a 60/40 basis gives too much weight to kW (demand) savings due to the minimal or negative

benefits that these demand savings will provide to customers since the current informal SPP capacity market has low capacity prices that are expected to persist for the duration of the three year GMO DSM plan.

D. Should the Commission approve both the lost revenue component of a

DSIM and GMO's proposed annual shared benefits incentive component of a DSIM?
No, such double recovery is not consistent with the Commission's MEEIA rules.

E. With regard to items B and C:

i. Should the true-up of the shared benefits be based on the number of program participants or measures as proposed by GMO?

No, the true up should be based upon actual EM&V results for net reductions in kWh and kW that are achieved by the programs.

ii. Should the Commission allow GMO to calculate net benefits as the net benefits from energy and demand saving measures estimated to accrue within 15 years of the first DSIM program year (i.e., use 15-year measure lives for measures installed in Year 1, 14-year measure lives in Year 2, 13-year measure lives in Year 3, etc.) or should another method be used?

The net benefits of all measures should be calculated based on the net present value of the measures over a 15 year life regardless of the year in which they are installed.

F. Should the Commission order interest/carrying cost to be paid on over- and under-recoveries? If so, should GMO's AFUDC rate or its short term interest rate apply?

Yes, the Commission should order that interest/carrying cost to be paid on over- under-recoveries at the short-term interest rate.

G. Should the Commission grant the variances requested by GMO necessary to approve GMO's DSIM, as filed? ¹

No, the Commission should only grant any variances necessary for its approval of the DSIM as described in the testimony of Public Counsel witness Kind.

3. Should the Commission approve any of the modifications to, or alternatives to, GMO's DSIM that have been proposed by other parties? If yes, then what specific modifications to, or alternatives to, the DSIM proposed by other parties should the Commission approve?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

4. Should the Commission approve a separate line item to appear on bills relating to charges for the DSM programs approved under MEEIA? If so, should the acronym "DSIM" as proposed by GMO, or the phrase "Energy Efficiency Pgm Charge" or "Demand-Side Investment Charge" as suggested by Staff be used?

Yes, there should be a line item on bills. "Energy Efficiency Investment Charge" is preferable because it is more likely to be understood by customers.

¹ In the filed list of issues, there were two "Es" under Issue number 2. This pleading re-letters those sub-issues as "F" and "G."

- A. Should the Commission approve GMO's proposed language to disclose the change to customers' bills for the DSIM?

Public Counsel concurs with the Staff's position on this issue.

5. Is it appropriate for the Commission to determine what, if any, impact this case has upon GMO's requested allowed return on equity in Case No. ER-2012-0175, or should any such determination be reserved for the rate case?

Such determinations must necessarily be done in the rate case when all relevant factors are considered.

6. Should the Commission approve GMO's Evaluation, Measurement and Verification plans?

No.

7. How should the costs for GMO's proposed Low Income Weatherization program be allocated among the different rate classes?

These costs should be allocated to all rate classes for the reasons stated on pages 6 and 7 in Ryan Kind's surrebuttal testimony.

8. Should the Commission grant the variances requested by GMO that are necessary to approve the Company's DSIM as filed, and any other variances necessary if the Commission approves and the Company accepts a DSIM proposal made by the Staff or other parties in this case?

The Commission should explicitly grant all variances that are necessary for approval of whichever DSIM proposal it approves. However, variances should only be granted when sufficient good cause has been demonstrated for each such variance requested.

9. To implement the decision in this case, should separate rates be established for residential customers and for commercial/industrial customers?

Yes.

10. Should GMO track program expenditures and load reductions arising from GMO's DSM programs separately by L&P and MPS, and by cost of service classes, i.e., residential, SGS, LGS and LP?

Public Counsel takes no position on this issue at this time.

11. Should the Commission order the establishment of a statewide and/or GMO collaborative(s) that would provide input regarding the possible expansion of GMO programs, program design (possibly including co-delivery of programs with gas/water utilities), EM&V, and a state Technical Reference Manual?

A GMO collaborative should be established for this purpose.

12. Does the Commission have the authority to waive or grant a variance from the statutory requirements in Section 393.1075.10 RSMo?

No.

- 1 A. If yes, should the Commission grant GMO a variance from Section 393.1075.10?

The Commission does not have authority to waive the statute and so this question is moot.

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13. In the alternative to issue 12, does Section 393.1075 RSMO require that customers who have opted-out of participating in GMO's DSM programs be allowed to participate in

interruptible or curtailable rate schedules or tariffs offered by GMO, including GMO's Energy Optimizer and MPower programs?

Yes.

A. If yes, should the Commission grant GMO a variance from Section 393.1075.10?

The Commission does have authority to waive the statute.

WHEREFORE Public Counsel respectfully submits its Statement of Positions.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 14th day of June 2012.

/s/ Lewis R. Mills, Jr.
