BEFORE THE PUBLIC SERVICE COMMISISON
OF THE STATE OF MISSOURI

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

STAFF'S STATEMENT OF POSITION FOR EO-2012-0009

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)?

The Commission should reject GMO's demand-side program plan and approve it with modification acceptable to GMO upon GMO filing an achievable, realistic and specific demand-side program plan for its demand-side management ("DSM") programs to include estimates of annual energy and demand savings through the use of net-to-gross ("NTG") ratios from evaluation, measurement and verification ("EM&V") reports to be delivered according to a specified implementation plan and budget as required by Rule 4 CSR 240-20.094(1)(K).

Staff Witness: John Rogers

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?

No, GMO's demand-side program plan is not achievable, realistic and specific. The Commission should not approve GMO's demand side program plan unless and until GMO files an achievable, realistic and specific demand-side program plan for its DSM programs to include estimates of annual energy and demand savings through the use of NTG ratios from EM&V reports to be delivered according to a specified implementation plan and budget as required by Rule 4 CSR 240-20.094(1)(K).

Staff Witness: John Rogers

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?

Schedule JAR-9 in the surrebuttal testimony of John A. Rogers contains Staff's analysis of the incremental and cumulative annual gross energy and demand savings. The Commission should approve the listed annual kWh energy savings and annual kW demand savings as the incremental and cumulative annual energy and demand savings targets for GMO's proposed DSM programs.

Section 393.1075.3(3) RSMo (Supp. 2011) of the Missouri Energy Efficiency Investment Act (MEEIA) states that the Commission shall "provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings." To assume that all NTG ratios are equal to 1.0 does not meet the Commission's interpretation of the statutory requirement that an earnings opportunity result from measurable and verifiable efficiency savings. Even GMO acknowledges that the NTG ratios from the first round of EM&V for its current programs are less than 1.0. Simply counting measures for which rebates have been paid and then assuming a NTG ratio equal to 1.0 does not come close to meeting the statutory requirement for determining efficiency savings. Only through a full EM&V can actual efficiency savings be measured and verified, and then used to determine an appropriate earnings opportunity.

Additionally, this is GMO's first MEEIA filing and to assume NTG ratios equal to 1 would deprive the Commission, the Company and the parties of the opportunity to learn from a rigorous EM&V process at the outset of implementing DSM programs under the MEEIA and understanding exactly how EM&V may impact efficiency savings for use in planning for DSM programs and evaluating the results.

The Commission should approve savings targets as net savings.

Yes, it will be necessary for GMO to increase its planned level of spending to achieve the annual energy savings levels on a net savings basis. From the information available in this case, Staff estimates the NTG for GMO's program plan to be equal to approximately 0.8. Since the NTG ratios for GMO's programs are all less than one (1.0), it will be necessary for GMO to increase its planned level of spending to achieve the annual energy and demand savings levels in Schedule JAR-9 on a net savings basis.

Staff Witness: John Rogers

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?**

See the response to 1.B above.

Staff Witness: John Rogers

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

No. Staff recommends that the Commission reject the tariff sheets GMO filed with its application and not approve DSM program tariff sheets until the Company files tariff sheets that comply with its Commission-approved DSM programs following the completion of this case and prior to GMO's implementation of such programs.

Staff Witness: Michelle Bocklage

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?**

Yes. The Company should include in its tariff sheets the following additional detail:

Additional language relating to Rule 4 CSR 240-20.094(6)(J). All non-residential DSM program tariff sheets should clarify whether or not the program is considered an interruptible or curtailable rate schedule so that customers who opt out of participation in DSM programs know which programs they may participate in.

Rule 4 CSR 240-20.094(7) contains language excluding participation in DSM programs providing monetary incentives by customers that receive tax credits "under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.561, RSMo." DSM program tariff sheets should include language that explicitly explains this exclusion and a description of the method GMO intends to use to obtain an attestation from customers that they have not received the referenced tax credits prior to receiving any monetary incentives from the program.

The amount of the incentive and/or rebate associated with each demand-side measure for each DSM program

Information needed to provide clarity and definition of each program, information such as marketing strategy that identifies the methods GMO intends to utilize to market each proposed program to customers, relationship of a DSM program to any other DSM program, designation whether or not programs can be combined to maximize the incentives and/or rebates offered, and annual energy and demand savings targets.

Clear titles in the tariff to indicate whether or not each program is a Commission-approved MEEIA DSM program, since some of the MEEIA DSM programs and some of the current programs are very similar.

Staff Witness: Michelle Bocklage

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. The Company calculated the value of the Utility Cost Test for both the MPower program and the Appliance Turn-In program instead of the Total Resource Cost (TRC) Test. This is inconsistent with Rule 4 CSR 240-3.164(1)(X). In future cases, the Company should calculate the TRC for its demand-side programs consistent with the definition in Rule 4 CSR 240-3.164(1)(X).

Staff Witness: Hojong Kang

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. The Commission should condition the approval on GMO's commitment to complete it current DSM market potential study and to include in its future MEEIA filings the Company's current DSM market potential study's realistic achievable potential ("RAP") portfolio. The RAP portfolio of DSM programs should be either in the preferred resource plan in the Company's most recent Chapter 22 compliance filing, or annual update filing, or have been analyzed through the integration process required by Rule 4 CSR 240-22.060 to determine the impact of the demand-side programs and programs plans on the net present value of revenue requirements.

Staff Witness: John Rogers

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 Company's filing includes a general description of the existing MPower and Energy Optimizer programs and EM&V reports for each program based upon historical data. However, the current MPower and Energy Optimizer programs differ from the equivalent programs GMO is asking the Commission to approve under the MEEIA and the MEEIA rules. The Company provided descriptions for all of its new DSM programs as part of its direct testimony. It should do the same for the existing programs it wishes the Commission to approve for implementation under the MEEIA and MEEIA rules.

Staff Witness: Randy Gross

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

GMO did not request any variances for its demand-side program plan. However, if the Commission were to approve GMO's demand-side program plan as filed, two variances are necessary: a variance from 4 CSR 240-20.094(3)(A)3 and 4 CSR 240-3.164(2)(A).

4 CSR 240-20.094(3)(A)3 requires Commission approved demand-side programs be included in the electric utility's preferred plan. Staff would support this variance request on the condition that GMO include all proposed demand response programs in its preferred resource plan of its Chapter 22 compliance filing.

4 CSR 240-3.164(2)(A) requires the current market potential study to include primary data and analysis for the utility's service territory. Staff would recommend approval of a variance from this rule since GMO has engaged Navigant to perform a DSM market potential study for its service territory and this work has started and is expected to be completed as early as 2013 for use by the Company in its future MEEIA and Chapter 22 analyses and filings.

Staff Witness: Randy Gross

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

Yes. Rule 4 CSR 240-3.164(2)(A) establishes requirements for the current market potential study the utility must file or refer to when it files for approval of demand-side programs or demand-side programs plans.

No, the Commission should not order GMO to complete a new DSM Market Potential Study at this time, since GMO has engaged Navigant to perform a DSM market potential study for its service territory and this work has started and is expected to be completed in early 2013 for use by the Company in its future MEEIA filings and its future Chapter 22 analyses and filings.

Staff Witness: Randy Gross

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?

Yes. Rule 4 CSR 240-20.094(3) states in part that the Commission "…shall approve, approve with modification acceptable to the electric utility, or reject such application for approval of demand-side program plans…" that are "…consistent with a goal of achieving all cost-effective demand-side savings."

The Commission should order GMO to include in all future MEEIA filings the RAP portfolio of DSM programs. The RAP portfolio of DSM programs should be either in the preferred resource plan in the Company's most recent Chapter 22 compliance filing, or annual update filing, or have been analyzed through the integration process required by Rule 4 CSR 240-22.060 to determine the impact of the demand-side programs and programs plans on the net present value of revenue requirements. The RAP portfolio is necessary for a complete analysis.

Staff Witness: John Rogers

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 minimum filing and submission requirements of Rule 4 CSR 240-20.094(3)(B) and Rule 4 CSR 240-3.164(2) have not been met because GMO's filing for GMO's proposed DSM programs, including the Low Income Weatherization program, contains information for KCPL's current DSM programs and not GMO's proposed DSM programs.

Staff Witness: Hojong Kang

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?

Schedule TMR-4 does not satisfy the minimum filing requirements for Rule 4 CSR 240-3.164(2)(C) for GMO's proposed DSM programs, because it contains information for KCPL's current DSM programs and not GMO's proposed DSM programs. For example, GMO does not provide the information for the proposed evaluation schedule and budget information regarding Rule 4 CSR 2403.164(2)(C)(13) and (14), respectively.

Staff Witness: Hojong Kang

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)?

*The Commission should reject GMO's proposed shared benefits incentive component of its DSIM and approve a **net** shared benefits mechanism to book a regulatory asset equal to GMO's proposed shared benefit incentive component to be trued-up based on measured and verified annual **net** shared benefits as a result of EM&V. The Commission should also reject GMO's performance incentive component and approve the alternative performance incentive component suggested by Staff.*

Staff Witness: Mark Oligschlaeger

A. How should program costs be collected?

Staff is willing to accept GMO's proposed DSIM structure for program costs, with one modification. Given that GMO's proposal is projected to result in differences in the amounts of DSM programs' costs billed and the amounts of actual incurred programs' costs, it is appropriate for interest to be applied to any difference between monthly DSM programs' costs billed and monthly DSM programs' costs actually expended by GMO. This under- or over-recovery of DSM programs' costs from customers should be measured monthly and treated in the same manner,(i.e., interest provided at a short-term interest rate) as under or over-recoveries from customers are treated in GMO's Fuel Adjustment Clause.

Staff Witness: Mark Oligschlaeger

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

Yes. The true-up adjustment shall be the cumulative differences between the revenues for program costs billed and the actual program costs adjusted for interest monthly.

Staff Witness: Mark Oligschlaeger

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

Yes. A short-term interest rate should be applied monthly to any differences in the cumulative amount of program costs billed and the actual cumulative amount of program costs in the same manner as under- or over- recoveries from customers are treated in GMO's FAC.

Staff Witness: Mark Oligschlaeger

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?

The Commission should allow GMO to book a regulatory asset equal to GMO's proposed shared benefit incentive component, subject to true-up based on actual shared benefits determined through an evaluation, measurement and verification (EM&V) process. Staff is willing to consider certain modifications to this position if necessary to provide sufficient protection to GMO's earning levels from DSM program impacts, allow GMO to maintain adequate cash flows, and are consistent with the applicable accounting standards. These possible modifications include use of GMO's proposed DSIM rate rider mechanism to collect net shared benefits that allows for full recovery in rates of the trued-up net shared benefits within 24 months of the annual period the net shared benefits are applicable to, and use of deemed savings for purposes of calculating net shared benefits.

Staff Witness: Mark Oligschlaeger

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?**

The net shared benefits component should be 16% of annual net shared benefits using net energy and demand savings, i.e., annual energy and demand savings after accounting for free-ridership and spillover as opposed to the 12% of gross shared benefits using gross energy and demand savings.

Staff Witness: John Rogers

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 annual percentage of shared benefits should be based on net energy and demand savings taking into account net-to-gross factors such as free ridership and spillover. The determination of which NTG factors should be included should be determined and calculated by a knowledgeable independent evaluator.

Staff Witness: Michael Stahlman

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?

The utility incentive component should be based on net shared benefits (i.e. net of program costs).

Staff Witness: John Rogers

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?

Yes, the Commission should allow GMO to collect a fixed dollar amount as an incentive if the Company meets various savings thresholds.

No, the Commission should reject GMO's performance incentive component and approve the following alternative performance incentive component for GMO as a way to more effectively incent GMO to achieve the goal of all cost-effective *demand-side savings and to reward GMO for its actual achievement toward that goal.*

The following performance incentive component for net energy savings:

- *If GMO achieves at least 70% of the three-year cumulative energy savings target, GMO will receive $800,000 annually.*
- *If GMO achieves more than 70% of the three-year cumulative energy savings target, GMO will receive an additional $24,000 annually for each 1% of additional energy savings achieved between 70% and 120% of the target.*
- *If GMO achieves more than 120% of the three-year cumulative energy savings target, GMO will receive an additional $64,000 annually for each 1% of additional energy savings achieved between 120% and 130% of the target.*

% of Cumulative 3-Year Energy Savings Target	Annual Performance Incentive
130%	$2,640,000
120%	$2,000,000
110%	$1,760,000
100%	$1,520,000
90%	$1,280,000
80%	$1,040,000
70%	$800,000

The following performance incentive component for net demand savings:

- *If GMO achieves at least 70% of the three-year cumulative demand savings target, GMO will receive $200,000 annually.*
- *If GMO achieves more than 70% of the three-year cumulative demand savings target, GMO will receive an additional $6,000 annually for each 1% of additional demand savings achieved between 70% and 120% of the target.*
- *If GMO achieves more than 120% of the three-year cumulative demand savings target, GMO will receive an additional $16,000 annually for each 1% of additional demand savings achieved between 120% and 130% of the target.*

% of Cumulative 3-Year Demand Savings Target	Annual Performance Incentive
130%	$660,000
120%	$500,000
110%	$440,000
100%	$380,000
90%	$320,000
80%	$260,000
70%	$200,000

<u>Staff Witness: John Rogers</u>

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. GMO's proposed shared benefits incentive component is designed to recover GMO's lost margins due to its DSM programs. Staff's recommended regulatory asset shared benefits component should also result in GMO recovering sufficient amounts to compensate for its lost margins due to the DSM programs. The Commission should approve the Staff's proposed mechanism for GMO to book a regulatory asset equal to GMO's proposed shared benefit incentive component to be trued-up based on measured and verified shared benefits as a result of EM&V, through which GMO will recover any lost revenue.

If the Commission approves GMO's lost revenue component, the Commission should order GMO to define lost revenues consistent with the definition in Schedule JAR-6 of the rebuttal testimony of John A. Rogers to help remove any uncertainty concerning the definition of lost revenue in Rule 4 CSR 240-20.093(1)(Y).

<u>Staff Witness: John Rogers</u>

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?

Neither. The true-up of shared benefits should be based on measured and verified annual net shared benefits as a result of EM&V.

<u>Staff Witness: John Rogers</u>

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?

Based on the information in this case, the Staff agrees with the recommendation of Phil Mosenthal to support a fixed 15-year measure life for purposes of this case.

<u>Staff Witness: John Rogers</u>

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 interest/carrying cost to be paid on over- and under-recoveries

Staff's position is that the short-term debt borrowing rate should generally be used in any context where carrying costs are going be calculated for demand-side cost recovery.

Staff Witness: Mark Oligschlaeger

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

Concerning the variances requested by GMO, Staff recommends:

The Commission reject GMO's request for a variance from Rule 4 CSR 240-20.093(2)(H)(3) which requires that all energy and demand savings used to determine a DSIM utility incentive revenue requirement be measured and verified through EM&V, because GMO has not yet attempted to show good cause - through quantitative analysis - why the prospective recovery of its shared benefit component of its DSIM is superior to a baseline DSIM that does comply with the requirements of 4 CSR 240-.093(2)(H)(3);

The Commission grant GMO a variance from Rule 4 CSR 240-20.093(4)(A) to allow annual DSIM rate adjustments until more experience is gained and can be used to evaluate the impact, if any, from making DSIM rate adjustments annually rather than imposing the rule requirements that DSIM rates be adjusted once every six (6) months, because approval of this variance does not introduce unnecessary risk to customers or to the Company.

Staff Witness: John Rogers

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?

See Staff's recommendations in 2. A., B., C. and D above.

Staff Witness: Mark Oligschlaeger

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. GMO agrees in testimony to use the language proposed by Staff: "Demand-Side Investment Charge xxx kWh @ Rate."

Staff Witness: Michael Scheperle

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

Yes. GMO's testimony suggests that the Company agrees to ask for Commission approval as to the wording on customers' bills as is necessitated by Rule 4 CSR 240-20.093(6). The language should read: "Demand-Side Program Investment Mechanism Rider. This month you will notice a new charge on your monthly bill that allows KCP&L to recover costs associated with the development of energy efficiency programs on behalf of Missouri customers. By helping customers save energy, KCP&L is able to better manage regional energy demand and keep costs affordable, proactively support environmental initiatives and defer the costs of constructing new power plants and generation units. For more information, please read the enclosed DSIM Rider insert or visit www.kcpl.com/about/MoERate.pdf."

Staff Witness: Michael Scheperle

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?**

It should be addressed in the rate case. The Staff is not proposing any specific adjustment for purposes of the Commission's allowed ROE in this case. However, the Staff's analysis in this case suggests the proposed DSIM will result in lower business risk. The Commission should consider these issues in determining the allowed ROE in the current electric general rate case, Case No. ER-2012-0175.

Staff Witness: Zephania Marevangepo

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

Yes. Staff finds that the EM&V reports meet the rule requirements for EM&V reporting, requirements such as the independence of a third party evaluator to assure the integrity of the EM&V report. Staff also concludes that the EM&V results indicate that these programs are a cost-effective means of achieving energy saving goals in Missouri.

<u>Staff Witness: Hojong Kang</u>

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

The Low Income Weatherization Program is a residential program and should be allocated to the residential class.

<u>Staff Witness: Michael Scheperle</u>

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?

Regarding the variances requested by GMO that are necessary to approve the Company's DSIM as filed, Staff recommends:

The Commission reject GMO's request for a variance from Rule 4 CSR 240-20.093(2)(H)(3) which requires that all energy and demand savings used to determine a DSIM utility incentive revenue requirement be measured and verified through EM&V, because GMO has not yet attempted to show good cause - through quantitative analysis - why the prospective recovery of its shared benefit component of its DSIM is superior to a baseline DSIM that does comply with the requirements of 4 CSR 240-.093(2)(H)(3);and

The Commission grant GMO a variance from Rule 4 CSR 240-20.093(4)(A) which requires that DSIM rates be adjusted once every six (6) months, because approval of this variance does not introduce unnecessary risk to customers or to the Company until more experience is gained and can be used to evaluate the impact, if any, from making DSIM rate adjustments annually.

Concerning the variances identified by Staff that are required but not requested by GMO, Staff recommends as follows:

The Commission grant GMO variances from Rules 4 CSR 240-20.093(1)(Q) and (EE), 4 CSR 240-20.093(2)(H), and 4 CSR 240-20.094(1)(M) and (Z), since GMO is requesting and Staff is recommending approval of a utility performance incentive which is based on "fixed dollar award that varies across multiple tiers of performance" as Staff recommends above.

Staff Witness: John Rogers

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

Yes. Staff recommends that the program costs, incentive savings, and lost revenues be segregated between residential and C&I customers with a separate rate developed for residential and C&I customers.

Staff Witness: Michael Scheperle

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?**

Staff does not assert a position on this issue at this time.

Staff Witness: Michael Scheperle

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?**

No, Rule 4 CSR 240-20.094(8) provides sufficient Commission guidance on these issues at this time.

Staff Witness: John Rogers

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

No.

Staff Witness: John Rogers

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

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, Section 393.1075 10 RSMo. and Rule 4 CSR 240-20.094(6)(J), allow customers who opt-out of participating in the Company's DSM programs to participate in interruptible or curtailable rate schedules or tariffs offered by GMO, including GMO's Energy Optimizer and MPower programs. The Commission does not have the jurisdiction to waive a statutory requirement.

Staff Witness: John Rogers

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

No. The Commission does not have the jurisdiction to waive a statutory requirement.

Staff Witness: John Rogers

Respectfully submitted,

/s/ Goldie Tompkins
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been electronically mailed to all counsel of record this 14th day of June 2012.

/s/ Goldie Tompkins
Goldie Tompkins