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Witness: Adam Blake
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MISSOURI PUBLIC SERVICE COMMISSION

File NO.: ET-2014-0059

SURREBUTTAL TESTIMONY

OF

ADAM BLAKE

ON BEHALF OF

BRIGHTERGY, LLC

**Kansas City, Missouri
September 2013**

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File No. ET-2014-0059

1 **1. INTRODUCTION AND QUALIFICATIONS:**

2 **Q: Please state your name and business address.**

3 A: My name is Adam Blake. My business address is 1617 Main Street, 3rd Floor, Kansas
4 City, MO 64108.

5 **Q: Are you the same Adam Blake who pre-filed Rebuttal Testimony in this matter?**

6 A: Yes, I am.

7 **Q: On whose behalf are you testifying?**

8 A: I am testifying on behalf of Brightergy, LLC (“Brightergy”).

9 **Q: What is the purpose of your Surrebuttal Testimony?**

10 A: The primary purpose of my Surrebuttal Testimony is to respond to the Rebuttal
11 Testimony filed by MPSC Staff witnesses Claire M. Eubanks and Mark L. Oligschlaeger.
12 In my opinion, the Retail Rate Impact (“RRI”) calculation advocated by Staff represents
13 an abrupt and extreme deviation from the RRI calculation that GMO has performed since
14 enactment of Proposition C. I believe the Staff calculation is an incorrect calculation. On
15 a purely practical basis, Staff’s proposed RRI calculation would materially exacerbate an
16 already unexpected and dire situation faced by Missouri solar customers, Brightergy, and
17 the entire solar industry. Individuals and businesses have relied on the RRI calculation
18 performed by GMO in its prior RES Compliance Reports. This GMO calculation was
19 previously approved by the MPSC Staff. To now modify GMO’s RRI calculation

1 method, and further reduce the limited funds available for solar rebates, significantly
2 increases the real financial harm facing the Missouri solar industry and its customers.

3 I will also briefly describe the public benefits of solar rebates in response to the Rebuttal
4 Testimony filed by Ryan Kind on behalf of the Missouri Office of Public Counsel.

5 **2. PUBLIC BENEFITS OF SOLAR REBATES:**

6 **Q: To begin, on page seven of his Rebuttal Testimony, Ryan Kind, on behalf of the**
7 **Office of Public Counsel, opines that solar rebates primarily benefit “the customers**
8 **that obtain solar installations at discounted prices” and the “contractors that**
9 **perform solar installations.” Do you agree with this statement?**

10 **A:** No. The Missouri solar industry generates significant economic activity within the state.
11 Many individuals and entities—in addition to the individual solar customer—benefit
12 from Missouri solar energy. Solar rebates provide valuable incentives for customers to
13 install solar systems. As described below, these systems provide direct and indirect
14 benefits to the residents of Missouri. Schools and their students, nonprofit organizations,
15 and labor groups all benefit from affordable solar generation made possible by solar
16 rebates.

17 **Q: How do schools benefit from solar energy in Missouri?**

18 **A:** Solar rebates help to make solar generation systems affordable for installation by
19 Missouri schools on their buildings. In turn, Missouri schools benefit from solar energy
20 in three major ways: (i) they are able to save on their overall electric bill; (ii) a portion of
21 their energy price is fixed; and (iii) the schools are able to utilize their solar panels as a
22 learning lab for energy and environmental issues. I estimate that more than three hundred

1 schools in Missouri have benefited from a solar-energy system, or will have a solar-
2 energy system installed by the end of 2013.

3 The installation of solar panels on Missouri schools creates a unique opportunity for
4 hands-on learning. Brightergy has created an education package, BrighterSchools, that
5 reaches over 20,000 students in the state of Missouri.¹ Designed to meet Missouri state
6 standards, BrighterSchools targets a school's existing math and science curriculum and
7 provides supplemental material and instruction about energy forms and sources. Most
8 importantly, the lesson plans and activities incorporate actual energy production data
9 from the solar system installed on the roof of the school.

10 I believe that it is important to teach Missouri students about renewable energy. Solar
11 energy and other renewables are an increasing source of our future energy production
12 mix. By producing their own clean electricity, Missouri schools reduce their energy costs,
13 better the environment, and provide students with a unique learning opportunity.
14 Brightergy has received dozens of phone calls, emails, and letters from schools, parents,
15 and students in support of Brightergy's program. From these calls, Brightergy has learned
16 that BrighterSchools has significantly increased Missouri students' interest in renewable
17 energy, science and engineering.

18 **Q: How do non-profit organizations benefit from solar energy in Missouri?**

19 A: The Missouri solar rebate program enables non-profit organizations to lease solar
20 generation systems. Solar leases provide all of the benefits of distributed solar energy
21 without the need for any upfront payment. Under a solar lease, a nonprofit client's
22 monthly solar lease payment is less than what it would have otherwise paid for the energy
23 created by its solar system. Solar leases provide financial savings for non-profits that

¹ See <http://brightergy.com/government-nonprofit-solar-installer/brighterschools/>.

1 allow those organizations to better serve their various causes. Among the hundreds of
2 non-profit organizations who currently receive the benefits of solar generation,
3 Brightergy has installed systems for John Knox Village, numerous churches and places of
4 worship, the Children's Center for the Visually Impaired, and the Boy Scouts of America.

5 **Q: How do labor groups and jobseekers benefit from solar energy in Missouri?**

6 A: Distributed solar generation provides Missouri jobs that cannot be outsourced. Despite
7 solar comprising less than 1% of Missouri's energy capacity, there are over one thousand
8 solar jobs in Missouri. In addition to the direct jobs created by the solar industry, there
9 have been hundreds of indirect jobs created by the solar industry. The solar industry has
10 put people to work in Missouri during a major recession.

11 **Q: What is the general public's opinion on solar energy generation?**

12 A: According to a national survey conducted by Hart Research, 92% of voters believe it is
13 important for the United States to develop and use solar power.² In addition, 66% of
14 Missouri voters supported Proposition C and the creation of solar rebates in 2008.

15 **3. MPSC STAFF'S PROPOSED RRI CALCULATION**

16 **Q: Have you reviewed the testimony filed by the MPSC Staff in this matter?**

17 A: Yes, I have reviewed the public testimony of Staff witnesses Claire M. Eubanks and
18 Mark L. Oligschlaeger that was filed on September 16, 2013.

19 **Q: After reviewing Staff's testimony, what additional concerns regarding Staff's
20 position do you have?**

21 A: Staff's testimony has raised additional concerns that I did not voice in my Rebuttal
22 Testimony. Specifically, those concerns are:

² See e.g., <http://www.seia.org/research-resources/america-votes-solar-national-solar-survey-2012>.

- Staff’s proposed RRI calculation is contrary to Staff’s prior review and approval of GMO’s RRI calculation.
- Staff’s proposed, changed, and in my opinion, incorrect RRI calculation presents a potential problem that may permit a utility’s annual RES compliance costs to greatly exceed the 1% RRI limit.
- Staff states that its proposed RRI calculation is necessary for GMO to timely meet all RES requirements or to “achieve the highest level of compliance with the RES requirements possible.”³ This statement is not supported by the evidence in this case or the requirements of the RES.
- Staff’s proposed RRI calculation severely penalizes the Missouri solar industry and its customers for relying on GMO’s prior, Staff approved RRI calculation.

Q: How has the MPSC Staff evaluated the GMO RRI calculation prior to this case?

A: GMO filed its *2012 RES Compliance Plan* in MPSC File No. EO-2012-0349. GMO’s 2012 RES Plan described the Company’s RRI calculation as follows:

For each Company, KCP&L and GMO, *the direct costs of compliance for the three-year planning period (2012-2014) were compared to the expected retail revenue forecast from the latest Corporate Budget*. Since each Company Preferred Plan identified in the April 2012 IRP filings only contains renewable additions that improve each Company’s cost, no non-compliant plan is necessary to calculate rate impacts.

Only costs associated with S-REC purchases and Solar Rebates meet the criteria of increasing revenue requirement and are required by Missouri Prop C or Rule 240-20.100(2).

*The increased revenue requirement from the S-REC purchases and Solar Rebates is calculated as a percent of the forecasted Retail Revenue from the latest Corporate Budget for the current year and the two following years.*⁴

Staff, in its *2012 Report on Company’s RES Compliance Plan*, filed in MPSC File No. EO-2012-0349, stated that it had “identified no deficiencies” within GMO’s 2012 RES

³ Rebuttal Testimony of Claire M. Eubanks, MPSC File No. ET-2014-0059, at 4.

⁴ GMO 2012 Annual Renewable Energy Standard Compliance Plan, MPSC Case No. EO-2012-0349, April 15, 2012, at 11 (emphasis added).

1 Compliance Plan.⁵ Further, Staff specifically addressed GMO’s RRI calculation by
2 stating:

3 Staff considers the level of detail required for the rate impact
4 calculation to be subjective. *For the company to expend*
5 *significant resources to provide a more detailed calculation*
6 *would serve no purpose*, since the requirements for this Plan
7 period are met by its existing resources, a new low-cost alternative
8 resource, and purchases of S-RECs. *Based on the Plan costs for*
9 *calendar year 2012 compared to one percent (1%) of the current*
10 *revenue requirement for the Company, the rate impact limit*
11 *should not be exceeded. . . . Because the detailed calculation*
12 *would serve no purpose in this instance, Staff would not seek for*
13 *the Commission to enforce literal compliance with this rule*
14 *provision*, whether the Company requested relief or not.⁶
15

16 **Q: How does the RRI calculation proposed by Staff in this case differ from Staff’s prior**
17 **position on GMO’s 2012 RRI calculation?**

18 **A:** GMO did not perform the RRI calculation as currently proposed by Staff. The 2012
19 GMO RES Report did not calculate the average annual revenue requirements of either an
20 RES-compliant portfolio or a non-renewable portfolio over the succeeding ten years. The
21 Staff evaluated and approved the GMO RES Report, including its RRI calculation. Staff
22 further indicated that the calculation would “serve no purpose” and recommended that the
23 Commission not require GMO to strictly comply with the rule. Staff has now
24 retroactively changed their position.
25

⁵ Staff’s Report on Company’s RES Compliance Plan, MPSC File No. EO-2012-0349, at 2.

⁶ Memorandum, Staff’s Report on Company’s RES Compliance Plan, MPSC File No. EO-2012-0349, at 4.

1 **Q: Does Staff’s proposed RRI calculation create a potential problem that would allow a**
2 **utility’s RES compliance costs to greatly exceed the 1% RRI limit?**

3 **A:** Staff’s proposed RRI calculation would potentially permit a utility to greatly exceed the
4 1% RRI limit each year.⁷ According to Staff’s proposed calculation, a utility’s RES
5 compliance costs may exceed 1% during an annual period, so long as the ten-year
6 forward looking average RRI of all RES compliance costs is maintained at or below 1%.
7 As illustrated in the Direct Testimony of GMO witness Burton Crawford, this view could
8 permit a utility to incur RES Compliance costs and an RRI of up to 10% annually for an
9 indefinite period of time. Effectively, Staff’s position would render the Missouri statute
10 and regulations in this case meaningless—i.e., legislative intent would be substantially
11 frustrated.

12 **Q: Do potential problems with Staff’s proposed calculation “matter” to the**
13 **determination of whether or not to impose Staff’s RRI calculation upon GMO?**

14 **A:** Yes. Contrary to the statements of Staff witness Oligschlaeger⁸, I firmly believe that any
15 potential problems associated with both of the RRI calculations advocated by Staff and
16 GMO matter, and are relevant to the Commission’s consideration in this case. In my
17 opinion, Staff’s statement that its proposed calculation was approved during the MPSC’s
18 2010 Rulemaking is in no way determinative of this issue. First, by regulation, the
19 Commission cannot change the clear meaning and intent of the statute. Second, the Staff
20 in effect recognizes that there is more than a sole and exclusive methodology to measure
21 RES compliance—as seen by Staff’s prior actions. Third, the Staff’s calculation now
22 advanced yields a result that is not consistent with legislative intent. On a practical basis,

⁷ See Direct Testimony of Burton L. Crawford, MPSC File No. ET-2014-0059, at 7.
⁸ Rebuttal Testimony, Mark L. Oligschlaeger, MPSC File No. ET-2014-0059, at 10.

1 strict adherence to any rule, without considering the potential problems or unique facts of
2 a situation, can potentially cause more harm than it would otherwise solve.

3 **Q: Does Staff attempt to support its proposed RRI calculation by stating that under**
4 **GMO’s calculation the Company “will not be able to meet all of the RES**
5 **requirements by the dates specified or to achieve the highest level of compliance**
6 **with the RES requirements possible over the ten (10) year planning period”?**

7 **A:** Yes, Staff witness Eubanks makes this statement on page four of her Rebuttal Testimony.

8 **Q: To your knowledge, has GMO indicated that it may be unable to meet the**
9 **requirements of the RES?**

10 **A:** No. The direct testimony submitted by GMO witnesses Crawford and Rush does not
11 indicate that GMO will be unable to satisfy the requirements of the RES at any time in
12 the future. Additionally, in its most recent SEC Form 10-Q, the Company announced
13 that:

14 KCP&L and GMO project that they will be compliant with the
15 Missouri renewable requirements, exclusive of the solar
16 requirement, through 2023 for KCP&L and 2018 for GMO.
17 KCP&L and GMO project that the acquisition of solar renewable
18 energy credits will be sufficient for compliance with the Missouri
19 solar requirements for the foreseeable future.⁹
20

21 **Q: In your opinion, does the Renewable Energy Standard require a Missouri electric**
22 **utility to achieve a high level or maximum level of RES compliance?**

23 **A:** No. Based on my reading of the RES requirements set forth in 4 CSR 204-20.100(2),
24 utilities are only required to meet a minimum level of renewable generation for RES
25 compliance. GMO has publically indicated that it expects to meet this minimum level
26 through at least 2018.

⁹ Great Plains Energy Energy, Inc. and Kansas City Power & Light Company, Quarterly Report (Form 10-Q), at 22 (August 8, 2013).

1 **Q: How can RECs be used by GMO to efficiently comply with the RES requirements**
2 **on a least-cost basis?**

3 **A:** Staff witness Claire Eubanks notes on page ten of her Rebuttal Testimony that Staff
4 views the proportion of solar to non-solar renewable resources as “a policy decision on
5 how to balance solar rebate payments to the least-cost plan to comply with the RES
6 requirements.” Ms. Eubanks also states on page eleven of her Rebuttal Testimony that
7 “payment of solar rebates is currently not the least-cost approach of meeting the
8 minimum solar RES requirements.”

9 The least-cost method for GMO to comply with the RES requirements would involve the
10 purchase of RECs and payment of solar rebates. GMO can purchase RECs for a fraction
11 of the price of building wind generation. Commission rules allow for the use of RECs to
12 meet RES compliance. GMO currently complies with the solar carve out by utilizing S-
13 RECs, which are least cost. GMO’s IRP specifically states it may comply with the RES
14 requirements by purchasing RECs. In addition, GMO has stated that it does not need
15 additional generation, and the construction or regulatory allocation of any wind resources
16 over the next ten years would be due to RES compliance. It therefore seems to reason that
17 GMO could comply with future RES requirements in a least-cost manner, by purchasing
18 RECs.

19 **Q: Do you believe that the operational date of a solar system should be the date used to**
20 **determine solar rebate eligibility?**

21 **A:** No. I do not believe the operational date is a good metric on which to determine whether
22 a customer is eligible for a solar rebate. Solar projects are often started before an
23 interconnection application is approved or even submitted to the utility. Solar projects

1 can take from six to nine months to complete. Once complete, it typically takes thirty to
2 ninety days for GMO to declare a system “operational.” It may also take an additional
3 thirty to ninety days for GMO to issue a rebate check. As a result, the actual “operational
4 date” of a solar system is out of customers’ control and is very difficult to predict. If
5 annual solar rebate funds are limited, and the order of payment is to be determined on a
6 first come, first-served basis, I believe customers should be provided with a more certain
7 and predictable date. I recommend that the date on which GMO receives a customer’s
8 interconnection application (i.e., the GMO application receipt timestamp) be the date
9 used to determine rebate eligibility. The application date is a much more predictable
10 placeholder for determining solar rebate eligibility, and will allow solar customers and
11 solar companies to better predict when a customer will receive a rebate payment.

12 **Q: Has Brightergy, the solar industry, and its customers relied on GMO’s previous**
13 **RRI calculations in making business and investment decisions?**

14 **A:** Yes. As I describe in my Rebuttal Testimony, Brightergy, the solar industry, and its
15 customers rely heavily on business and financial certainty when making investment
16 decisions. Solar customers in Missouri have purchased and installed solar generation
17 systems in reliance on the availability of solar rebates. And Brightergy has borrowed
18 millions of dollars to purchase and install its customers’ systems. Brightergy has grown
19 and has hired many employees based on the strength of the solar market and certainty
20 provided by GMO. Almost all of this investment in capital and Missouri labor was made
21 prior to June 2013—when the solar industry was first informed that GMO would exceed
22 the RRI limit—and remains outstanding today.

1 As recently as 2012, the MPSC Staff approved GMO's RES Compliance Plans, including
2 the Company's RRI calculations. These Compliance Plans, as well as the public
3 statements by GMO and the Staff, indicated that the utility was not at immediate risk of
4 reaching its RRI limit. As a result, Brightergy and its customers continued with their
5 investments in reliance on the availability of solar rebates.

6 **Q: How does Staff's proposed RRI calculation penalize Brightergy, the solar industry,
7 and Missouri customers?**

8 **A:** The RRI calculation method proposed by the Staff materially alters the previously
9 approved GMO RRI calculation. This change greatly decreases the total funds available
10 for solar rebates in 2013 and for the foreseeable future. According to the public Direct
11 Testimony of GMO witness Burton Crawford, Staff's proposed calculation would allow
12 GMO to pay only \$4.2 million of solar rebates in 2013 and \$0 for 2014 and 2015. GMO's
13 2013 solar rebate payments have substantially exceeded the \$4.2 million available and
14 the excess would therefore have to be carried forward for payment after 2015.

15 Brightergy and its customers have substantially relied upon GMO's RRI calculation
16 when financing and purchasing solar generation systems. Upon notice in July of 2013
17 that GMO would unexpectedly reach its RRI limit, Brightergy and its customers were left
18 in a dire situation. Based on GMO's RRI calculation—which estimates that only about
19 \$10 million is available annually for solar rebates until 2019—Brightergy's customers
20 were faced with a substantial delay or loss of vital solar rebate payments. Brightergy and
21 its employees were also faced with millions of dollars of stranded investment, potential
22 job loss, and significant financial harm.

23

1 **Q. Please continue.**

2 **A.** In my opinion, Staff’s proposed RRI calculation unnecessarily fans the flames that
3 currently threaten the solar industry and Missouri solar customers. The Staff’s proposed
4 RRI calculation essentially eliminates all funds available for solar rebates and would
5 retroactively penalize the hundreds of customers who have already installed a solar
6 system and are waiting for a solar rebate. This change in policy is advocated by Staff
7 despite GMO’s public statements indicating that, under the GMO RRI calculation
8 method, it will be able to meet the Missouri RES requirements, remain under its 1% RRI
9 limit, comply with its 2012 IRP, and pay approximately \$10 million in solar rebates each
10 year until 2019. GMO’s position is not ideal for the solar industry and its customers. But
11 the Company’s calculation at least allows these stakeholders the opportunity to: (i)
12 recoup outstanding costs; (ii) adapt their businesses in order to prevent significant layoffs
13 and financial loss; and (iii) work with GMO and the MPSC to reasonably wind-down the
14 solar rebate program as called for by HB 142.

15 I do not believe Staff’s proposed RRI calculation was adopted by the Commission in its
16 2010 Order of Rulemaking. On a practical basis and according to RRI history described
17 above, application of Staff’s proposed RRI calculation in this case will undoubtedly
18 result in significant job loss and substantial financial harm to the Missouri solar industry,
19 their employees, their customers. In addition, the banks, suppliers, and various businesses
20 that serve the Missouri solar industry will be substantially harmed by the immediate and
21 essentially permanent suspension of solar rebates.

22

23

1 **Q: Is the Compromise Proposal you described in your Rebuttal Testimony feasible**
2 **under Staff’s proposed RRI calculation?**

3 A: No. I do not believe that the Compromise Proposal attached to my Rebuttal Testimony
4 will work under Staff’s proposed RRI calculation. The Compromise Proposal allowed for
5 the “front-loading” of the remaining funds available for solar rebates. This provided the
6 solar industry and its customers with a reasonably smooth wind-down of the solar rebate
7 program. Under Staff’s proposed calculation, no funds are available for solar rebates until
8 at least 2015. Accordingly, if the Commission adopted Staff’s proposal, all solar rebate
9 payments would have to cease immediately. The immediate termination of solar rebates
10 would result in substantial financial loss for Missouri solar customers and would cripple
11 the solar industry.

12 **Q: Does imposing Staff’s proposed RRI calculation on GMO benefit Missouri residents**
13 **and business?**

14 A: No. As described by GMO, under its calculation the Company will be able to comply
15 with the RES requirements, remain under its 1% RRI limit, build wind generation after
16 2019, and pay a certain amount of solar rebates each year until 2019. All potential
17 stakeholders can benefit and the Missouri Legislature’s intent is satisfied by GMO’s
18 calculation. The same is not possible under Staff’s proposed calculation.

19 In my opinion, it is a wholly unacceptable outcome if Missouri ratepayers are financially
20 harmed, the solar industry is materially damaged, and GMO is prevented from recovering
21 vital rebate payments relied on by its customers. Missouri ratepayers, solar companies,
22 and utilities have embraced the solar rebate program and it has now reached a vital
23 turning point. An effective and reasonable wind-down of the program is necessary to

1 prevent significant harm to those ratepayers and businesses. In effect, Staff's proposed
2 calculation cuts the legs out from under those seeking to prevent such harm.

3 **Q: What other consequences are there under Staff's proposed RRI calculation?**

4 A: Staff's proposed calculation would not only destroy a growing solar industry, but it
5 would also cause substantial harm to the Missouri business community. Hundreds of
6 Missouri families and businesses have installed a solar system and are currently waiting
7 for a solar rebate payment. Under Staff's proposed calculation, these customers would
8 never receive their rebate payment. Many of these families and businesses have taken out
9 loans from banks in reliance on the availability of solar rebates. If Staff's proposed
10 calculation is imposed upon GMO, Missouri families, businesses, and banks will incur
11 substantial financial loss.

12 **Q: Does this conclude your testimony?**

13 A: Yes.