

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 4th day of
February, 2011.

In The Matter of the Application of)
KCP&L Greater Missouri Operations Company for)
Permission and Approval and a)
Certificate of Public Convenience and Necessity)
Authorizing it to Acquire, Construct, Install, Own,)
Operate, Maintain, and otherwise Control and)
Manage Electrical Production and Related Facilities)
in Certain Areas of Buchanan County, Missouri)
Near the City of St. Joseph.)

File No. EA-2011-0165

**ORDER GRANTING CERTIFICATE OF
CONVENIENCE AND NECESSITY**

Issue Date: February 4, 2011

Effective Date: February 14, 2011

The Commission is granting the application ("application") of KCP&L Greater Missouri Operations Company ("GMO"), and issuing a certificate of convenience and necessity for those purposes, for constructing electrical production and related facilities ("facilities") powered by landfill gas from the City of St. Joseph Landfill, a renewable fuel.

Procedure

GMO filed the application with a supporting affidavit on December 7, 2010, and filed supplementary documents on December 10, 2010. The Commission gave notice of the application, solicited the Staff's recommendation, and set a deadline for motions to intervene on December 9, 2010. On January 18, 2011, the Commission granted the application to intervene of the Missouri Department of Natural Resources ("DNR").

The application is subject to the following procedure:

The commission shall have the power to grant the permission and approval herein specified whenever it shall after **due hearing** determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service.¹

The statutory provision for a “due hearing”² means that the Commission may grant the unopposed application without a hearing.³ On January 14, 2011, Staff filed its recommendation with a supporting affidavit in favor of granting the application.

As of the date of this order, no party has filed any response to the recommendation.⁴ Therefore, this action is a non-contested case and the Commission need not separately state its findings of fact. The Commission bases its findings of fact on the verified filings.

Standard

The application seeks the Commission’s permission and approval to construct an electrical production facility powered by the renewable fuel of landfill gas from the City of St. Joseph Landfill. Electrical facility construction⁵ and service⁶ require the Commission’s prior permission and approval. Such permission and approval depend on GMO showing:

. . . that the granting of the application is required by the public convenience and necessity[;⁷]

and the Commission determining:

. . . that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service[.⁸]

¹ Section 393.170.3, RSMo 2000.

² Section 393.170.3, RSMo 2000.

³ ***State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Comm’n***, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989).

⁴ Under 4 CSR 240-2.010(11), OPC is a party to this action unless it elects to “file a notice of their intention not to participate within the period of time established for interventions by commission rule or order.” As of the date of this order, no notice of intention not to participate is on file.

⁵ Section 393.170.1, RSMo 2000.

⁶ Section 393.170.2, RSMo 2000, first sentence.

⁷ 4 CSR 240-3.205(1)(E).

Further, the Commission may condition its approval and permission as follows:

The commission may by its order impose such condition or conditions as it may deem reasonable and necessary [. ⁹]

“Necessary” and “necessity” relate to the regulation of competition, cost justification, and safe and adequate service.¹⁰ On finding convenience and necessity, the Commission embodies its permission and approval in a certificate,¹¹ which the statutes call a certificate of convenience and necessity.¹²

Findings and Conclusions

The verified filings support the convenience and necessity of GMO’s proposed construction as follows:

1. GMO is a Missouri corporation in good standing authorized to do business as an electrical corporation and the area in which GMO proposes to install the facilities is within GMO’s service territory.¹³
2. The application has support from the City of St. Joseph, Buchanan County, and DNR.
3. GMO will finance the project with general funds, federal tax credits and Missouri Biogas Energy Subgrants.

On those grounds, the Commission independently finds and concludes that the facilities are necessary and convenient for the public service. Therefore, the Commission will grant the application.

⁸ Section 393.170.3, RSMo 2000.

⁹ *Id.*

¹⁰ ***State ex rel. Intercon Sewer, Inc. v. Public Serv. Comm’n of Mo.***, 848 S.W.2d 593, 597 (Mo. App., W.D. 1993).

¹¹ Section 393.170.2, RSMo 2000, second sentence.

¹² Section 393.170.3, RSMo 2000, third sentence.

¹³ The proposed service area’s legal description is in the application’s Appendix 2. A depiction is in the application’s Exhibit A.

THE COMMISSION ORDERS THAT:

1. The application is granted, and a certificate of convenience and necessity reflecting such permission and approval shall be issued to KCP&L Greater Missouri Operations Company ("company") for the facilities described in the application.
2. Nothing in this order precludes the Commission from considering any ratemaking treatment of any future company expenditure, and any other matter, pertaining to the certificate of convenience and necessity.
3. This order shall become effective on February 14, 2011 and this file shall close February 15, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett, Gunn
and Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge