

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

In the Matter of the Application of)
KCP&L Greater Missouri Operations Company)
For Approval of a Special Rate for a Facility) File No. EO-2019-0244
Whose Primary Industry is the Production or)
Fabrication of Steel in or Around Sedalia, Missouri.)

PUBLIC COUNSEL’S INITIAL POST-HEARING BRIEF

In lieu of a full post-hearing brief, the Office of the Public Counsel (OPC or Public Counsel) explains its non-opposition and neutral position as follows:

1. On July 12, 2019, KCP&L Greater Missouri Operations Company (GMO or Company)¹ applied for a special incremental load (SIL) tariff offering for its new industrial customer, Nucor Steel Sedalia, LLC (Nucor). It is the OPC’s understanding that the Missouri Legislature’s passage of legislation authorizing SIL rates for steel manufacturers during the first extraordinary legislative session from 2017 precipitated Nucor’s decision to locate its expanded facility in Sedalia, MO. That legislation is colloquially referred to as House Bill (HB) 1, and codified at Section 393.355, RSMo.

2. GMO maintains that its application follows the spirit of HB 1 by incentivizing industrial customers to relocate or expand in Missouri service territories, but that the Company is not seeking approval under Section 393.355. GMO instead maintains that this Public Service Commission (Commission) has independent authority to approve GMO’s SIL offering for Nucor. GMO’s SIL application purports to secure a special rate for Nucor for ten years.

3. The Staff of the Public Service Commission (Staff) entered into a stipulation and agreement with Nucor and GMO, calling for the approval of GMO’s SIL tariff and SIL rate on

¹ During the pendency of this case, GMO reorganized as Evergy Missouri West. The OPC will continue to refer to the Company as GMO to avoid confusion.

September 19, 2019. The stipulation and agreement purports to secure the SIL rate under a ten-year contract. The stipulation and agreement also requires GMO to monitor and report the revenues and costs associated with serving Nucor to Staff and the OPC.² GMO witness Darrin Ives explained at the evidentiary hearing though that any “tracking” will not be through a regulatory liability or asset per traditional concepts of deferral accounting.³ Instead, GMO will internally monitor the costs to service Nucor and associated revenues.

4. In the stipulation and agreement GMO agreed to assume all risk that Nucor’s special rate covers Nucor’s incremental cost of service. Although OPC has not been able to independently verify claims regarding Nucor’s incremental cost of service, such issues can be appropriately addressed in subsequent rate cases. Given Nucor’s acceptance of the special rate, and GMO’s commitment to hold all other customers completely harmless from increased costs due to Nucor’s cost of service, OPC does not object to the stipulation and agreement.

5. The OPC interprets “hold harmless” to mean that its shareholders and holdings will be liable for any deficit between the revenues and incremental costs associated with serving Nucor, and that GMO will not seek recovery from its customers in the future for any such deficiency.

6. GMO’s Counsel describes the customer protection arrangement as providing that if revenues associated with Nucor exceed the incremental cost to serve Nucor, then the excess will be used to lower revenue requirement for GMO’s other customers.⁴ If revenues do not exceed incremental costs, then “the Company will make an additional revenue adjustment covering the shortfall in the revenue requirement.”⁵ GMO’s Counsel described that this “adjustment” will “ensure that non-Nucor customers will be held harmless.”⁶ Mr. Ives reiterated on the stand that GMO has

² Exhibit 5, Stipulation and Agreement, EO-2019-0244 (Sep. 19, 2019).

³ Transcript of Proceedings, Evidentiary Hearing, EO-2019-0244 p. 127 (Oct. 17, 2019).

⁴ *Id.* at 30.

⁵ *Id.*

⁶ *Id.*

“agreed to make an additional revenue adjustment that case [when revenues fall below incremental cost] to zero out those costs in excess of revenues so that there’s no impact to non-Nucor customers.”⁷

The OPC expects to be able to rely on these representations during GMO’s next rate case proceeding and thereafter, and therefore sees no need to object to the stipulation and agreement.

Wherefore, the OPC submits its initial post-hearing brief.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 1st Day of November, 2019, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall

⁷ *Id.* at 129.