

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

In the matter of KCP&L Greater Missouri)
Operations Company's 2013 Renewable) **File No. EO-2014-0290**
Energy Standard Compliance Report)

**STAFF REPORT ON GMO'S
RENEWABLE ENERGY STANDARD COMPLIANCE REPORT
AND REQUEST FOR WAIVER**

COMES NOW, Staff of the Missouri Public Service Commission, by and through undersigned counsel, and submits this Report to the Missouri Public Service Commission. In support of the report, Staff respectfully states the following:

Background

1. On April 15, 2014,¹ KCP&L Greater Missouri Operations Company (“GMO”) filed its *2013 Renewable Energy Standard Compliance Report and Request for Waiver* (“Compliance Report”) in the above captioned case.
2. In addition to the filing of the Compliance Report, GMO requested that the Commission grant it a limited waiver from Rule 4 CSR 240-20.100(7)(A)1.I.(V) which requires a utility to provide “[a]ll meter readings used for calculation of the payments referenced in part (IV) of this paragraph” for renewable resources not owned by the utility.
3. On April 16, in its *Order Directing Notice and Setting Filing Deadline*, the Commission directed Staff to file its report by May 30.
4. On May 29, 2014, Staff was granted, by Commission Order, an extension of time to file a report of its review of GMO’s Compliance Report until June 30.

¹ All dates herein refer to calendar year 2014, unless otherwise specified.

Waiver Request

5. 4 CSR 240-20.100(10) states “Upon written application, and after notice and an opportunity for hearing, the commission may waive or grant a variance from a provision of this rule for good cause shown.”

6. Although without a precise definition, good cause “generally means a substantial reason amounting in law to a legal excuse for failing to perform an act required by law.”² Similarly, “good cause” has also been judicially defined as a “substantial reason or cause which would cause or justify the ordinary person to neglect one of his [legal] duties.”³

7. To constitute good cause, the reason or excuse given “must be real not imaginary, substantial not trifling, and reasonable not whimsical.”⁴ And some legitimate factual showing is required, not just the mere conclusion of a party or his attorney.⁵

8. Based on its review of the information provided by GMO and other sources, Staff recommends the Commission grant GMO a limited waiver from the requirements of Rule 4 CSR 240-20.100(7)(A)1.(I)(V) to substitute invoices or another reasonable substitute when meter readings are not available for energy purchases from Gray County and Ensign. Staff recommends the Commission grant the Company a limited waiver from the requirements of Rule 4 CSR 240-20.100(7)(A)1.(I)(V) for RECs

² *Black’s Law Dictionary* 692 (6th ed. 1990).

³ *Graham v. State*, 134 N.W. 249, 250 (Neb. 1912). Missouri appellate courts have also recognized and applied an objective “ordinary person” standard. See, e.g., *Cent. Mo. Paving Co. v. Labor & Indus. Relations Comm’n*, 575 S.W.2d 889, 892 (Mo. App. W.D. 1978) (“[T]he standard by which good cause is measured is one of reasonableness as applied to the average man or woman.”)

⁴ *Belle State Bank v. Indus. Comm’n*, 547 S.W.2d 841, 846 (Mo. App. S.D. 1977). See also *Barclay White Co. v. Unemployment Compensation Bd.*, 50 A.2d 336, 339 (Pa. 1947) (to show good cause, reason given must be real, substantial, and reasonable).

⁵ See generally *Haynes v. Williams*, 522 S.W.2d 623, 627 (Mo. App. E.D. 1975); *Havrisko v. U.S.*, 68 F.Supp. 771, 772 (E.D.N.Y. 1946); *The Kegums*, 73 F.Supp. 831, 832 (S.D.N.Y. 1947).

purchased from aggregators that are lawfully registered in another renewable energy registry.

Staff Report

9. Commission rule subparagraphs 4 CSR 240-20.100(7)(A)1.A. through N. specify what information the compliance report shall provide. In addition, rule 4 CSR 240-20.100(7)(D) provides that:

The staff of the commission shall examine each electric utility's annual RES compliance report and RES compliance plan and file a report of its review with the commission within forty-five (45) days of the filing of the annual RES compliance report and RES compliance plan with the commission. The staff's report shall identify any deficiencies in the electric utility's compliance with the RES.

10. In its *Memorandum* attached hereto, Staff reports on its review of GMO's *Compliance Report*. Based on its review, Staff has not identified any deficiencies in the Compliance Report based upon 4 CSR 240-20.100(7)(A)1.A. through N.

11. GMO is current on the filing of its annual reports and its quarterly payment of the fiscal year 2014 assessment.

12. Currently there is a Petition for Declaratory Judgment and Peremptory Writ of Prohibition pending in the Circuit Court of Cole County that could affect this filing. Staff also notes that GMO has a solar rebate complaint (EC-2014-0343) and a RES rate adjustment mechanism case (EO-2014-0151) that are currently pending before the Commission that could also affect this filing.⁶

WHEREFORE, Staff submits this Report regarding GMO's 2013 Renewable Energy Standard Compliance Report, for the Commission's information and consideration.

⁶ Case No. AP14AC-CC00316.

Respectfully submitted,

/s/ Akayla J. Jones

Akayla J. Jones

Assistant Staff Counsel

Missouri Bar No. 64941

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 526-6036 (Telephone)

(573) 751-9285 (Fax)

akayla.jones@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail to all parties of record as listed in the Commission's Electronic Filing and Information System this 30th day of June, 2014

/s/ Akayla J. Jones