

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

In the Matter of the Application of Aquila, Inc. dba)
KCP&L Greater Missouri Operations Company)
for Approval to Make Certain Changes in its) **Case No. ER-2009-0090**
Charges for Electric Service)
)

PUBLIC COUNSEL’S POSITION STATEMENT

COMES NOW the Office of the Public Counsel and submits its Position Statement. This position statement follows the same numbering format as the list of issues filed by the Staff of the Commission on April 14, 2009. Although there are some issues on which Public Counsel does not at this time take a position, Public Counsel may take a position on those issues as evidence is adduced at the hearing.

REVENUE REQUIREMENT

RATE BASE

1. Iatan 1 Selective Catalytic Reduction (“SCR”) facility, Flue Gas Desulphurization (“FGD”) unit and Baghouse (collectively “Iatan 1 AQCS-Air Quality Control Systems-Rate Base Additions”):
 - a. What criteria should the Commission use to determine when the Iatan 1 AQCS Rate Base Additions are “fully operational and used for service? **Public Counsel takes no position at this time.**
 - b. Are the Iatan 1 AQCS Rate Base Additions fully operational and used for service? **Public Counsel takes no position at this time.**
 - c. Should the costs of the Iatan 1 AQCS Rate Base Additions that exceed KCPL’s “definitive estimate” of ** [REDACTED] ** before allocation be allocated and included in L&P’s rate base on an interim subject to refund basis? **Public Counsel takes no position at this time.**
 - d. Should a regulatory asset be established to defer carrying cost and depreciation expense associated with the Iatan 1 AQCS Rate Base Additions appropriately recorded to Electric Plant in Service that are not included in

L&P's rate base in the current rate case? **Public Counsel takes no position at this time.**

2. Iatan Common Costs (L&P only):

- a. What portion of the Common Costs of the Iatan 1 and Iatan 2 construction projects should be included in L&P's rate base in this proceeding? **Public Counsel takes no position at this time.**
- b. Should a regulatory asset be established to defer carrying cost and depreciation expense associated with the portion of the Common Costs of the Iatan 1 and Iatan 2 construction projects appropriately recorded to Electric Plant in Service that are not included in L&P's rate base in the current rate case, or should these costs be considered Iatan 2 project costs? **Public Counsel takes no position at this time.**
- c. Should the reduction of reserve overstatement currently assigned to MPS and L&P as UCU Common General Plant be assigned on a weighted average per reserve account to the ECORP accumulated reserve for depreciation? **Public Counsel takes no position at this time.**
- d. Should GMO maintain separate accounting of amounts accrued for recovery of its initial investment in plant and the amounts accrued for cost of removal of plant? **Public Counsel takes no position at this time.**

3. Sibley 3 and Jeffrey Energy Centers (collectively "Sibley and Jeffrey Rate Base Additions") (MPS only):

- a. Are the Sibley and Jeffrey Rate Base Additions fully operational and used for service? **Public Counsel takes no position at this time.**
- b. Should the costs of the Sibley and Jeffrey Rate Base Additions that exceed GMO's "definitive estimates" of ** [REDACTED] ** and approximately ** [REDACTED] **, respectively, be included in MPS's rate base, on an interim subject to refund basis? **Public Counsel takes no position at this time.**

4. Is it lawful for the Commission to designate a portion of the rates in this case "interim rates, subject to refund," if GMO has not voluntarily agreed to any rates being interim subject to refund? **Public Counsel takes no position at this time.**

5. Prudence of MPS Generating Capacity Additions (MPS only):

- a. Was the decision of MPS to wait to add the approximately 300 MW of capacity GMO is obtaining from Crossroads prudent? **Public Counsel takes no position at this time.**
- b. For purposes of setting rates for MPS, should be the revenue requirement for the

approximately 300 MW of capacity GMO is obtaining from Crossroads be based on the depreciated net book value of Crossroads on MPS's books and included in MPS's rate base? **Public Counsel takes no position at this time.**

- c. For purposes of setting rates for MPS, should be the revenue requirement for the approximately 300 MW of capacity GMO is obtaining from Crossroads be based on the present cost of two additional 105 MW combustion turbines installed in 2005 at a GMO site that would permit the building of six such combustion turbines (rate base) plus a short-term 100 MW purchased power agreement (expense) because GMO was imprudent by not acquiring the capacity of those two additional combustion turbines in 2005? **Public Counsel takes no position at this time.**
 - d. For purposes of setting rates for MPS, should be the revenue requirement for the approximately 300 MW of capacity GMO is obtaining from Crossroads be based on the present cost of Crossroads based on the cost to GMO of acquiring Crossroads as a regulated site in 2005 because GMO was imprudent by not owning that capacity in 2005? If the revenue requirement for the approximately 300 MW of capacity GMO is obtaining from Crossroads is included in rate base at the 2007 depreciated net book value of Crossroads, should the accumulated deferred taxes associated with Crossroads be used as an offset to rate base? **Public Counsel takes no position at this time.**
 - e. Was transfer on GMO's books of Crossroads from non-regulated operations to the regulated operations of MPS at cost permitted by the Commission's Affiliated Transaction Rule without a variance from the Commission? **Public Counsel takes no position at this time.**
 - f. If a value of Crossroads is included in rate base, should the transmission expense to get the energy from Crossroads to MPS's territory be included in expenses? If so, should the Commission reflect any transmission cost savings to the Company resulting in its future participation in SPP as a network service customer related to the Crossroads plant? **Public Counsel takes no position at this time.**
 - g. Would GMO be prudent to delay building additional combustion turbine capacity in order to utilize the power and asset sales offers by Dogwood in response to GMO's RFPs? **Public Counsel takes no position at this time.**
6. Southwest Power Pool Transmission (MPS and L&P): Should the Commission reflect any transmission cost savings to the Company resulting in its future participation in SPP as a network service customer? **Public Counsel takes no position at this time.**
7. Cash Working Capital—Imputed AR Program in Lead Lag Study (MPS and L&P): Should the cost related to the termination of GMOs accounts receivable sales program caused by the loss of investment grade status be passed on to its customers? **Public Counsel takes no position at this time.**

8. Accumulated Depreciation (MPS and L&P):
Should the reserve deficiency related to plant retired prematurely as a consequence of GPE's acquisition of Aquila be added back to the respective ECORP reserve account? **Public Counsel takes no position at this time.**
If the reserve deficiency associated with these premature retirements is not added back to the respective ECORP reserve accounts, should this amount be considered an acquisition detriment? **Public Counsel takes no position at this time.**
- a. Should the reduction of reserve overstatement currently assigned to the two divisions as UCU Common General Plant be assigned on a weighted average per reserve account to the ECORP accumulated reserve for depreciation? **Public Counsel takes no position at this time.**
 - b. Should GMO maintain separate accounting of amounts accrued for recovery of its initial investment in plant and the amounts accrued for the cost of removal? **Public Counsel takes no position at this time.**
 - c. Is Commission authorization required for GMO to change its depreciation rate to zero (0)? **Public Counsel takes no position at this time.**
 - d. Should the accumulated depreciation for ECORP common plant asset accounts reflect depreciation accrual of approximately \$4.2 million more than on GMO's books because the authorized depreciation rates for the ECORP common asset accounts are not zero? **Public Counsel takes no position at this time.**
 - e. Has GMO properly accounted for ECORP common plant asset retirements caused by Great Plains Energy's acquisition of GMO? **Public Counsel takes no position at this time.**
9. Prepaid Pension Asset: What level of prepaid pension asset should be included in rate base? **In Aquila Inc., Case No. ER-2004-0034 Company was authorized to amortize accumulated prepaid pension cost over a 5-1/2 year period. The amortization period authorized in Case No. ER-2004-0034 results in the MPS prepaid pension balance being completely recovered before the end of October 2009; whereas, the effective law date of the current case is August 5, 2009. Public Counsel believes that the March 2009 rate base amount as originally authorized is not representative of ongoing costs. Including the March 2009 unamortized balance in rate base would not be appropriate given that the original balance will be fully recovered in less than three months after the close of this case. Public Counsel recommends that the MPS unamortized prepaid pension balance at the effective date of tariffs in the instant case be the amount included in rate base. The unamortized balance at that date approximates \$444,950.**
10. Demand-Side Management

- a. Should the Commission require GMO to use a net incremental reduction in annual energy usage of at least 1% resulting from the ongoing implementation of demand side programs over a twenty year planning horizon as a target for GMO's programs to meet? Should the net incremental reduction incorporate free-ridership and spill over factors? **Public Counsel takes no position at this time.**
 - b. Should GMO add its proposed Supplemental Weatherization and Minor Home Repair Program to GMO's energy efficiency portfolio? **OPC opposes GMO's proposed Supplemental Weatherization and Minor Home Repair Program at this time: (1) because the proposal is lacking in sufficient detail (e.g. proposed tariff) and (2) because OPC believes additional utility funding of low income weatherization programs may not be needed at the same time that we have experienced an enormous increase in federal weatherization funding due to passage of the federal economic stimulus program.**
 - c. Should GMO add its Economic Relief Pilot Program to its demand-side management programs? **Public Counsel takes no position at this time.**
 - d. Should the weatherization program be modified so that GMO's Call Center will refer customers to the program? **Public Counsel takes no position at this time.**
 - e. Should LIHEAP recipients be directed to the weatherization program and be required to participate in it? **Public Counsel takes no position at this time.**
11. Service Quality: Has Great Plains Energy's acquisition of Aquila affected the quality of GMO's service? **Public Counsel takes no position at this time.**

COST OF CAPITAL

- 1. Return on Common Equity (MPS and L&P): What return on common equity should be used for determining GMO's rate of return? **A return on common equity of 10.3% should be used for determining GMO's rate of return.**
- 2. Capital Structure (MPS and L&P): What capital structure should be used for determining GMO's rate of return? **OPC proposed that MPS and L&P's actual capital structures be used to set rates rather than the capital structure of their parent Company Great Plains Energy as proposed by the utilities. The companies are proposing to use MPS' and L&P's actual debt cost rather than GPS's debt cost so it is reasonable and balanced to also used the utilities' actual capital structure that corresponds to their debt costs. Conversely, if GPE's capital structure is used then GPE embedded debt cost**

should be used instead of MPS and L&P's to develop the utilities cost of service.

3. Cost of Debt (MPS and L&P): What cost of debt should be used for determining GMO's rate of return? **It depends on the capital structure. If GPE's capital structure issued, than GPE's embedded debt cost should be used to develop the overall rate of return. If MPS' and L&P's capital structure is used, then MPS' and L&P's debt cost should be used to develop the overall rate of return.**

EXPENSES

1. Short-term Incentive Compensation (MPS and L&P): Should the costs of short-term incentive compensation plans be included in MPS and L&P's revenue requirements for setting GMO's rates? **Public Counsel takes no position at this time.**
2. Supplemental Executive Retirement Pension (SERP) Costs (L&P only): Should the costs of the SERP payments related to former Saint Joseph Light and Power Company officers be included in L&P's revenue requirement for purposes of setting rates? **Public Counsel takes no position at this time.**
3. Payroll Overtime (MPS and L&P): What level of payroll overtime should be included in MPS and L&P's revenue requirements for purposes of setting rates? **Public Counsel takes no position at this time.**
4. Fuel & Purchased Power Expenses, and Off-System Sales Margins (MPS and L&P):
 - a. What level of fuel and purchased power expense should be included in MPS and L&P's revenue requirements for purpose of setting rates? **Public Counsel takes no position at this time.**
 - b. What level of off-system sales margins should be reflected in MPS and L&P revenue requirements for purposes of setting rates? **The levels of off-system sales margins that should be reflected in the MPS and L & P revenue requirements are ** [REDACTED] ** and ** [REDACTED] ** respectively. These amounts were determined by calculating the average amount of annual OSS margins earned by GMO's predecessor, Aquila, during the two and one-half years that preceded the Commission's approval of the Great Plains Energy and Aquila transaction on July 1, 2008.**
 - c. Should non-asset-based off-system sales (also referred to as "Q Sales") be excluded from the revenue requirements of MPS and L&P (treated "below-the-line") or should these Q Sales be included in the revenue requirements of MPS and L&P? **The Commission should not allow GMO to exclude (e.g. treat below-the line) non-asset based off-system sales revenues from the revenue requirements for MPS and L & P for the purposes of setting rates in this case.**
 - i. If these non-asset-based off-system sales are treated "below-the-line" has GMO assigned an appropriate amount of its costs to the

support of this non-regulated activity? **Public Counsel takes no position at this time.**

5. MPS and L&P Fuel Allocations:
 - a. Should the Commission adopt Staff's methodology to allocate fuel and purchased power expense in this case? **Public Counsel takes no position at this time.**
 - b. Should the Commission direct the parties to work toward agreement of allocation of purchased power sales and environmental costs prior to the filing of the first change under the Fuel Adjustment Clause (January 1, 2010)? **Public Counsel takes no position at this time.**
6. Property Tax Expense (L&P only): Should property taxes in the amount of \$126,425 assessed on the new Air Quality Control System ("AQCS") at the Iatan 1 generating station be included in the GMO's revenue requirement in this proceeding before they are paid? **Public Counsel takes no position at this time.**
7. Cost of Removal (MPS and L&P): Should the Company be allowed to charge current customers for tax benefits related to plant retired from service prior to 2001 that is no longer in service where the tax benefit was provided to customers in the years when the plant was retired? **Public Counsel takes no position at this time.**
8. Prepaid Pensions (MPS only):
 - a. Should Public Counsel's proposal to include MPS' prepaid pension balance at the effective date of the tariffs in rate base be adopted? **Yes.**
 - b. Should the amount included in rate base in a. above be amortized over the period between the current case effective date of tariffs and the expected effective date of tariffs for the Company's next general rate case? **In Aquila Inc., Case No. ER-2004-0034 Company was authorized to amortize accumulated prepaid pension cost over a 5-1/2 year period. The amortization period authorized in Case No. ER-2004-0034 results in the MPS prepaid pension balance being completely recovered before the end of October 2009; whereas, the effective law date of the current case is August 5, 2009. Public Counsel believes that the annual amortization as originally authorized is not representative of ongoing costs. Public Counsel recommends that the annual amortization originally authorized in Case No. ER-2004-0034 be modified to reflect only the amortization of the \$444,950 remaining balance to expense over the time period between the current case effective date of tariffs and the expected effective date of tariffs for Company's next general rate increase case. For example, utilizing an estimated 36 months (the approximate time period between the filing of ER-2007-0004 and the current case plus 11 months) as the effective date of tariffs for Company's next general rate increase results in an annual electric jurisdictional expense amortization - prior to capitalization of approximately \$148,317 (i.e., \$444,950 divided by 3 years). The revised annual amortization of \$148,317 results in an annual expense reduction of approximately \$1,975,179 when compared to Company's actual 2007 per book actual expense (i.e., \$2,123,496 less \$148,317).**
9. Rate Case Expense (MPS and L&P): What levels of rate case expense should be included in the revenue requirements of MPS and L&P? **Public Counsel takes no position at this time.**

10. Merger Transition Costs (MPS and L&P):
 - a. Has the Company satisfied its commitment to only seek recovery of transition costs if its synergy tracker indicates overall savings equal to or greater than the level of transition costs being sought to be included in rates. **Public Counsel takes no position at this time.**
 - b. What are the appropriate levels of merger transition costs that should be included in the revenue requirements of MPS and L&P for setting the rates of MPS and L&P? **Public Counsel takes no position at this time.**
11. Bad Debt Expense (MPS and L&P): What is the appropriate level of bad debt expense to be included in the revenue requirements of MPS and L&P for setting rates? **Public Counsel takes no position at this time.**

DEPRECIATION/GENERAL PLANT:

1. Depreciation Rates (MPS and L&P): What are the appropriate levels of depreciation rates to be established in this case? **Public Counsel takes no position at this time.**
2. Should life-span method be rejected for developing depreciation rates for the Company's production plant accounts? **Public Counsel takes no position at this time.**
3. Should establishment of GMO's depreciation rates be postponed until completion of a consolidated KCPL and GMO depreciation study? **Public Counsel takes no position at this time.**
4. If establishment of GMO's depreciation rates is postponed until completion of a consolidated KCPL and GMO depreciation study, does that delay constitute an acquisition detriment? **Public Counsel takes no position at this time.**
5. Should the Company review its unit property catalog for proper and consistent placement of Combustion Turbine units? **Public Counsel takes no position at this time.**

RATE DESIGN/TIMING OF NEXT CLASS COST OF SERVICE STUDY

1. Allocations Among Customer Classes (MPS and L&P): How should the rate increase be allocated among the various customer classes?
 - a. Should the Company's proposal to allocate the rate increase on an equal percentage for the non-fuel portion of the increase, and rebase the fuel costs on an equal cents per kilowatt-hour basis to equal the expected costs for the test period, be adopted? **No.**
 - b. Should Staff's proposal to increase the rates on an equal percentage basis be adopted? **The rate increase should be allocated among the various customer classes on an equal percentage basis as proposed by Public Counsel and the Staff.**
 - c. Should the Industrials' proposal that first the fuel costs be re-based on an equal cents per kilowatt-hour basis to reflect the overall fuel costs, purchased power and off-system sales, then the non-fuel increase be applied on an equal percentage basis to the non-fuel portion of the existing rates, be adopted? **No.**

2. Timing of Future Class Cost of Service Study (MPS and L&P): Should the Commission order GMO to perform a Class Cost of Service Study as a part of the next rate case or after the next rate case? **The Commission should consider ordering GMO to perform a Class Cost of Service Study after the next rate case.**

FUEL ADJUSTMENT CLAUSE

1. Expense and Revenue Components (MPS and L&P): What expense and revenue components should be included in the Fuel Adjustment Clause?
The following expense and/or revenue components should NOT be included in the Fuel Adjustment Clause:

Railroad transportation, railcar depreciation, railcar lease costs, similar costs associated with other applicable modes of transportation, and non-labor fuel handling expenses reflected in FERC Account Number 501.

Non-labor fuel handling expenses reflected in FERC Account Number 547.

Emission allowance costs and revenues from the sale of emission allowances other than SO₂ allowances, including but not limited to Carbon, Mercury, and Nitrogen reflected in FERC Account Number 509 or any other account that the FERC may designate for emission allowance costs or revenues in the future.

2. Q Sales (MPS and L&P): Should revenues and expenses associated with Q sales be included in the Fuel Adjustment Clause? **The revenues and expenses associated with Q Sales (non-asset based off-system sales) should be included in the Fuel Adjustment Clause.**
3. Should GMO be required to submit the information requested by Staff in its Cost-of-Service Report on pages 145-146? **Public Counsel takes no position at this time.**
4. Were off-system sales a component of GMO's FAC since the FAC was first implemented? **Public Counsel takes no position at this time.**
5. Should the FAC tariff sheet follow the example tariff sheet filed with the surrebuttal testimony of Staff witness John Rogers or the example tariff sheet filed with the rebuttal testimony and surrebuttal testimony of GMO witness Tim Rush? **Public Counsel takes no position at this time.**

WHEREFORE, Public Counsel respectfully submits its Statement of Position.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL
/s/ **Lewis R. Mills, Jr.**

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 15th day of April 2009.

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