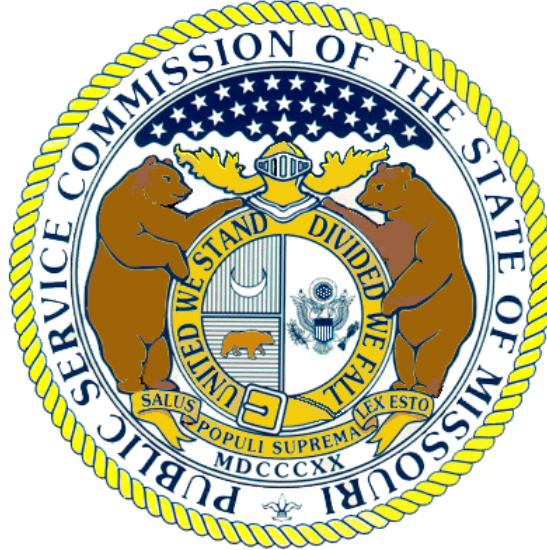


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



In the Matter of the Eighth Prudence Review)
of Costs Subject to the Commission-Approved) **File No. EO-2019-0067, et al.**
Fuel Adjustment Clause of KCP&L Greater)
Missouri Operations Company)

REPORT AND ORDER

Issue Date: November 6, 2019

Effective Date: December 6, 2019

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In the Matter of the Eighth Prudence Review)
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Missouri Operations Company) **File No. EO-2019-0067, et al.**

Appearances

Kansas City Power & Light Company

Roger W. Steiner
Joshua Harden
James M. Fischer

Office of Public Counsel

John Clizer

Staff of the Missouri Public Service Commission

Jeffrey A. Keevil
Alexandra Claus
Travis J. Pringle

Judge: Paul T. Graham

REPORT AND ORDER

Summary: Three files have been consolidated. In File No. EO-2019-0068, the Missouri Public Service Commission (“Commission”) concludes KCPL was not imprudent and did not violate its Fuel Adjustment Clause tariff in allowing 722,628 Renewable Energy Credits to expire during the review period. In File No. EO-2019-0067, the Commission concludes GMO’s indirect cost assignment method for allocating costs associated with auxiliary power between electric and steam operations at GMO’s Lake Road plant was not imprudent. Further, the Commission concludes GMO and KCPL were not imprudent in entering into purchase power agreements with the Rock Creek and Osborn Wind projects. A subsequent true-up file - ER-2019-0199 - was also consolidated into this case; however, no issues were raised concerning that file, and the numbers used in subsequent true-ups are dependent on the issues that will be decided in this case. File No. ER-2019-0199 will not be further addressed in this order.¹

PROCEDURAL HISTORY

The Commission Staff (“Staff”) filed its *Notice of Start of Eighth Prudence Review of KCP&L Greater Missouri Operations Company* (“GMO”) on September 7, 2018, in File No. EO-2019-0067, to review costs and revenues associated with GMO’s Fuel Adjustment Clause (“FAC”) for the period December 1, 2016 through May 31, 2018. This review period corresponds to the twentieth, twenty-first, and twenty-second sequential FAC accumulation periods (each accumulation period is 6 months) of GMO’s FAC. Also on September 7, 2018, Staff filed its *Notice of Start of Second Prudence Review of Kansas City Power and Light Company* (“KCPL”), in File No. EO-2019-0068, to review costs and revenues related to KCPL’s FAC for the period January 1, 2017 to June 30, 2018. This review period corresponds to the fourth, fifth, and sixth FAC accumulation periods of KCPL’s FAC.

¹ GMO and KCPL have changed their names respectively to Evergy Missouri West and Evergy Missouri Metro. The Commission will use their former names in this Order consistent with the pleadings and evidence presented in these cases.

On February 28, 2019, Staff filed its separate reports in File Nos. EO-2019-0067 and EO-2019-0068. In EO-2019-0067, Staff found no evidence of imprudence for the items it examined for the period of December 1, 2016, through May 31, 2018.² In EO-2019-0068, Staff asserted KCPL was imprudent in failing to take any action to sell (generate revenues from) 722,628 Renewable Energy Credits (“RECs”), which it did not need to satisfy its Renewable Energy Standard requirement, and in simply allowing those RECs to expire to the detriment of its customers. Staff recommended the Commission order a prudence adjustment of \$350,351.³

On March 11, 2019, in EO-2019-0067 the Office of the Public Counsel (“OPC”) filed its response to Staff’s report, request for evidentiary hearing, and request for consolidation (with EO-2019-0068 and ER-2019-0199). OPC objected to GMO’s inclusion of the cost of fuel used to produce auxiliary power for its steam operations and to GMO’s allocation of the costs associated with auxiliary power between the electric operations and the steam operations at GMO’s Lake Road plant. OPC recommended a prudence adjustment of \$469,409 in GMO’s next filing, and that GMO be ordered to account for and exclude the cost of fuel used to produce auxiliary power for its steam operations from the actual net energy cost calculated in future FAC rate change cases.

Also on March 11, 2019, in EO-2019-0068, both OPC and KCPL requested an evidentiary hearing.⁴ KCPL objected to Staff’s position concerning the unsold RECs. OPC agreed with Staff’s position on the RECs,⁵ but challenged the prudence of KCPL’s and

² Commission Exhibit 300, Staff Report in EO-2019-0067, p. 2.

³ Commission Exhibit 301, Staff Report in EO-2019-0068, p. 25.

⁴ The rule cited was “4 CSR 240-20.090(7)(B) [sic]” (now 20 CSR 4240-20.090(7)(B)). Subsection 11 of the cited rule provided for prudence review respecting RAMs. (11)(B) stated that a party had 10 days after the filing of Staff’s report to request hearing.

⁵ Staff argues for an adjustment of \$357,308, Staff’s Initial Brief, p. 8; and OPC argues for an adjustment of \$325,969, OPC Initial Brief, p. 13.

GMO's purchased power agreements ("PPAs") for the Osborn Wind Energy and Rock Creek Wind Projects. OPC recommended the Commission disallow all the losses that KCPL and GMO incurred with regard to the Rock Creek and Osborn PPAs by a prudence adjustment of \$9,484,315 in KCPL's next Fuel Adjustment Rider ("FAR") filing and \$11,070,668 in GMO's next FAR filing.

The three files were consolidated by the Commission on March 21, 2019.

On August 9, 2019, the parties identified the following issues for the hearing:

Issue (1)

- A. Was it imprudent, or in violation of its Rider FAC tariff, for KCPL to allow 722,628 renewable energy credits ("RECs") to expire during the review period of File EO-2019-0068 rather than take action which would have allowed KCPL to generate revenues from those RECs?
- B. If it was, what if any adjustment should the Commission order?

Issue (2)

- A. Has GMO appropriately allocated the costs associated with auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant?
- B. If not, what if any adjustment should the Commission order for the review period of File EO-2019-0067?
- C. Should the Commission order GMO to calculate the fuel cost of the steam operations auxiliary power that was recovered through the FAC since July 1, 2011, and return that amount plus interest at its short-term borrowing rate back to GMO's customers?
- D. Should the Commission Order GMO to make adjustments to the method by which it allocates auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant for the 23rd Accumulation Period and/or any future FAC rate change cases?

Issue (3)

- A. Was it prudent for GMO to have entered into Purchase Power Agreements with the Rock Creek and Osborn Wind Projects under the terms of the contracts as executed?
- B. If it was not prudent, what if any adjustment should the Commission order?

An evidentiary hearing occurred on August 27, 2019. Evidence was received in File Nos. EO-2019-0067 and EO-2019-0068. On August 29, 2019, the Staff filed a Request that the Commission take Official Notice of Tariff and Receive Late Filed Exhibit 202. No party has objected, and Exhibit 202 is received and made a part of the record.⁶

⁶ Exhibit 202, Tariff Sheets. Exhibit No. 202 contains KCPL Tariff Sheets 50 through 50.20 and contain KCPL's Rider FAC Tariff applicable to service during the FAC Prudence Review in File No. EO-2019-0068. They are:

January 1, 2017 through June 7, 2017	June 8, 2017 through June 30, 2018
Fourth Revised Sheet No. 50	Second Revised Sheet No. 50.11
Third Revised Sheet No. 50.1	Second revised Sheet No. 50.12
Second Revised Sheet No. 50.2	Second revised Sheet No. 50.13
Second Revised Sheet No. 50.3	Second revised Sheet No. 50.14
Second Revised Sheet No. 50.4	Second revised Sheet No. 50.15
Second Revised Sheet No. 50.5	Second revised Sheet No. 50.16
Second Revised Sheet No. 50.6	Second revised Sheet No. 50.17
Second Revised Sheet No. 50.7	Second revised Sheet No. 50.18
Second Revised Sheet No. 50.8	Second revised Sheet No. 50.19
Second Revised Sheet No. 50.9	

The following were in effect for GMO during the period December 1, 2016, through May 31, 2018, and the Commission will officially notice them. See EO-2019-0069 Staff Report, Commission Exhibit 301, p. 3.

December 1, 2016, through February	February 22, 2017 through May 31, 2018
3 rd Revised Sheet No. 124	3 rd Revised Sheet No. 127.1
3 rd Revised Sheet No. 125	3 rd Revised Sheet No. 127.2
3 rd Revised Sheet No. 126	3 rd Revised Sheet No. 127.3
1 st Revised Sheet No. 126.1	3 rd Revised Sheet No. 127.4
1 st Revised Sheet No. 126.2	7 th Revised Sheet No. 127.5
14 th Revised Sheet No. 127	3 rd Revised Sheet No. 127.6
	3 rd Revised Sheet No. 127.7
	3 rd Revised Sheet No. 127.8
	3 rd Revised Sheet No. 127.9
	5 th Revised Sheet No. 127.10
	1 st Revised Sheet No. 127.11
	3 rd Revised Sheet No. 127.12

Staff's reports in the respective files were also not received in evidence on August 27, 2019. On October 29, 2019, the Commission issue a Notice and Order giving notice that absent objections, it would admit into evidence Staff's *Eight Prudence Review Report* filed in EO-2019-0067 on February 28, 2019 as Commission Exhibit 300, and Staff's *Second Prudence Review Report* filed in EO-2019-0068 on February 28, 2019 as Commission Exhibit 301. The Commission ordered that any objections to those exhibits be filed no later than November 5, 2019. No objections were filed, and the Commission's Exhibits 300 and 301 will be received in evidence.

FINDINGS OF FACT

In making these findings of fact, the Commission has fully considered and weighed all evidence and inferences to be drawn from the evidence, both those supporting the findings and those to the contrary. Thus, although the Commission may state a finding without expressly disposing of opposing arguments and/or evidence to the contrary, the Commission has fully considered and weighed such. Any finding of fact for which the Commission has made a determination between conflicting evidence indicates the Commission found the source of the evidence that it accepted to be more credible and more persuasive than that of the conflicting evidence.

General

1. The Missouri Public Service Commission ("Commission") first authorized a Fuel Adjustment Clause ("FAC") for Aquila, Inc. ("Aquila") effective July 5, 2007, in File No. ER-2007-0004.⁷ The Commission approved the acquisition of Aquila by Great Plains

⁷ In the Matter of Aquila, Inc. d/b/a Aquila Networks-L&P, for authority to File Tariffs Increasing Electric Rates for the Service provided to Customers in the Aquila Networks-MPS and Aquila Networks-L&P Service Area, Report and Order, File No. ER-2007-0004 (Issued May 17, 2007).

Energy, Inc.⁸, and subsequently Aquila was renamed KCP&L Greater Missouri Operations Company. Since its initial approval of GMO's FAC in 2007, the Commission has approved continuation of GMO's FAC with modifications in its *Reports and Orders* in the Company's general rate cases: File Nos. ER-2009-0090, ER-2010-0356, ER-2012-0175, ER-2016-0156, and ER-2018-0146.⁹

2. The Commission first authorized a FAC for KCPL in File No. ER-2014-0370.¹⁰ Since then, the Commission has approved continuation of KCPL's FAC with modification in its most recent general rate cases: File Nos. ER-2016-0285 and ER-2018-0145.¹¹

3. The GMO prudence review that is the subject of File No. EO-2019-0067 is GMO's eighth and covers its twentieth, twenty-first, and twenty-second accumulation periods. GMO's twentieth accumulation period started December 1, 2016 and ended May 31, 2017. GMO's twenty-first accumulation period started June 1, 2017 and ended November 30, 2017. GMO's twenty-second accumulation period started December 1, 2017 and ended May 31, 2018.¹²

4. The KCPL prudence review that is the subject of File No. EO-2019-0068 is KCPL's second and covers its fourth, fifth and sixth accumulation periods. KCPL's fourth accumulation period started January 1, 2017 and ended June 30, 2017. The fifth

⁸ In the Matter of the Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc. for Approval of the Merger of Aquila, Inc. with a Subsidiary of Great Plains Energy Incorporated And for Other Related Relief. Report and Order, File No. EM-2007-0374 (Issued July 1, 2008).

⁹ Commission Exhibit 300, Staff Report in EO-2019-0067, p. 1.

¹⁰ In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service, Report and Order, File No. ER-2014-0370 (Issued September 2, 2015).

¹¹ Exhibit 200, p. 1; Commission Exhibit 301, Staff Report in EO-2019-0068, p. 1.

¹² Commission Exhibit 300, Staff Report in EO-2019-0067, pp. 1- 3.

accumulation period started July 1, 2017 and ended December 31, 2017. The sixth accumulation period started January 1, 2018 and ended June 30, 2018.¹³

5. Commission rule 20 CSR 4240-20.090(7)¹⁴ and Section 386.266.4(4), RSMo, provide a prudence review of costs and revenues will occur no less frequently than at 18-month intervals.

KCPL's Renewable Energy Credits

6. During KCPL's prudence review period from January 1, 2017 through June 30, 2018, KCPL did not sell any Renewable Energy Credits ("RECs"), and 722,628 RECs were allowed to expire for purposes of compliance with Missouri's Renewable Energy Standards.¹⁵

7. A renewable energy credit constitutes evidence that a unit of energy has been generated by a renewable resource, can be used or retired only once to comply with the Renewable Energy Standard and, if unused, a REC may exist for up to three years after the date of its creation.¹⁶

8. The Renewable Energy Standard ("RES") was enacted in 2008 as sections 393.1020 to 393.1030, RSMo., and requires electric utilities to provide a certain portion of the electricity they sell to Missouri consumers from renewable energy resources.¹⁷

9. A REC is a certificate corresponding to the environmental attributes of energy produced from renewable sources.¹⁸

¹³ Boustead Rebuttal, Exhibit 200, P. 1; Commission Exhibit 301, Staff Report in EO-2019-0068 p. 1.

¹⁴ Rule 4 CSR 240-20.090(11), when these proceedings were initiated. Effective August 28, 2019, all of the Commission's regulations were transferred from the Department of Economic Development's (DED) Title 4 to the Department of Commerce and Insurance's Title 20.

¹⁵ Boustead Rebuttal, Exhibit 200, p. 4; Commission Exhibit 301, Staff Report in EO-2019-0068 p. 25. Section 393.1030.2, RSMo.

¹⁶ Martin Direct, Exhibit 1, p. 2-3 footnoting Section 393.1030.2, RSMo.

¹⁷ Martin Direct, Exhibit 1, p. 2.

¹⁸ Marke Rebuttal, Exhibit 100, p. 3.

10. A REC is a financial instrument that can be purchased or sold within markets established for the trade of RECs.¹⁹ Buying RECs allows an entity to support renewable energy without having to install solar panels or wind turbines.²⁰ RECs can be purchased in one state and applied for compliance in another state.²¹ One can purchase a REC and can "claim emissions reductions" even if it does not actually reduce the end-use at all-or even increase it.²² For example, a REC generating facility can be located in Florida, where the actual power produced goes to the local grid in Florida, but the credit for the "renewable attributes" of that power would be purchased by a Missouri utility and used to meet the Missouri RES.²³ This is known as an "unbundled" REC, as the energy produced from the REC is not physically delivered to the customers purchasing it.²⁴ To prevent "double counting," the renewable energy produced in Florida cannot be counted for renewable compliance purposes in Florida as the REC has been sold to Missouri.²⁵

12. Selling the 722,628 RECs would have unbundled the RECs from the actual power sold such that the energy which customers then received would lose its environmental attributes.²⁶ Had the RECs been unbundled and sold, the percentage of power received by customers from renewable energy sources during the period January 1, 2017 through June 30, 2018, would have dropped from 25.15% to 19.39%.²⁷

¹⁹ Martin Direct, Exhibit 1, p. 2

²⁰ Marke Rebuttal, Exhibit 100, p. 3.

²¹ Marke Rebuttal, Exhibit 100, p. 3.

²² Marke Rebuttal, Exhibit 100, p. 3

²³ Marke Rebuttal, Exhibit 100, p. 3.

²⁴ Marke Rebuttal, Exhibit 100, p. 3.

²⁵ Marke Rebuttal, Exhibit 100, p. 3.

²⁶ Martin Surrebuttal, Ex. 2, pp 4-5.

²⁷ Martin Surrebuttal, Exhibit 2, p. 5.

13. KCPL determined at least some of its customers preferred not to lose the environmental attributes of the power they were purchasing.²⁸ In support, KCPL observed that customer surveys had showed KCPL's customers valued KCPL's ability to demonstrate that a key component of the power KCPL sold to retail customers was provided from renewable energy resources.²⁹ A number of its larger customers had announced corporate plans to reduce their carbon footprint by making greater use of renewable energy resources for the power that they consumed.³⁰ The City of Kansas City, Missouri ("KCMO") had announced it had cut greenhouse emissions by 40% below 2000 levels, surpassing its goals, and a substantial portion of that reduction could be attributed to KCPL's increased use of renewables.³¹ KCMO's City Council had authorized the City Manager to enter into KCPL's "Renewables Direct Program" to help the city procure 100% of the City's municipal electricity from carbon free sources.³² More than half of the Missouri customer members of KCPL's Customer Advisory Panel had said they were "likely" or "somewhat likely" to participate in a solar program if offered by KCPL at a cost of \$5 to \$10 per month.³³

14. The revenue opportunities in selling the RECs were very limited.³⁴

15. KCPL's determination that the limited revenue opportunities and resulting small customer benefit of approximately \$0.02 per month for usage of 1,000 kWh were

²⁸ Martin Direct, Exhibit 1, pp. 5-7.

²⁹ Martin Direct, Exhibit 1, p. 5.

³⁰ Martin Direct, Exhibit 1, p. 5.

³¹ Martin Direct, Exhibit 1, pp. 5-6.

³² Martin Direct, Exhibit 1, pp. 5-6.

³³ Martin Direct, Exhibit 1, pp. 6-7.

³⁴ Martin Direct, Exhibit 1, p. 4 and 8-9.

outweighed by its customers' desire to retain the environmental attributes of the power they purchased, was reasonable.³⁵

16. The Commission finds that while KCPL's tariff stated how revenues from sold RECs would figure into a Fuel Adjustment Rider ("FAR") calculation, KCPL's tariff did not mandate the sale of GMO'S RECs and KCPL did not violate its tariff in not selling the REC's.

17. The Commission finds that when made, KCPL's decision not to sell the 722,628 RECs was not imprudent in light of the circumstances then existing and considered, to wit: KCPL's consideration of its customers' wishes to retain their energy's environmental attributes; KCPL's consideration that selling the RECs would reduce from 25.15% to 19.39% the percentage of power customers were receiving from renewable energy sources; KCPL's consideration that the revenue opportunities in selling the RECs were very limited; KCPL's consideration that the credit to customers of approximately \$0.02 per month per 1,000kWh was *de minimis* and outweighed by KCPL's customers' desires to receive energy bundled with their corresponding renewable energy credits and thereby reduce their carbon footprint.

Auxiliary Power Allocation

18. Auxiliary power is the electricity GMO uses in the process of generating steam for its steam operations and electricity for its electric operations at its Lake Road generating facility.³⁶

19. Two separate products are produced at the Lake Road Station: electricity for the GMO L&P electric power grid, and process steam delivered to industrial customers

³⁵ Martin Surrebuttal, Exhibit 2, pp. 2-7; Martin Direct, Exhibit 1, pp. 9-11.

³⁶ Mantle Rebuttal, Exhibit 101, p. 7.

located near the Lake Road Station. The two business operations are referred to as the electric and steam jurisdictions.³⁷

20. GMO uses a seven-factor allocation method to separate its rate base and cost of service between electric and steam products.³⁸ This allocation methodology is applied to the electric generation assets in an effort to segregate and allocate appropriately the portion of generation plant used in both the production of electricity and the production of industrial steam.³⁹ With respect to each of the seven allocation factors, GMO's methodology calculates a ratio of all steam boiler production plant to total electric and steam production plant in order to separate the costs between the two utility jurisdictions.⁴⁰

³⁷ Klote Direct, (Electric) Testimony in File No. HR-2009-0092, Exhibit 8, pp. 4-5, and Klote Direct, (Gas) Testimony in File No. HR-2009-0092, Exhibit 7, p. 5.

³⁸ Klote Direct, (Electric) Testimony in File No. HR-2009-0092, Exhibit 8, pp. 5-6, and Tr. pp. 204-209. The seven-factor Allocation Method included the following factors:

1. Allocated Plant Base Factor – this is the ratio of all allocated steam plant to total regulated electric and steam plant.

2. Land Factor, Structures Factor, Access Electric Equipment Factor, Electric/Steam Plant Factor (FERC 310, 311, 315, 341-346) – this is the ratio of all allocated steam production plant to total electric and steam production plant.

3. Boiler Plant Factor (FERC 312) – this is the ratio of all allocated steam boiler plant 5 equipment to total regulated electric and steam boiler plant equipment.

4. Turbo generators (“turbogen”) Factor (FERC 314) – this is the ratio of all allocated steam turbogen units to total regulated electric and steam turbogen units.

5. 900# Steam Demand Factor - this is used in steam production allocation calculations, and Miscellaneous Steam Gen Equipment Factor (FERC 316) – this is the weighted ratio of the highest maximum steam coincident peaks over the previous three years and the total highest maximum coincident peaks over the previous three years.

6. Electric after Steam operation and maintenance (“O&M”) allocation (O&M Factor) – this is the ratio of allocated payroll applicable to steam business to the total generation payroll charged to O&M. The allocated payroll applicable to steam business is calculated using the ratio of the previous three years of steam coal burn to total Lake Road coal burn applied against total Lake Road payroll charged to O&M.

7. Electric after Steam administrative and general (“A&G”) allocation (A&G Factor) – this factor is comprised of the sum of a 50% weighting of steam O&M to total O&M from Annual Report Form 1, page 323 and a 50% weighting of total allocated steam plant to total steam and electric plant. Klote Direct (Electric) Testimony in File No. HR-2009-0092, Exhibit 8, pp. 4-6, and Tr. pp 204-209.

³⁹ Klote Direct, (Electric) Testimony in File No. HR-2009-0092, Exhibit 8, p. 4-6 and Tr. pp. 204-209.

⁴⁰ Klote Direct, (Gas) Testimony in File No. HR-2009-0092, Exhibit 7, pp. 4-6.

21. Except for a minor modification to accommodate the consolidation of the MPS and L&P jurisdictions into one GMO jurisdiction,⁴¹ the same seven factor allocation method has been used to distribute costs between GMO's electric and steam operations in every GMO rate case since 2009: File Nos. ER-2010-0356, ER-2012-0175, ER-2016-0156 and ER-2018-0146.⁴²

22. In its most recent general rate case, ER-2018-0146, GMO proposed an allocation methodology involving direct assignment of auxiliary power costs "more akin to the methodology from EO-94-36."⁴³ Staff objected, and the allocations issue was resolved in an unopposed stipulation.⁴⁴ This stipulation was approved by the Commission. The Commission takes official notice of its October 31, 2018, Order in ER-2018-0146 approving the unopposed stipulation and ordering its signatories, including GMO, to comply with the terms of the stipulation. This unopposed stipulation and agreement expressly required GMO's current allocation methodology to be used in FAC cases until revisited in GMO's next rate case.⁴⁵

23. In light of the provisions expressly agreed to and ordered by the Commission in ER-2018-0146 that GMO would use the allocation model approved in

⁴¹ Aquila Networks-MPS and Aquila Networks-L&P

⁴² Nunn Direct, Exhibit 3, p. 6.

⁴³ Nunn Direct, Exhibit 3, p. 8.

⁴⁴ Nunn Direct, Exhibit 3, p. 8.

⁴⁵ The Commission officially notices the Order Approving Stipulations and Agreements of October 31, 2018, in ER-2018-0146. That Order incorporated the stipulation into the order. Section 10 of the Stipulation stated: "GMO Steam Allocations

GMO will use the allocation numbers used in Staff's model filed in Case No. ER-2016-0156. These allocation numbers shall be used by GMO in its FAC, QCA and surveillance reporting. GMO agrees to work with Staff, OPC and MCEG to develop new steam allocation procedures prior to GMO's next electric general rate case."

The following parties signed the Stipulation: the Commission Staff; KLPL; Midwest Energy Consumers Group; GMO; Missouri Division of Energy; Missouri Industrial Energy Consumers; Missouri Joint Municipal Electric Utility Commission; Renew Missouri. The Office of Public Counsel did not sign the stipulation, nor did it object to it. Noting this, the Commission's October 31, 2018, Order treated the stipulation as "unanimous."

ER-2016-0156, and the continuation of the previous approvals of this method in File Nos. ER-2010-0356, ER-2012-0175, and ER-2016-0156, GMO was not imprudent in its method of allocating the costs associated with auxiliary power between the electric operations and the steam operation at its Lake Road Plant.

24. Regardless of the prior approvals of GMO's method, however, GMO has sustained its burden here to show that its seven-factor allocation method, whereby for each of the seven factors it calculated a ratio of steam production plant to total the regulated electric and steam production plant and thereby separated GMO's rate base and cost of service between electric and steam products, was not imprudent.

Rock Creek and Osborn Wind Purchase Power Agreements

25. Both the Rock Creek and Osborn wind projects are located in northwest Missouri, Osborn in Dekalb County, and Rock Creek in Atchison County. KCPL takes 60% of the energy from each wind facility, and GMO takes the remaining 40%.⁴⁶

26. GMO and KCPL have long-term (20-year) Purchased Power Agreements ("PPAs") with Rock Creek Wind Project, LLC, for energy and RECs generated by the Rock Creek Wind Farm located in Missouri.⁴⁷

27. The Rock Creek Wind Project PPA is a long-term agreement, and the performance of this contract should be viewed on a long-term basis and not just from data gathered during this Review Period.⁴⁸

⁴⁶ Crawford Direct, Exhibit 5, pp. 2-3.

⁴⁷ Crawford Direct, Exhibit 5, pp. 3-4.

⁴⁸ Commission Exhibit 300, Staff Report in EO-2019-0067, p. 34. Crawford Direct, Exhibit 5, pp. 3-5; Crawford Surrebuttal, Exhibit 6, pp. 7, 8, 10, 12.

28. GMO and KCPL have a long-term (20-year) PPA with NextEra Energy Resources for energy and RECs generated by the Osborn Wind Energy Center located in Missouri.⁴⁹

29. GMO's Osborn Wind Energy PPA is a long-term PPA and the performance of this contract should be viewed on a long-term basis and not just from data gathered during this Review Period.⁵⁰

30. In deciding to acquire the PPAs from the Missouri-based Rock Creek Wind Project and Osborn wind projects, GMO and KCPL considered the following:

- a. Missouri Renewable Energy Standard ("RES") incentives;
- b. The economic benefits to the area;
- c. The pending elimination of the federal Production Tax Credit ("PTC");
- d. The Environmental Protection Agency's ("EPA") proposed Clean Power Plan;
- e. Projected revenue requirement reduction over 20 years; and
- f. The relatively low transmission risks.⁵¹

31. In deciding to acquire the PPAs, GMO and KCPL considered that both facilities qualify for the RES incentive set out in 20 CSR 4240-20.100 (2)(B)1 and (3)(G) and Section 393.1030.1, RSMo.⁵²

32. In deciding to acquire the PPAs, GMO and KCPL considered the economic benefits to the local communities involved, estimating that the project would result in road and bridge improvements; money in support of the local schools; money to support local

⁴⁹ Crawford Direct, Exhibit 5, pp. 3-4; Crawford Surrebuttal, Exhibit 6, pp. 7, and 12.

⁵⁰ Crawford Direct, Exhibit 5, p. 3; Crawford Surrebuttal, Exhibit 6, pp. 7 and 12.

⁵¹ Crawford Direct, Exhibit 5, pp. 3-4.

⁵² Crawford Direct, Exhibit 5, p. 3.

emergency services; jobs provided to the local areas; and property tax benefits for the local areas.⁵³

33. In deciding to acquire the PPAs, GMO and KCPL considered that the facilities would provide additional CO₂-free energy that would comply with Clean Power Plan requirements beginning in 2020.⁵⁴

34. In deciding to acquire the PPAs, GMO and KCPL considered the status of the Production Tax Credit, which was set to end for projects beginning construction in 2014. GMO's decision took into consideration that higher PPA contract prices could then be in the offing.⁵⁵

35. In deciding to acquire the PPAs, GMO and KCPL projected revenue requirements and evaluated the PPAs over 9 scenarios. Both PPAs were shown to reduce net present value revenue requirements ("NPVRR") under 8 of 9 scenarios.⁵⁶ The only one that increased NPVRR was based on low natural gas prices and no future CO₂ restrictions.⁵⁷ The evaluations were based on the projected Southwest Power Pool ("SPP") wholesale market energy prices used in the KCP&L and GMO 2014 Integrated Resource Plan analysis.⁵⁸

36. When made, GMO and KCPL's decisions to acquire the Rock Creek Wind Project and Osborn Wind Project PPA's were not imprudent in light of the long-term nature

⁵³ Crawford, Direct, Exhibit 5, p. 5.

⁵⁴ Crawford Direct, Exhibit 5, p. 4.

⁵⁵ Crawford Direct, Exhibit 5, pp. 3-4.

⁵⁶ Crawford Direct, Exhibit 5, p. 4-5.

⁵⁷ The supposition was that if natural gas remained low or that federal agencies did restrict CO₂ emissions in the future, then NPVRR could *increase*. See Crawford Direct, Exhibit 5, p. 5. Crawford stated in Surrebuttal, Exhibit 6, p. 13: "Given the reasonable likelihood of future CO₂ restrictions and the reasonable likelihood that the value of these renewable PPAs would increase under such restrictions, the fact that the PPAs have costs in excess of recent SPP revenues does not mean that the PPAs are imprudent."

⁵⁸ Crawford Direct, Exhibit 5, p. 6-7.

of these investments, RES incentives, the economic benefits to the areas, the impending elimination of the federal Production Tax Credit, the EPA's proposed Clean Power Plan, projected revenue requirement reductions over 20 years, and the relatively low transmission risks.

CONCLUSIONS OF LAW

General

A. Subsection 386.020(15), RSMo 2016 defines "electrical corporation" as including:

every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, ... owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others;

B. Section 386.266, RSMo 2016 gives the Commission authority to authorize an electrical corporation, such as KCP&L and GMO, to utilize a periodic rate adjustment mechanism, such as the FAC. Subsection 386.266.1 requires that such mechanisms allow the utility an opportunity to recover "prudently incurred fuel and purchased power costs, including transportation." To ensure that only "prudently incurred" costs are recovered, paragraph 386.266.4(4), RSMO 2016 requires that any authorized periodic rate adjustment mechanism provide for:

prudence reviews of the costs subject to the adjustment mechanism no less frequently than at eighteen-month intervals, and shall require refund of any imprudently incurred costs plus interest at the utility's short-term borrowing rate.

C. Commission rule 20 CSR 4240-20.090(11) also requires that such prudence reviews occur no less frequently than at eighteen month intervals.

D. In determining whether a utility's conduct was prudent, the Commission will judge that conduct by:

Asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.⁵⁹

E. The utility's management decision is judged by what the utility knew at the time it made the decision. "If the company has exercised prudence in reaching a decision, the fact that external factors outside the company's control later produce an adverse result do not make the decision extravagant or imprudent."⁶⁰

F. By statute – subsection 393.150.2, RSMo – the requesting utility bears the burden of proving that a requested rate is just and reasonable.

G. The determination of witness credibility is left to the Commission, "which is free to believe none, part or all of the testimony."⁶¹

H. The Commission must find both that (1) the utility acted imprudently and (2) the imprudence resulted in harm to the utility's ratepayers to disallow a cost based on a finding that the cost was imprudently incurred.⁶²

⁵⁹ In the Matter of the Determination of In-Service Criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway Rate Base and Related Issues and *In the Matter of Union Electric Company of St. Louis, Missouri, for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company*, Report and Order, 27 Mo. P.S.C. (N.S.) 183, 194 (March 29, 1985). Quoting a decision of the *New York Public Service Commission, Re. Consolidated Edison Co. of New York, Inc.* 45 P.U.R., 4th 331, 1982. The Commission's use of this standard was cited approvingly by the Missouri Court of Appeals in *State ex rel. Associated Natural Gas Co. v. Pub. Serv. Com'n*, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997).

⁶⁰ *State ex rel. Missouri Power and Light Co. v. Pub. Serv. Com'n*, 669 S.W.2d 941, 948 (Mo. App. W.D. 1984).

⁶¹ *In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service and Midwest Energy Consumers' Group v. Missouri Public Service Commission*, 509 S.W.3d 757, 764 (Mo. App. W.D. 2016).

⁶² See *State ex rel. Associated Natural Gas Co. v. Public Service Com'n of State of Mo.*, 954 S.W.2d 520, 529-530 (Mo. App. W.D., 1997).

I. Any costs which the Commission determines have been incurred imprudently or in violation of the Rider FAC shall be returned to customers.⁶³ The prudence review includes an analysis of costs and revenues, and the costs eligible for the Fuel and Purchased Power Adjustment (“FPA”) include those laid out in the tariff, which “will be offset by jurisdictional off-system sales revenues, applicable SSP revenues, and revenue from the sale of Renewable Energy Certificates or Credits (“REC”).”⁶⁴

J. KCPL’s FAC tariff provides for the computation of a Fuel Adjustment Rider (“FAR”). The FAR is a function of the FPA.⁶⁵ The FPA is a function of actual net energy costs (“ANEC”).⁶⁶ ANEC, in turn, is a function, in part, of revenue from the sale of renewable energy credits (“R”).⁶⁷ The tariff states:

“R = Renewable Energy Credit Revenue:
Revenues reflected in FERC account 509000 from the sale of Renewable Energy Credits that are not needed to meet the Renewable Energy Standards.”⁶⁸

K. For each six-month accumulation period, GMO’s Commission-approved FAC allows GMO to recover from (if the actual net energy costs exceed) or requires a refund to (if the actual net energy costs are less than) its rate payers ninety-five percent of its Missouri jurisdictional actual net energy costs (“ANEC”) less net base energy costs (“B”) which is identified as $(ANEC - B) * J$ in GMO’s FAC.⁶⁹

⁶³ Exhibit 202, P.S.C. MO. No. 7 Second Revised Sheet No. 50.9.

⁶⁴ Exhibit 202, P.S.C. MO No. 7 Second Revised Sheet No. 50.11.

⁶⁵ Exhibit 202, P.S.C. MO No. 7 Second Revised Sheet No. 50.11.

⁶⁶ Exhibit 202, P.S.C. Mo. No. 7, Second Revised Sheet No. 50.12, $FPA = 95\% * ((ANEC - B) * J) + T + I + P$

⁶⁷ Exhibit 202, P.S.C. MO No. 7 Second Revised Sheet No. 50.12. ANEC = Actual Net Energy Costs = $(FC + E + PP + TC - OSSR - R)$, where R = Renewable Energy Credit Revenue. P.S.C. MO. No. 7 Second Revised Sheet No. 50.14.

⁶⁸ Exhibit 202, P.S.C. MO. No. 7 Second Revised Sheet No. 50.14, Canceling P.S.C. MO. No. 7 First Revised Sheet No. 50.14.

⁶⁹ Commission Exhibit 300, Staff Report in EO-2019-0067, F.N. 7, 8 and 9, p. 4: “Actual Net Energy Costs are equal to fuel costs (FC) plus net emission costs (E) plus purchased power costs (PP) plus transmission

L. Per GMO's tariff, ANEC net energy costs are defined by GMO's tariff as the prudently incurred variable fuel costs, purchased power costs, transmission costs and net emissions costs minus off-system sales revenues and renewable energy credit revenues.⁷⁰

M. Per GMO's tariff, each six-month accumulation period is followed by a twelve-month recovery period during which 95% of the (ANEC-B)*J amount (including the monthly application of interest) is recovered from or returned to ratepayers through an increase or decrease in the FAC Fuel Adjustment Rates ("FAR") during a twelve-month recovery period ("RP").⁷¹

N. GMO's FAC tariff is designed to true-up the difference between the revenues billed and the revenues authorized (including the monthly application of interest) for collection during recovery periods. Any disallowance the Commission orders as a result of a prudence review shall include interest at the Company's short-term interest rate and will be accounted for as an item of cost in a future filing to adjust the FAR.⁷²

Renewable Energy Credits

O. The Missouri Renewable Energy Standard ("RES") requires all investor-owned electric utilities in Missouri to provide at least two percent (2%) of their retail

costs (TC) minus off-system sales revenue (OSSR) and renewable energy credit revenue (R) as defined on GMO's 3rd Revised Sheet No. 127.2. Net base energy costs (B) are defined on GMO's 5th Revised Sheet No. 127.10 as net base energy costs ordered by the Commission in the last general rate case consistent with the costs and revenues included in the calculation of the FPA. Net base energy costs will be calculated as shown below $SAP \times \text{Base Factor ("BF")}$. For the twentieth, twenty-first and twenty-second accumulation periods, the (ANEC-B)*J amounts are included on line 5 of GMO's 1st Revised Sheet No. 127.12, 2nd Revised Sheet No. 127.12, and 3rd Revised Sheet No. 127.12, respectively."

⁷⁰ See Commission Exhibit 300, Staff Report in EO-2019-0067, F.N. 4; GMO's 1st Revised Sheet No. 127.12, 2nd Revised Sheet No. 127.12, and 3rd Revised Sheet No. 127.12.

⁷¹ Commission Exhibit 300, Staff Report in EO-2019-0067, p. 4.

⁷² Commission Exhibit 300, Staff Report in EO-2019-0067, p. 4.

electricity sales using renewable energy resources in each calendar year 2011 through 2013, and to increase that percentage over time to at least fifteen percent by 2021.⁷³

P. Commission rule 20 CSR 4240-20.100, sets out the definitions, structure, operations, and procedures for implementing the RES.

Q. The Commission's RES rule creates categories of renewable energy resources.⁷⁴ Renewable energy resources produce electrical energy and are wind, solar sources, thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one of the above named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the Missouri Department of Economic Development – Division of Energy.⁷⁵

R. Once an energy resource is certified, it begins producing RECs, with one REC representing one megawatt-hour of electricity that has been generated from the renewable energy resource. These RECs can be sold and/or traded in the market place bundled with or without the energy that generated the REC.⁷⁶

S. The cost of a REC (as a RES compliance cost) cannot be recovered through GMO's FAC.⁷⁷ Revenues from the sale of RECs are recovered through the FAC as an off-set to fuel costs.⁷⁸

Auxiliary Power Allocation

⁷³ Section 393.1020, RSMo. 2016 and Section 393.1030.1(1), RSMo. 2016.

⁷⁴ 20 CSR 240-20.100 (5)(B).

⁷⁵ Commission Exhibit 300, Staff Report in EO-2019-0067, p. 24. The Division of Energy has been moved to the Department of Natural Resources.

⁷⁶ 20 CSR 4240-20.100(6)(B)(5)(J).

⁷⁷ 20 CSR 4240-20.100(6)(A)(16).

⁷⁸ Exhibit 202. P.S.C. MO No. 7 Second Revised Sheet No. 50.12. ANEC = Actual Net Energy Costs = (FC + E + PP + TC – OSSR - R), where R = Renewable Energy Credit Revenue. P.S.C. MO. No. 7 Second Revised Sheet No. 50.14.

T. Neither GMO's tariff nor any relevant statute or regulation required GMO to directly allocate the fuel costs associated with auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant.

U. Section 386.550, RSMo, states: "In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive."⁷⁹

V. In ER-2018-0146, the Commission issued its *Order Approving Stipulations and Agreements* on October 31, 2018. The Commission takes official notice that Order and that that Order approved a stipulation with the following language:⁸⁰

"GMO will use the allocation numbers used in Staff's model filed in Case No. ER-2016-0156. These allocation numbers shall be used by GMO in its FAC, QCA and surveillance reporting. GMO agrees to work with Staff, OPC, and MCEG to develop new steam allocation procedures prior to GMO's next electric general rate case."

KCPL was a signatory party of the stipulation referenced in the Order. The stipulation was incorporated into the Order. The order required KCPL to comply with the aforesaid provision. The aforesaid October 31, 2018, Order entered in ER-2018-0146 became final and is conclusive in this case.

Rock Creek and Osborn Wind Purchase Power Agreements

W. Rule 20 CSR 4240-20.090(1)(B) and (C), and GMO's FAC allow purchased power costs and revenues in its FERC account to be recovered through the FAC. If GMO

⁷⁹ See *McBride & Son Builders, Inc. v. Union Electric Company*, 526 S.W.2d 310, 312 (Mo. 1975). See also *State ex rel. Ozark Border Elec. Co-op v. Public Service*, 924 S.W.2d 597, 601 (Mo. App. W.D. 1996): "This statutory provision makes a decision of the Commission immune to collateral attack."

⁸⁰ See *Environmental Utilities, LLC v. Public Service Commission*, 219 S.W.3d 256, 265 (Mo. App. W.D. 2007). Noting that an agency may officially notice all matters of which a court takes judicial notice, the court held that the Commission had taken proper administrative notice of conclusive findings against a utility in a prior PSC hearing. The appellate court went on then to find that the Commission's prior finding was conclusive.

imprudently included costs from the Osborn Wind Energy PPA in its FAC, ratepayer harm could result from an increase in FAC charges.⁸¹

DECISION

The Staff and the OPC challenge KCPL's decision to allow 722,628 RECs to expire during the File EO-2019-0068 review period and not sell them. . It is the Commission's decision that although the tariff expressly contemplates the sale of RECs and provides that when such sales occur the revenues will flow back to customers through the tariff formulas, the tariff does not, in fact, mandate their sale. The existence alone of a contingent variable in a tariff's mathematical formula,⁸² where the formula will properly function with zero assigned to the variable, raises no inference that a utility must sell RECs to create a number for the variable.

The Commission finds that KCPL was not imprudent in choosing not to sell the RECs. KCPL's surveys showed its customers valued its ability to demonstrate that a key component of the power it sold was provided from renewable energy resources. Its largest customer had announced plans to reduce their carbon footprint by using more renewable energy resources for the power they consumed. KCMO had announced it had cut greenhouse emissions by 50%, and its Council had authorized participation in KCPL's "Renewables Direct Program" to help the city procure 100% of the City's municipal electricity from carbon free sources.⁸³ More than half of the Missouri customer members of KCPL's Customer Advisory Panel had said they were "likely" or "somewhat likely" to participate in a solar program if offered by KCPL at a cost of \$5 to \$10 per month.⁸⁴

⁸¹ Commission Exhibit 300, Staff Report in EO-2019-0067, p. 32

⁸² E.g., "R" for renewable energy credit.

⁸³ Martin Direct, Exhibit 1, pp. 5-7.

⁸⁴ Martin Direct, Exhibit 1, pp. 6-7.

KCPL's tariff mandated no customer poll, and it is the decision of the Commission that KCPL's conclusion that its customers wanted to retain the environmental attributes of their power was adequately supported.

It is for the Commission to determine the credibility and weight to be accorded the evidence, and it is the Commission's decision that the tariff did not preclude GMO's considering and weighing its customers' environmental concerns against cost considerations in reaching its decision. When made, KCPL's decision not to sell the 722,628 RECs was not imprudent in light of the circumstances then existing and considered, to wit: KCPL's consideration of its customers' wishes to retain their energy's environmental attributes; KCPL's consideration that selling the RECs would reduce from 25.15% to 19.39% the percentage of power customers were receiving from renewable energy sources; KCPL's consideration that the revenue opportunities in selling the RECs were very limited; KCPL's consideration that the credit to customers of approximately \$0.02 per month per 1,000kWh was *de minimis* and outweighed by KCPL's customers' desires to receive energy bundled with their corresponding renewable energy credits and thereby reduce their carbon footprint. It is the decision of the Commission that KCPL has sustained its burden of showing that its decision process was prudent, and, thus, that its decision not to sell the 722,628 RECs was not imprudent.

The Commission will not here reach the question of whether OPC's suggested cost allocation method for steam and electric operations at the Lake Road facility might be better. That question was disposed of conclusively in GMO's last rate case, ER-2018-0146, by and through the language of the stipulation and agreement approved by the Commission and incorporated into its Order and, therefore, is not subject to

collateral attack here per Section 386.550, RSMo, 2016. Any reexamination of the Order entered in ER-2018-0146, must wait for the next rate case. Here the question presented is prudence under the FAC statute. It is for the Commission to assess the weight and credibility of testimony and the evidence. Having considered the detailed evidence on the seven-factor allocation method, evidence of Staff's previous objections to OPC's suggested method, and evidence that the Commission has repeatedly approved GMO's seven-factor allocation method, the Commission finds its use by GMO was not imprudent.

The Commission finds that the Rock Creek and Osborn wind power PPAs were long-term investments made in contemplation of the long-term (20-year) ebb and flow of market and political forces. OPC's argument, on the other hand, that the PPAs were not needed when acquired to meet Missouri RES requirements or customers' needs and that values declining before the PPA acquisition continued to decline afterwards, presupposes the PPAs were acquired as only short-term investments. The Commission will not replace the companies' primary supposition at the point of decision that the PPAs were being acquired in the context of a long term, twenty-year investment with a supposition that the investment was short term, and then apply a hindsight test and pronounce the investments imprudent, . It is the Commission's decision that when made, the companies' decisions to acquire the Rock Creek and Osborn Wind PPAs were not imprudent in light of the factors that they appropriately considered.

The Commission finds Staff's request for an adjustment of \$357,308 and OPC's request for a prudence adjustment of \$325,969 in File No. EO-2019-0068 are not appropriate and will deny them. The Commission further finds OPC's request for a prudence adjustment of \$469,409.00 in File No. EO-2019-0067 inappropriate and will

deny it. With regard to the Rock Creek and Osborn PPAs, the Commission finds OPC's request for a prudence adjustment of \$9,484,315 in KCPL's next FAR filing and of \$11,070,668 in GMO's next FAR filing are not appropriate and will deny them.

THE COMMISSION ORDERS THAT:

1. Staff's Exhibit 202 and the Commission's Exhibits 300 and 301, described in the body of this order, are received in evidence and made a part of the record. The Commission's Data Center shall appropriately mark those exhibits and enter them into EFIS.

2. The Commission Staff's request for a prudence adjustment of \$357,308 and OPC's request for a prudence adjustment of \$325,969 in File No. EO-2019-0068 are denied.

3. OPC's request for a prudence adjustment of \$469,409 in File No. EO-2019-0067 is denied.

4. OPC's request relative to the Rock Creek and Osborn PPAs, for prudence adjustments of \$9,484,315 in KCPL's next FAR filing and \$11,070,668 in GMO's next FAR filing, is denied.

5. This Order shall be effective on December 6, 2019.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, and
Coleman, CC., concur.

Graham, Regulatory Law Judge

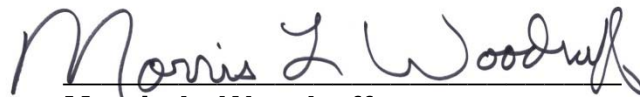
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 6th day of November 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 6, 2019

File/Case No. EO-2019-0067

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



Morris L. Woodruff
Secretary

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.