

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

In the Matter of KCP&L)	<u>File No. ER-2014-0373</u>
Greater Missouri Operations Company's FAC)	Tariff Tracking No. JE-2014-0566
Tariff Revision)	

**STAFF'S RESPONSE TO PUBLIC COUNSEL'S REPLY
TO THE STAFF'S RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its response to the Office of Public Counsel's ("OPC") Reply to the Staff's recommendation, respectfully states:

1. On August 4, 2014, OPC filed its Reply to Staff's Recommendation to approve KCP&L Greater Missouri Operations Company's ("GMO") fuel adjustment clause ("FAC") tariff revision. In its Reply OPC urges the Commission to disallow the St. Joseph Landfill Facility gas costs from recovery through GMO's FAC.¹ On August 6th, the Commission issued its *Order Setting Deadline For Responses* allowing parties to file responses to OPC's Reply no later than August 13, 2014.

2. Staff opposes OPC's recommendation because 1) the amount cited by OPC represents the actual total cost of landfill gas and is not the customers' share of the amount of landfill gas cost which is over-recovered through the net base energy cost and is to be returned to customers through the FAC and, 2) any change to the FAC outside a general rate case is impermissible under Commission rule and state statute. Staff's response to OPC's Reply is in the attached Memorandum with supporting Exhibit 1.

¹ *Public Counsel's Reply ToThe Staff's Recommendation*, p. 3, para.6.

Public Counsel Mischaracterizes the Landfill Gas Costs Included in the FAC

3. Staff disagrees with OPC's characterization of the landfill gas costs. First, OPC's Reply states "The costs GMO seeks to recover through its FAC include ** _____** landfill gas costs purchased from the St. Joseph Landfill Gas Facility. These landfill gas costs represent a small fraction of the \$28.6 million total FAC costs that GMO seeks to recover through its FAC."²

4. Staff points out that the ** _____** of landfill gas cost that OPC seeks to disallow represents 6 months of the actual landfill gas cost. Both GMO's current permanent rates and its FAC's base factor rate include ** _____** for landfill gas cost and were set by the Commission in GMO's last general rate case, Case No. ER-2012-0175.³

5. In Exhibit 1, Staff shows a calculation that represents the customers' responsibility for the amount of over- or under-recovery of the St. Joseph Landfill gas cost during Accumulation Period 14 ("AP 14") when the actual landfill gas cost is compared with the amount of landfill gas cost that was included in the net base energy cost for AP 14. Staff determined that GMO actually over-recovered \$521 due to the difference between the amount of actual landfill gas cost ** _____** and the amount billed for landfill gas cost ** _____** for AP 14. The amount billed for landfill gas cost is the amount that is included in the net base energy cost which is calculated using the FAC's base factor set by the Commission in Case No. ER-2012-0175.

² *Id.* at para. 3.

³ See GMO Fuel Adjustment Clause-Rider FAC, P.S.C. MO. No. 1, 2nd Revised Sheet No. 125, effective January 26, 2013, which specifically includes landfill gas cost.

6. Because of the risk sharing mechanism in GMO's FAC tariff, 95 percent of the \$521 over-recovery, or \$495 (= 0.95 x \$521), is returned to customers through the fuel adjustment rate following AP 14.

OPC's Proposal is Not Permitted as a Matter of Law

7. OPC's request to move the landfill gas cost from the FAC is impermissible under Commission rule 4 CSR 240-20.090(2) and state statute⁴ because the FAC can only be changed in a general rate case proceeding:

(2) Applications to Establish, Continue or Modify a RAM. Pursuant to the provisions of this rule, 4 CSR 240-2.060 and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue or modify a RAM by filing tariff schedules. Any party in a general rate proceeding in which a RAM is effective or proposed may seek to continue, modify or oppose the RAM. The commission shall approve, modify or reject such applications to establish a RAM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

8. In Cases ER-2012-0175 and ER-2013-0341, the Commission had granted GMO a waiver for good cause from Commission rule 4 CSR 240-20.200(6)(A)16 allowing the company to flow its landfill gas cost through its FAC.⁵

9. In its Reply, paragraph 9, OPC states "Without an adequate explanation as to why the waiver should continue, Public Counsel opposes GMO's request to

⁴ Sect. 386.266.4 RSMO 2012 states in relevant part "*The commission shall have the power to approve, modify, or reject adjustment mechanisms submitted under subsections 1 to 3 of this section only after providing the opportunity for a full hearing in a general rate proceeding, including a general rate proceeding initiated by complaint....*"

⁵ See *Order Granting Waiver* issued by the Commission January 3, 2013 in File No. ER-2012-0175 and ER-2013-0341. File No. ER-2013-0341 is styled *In the Matter of the Application of KCP&L Greater Missouri Operations Company for authority to Implement Rate Adjustments Required by 4 CSR 240-2.090(4) and the Company's Approved Fuel Adjustment Clause* for its 11th Accumulation Period.

include the St. Joseph Landfill Facility gas costs in its FAC.” Aside from OPC’s mischaracterization of GMO’s landfill gas costs, Staff believes ample reason for maintaining the waiver until GMO’s next rate case is provided by the prohibition of modifying an FAC outside a general rate case. (Commission rule 4 CSR 240-20.090(2) and Sect. 386.266.4 RSMo 2012).

10. As a matter of background, Staff did not oppose GMO’s application for waiver to allow its St. Joseph landfill gas costs to be flowed through its FAC. Staff explained in its response⁶ to GMO’s waiver request that it would work with GMO to resolve these issues so that the matter of the treatment of the landfill gas costs may be properly addressed by the Commission in its order resetting net base energy costs in GMO’s next rate case:

6. Rule 4 CSR 240-20.100(6)(A)16 is clear that a company may not recover RES costs using a fuel adjustment clause (“FAC”). However, Staff does not oppose a variance from the rule in this instance given the timing of the issue, that GMO may seek recovery of prudently incurred RES costs (whether in permanent rates, a Renewable Energy Standard Rate Adjustment Mechanism or deferral in a regulatory asset), that customers will ultimately pay for prudently incurred RES costs, and the negligible impact the St. Joseph landfill RES costs have on the net base energy costs and on overall net fuel costs in the FAC.

7. Staff’s non-opposition is also due to GMO’s commitment to work with the parties to resolve these issues before the Company files its next general electric rate case.

8. Staff’s non-opposition should not be viewed as an agreement to treatment of RES costs in a future rate case or of other RES costs in this case. Staff anticipates it will be recommending exclusion of RES costs from the net base energy cost calculation when these costs are reset in GMO’s next general electric rate case. Staff’s position in this Response is consistent with Staff’s position in its recently-filed Response To Ameren

⁶ Staff’s Response to KCP&L Greater Missouri Operations Company’s Application For Waiver Or Variance Of 4 CSR 240-20.100(6)(A)16 For St. Joseph Landfill Gas Facility filed December 28, 2012 in File No.’s ER-2012-0175 and ER-2013-0341.

Missouri's Application For Waiver Or Variance Of 4 CSR 240-20.100(6)(A)16 For Maryland Heights Landfill Gas Facility in File Nos. ER-2012-0166 and ER-2013-0310.

11. In summary, Staff remains committed to working with GMO, OPC and other interested parties to resolve the matter of the proper accounting treatment of GMO's St. Joseph Landfill gas costs in its next general rate case proceeding.

WHEREFORE, for the reasons stated above and in Staff's Memorandum, the Staff prays the Commission accept its reply in opposition to OPC's proposal.

Respectfully Submitted,

/s/ Robert S. Berlin

Robert S. Berlin
Deputy Counsel
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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 8th day of August, 2014.

/s/ Robert S. Berlin

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. ER-2014-0373, Tariff Tracking No. JE-2014-0566
KCP&L Greater Missouri Operations Company

FROM: Matthew J. Barnes, Utility Regulatory Auditor IV
David C. Roos, Regulatory Economist III

DATE: /s/ John Rogers 08/08/2014 /s/ Bob Berlin 08/08/2014
Energy Resource Analysis Unit / Date Staff Counsel's Office / Date

SUBJECT: Staff's Reply to *Public Counsel's Reply To The Staff's Recommendation* Related
to KCP&L Greater Missouri Operations Company's Fuel Adjustment Clause
Pursuant to the Commission's Report and Order from Case No. ER-2012-0175.

DATE: August 8, 2014

Summary

On August 4, 2014, the Office of the Public Counsel ("OPC") filed its *Public Counsel's Reply To The Staff's Recommendation* urging the Missouri Public Service Commission ("Commission") to disallow the St. Joseph Landfill gas costs from recovery through KCP&L Greater Missouri Operations Company's ("GMO" or "Company") Fuel Adjustment Clause ("FAC"). OPC claims that landfill gas costs should be recovered through the Renewable Energy Standard Rate Adjustment Mechanism ("RESRAM") which GMO has requested in Case No. EO-2014-0151. While Staff agrees with OPC that the appropriate mechanism for GMO to recover its Renewable Energy Standard ("RES") compliance costs is through a RESRAM, the Commission cannot remove the landfill gas costs from GMO's FAC outside of a general rate proceeding.¹ Because GMO does not have a general rate proceeding at this time, Staff is opposed at this time to OPC's suggestion regarding a change to the mechanism for GMO's recovery of its St. Joseph Landfill gas costs.

¹ See the Landfill Gas Facility section of Appendix A to *Staff Recommendation to Approve Tariff Sheet to Change Rates Related to KCP&L Greater Missouri Operation Company's Fuel Adjustment Clause* filed on July 25, 2014 in File No. ER-2014-0373.

Opportunity to Change Recovery Mechanism

Commission Rule 4 CSR 240-20.100(6) states:

6) Cost Recovery and Pass-through of Benefits. An electric utility ***outside or in a general rate proceeding*** may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs or pass-through of benefits received as a result of compliance with RES requirements; provided that the RES compliance retail rate impact on average retail customer rates does not exceed one percent (1%) as determined by section (5) of this rule. In all RESRAM applications, the increase in electric utility revenue requirements shall be calculated as the amount of additional RES compliance costs incurred since the electric utility's last RESRAM application or general rate proceeding, net of any reduction in RES compliance costs included in the electric utility's prior RESRAM application or general rate case, and any new RES compliance benefits. [*Emphasis added.*]

However, Commission Rule 4 CSR 240-20.090(2) states:

(2) Applications to Establish, Continue or Modify a RAM. Pursuant to the provisions of this rule, 4 CSR 240- 2.060 and section 386.266, RSMo, only an electric utility ***in a general rate proceeding*** may file an application with the commission to establish, continue or modify a RAM by filing tariff schedules. Any party in a general rate proceeding in which a RAM is effective or proposed may seek to continue, modify or oppose the RAM. The commission shall approve, modify or reject such applications to establish a RAM ***only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.*** [*Emphasis added.*]

And, further, Chapter 386 of Missouri Revised Statutes states:

§ 386.266. 4. The commission shall have the power to approve, modify, or reject adjustment mechanisms submitted under subsections 1 to 3 of this section ***only after providing the opportunity for a full hearing in a general rate proceeding***, including a general rate proceeding initiated by complaint. The commission may approve such rate schedules ***after considering all relevant factors which may affect the costs or overall rates and charges of the corporation***, provided that it finds the adjustment mechanism set for in the schedules: ... [*Emphasis added.*]

Thus, Commission Rule 4 CSR 240-20.090(2) does not allow the Commission to remove the St. Joseph Landfill gas from GMO's FAC at this time because GMO does not have a general rate

proceeding open at this time. Further, the statute does not allow the Commission to modify the FAC “adjustment mechanism” outside of a general rate increase case. Therefore, this FAC case does not provide an opportunity for the Commission to change the adjustment mechanism for GMO’s recovery of its St. Joseph Landfill gas costs.

Customer Responsibility for Over- or Under-Recovery of St. Joseph Landfill Gas Cost

Staff does not agree with OPC’s statement “[t]he costs GMO seeks to recover through its FAC include ** _____ ** in landfill gas costs purchased from the St. Joseph Landfill Gas Facility.” This amount is the total amount of actual St. Joseph Landfill gas costs for the FAC’s fourteenth accumulation period (“AP14”) and is not the over- or under-recovered amount of St. Joseph Landfill gas during AP14.

Exhibit 1 shows the calculation of the customers’ responsibility for the amount of over- or under-recovery of the St. Joseph Landfill gas cost during AP14 when the actual landfill gas cost is compared with the amount of landfill gas cost that was included in the net base energy cost. GMO over-recovered \$521 due to the difference between the amount of actual landfill gas costs ** _____ ** and the amount billed for landfill gas ** _____ ** for AP14. The amount billed for landfill gas is included in the net base energy cost that was set by the Commission in GMO’s last general rate case, ER-2013-0175, and this amount can only be modified in a general rate case proceeding, as discussed above.

Under the risk sharing mechanism in GMO’s FAC tariff, the company customers’ responsibility is 95 percent of the over-recovered amount of landfill gas cost or \$495 ($.95 \times \$521 = \495). OPC’s claim that ** _____ ** will be recovered from GMO’s customers through the fuel adjustment rate change for AP14 is incorrect. As shown on Exhibit 1, Staff has determined that \$495 attributed to GMO’s over-collection of the actual portion of landfill gas cost included in the net base energy cost will be returned to GMO’s customers through the fuel adjustment rate change for AP14.

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Staff Recommendation

Staff recommends that the Commission continue to allow GMO to flow through its FAC the landfill gas costs for the St. Joseph Landfill Gas Facility until the Company's next general rate case when the Commission's rules and Missouri statutes allow modifications to GMO's FAC.

**Exhibit 1
Highly Confidential**

Customer Responsibility for Over- or Under-Recovery of Landfill Gas Cost During AP 14

ER-2012-0175

ER-2014-0373

**Total Base Factor for L&P Rate
District**

Base Fuel Cost	\$47,261,989
Base kWh	2,276,952,813
Base Factor Per kWh	\$0.02076

Landfill Gas Portion of Base Factor

Base Landfill Gas Cost	**	**
Base kWh	**	**
Base Factor Per kWh	**	**

Customer Responsibility for

Landfill Gas Portion of Over- or Under- Recovery

1	Actual Landfill Gas Cost	**	**
2	Billed Landfill Gas	**	**
2.1	Landfill Gas Portion of Base Factor per kWh	**	**
2.2	Actual kWh Sales	**	**
3	Over-Recovered Landfill Gas Cost	\$521	
4	Jurisdictional Factor	100%	
5	Jurisdictional Over-Recovered Landfill Gas Cost	\$521	
6	Customer Responsibility	95%	
7	95% of Over-Recovered Landfill Gas Cost	\$495	

Note: The line numbers in the above calculation corresponded to the line numbers on GMO's 8th Revised Sheet No. 127. Also see Staff Recommendation filed on July 25, 2014 in File No. ER-2014-0373 for an explanation of the complete calculation of the revised current annual fuel adjustment rate (FAR) for GMO's L&P Rate District as a result of Accumulation Period 14 (AP 14).

Exhibit 1

NP

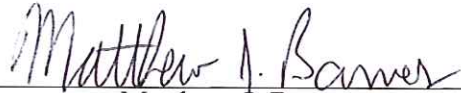
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of KCP&L Greater)
Missouri Operations Company's FAC)
Tariff Revision) Case No. ER-2014-0373

AFFIDAVIT OF MATTHEW J. BARNES

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Matthew J. Barnes, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



Matthew J. Barnes

Subscribed and sworn to before me this 7th day of August, 2014.

LAURA BLOCH
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: June 21, 2015
Commission Number: 11203914



Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of KCP&L Greater)
Missouri Operations Company's FAC)
Tariff Revision) Case No. ER-2014-0373

AFFIDAVIT OF DAVID C. ROOS

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

David C. Roos, of lawful age, on oath states: that he participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of his knowledge and belief.



David C. Roos

Subscribed and sworn to before me this 7th day of August, 2014.

LAURA BLOCH Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: June 21, 2015 Commission Number: 11203914
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Notary Public