

At a session of the Public Service Commission held at its office in Jefferson City on the 8th day of March, 2017.

$$\left. \begin{array}{l}) \\) \\) \\) \end{array} \right\}$$

¹ All calendar references are to 2017.

shorten the effective date for a final order to less than thirty days.² However, any shortening to less than ten days is presumptively unreasonable.³ Therefore, GPE's request for a final Commission order by April 24 is unreasonable, absent a demonstration of extraordinary circumstances. GPE's stated reason for the expedited treatment – to allow the merger transaction to be concluded in late April, as the parties anticipated – fails to demonstrate an extraordinary situation. This is especially true considering the uncertainty on when a decision by the Federal Energy Regulatory Commission will be issued on GPE's application for federal approval of the merger in Docket EC16-146-000. For these reasons, the Commission will deny GPE's Motion for Expedited Treatment.

GPE also submitted a contingent request for waiver of the sixty day notice requirement in Commission Rule 4 CSR 240-4.020(2). The purpose of this requirement is to put the Commission and all parties on notice of what substantive issues will likely arise in an upcoming case, activating protections against *ex parte* and extra record communications. Because the substance of this case has been at issue in another pending case for longer than sixty days, the purpose of the sixty day notice requirement has been accomplished, which constitutes good cause for granting the request and waiving the requirement.

On March 1, the Midwest Energy Consumers' Group (MECG) filed a Motion to Require Staff to File Testimony. MECG expressed concerns that because of settlement negotiations, Staff will not provide testimony in this matter. MECG requests the Commission direct Staff "to fully participate in this matter, to a similar extent that it

² Section 386.490.2, RSMo (Cum. Supp. 2013).

³ *State ex rel. Office of the Public Counsel v. Pub. Serv. Comm'n of State*, 409 S.W.3d 522 (Mo.App. W.D. 2013).

participated in previous merger dockets, including the prefilings of testimony disclosing the nature of its investigation and detriments uncovered.” In response to MCEG’s motion, Staff states that it is capable of determining the level of its participation before the Commission. Staff’s response also attached its investigation report from File No. EM-2016-0324. Since MCEG is capable of performing discovery and cross-examining Staff’s witnesses at the evidentiary hearing, the Commission will deny MCEG’s motion.

The Commission will set the procedural schedule as stated below.

THE COMMISSION ORDERS THAT:

1. The following procedural schedule is adopted:

Discovery Objections Due Within 3 days; Responses Due Within 5 Days	March 8, 2017
Rebuttal Testimony	March 23, 2017
GPE, KCP&L, GMO, Staff, and OPC Surrebuttal	March 27, 2017
List of Issues, Witnesses and Order of Cross	March 29, 2017
Position Statements,	March 30, 2017
Last Day to File Motion to Compel	April 3, 2017
Evidentiary Hearing	April 5-7, 2017
Briefs	April 21, 2017

2. The parties shall comply with the following procedural requirements:

- a. Although all parties may not agree how each issue should be described or whether a listed issue is in fact a proper issue in this case, the

parties shall file a joint list of the issues to be heard, the witnesses to appear, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved.

b. Each party will file a simple and concise statement summarizing its position on each disputed issue.

c. If part of testimony or documents are prefiled and served on the parties before a hearing, a party need only provide a copy of the testimony or document to the court reporter for marking as an exhibit at the evidentiary hearing. If not prefiled and served on the parties, then a party who has a document marked for use at the hearing shall have sufficient copies of the document to provide a copy not only to the court reporter, but also to each of the Commissioners, the presiding regulatory law judge, and counsel for each party.

d. All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form essentially concurrently with the filing of such testimony, exhibits or pleadings where the information is available in electronic format (.PDF, .DOC, WPD, .XLS, etc.). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging.

e. Public documents filed in the Commission's Electronic Filing and Information System ("EFIS") shall be considered properly served by serving the same on counsel of record for all parties via e-mail.

f. Counsel for each party shall receive electronically from each other party serving a data request, an electronic copy of the text of the “description” of that data request contemporaneously with service of the data request. Regarding Staff-issued data requests, if the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response must request a copy of the response from the party answering the data request. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to counsel for the other parties. Counsel may designate other personnel to be added to the service list for data requests, but shall assume responsibility for compliance with any restrictions on confidentiality. Data request responses shall be served on counsel for the requesting party, unless waived by counsel, and on the requesting party’s employee or representative who submitted the data request, and shall be served electronically, if feasible and not voluminous as defined by Commission rule.

g. Responses to data requests Staff issues shall be submitted in EFIS, if feasible, or in electronic format on compact disc or by other means agreed to by Staff counsel, if infeasible. All data requests to Staff will be submitted in EFIS.

h. The parties shall make an effort to not include highly confidential or proprietary information in data requests. If highly confidential or proprietary

information must be included in a data request, the highly confidential or proprietary information shall be appropriately designated as such pursuant to Commission Rule 4 CSR 240-2.135.

i. Workpapers prepared in the course of developing a witness' testimony (including schedules) and exhibits shall not be filed with the Commission, but shall be submitted to each party within two business days following the filing of the particular testimony, unless a party has indicated that it does not want to receive some or all of the workpapers. Workpapers containing highly confidential or proprietary information shall be appropriately marked. If there are no workpapers associated with testimony, the party's attorney shall so notify the other parties within the time allowed for providing those workpapers.

j. Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact.

k. Given the expedited nature of this procedural schedule, the response time for all data requests shall be five (5) calendar days, with three (3) calendar days to object or notify the requesting party that more than five (5) calendar days will be needed to provide the requested information. If a data request has been responded to, a party's request for a copy of the response shall be timely responded to, considering that the underlying data request has already been responded to.

l. The parties are relieved from complying with the requirement of Commission Rule 4 CSR 2.090 for a telephone conference with the presiding officer before the filing of a discovery motion.

m. Data requests sent after 5:00 p.m. will be considered served on the next business day.

n. With respect to deposing witnesses, depositions must be completed at least three (3) business days prior to the date that the witness will testify on the issue(s) in the evidentiary hearings, unless witness availability requires that a deposition be conducted within less than three days.

o. All motions to compel a response to any discovery request shall be filed no later than April 3, 2017.

3. An evidentiary hearing shall be held beginning on Wednesday, April 5, and continuing on April 6 and 7, 2017 at 9:00 a.m. each day at the Commission's office at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, Room 310. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. Any person who needs specific accessibility accommodations may call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

4. Great Plains Energy Incorporated's request for waiver of the sixty day notice requirement in Commission Rule 4 CSR 240-4.020(2) is granted.

5. Great Plains Energy Incorporated's Motion for Expedited Treatment is denied.

6. The Midwest Energy Consumers' Group's Motion to Require Staff to File Testimony is denied.

7. To the best of its ability, Staff shall ensure that the Staff employees that participated in the preparation of Staff's Investigation Report, filed in File No. EM-2016-0324, are available on the hearing dates for questioning by the Commission and the parties.

8. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "M" and "W".

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC., concur.

Burton, Senior Regulatory Law Judge.

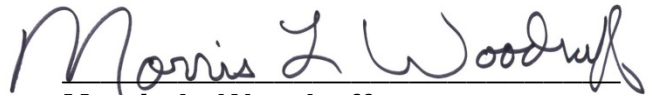
STATE OF MISSOURI

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 8th day of March 2017.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

March 8, 2017

File/Case No. EM-2017-0226

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

Sincerely,

A handwritten signature in dark ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

**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.