

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Ag Processing, Inc., a Cooperative,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. HC-2010-0235</u></b>
	)	
KCP&L Greater Missouri Operations	)	
Company,	)	
	)	
Respondent.	)	

## ORDER DIRECTING BRIEFING

Issue Date: December 5, 2012

Effective Date: December 5, 2012

The Commission issued its Report and Order in this matter on September 28, 2011, effective October 8, 2011. In that order, the Commission determined that: (1) it was not imprudent for KCP&L Greater Missouri Operations Company (“GMO”) to adopt a natural gas hedging program; (2) GMO’s hedging program was prudently designed, **but** (3) GMO failed to meet its burden to prove that it operated its hedging program in a prudent manner. The Court of Appeals reversed the Commission’s decision finding that the Commission incorrectly applied the burden of proof. The Court determined that Ag Processing, Inc. (“AGP”), as the complainant who initiated the action, had the burden to prove its claims of imprudence regarding the company’s expenditures on the natural gas hedging program at the preponderance of the evidence standard. The court stated: “Granting relief without requiring Ag Processing to prove the allegations in its complaint is reversible error.” “Accordingly, we reverse the order and remand the cause for further consideration under the appropriate burden of proof.”

The Court of Appeals Mandate was issued on November 21, 2012, making its order final. The Court had overruled motions for rehearing filed by the Commission and AGP. No motions for transfer were filed.

The Commission will direct the parties to file briefs based upon the current record. The briefs shall address the issue as to whether AGP has satisfied the preponderance of the evidence standard with regard to its allegation of imprudence. The parties shall cite to the relevant portions of the record, with particularity, to support their positions.

**THE COMMISSION ORDERS THAT:**

1. No later than January 7, 2013, the parties shall submit briefs as directed in the body of this order.
2. This order shall become effective immediately upon issuance.

( S E A L )

**BY THE COMMISSION**



Steven C. Reed  
Secretary

Harold Stearley, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 5<sup>th</sup> day of December, 2012.