

Ag Processing, Inc.,
Complainant,

v.

KCP&L Greater Missouri Operations Company,
Respondent.

2. Agreement on inclusion of items in this proposed procedural schedule is not intended to be indicative of any position of any party regarding burdens of proof or persuasion in this matter.

3. The parties agree that any document produced in Case No. HC-2010-0235, whether or not designated as highly confidential or proprietary information under 4 CSR 240-2.135, may be used in this proceeding. Any outside expert retained by a party that wishes to review a highly confidential or proprietary document produced in Case No. HC-2010-0235 may review such a document after complying with the certification requirements of Section (7) of 4 CSR 240-2.135. No party shall object to a motion to admit such document into evidence by another party on the basis that the information was produced in Case No. HC-2010-0235. However, each of the parties reserves the right to object to the admission of such a document into evidence in this proceeding on any other legal basis, including authenticity, relevancy, materiality or hearsay.

4. The signatory parties propose the following procedural conditions and request that these conditions be accepted by the Commission and reflected in the Commission's Procedural Order setting filing dates among other things:

- a) 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. Parties shall not be required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.
- b) An effort should be made to not include in data request questions either highly confidential or proprietary information. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or

proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135.

- c) Counsel for each party shall receive electronically from each other party an electronic copy of the text of all data request “descriptions” served by that party on another party in the case contemporaneously with service of the request. 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 – in this manner the party providing a response to a data request has the opportunity to object to providing the response to another party and is responsible for copying information purported to be highly confidential or proprietary – thus, if a party wants a copy of a data request response by GMO to a Staff data request, the party should ask GMO, not the Staff, for a copy of the data request response unless there are appropriate reasons to direct the discovery to the party originally requesting the material. Data requests, objections, or notifications respecting the need for additional time to respond shall be sent via e-mail to counsel for the other parties. Counsel may designate other personnel to be added to the service list but shall assume responsibility for compliance with any restrictions on confidentiality. Data request responses will be served on counsel for the requesting party 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.
- d) Workpapers that were prepared in the course of developing a witness’ testimony should not be filed with the Commission but should be submitted to each party within 2 business days following the filing of the particular testimony without further request. Workpapers containing highly confidential or proprietary information should be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. Counsel shall undertake to advise other counsel if the sponsored witness has no workpapers related to the round of testimony.
- e) 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 or outputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format.

5. Although the signatory parties were able to reach agreement on the above procedural terms, they were not able to reach agreement on the beginning point of accelerated discovery response. AGP and Staff propose that accelerated discovery begin July 2, 2012, when GMO files its rebuttal testimony. GMO proposes that accelerated discovery begin August 21, 2012, when Staff files its Report, and any rebuttal testimony. The parties agree on the use of the language that follows:

Until [DATE], the response time for all data requests shall be 20 calendar days, and 10 calendar days to object or notify that more than 20 calendar days will be needed to provide the requested information. After [DATE], the response time for data requests shall be 10 calendar days to provide the requested information, and 5 business days to object or notify that more than 10 calendar days will be needed to provide the requested information. Data requests sent after 5:00 pm will be considered served on the next business day.

WHEREFORE, Staff respectfully requests, on behalf of all of the signatory parties, that the Commission approve the *Joint Procedural Proposal* submitted by the Parties, and include in its order either July 2, 2012, or August 21, 2012, as the date for beginning accelerated discovery.

Respectfully submitted,

THE STAFF OF THE
MISSOURI PUBLIC SERVICE COMMISSION

/s/ Tanya K. Alm

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 4th day of April, 2012.

/s/ Tanya K. Alm