

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 22nd day of
November, 2011.

In the Matter of)	
KCP&L Greater Missouri Operations Company)	File No. HT-2011-0343
Application for Authority to File Tariffs)	
Changing the Steam QCA for Service)	Tariff No. YH-2012-0159
Provided to Customers in its Service Territory)	

**ORDER REJECTING TARIFF AND
REQUIRING THE FILING OF A NEW TARIFF**

Issue Date: November 22, 2011

Effective Date: November 22, 2011

The Missouri Public Service Commission is rejecting the pending tariff sheet, and is requiring KCP&L Greater Missouri Operations Company (“GMO”) to file a tariff in compliance with this order, because the pending tariff sheet does not comply with the Commission’s order to refund over-collected amounts through GMO’s Quarterly Cost Adjustment (“QCA”).

Procedure

GMO filed the tariff sheet on October 14.¹ The tariff sheet bears an effective date of December 1, 2011. Staff filed its recommendation favoring rejecting the tariff on November 8.

On November 9, AG Processing, Inc. (“AG Processing”) filed a motion seeking to participate in this action.² GMO filed a response to the motion on November 10.³ The

¹ All dates are in 2011.

² *Statement by AG Processing Inc. a Cooperative with Respect to a Series of Filings by KCP&L Greater Missouri Operations Company Regarding the Steam Quarterly Cost Adjustment for the St. Joseph Service Territory.*

³ *Response of KCP&L Greater Missouri Operations Company to Statement by Ag Processing, Inc.,* filed on November 10, 2011.

Commission issued an order granting AG Processing's motion on November 10. GMO and AG Processing, Inc. filed responses to the recommendation on November 16. The Commission convened a conference on November 18, 2011.

No tariff sheet is under suspension so no hearing is necessary.⁴ Therefore, this action is not a contested case⁵ and the Commission need not separately state its findings of fact. Based on the verified filings and its own records, the Commission independently finds and concludes as follows.

Merits

The tariff sheet does not comply with the Commission's order in AG Processing, Inc. v. KCP&L Greater Missouri Operations, Company⁶ ("prudence review"). In the prudence review, the Commission ordered as follows:

[GMO] shall refund to its steam customers, through operation of the [QCA], the net cost of operating its natural gas price hedging program for steam production in the amount of \$931,968 for 2006 and \$1,953,488 for 2007.[⁷]

That decision became final when the Commission denied GMO's application for rehearing on November 2.⁸ So, as of that date, GMO must refund \$2,885,546 through its QCA. The QCA is the subject of the pending tariff. But the pending tariff provides no refund.

GMO argues that the prudence review sets no due date for the refund. But GMO's current tariff provides a 12-month period under the paragraph titled "Reconciling Adjustments and the Reconciliation Rate":

⁴ Section 393.150.1, RSMo 2000.

⁵ Section 536.010(4), RSMo Supp. 2010.

⁶ File No. HC-2010-0235, *Report and Order* issued on September 28, effective October 8.

⁷ *Id.* at page 20, ordered paragraph 1.

⁸ File No. HC-2010-0235, *Order Denying Application for Rehearing*, issued and effective on November 2, 2011.

At the end of the twelve (12) months of collection of each CQCA, the over-or under-collection of the intended revenues (the numerator of the CQCA) will be applied to customers' bills through a Reconciliation Rate. [⁹]

That paragraph also sets a 12-month period to refund over-collections:

[GMO] shall use a collection/refund/credit amortization period of twelve (12) months [. ¹⁰]

In addition, Staff cites¹¹ GMO's current tariff under "Details," which re-iterates the timing and mechanism for prudence-based refunds:

There are provisions for prudence reviews and the true-up of revenues collected with costs intended for collection. The reconciliation account shall track, adjust and return true-up amounts and any prudence amounts not otherwise refunded. Fuel costs collected in rates will be refundable based on true-up results and findings in regard to prudence A reconciliation rate shall be established at a level designed to bring the reconciliation account to zero over a period of not less than twelve (12) months [. ¹²]

Those provisions share a single exception, a 24-month period for "extraordinary increase in energy prices," but no price increase is at issue. Those provisions¹³ control with the same force and effect of a statute.¹⁴

GMO suggests a 30-month refund period but cites no authority in the Reconciliation Provision or elsewhere. GMO alleges possible financial harm under a 12-month refund but offers no persuasive support for its allegation. GMO also states that it intends to appeal the

⁹ PSC MO. No. 1, Original Sheet No. 6.7, first paragraph.

¹⁰ *Id.*

¹¹ Transcript, volume 1, page 9, lines 1 through 9.

¹² PSC MO. No. 1, Original Sheet No. 6.9, paragraph 4.

¹³ Those provisions share one exception, a 24-month period for "extraordinary increase in energy prices," but no price increase is at issue.

¹⁴ Southwestern Bell Yellow Pages, Inc. v. Wilkins, 920 S.W.2d 544, 548 (Mo. App., E.D. 1996).

prudence review but offers no authority staying the prudence review's effect in the meantime.

AG Processing asks the Commission to order an immediate refund of the whole amount by check to each customer. But the current tariff, as cited above, expresses a preference for making a refund through customer bills:

At the end of the twelve (12) months of collection of each CQCA, the over-or under-collection of the intended revenues (the numerator of the CQCA) will be applied to customers' bills through a Reconciliation Rate.

Therefore, the Commission will order the refund through customers' bills.

AG Processing also asks for an award of interest on each refund but cites no authority for that relief.

Ruling

Therefore, the Commission will reject the pending tariff, and order GMO to file a new tariff in compliance with the Commission's order in the prudence review and this order. Staff advised GMO to prepare for this eventuality by letter dated November 2,¹⁵ and supported its recommendation with citations to GMO's current tariff, while GMO has shown no substantial support for any other outcome. Those facts show good cause for the Commission to order that the effective date of the compliance tariff shall be less than 30 days after filing.¹⁶

¹⁵ Filed on November 3. Staff also attempted to expedite this process by inquiring, in its *Informational Pleading and Suggestions* filed on October 21, whether the Commission expected the refund to be part of the pending tariff. But that was before the Commission had ruled on the application for rehearing in the prudence review. Staff's recommendation, AG Processing's motion, and responses to those filings also merited consideration before the Commission determined the pending tariff.

¹⁶ Section 393.140(11), RSMo 2000.

THE COMMISSION ORDERS THAT:

1. The tariff sheet assigned Tracking No. YH-2012-0159 is rejected.
2. The specific tariff sheet rejected is:

PSC MO. No. 1

10th Revised Sheet No. 6.10, Canceling 9th Sheet No. 6.10

3. KCP&L Greater Missouri Operations Company ("GMO") shall file a tariff sheet in compliance with the terms set forth in the body of this order ("compliance tariff"). The compliance tariff shall bear an effective date of December 1, 2011. GMO shall file the compliance tariff in this file no later than November 25, 2011.

4. The Commission's Staff shall file its recommendation on the compliance tariff no later than November 29, 2011.

5. This order shall become effective immediately upon issuance.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Gunn, Chm., Davis, Jarrett, and
Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge