

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

Ag Processing, Inc.,)	
Complainant,)	
)	
v.)	Case No. HC-2010-0235
)	
KCP&L Greater Missouri Operations)	
Company,)	
)	
Respondent.)	

RESPONSE OF KCP&L GREATER MISSOURI OPERATIONS COMPANY

KCP&L Greater Missouri Operations Company (“GMO”) briefly responds to Complainant Ag Processing, Inc.’s (“AGP”) February 19, 2013 Response to the legal analyses filed by GMO and Staff of the Missouri Public Service Commission (“Staff”) on February 8, 2013 and February 11, 2013, respectively.

Contrary to the legal conclusion of both GMO and Staff, AGP continues to argue that the Commission has no authority to return the amounts GMO refunded to its steam customers pursuant to the Commission’s September 28, 2011 Report and Order in this case. GMO and Staff have fully set forth in GMO’s prior filings and in GMO’s and Staff’s legal analyses the reasons why such argument is contrary to both Missouri statute and the Quarterly Cost Adjustment Rider tariff (“QCA Rider”). However, because AGP now questions whether, in a case GMO cited in its prior filings as precedent for the Commission’s ability to return disputed funds through a process similar to the QCA Rider, Laclede Gas Company paid disputed funds into circuit court and therefore did not “retain” those funds when it appealed the Commission’s order regarding amounts earned by the utility under a natural gas hedging program, GMO provides this brief response. See AGP February 19, 2013 Response at 13-15.

AGP attaches the appellate court's holding in Laclede, State ex rel. Laclede Gas Co. v. PSC, 156 S.W.3d 513 (Mo. App. W.D. 2005), states that "there is no reference in the report to Laclede 'pa[ying] them to the circuit court' as GMO asserts," and complains that "GMO may be privy to information that goes beyond the report of the case, but we are not." See AGP February 19, 2013 Response at 14. However, a simple search of Missouri Case.Net, available at no cost to any Missouri attorney, reveals the wanted information. The docket sheet for the underlying circuit court case, Case No. 03CV324600, is attached to this Response and shows that Laclede paid the disputed funds into the circuit court registry between December 31, 2003 and February 2, 2005. After disposition of the appeal, the circuit court "released" all of the deposited funds to Laclede on April 1, 2005, and paid to Laclede interest on those funds on April 29, 2005.

AGP's criticism of GMO's citation to State ex rel. Laclede Gas Co. v. PSC, 156 S.W.3d 513, 522-23 (Mo. App. W.D. 2005) in the January 15 Response to AGP's Supplemental Initial Brief and February 8 Legal Analysis continues to be unwarranted. Furthermore, AGP's contention that "it appears to us that Laclede sought and obtained a stay of the Commission order from the Circuit Court and continued to retain the funds" is inaccurate. See AGP February 19, 2013 Response at 14. While GMO cited to Laclede merely as precedent for a reversal of refunds through a process similar to GMO's QCA Rider, as after disposition of the appeal the Commission ordered the disputed funds returned to the utility through an adjustment to its Actual Cost Adjustment account balances, in response to AGP's allegation that Laclede retained the disputed funds throughout the appellate process, GMO hereby provides the Commission with the docket sheet from Laclede's appeal that shows that Laclede did not retain those funds.

WHEREFORE, GMO respectfully requests that the Commission find that the operation of the gas hedging program was not imprudent and to reverse the refunds previously ordered.

Respectfully submitted,

/s/ Karl Zobrist

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Certificate of Service

A copy of the foregoing has been emailed this 20th day of February 2013 to all counsel of record.

/s/ Lisa A. Gilbreath

Attorney for KCP&L Greater Missouri
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