

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

In the Matter of the Determination)
of Carrying Costs for the Phase-In) **ER-2012-0024**
Tariffs of KCP&L Greater Missouri)
Operations Company)

MOTION TO SUSPEND, OR IN THE ALTERNATIVE, REJECT TARIFF

COMES NOW Ag Processing Inc a Cooperative (AGP) and for its Motion to Suspend, or In The Alternative, Reject, Proposed Tariff states:

1. On March 7, 2012 the Commission issued its Report and Order in this matter.

2. On March 9, 2012, KCP&L Greater Missouri Operations Company (GMO) filed a series of tariff sheets with a proposed effective date of June 25, 2012.

3. AGP moves that the proposed June 25, 2012 tariffs be suspended or rejected because, among other things:

a. They were submitted pursuant to an erroneous interpretation of an enabling statute (Section 393.155.1) in that the Commission sought to increase GMO's rates to the St. Joseph service area in excess of the amount requested by the utility in its filing through the mechanism of a phase-in and thus cannot lawfully approve these tariffs for service on and after June 25, 2012;

b. Pursuant to Missouri law, the Tariffs have not been shown to be just and reasonable and, in fact, may be unjust and unreasonable in that they would apply to a period of implementation that is well beyond any period discussed or addressed in File No. ER-2010-0356 and the Commission therefore must consider all relevant factors in approving or deciding not to suspend any tariffs and may not rely on findings and determinations made in a prior case filing inasmuch as there is no authority to so do. For those reasons the proposed June 25, 2012 tariff violates the prohibition against single-issue ratemaking and it should be rejected.^{1/}

^{1/} *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41, 48 (Mo. banc 1979); *State ex rel. Missouri Water Co. v. Public Service Commission*, 308 S.W.2d 704 (Mo. 1957); *State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41 (Mo. banc 1979); *Midwest Gas Users' Association v. Public Service Commission*, 976 S.W.2d 470 (Mo. App. W.D. 1998); *In the Matter of UtiliCorp United Inc.'s Tariff Filed to Update the Rules and Regulations for Electric and to Increase the Interest Rate Paid on Deposits, the Late Payment Charge, the Reconnection Fee, and the Charge for Returned Checks*, Case No. ET-2001-482, Tariff No. 200100849, 2001 Mo. PSC LEXIS 966, 10 Mo. P.S.C. 3d 227 (April 3, 2001).

"The law is quite clear that when the Commission determines the appropriateness of a rate or charge that a utility seeks to impose on its customers, it is obligated to review and consider all relevant factors, rather than just a single factor. To consider some costs in isolation might cause the Commission to allow a company to raise rates to cover increased costs in one area without recognizing counterbalancing savings in another area. Such a practice is justly considered to be single-issue ratemaking." (footnotes omitted)

2001 Mo. PSC LEXIS 966, 5-6 (Mo. PSC 2001)

c. Consideration of a period well beyond any period lawfully considered in File No. ER-20120-0356 cannot lawfully be extended to encompass tariffs that would become effective on June 25, 2012;

d. GMO has now filed a rate case purporting to cover a period of September 30, 2011 with a proposed true-up date of August 31, 2012 and a proposed effective date for the accompanying tariffs of March 28, 2012 (now suspended by Commission Order setting the matter as a contested case) and has superseded the proposed tariffs by its filing of additional tariffs and thus the tariffs proposed to become effective on June 25, 2012 are moot and cannot now be approved.^{2/} A utility may not have two tariffs simultaneously proposed. In such a case the latter filing supersedes the earlier and the earlier should be rejected.^{3/}

^{2/} *In the Matter of the Verified Application and Petition of Laclede Gas Company to Change Its Infrastructure System Replacement Surcharge*, Case No. GO-2005-0119, Tariff No. YG-2005-0335, 2005 Mo. PSC LEXIS 39 (January 7, 2005).

^{3/} *Id.*; *In the Matter of UtiliCorp United Inc.'s Tariff Filed to Update the Rules and Regulations for Electric and to Increase the Interest Rate Paid on Deposits, the Late Payment Charge, the Reconnection Fee, and the Charge for Returned Checks*, Case No. ET-2001-482, Tariff No. 200100849, 2001 Mo. PSC LEXIS 966; 10 Mo. P.S.C. 3d 227 (April 3, 2001).

"Because it violates the prohibition against single-issue ratemaking, the Commission is without authority to approve UtiliCorp's tariff. Suspension of the tariff for further consideration would be pointless. For that reason the tariff submitted by UtiliCorp will be rejected."

(continued...)

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR AG PROCESSING INC A
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing pleading on the designated attorneys or representatives of each party in accord with Commission Orders and the service list maintained in this proceeding by the Secretary of the Commission on EFIS.

Dated: April 9, 2012



Stuart W. Conrad, an attorney for
Ag Processing Inc a Cooperative

^{3/}(...continued)
Id. at 2001 Mo. PSC LEXIS 966 (Mo. PSC 2001).