

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

In the Matter of the Application of)
KCP&L Greater Missouri Operations)
Company for Permission and Approval of)
a Certificate of Public Convenience and)
Necessity Authorizing It to Construct,)
Install, Own, Operate, Maintain and)
Otherwise Control and Manage Solar)
Generation Facilities in Western Missouri)

Case No. EA-2015-0256

PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel (“Public Counsel”), and submits its

Statement of Issues:

Issue 1: *Does the evidence establish that the Solar Generation project as described in GMO’s applications in this docket and for which GMO is seeking a certificate of convenience and necessity (“CCN”), is “necessary or convenient for the public service” within the meaning of section 393.170, RSMo?*

No. KCP&L Greater Missouri Operations Company (GMO) bears the burden of proof by a preponderance of the evidence that the authority it seeks is “necessary or convenient for the public service.” In determining whether GMO has met its burden, the Commission should apply the “*Tartan Energy*” standard. See *In Re Tartan Energy Company*, Mo. P.S.C. 3d 173, 1994 PSC Lexis, *26-77 (1994). The evidence in this case will show that GMO’s application does not meet the criteria set forth in § 393.170, nor the criteria set forth by the Commission in *Tartan*.

Issue 1a: *Does the evidence establish that there is a need for the project?*

GMO bears the burden of proving this in its case in chief by a preponderance of the evidence. In order to establish whether there is a need for service, the Commission must conclude that the additional service proposed by GMO in its application would be such an

improvement to its current service that the cost associated with the construction and implementation of the plant is justified. *See State ex rel. Intercon Gas v. P.S.C.*, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993). The evidence will show that there is no need for this project. GMO has sufficient solar credits to comply with Missouri's renewable energy standard for nearly a decade. To the extent that the company requires additional renewable energy generation, wind generation is less expensive. This project is not needed for the company to meet generation needs of its customers and, even if it were needed, is not the least cost alternative.

Issue 1b: *Is GMO qualified to provide the proposed project services?*

GMO bears the burden of proving this in its case in chief by a preponderance of the evidence. In order to weigh this *Tartan* factor, it is appropriate for the Commission to weigh the safety and adequacy of the facilities proposed by GMO's application. The Commission should consider the relative experience and reliability of competing suppliers when weighing this factor. *Intercon Gas* at 597. It is unclear whether or not GMO will be able to show the Commission that its proposal distinguishes it from competing suppliers.

As explained in 1a above, this project is neither necessary nor least cost. In its application, GMO stated that it desires this project in order for its employees to practice building and operating a utility scale solar plant. GMO does not actually have employees—it will be KCP&L employees that perform all the work. If, as the company asserts, there exists a need for the employees of its affiliate KCP&L to learn any unnamed and undefined “new” skills related to operating solar plant, the burden of paying for this expensive and unnecessary project should not be borne by GMO ratepayers. If the company does require practice operating a utility-scale solar plant, it arguably fails to meet this component of the *Tartan* factors. Alternatively, if the company *is* qualified to provide this project, then the true purpose of the project becomes

manifest—GMO’s desire to increase its plant investment upon which it will seek to earn a return in its upcoming rate case.

Issue 1c.: *Does GMO have the financial ability to provide the project services?*

GMO bears the burden of proving this in its case in chief by a preponderance of the evidence. In order to weigh this *Tartan* factor, this factual determination must be based upon the evidence presented by GMO at hearing. In order to build and pay for this unnecessary and expensive project, GMO intends to seek recovery in rates in its upcoming rate case. Under the company’s proposal, GMO ratepayers – and only GMO ratepayers – would pay for the project. This allocation is complicated by the corporate structure that GMO chooses to utilize. For example, even though GMO ratepayers will pay all costs of the project, any potential benefit of the solar investment tax credit will be applied to the tax return of Great Plains Energy Incorporated. Ultimately, it is unclear that GMO will be able to meet its burden of providing that it has the financial ability necessary for the project. GMO ratepayers should not be forced to pay, in future rates, for a project that benefits the interests of GMO’s affiliated companies.

Issue 1d: *Is GMO’s proposed project economically feasible?*

No. GMO bears the burden of proving this in its case in chief by a preponderance of the evidence. The evidence will show that there is no need for this project. GMO has sufficient solar credits to comply with Missouri’s renewable energy standard for nearly a decade. To the extent that the company requires additional renewable energy generation in the future, wind generation is less expensive.

Furthermore, this project is not needed for the company to meet any additional generation need to serve its customers, and, even if additional capacity were needed, this project is not the least cost alternative. Electricity generation by wind is a much more cost effective mechanism

for generating electricity. If approved and included in rates in the upcoming rate case, the project will needlessly increase ratepayers' rates. It is appropriate for the Commission to consider rate impact (see Issue 3) when weighing this factor.

Issue 1e: *Does GMO's proposed project promote the public interest?*

No. GMO bears the burden of proving this in its case in chief by a preponderance of the evidence. The Commission must weigh the public interest when applying the *Tartan* factors. Often, when weighing this factor, the Commission will look to the previous four factors and if any *one* of those factors is not met, the Commission may conclude that the project does *not* promote public interest. "Generally speaking, positive findings with respect to the other four standards will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest." *Tartan* at *41. Because GMO would save a substantial amount of money by delaying this project, even by a couple years, the Commission cannot conclude that this project promotes the public interest. In addition, because GMO ratepayers will bear the cost in a subsequent rate case when they do not need the extra electricity generated by the plant, the Commission cannot conclude that the project promotes public interest.

This project will not reduce the company's environmental impact. No party has suggested that this project is going to avoid any existing generation. The Company does not need additional generation and this project is not going to displace any current carbon sources of generation. If the company did have a need or desire to pursue additional renewable energy generation – wind generation is less expensive.

Issue 2: *If GMO's CCN Application does not meet the criteria set forth by Tartan, is there an exception that would still permit the Commission to grant the CCN?*

Since 1994, the Public Service Commission has time and again relied upon the criteria set forth in *Tartan*. The *Tartan* criteria have been upheld in multiple courts and provide a sufficient basis for approving or denying CCN applications. As such, the Commission should not carve out an exception in this case.

Issue 3: *Should the impact on ratepayers be considered by the Commission when weighing GMO's CCN application?*

Yes, ratepayer impact is an appropriate issue for the Commission to consider when evaluating a CCN application. While GMO does not have to break down the specific increase in rates the project will cause, the fact that this project will have an unnecessarily deleterious impact on ratepayers is an important issue the Commission should weigh in determining whether or not granting a CCN in this case serves the public interest.

Issue 3a: *If so, does the evidence establish that the project will have an impact on ratepayers?*

Yes, GMO's application, its late-filed supplemental documents, and the documents filed in this case since then indicate that its haste in pushing this project forward is tied to the impending rate case GMO proposes. As such, it is clear that GMO intends to include the cost of this project in its upcoming rate case and ratepayers will bear the costs associated with this unnecessary and expensive project.

Issue 3b: *If ratepayer impact is an appropriate issue, does the effect violate the public interest?*

Yes, GMO's ratepayers do not need additional electricity generated. The increases in rates that likely will result from the project are not justified. As explained above, this project is not necessary, not least cost, and will not reduce the company's environmental impact. The project serves only to increase the plant investment upon which GMO will seek to earn a return in its upcoming rate case, and not the public interest.

Issue 4: *Who will benefit from any tax credits extended by the U.S. government should the project be approved?*

GMO's parent company Great Plains Energy, Inc, will be the entity that benefits from tax credits extended by the federal government. This fact further demonstrates that there is no need for this project for GMO, nor is there going to be a benefit derived for ratepayers that could be calculated in the upcoming GMO rate case.

Issue 5: *If the Commission approves the CCN, should it impose any conditions?*

GMO bears the burden of proof to show that a CCN is justified by a preponderance of the evidence. Should the Commission agree that GMO has met its burden, the Commission should impose conditions sufficient to protect ratepayers. There is ample precedent for the Commission to impose conditions when granting CCNs. In the *Tartan* case, the Commission imposed conditions that *Tartan* had to satisfy prior to the issuance of the CCN. *Tartan* at *46.

In the event it grants the CCN, the Commission should direct GMO to exclude any of the costs associated with the project from its subsequent rate case. The project is not being pursued for the benefit of GMO ratepayers at this time. GMO is not bound to build such a facility by any regulatory body, does not require any credits that would come from the building of said project, and does not need any additional electricity generation provided by the project. The purpose of the project is to allow GMO to increase its investment upon which it can earn a return.

WHEREFORE, undersigned counsel submits its *Statement of Positions*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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