

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 24th day of June, 2019.

The Office of the Public Counsel and)
The Midwest Energy Consumers Group,)
)
Complainants,)
)
v.)
)
KCP&L Greater Missouri Operations)
Company)
)
Respondent.)

File No. EC-2019-0200

ORDER REGARDING PUBLIC COUNSEL’S MOTION TO COMPEL

Issue Date: June 24, 2019

Effective Date: June 24, 2019

On June 18, 2019, the Office of the Public Counsel filed a motion asking the Commission to compel Staff to produce certain documents in response to data requests submitted by Public Counsel.¹ Public Counsel’s motion explains that its data requests ask Staff to produce any incident reports and related communications regarding any forced outages at KCP&L Greater Missouri Operations Company’s (GMO’s) Sibley 3 unit. Staff objected to the Public Counsel’s data request, asserting that it would not produce documents in its possession that were designated by GMO as confidential unless GMO consented to the sharing of those documents.

¹ Staff’s responses to those data requests are due by June 26, 2019.

The Commission directed Staff to respond to Public Counsel's motion by June 20. Meanwhile, on June 19, GMO filed its own response to that motion, indicating it does not object to Staff providing the documents to Public Counsel. Staff filed a response to Public Counsel's motion on June 20, indicating that because GMO does not object to the production of the documents, it would provide the documents to Public Counsel.

Despite Staff's agreement to provide the documents in question to Public Counsel, the Commission will address the matters raised in this dispute for the guidance of the parties.

Public Counsel's data request 0030 asks Staff to:

provide all documentation, correspondence, as between Staff personnel as well as between Staff and GMO and all other documents relating to KCP&L Greater Missouri Operations' compliance with 4 CSR 240-3.190(3)² regarding the Sibley 3 unit.

Public Counsel's data request 0032 asks Staff to:

Excluding information and documents already filed in EFIS or provided in answers to Staff data requests, provide all documentation and correspondence from September 1, 2018, to November 31, 2018 (sic), between KCP&L Greater Missouri Operations and Staff as well as intra-personnel communications amongst Staff regarding the Sibley station. Documentation should include, but not be limited to, incident reports, electronic and traditional mail, and non-case filings.

Staff correctly objected to both data requests to the extent that they could be read to request privileged or confidential communications amongst Staff and between GMO and Staff. Subject to those objections, Staff said it possessed only three responsive documents; two outage notifications and one 90-day investigative report. Staff did not assert that these documents were protected from disclosure by any privilege, but said they were provided to

² That regulation requires an electric utility to report information about significant accidents, incidents, or forced outages at a power generating plant.

Staff by GMO, which had designated them as confidential. Therefore, Staff asserted they are protected from disclosure to Public Counsel under section 386.480, RSMo.

The first sentence of section 386.480 states:

No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding.

This sentence generally protects information provided to the Commission from disclosure to the public. However, the next sentence of the section states: "The public counsel shall have full and complete access to public service commission files and records."

That means that under section 386.480, Public Counsel must be given access to documents in the Commission's files, even if they are designated as confidential by a utility, provided they are not otherwise protected from disclosure under an applicable privilege. Public Counsel and its employees are obligated to protect that information from public disclosure under section 386.480 to the same extent as Commission employees.

Under these circumstances, the Commission will grant Public Counsel's Motion to Compel, to the extent that any requested documents are not protected from disclosure under attorney-client or any other applicable privilege.

THE COMMISSION ORDERS THAT:

1. Public Counsel's Motion to Compel Staff to Produce Documents is granted.

2. This order shall be effective when issued.

BY THE COMMISSION



Morris L Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge

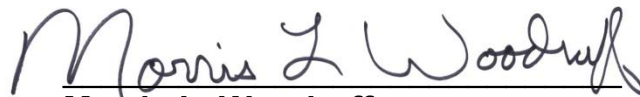
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 24th day of June 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 24, 2019

File/Case No. EC-2019-0200

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.