

SEP 22 2017

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

MISS. PUBLIC SERVICE
COMMISSION

MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 2017-AD-112

**IN RE: ENCOURAGE STIPULATION OF MATTERS IN CONNECTION WITH
THE KEMPER COUNTY IGCC PROJECT****STAFF'S RESPONSE TO MOTION FOR RECONSIDERATION**

On August 15, 2017, Mississippi Power Company (the “Company”) moved for reconsideration of the Commission’s finding, in its Order Setting Hearing and Scheduling Order (“Order”), that no settlement suitable for approval without hearing had been reached. Pursuant to RP. 12 of the Mississippi Public Service Commission’s Rules of Practice and Procedure, the Mississippi Public Utilities Staff (“Staff”) hereby responds.

The Company’s Motion opens and closes with a disputable claim that the Company could have justified recovery of “stranded costs” related to the lignite mining and gasification aspects of the Kemper Project.¹ The Company thereby seeks to portray as relatively modest its aggressive valuation of what it terms Kemper Combined Cycle (“Kemper CC”) costs, and to threaten that unless that valuation is accepted without scrutiny, the Company may proceed to seek recovery of “additional costs.” The Staff disagrees that the Company has justified its proposed recovery of stranded costs, given that such costs are by definition not “used and useful” and therefore are subject to exclusion from cost recovery under prior Commission rulings.² There is no need to argue the point here, however, as the undisputed framework for the present proceeding is the Commission’s direction to identify—through mutual stipulation if possible, and

¹ See Motion ¶¶ 2-6, 13.

² See, e.g., Final Order on Remand ¶¶ 181-82,

through hearing procedures if necessary—the appropriate recovery level associated with Kemper CC costs alone.³

As to those costs, the Company seeks long-term continuation of its prior “annual Project revenue requirement of \$126 million,”⁴ while failing to note that this level was heretofore scheduled to decline, as various regulatory assets become fully amortized.⁵ In contrast, the Staff has offered near-term revenues approaching that level, with later revenues declining as the fair Kemper CC rate base declines. The Company maintains, however,⁶ that the substantial divergence between the Company and Staff settlement offers can be ignored because the Company reached a stipulation with certain stakeholders and Staff is not “[n]ecessary or [i]ndispensable”⁷ to an agreement. The Company asserts that instead of contrasting the Company’s and the Staff’s offers, the Commission should “continue to a hearing on MPC’s August 21, 2017, Agreement” with Denbury Onshore, LLC, *et al.*,⁸ and proceed to find that this selected-parties settlement “satisfies all of the Commission’s concerns.”⁹

The Commission’s stated¹⁰ and statutory concerns, however, include:

³ See, e.g., Order Opening Docket (July 6, 2017) ¶ 95(b) (“The settlement should seek to remove the risk of ratepayers bearing any of the costs associated with the gasifier and related assets.”).

⁴ Motion ¶ 6.

⁵ Cf. Final Order in Docket No. 2015-UN-80, ¶ 34 (Dec. 3, 2015) (“In-Service Asset Order”) (recognizing the concern that under the initial \$126 million annual revenue level, “MPC could be collecting rates higher than its cost to serve once the regulatory asset amounts are fully amortized,” and contemplating that such over-recovery would be avoided through the next, i.e. the present, rate proceeding).

⁶ *Id.* ¶¶ 7-12.

⁷ *Id.* at 4 (Section header I).

⁸ *Id.* ¶ 12.

⁹ *Id.* ¶ 13.

¹⁰ See Order Opening Docket ¶ 95.

- Ensuring that Company revenues are truly limited to those fairly attributed to the Kemper CC alone, and not due to the Kemper Project's now-abandoned, not used and useful, and arguably imprudent lignite mining and gasification aspects;¹¹
- Thoroughly vetting the costs that the Company claims to be associated with the Kemper CC;
- Ensuring that Kemper CC revenues decline in the future as Kemper CC costs decline; and
- Ensuring that ratepayer obligations for recovery of Kemper CC costs do not rise as compared to pre-existing provisions for recovery—a baseline, Staff will demonstrate, that was set to decline well below \$126 million in the near term.

Limiting the upcoming hearing to the Company's August 21 submission would not facilitate full ventilation of these issues. Because an adversary process facilitates the search for truth, the Commission should compare and contrast the Company's and the Staff's proposals. The Staff will demonstrate at hearing that the Company's offer fails to satisfy the foregoing concerns and that the Staff's offer better aligns therewith.

The fact that the Company obtained certain stakeholders' agreement to its upward-biased proposal does not obviate examination of these issues. The stakeholders with whom it reached agreement have interests other than those common to ratepayers. For example, the first such signatory (Denbury Onshore, LLC) was the Company's prospective customer for carbon dioxide captured from the gasification process, continues to stand to gain from the agreement's contemplated "below the line" operation of that process, and has a special contract with the

¹¹ See In-Service Asset Order ¶ 59 (approval of \$126 million initial revenue requirement for Kemper CC was limited to "the context of MPC's continuing construction, startup and eventual operation of the Kemper IGCC, as certificated"; "if the Kemper IGCC becomes only a Kemper CC, the Commission may revisit the prior recovery of any additional costs related to the building of an IGCC that the building of a more efficient CC would not have required and hold MPC responsible to ratepayers").

Company for its electric service. The City of Meridian has tax, employment, and water-service relationships with the Company that diverge from the interests of ratepayers located elsewhere. The Central Mississippi Building and Construction Trades Council represents workers who potentially stand to gain at ratepayers' expense, if this Commission allows excessive rates.

Rather than overweight the views of such natural Company allies, the Order rightly notes, and calls for hearing consideration of, the substantial divergence between the positions of the Company and the Staff.¹² In calling for procedures that give equal consideration to the Company's and the Staff's settlement offers, the Order reflects the preceding Order Opening Docket, which clearly contemplated that the settlement it sought to elicit would represent an agreement between, at a minimum, the Company and the Staff.¹³ Because the Staff is the statutory representative of "the broad interests of the State of Mississippi by balancing the respective concerns of the residential, commercial or industrial ratepayers and the state and its agencies and departments and the public utilities,"¹⁴ that was and remains the appropriate course. Accordingly, the Company's Motion should be denied.

This the 22nd day of September 2017.

¹² See Order at pp. 2 ("the parties [*i.e.*, Company *et al.* and Staff *et al.*] did not reach a joint stipulation that would resolve all issues relating to the Kemper Project"); *id.* at pp. 3 ("The Staff and the Company shall, and each other Intervenor may, file... testimony in support of the terms of its most recent proposed stipulation offer and why it opposes the most recent rejected stipulation offer from each other party ...").

¹³ See Order Opening Docket n.113 (quoting Company's Annual Report reference to "an agreement acceptable to both the Company and MPUS (and other parties)"; *id.* ¶ 89 (present docket was established "to further discussions between MPCo, the Staff, and other parties) (emphasis added); *id.* ¶ 90 ("Any agreement or stipulation entered into between Staff, MPCo and any other parties shall be considered by the Commission after a stipulation is filed") (emphasis added); *id.* ¶ 95 ("...the Commission believes the following areas should be resolved, or largely resolved, by MPCo, Staff, and intervening parties in any settlement that is presented to the Commission...") (emphasis added).

¹⁴ MISS. CODE ANN. § 77-2-1.

CERTIFICATE OF SERVICE

I, Chad Reynolds, General Counsel for the Mississippi Public Utilities Staff, hereby certify that I have this date caused to be served a true and correct copy of this, Staff's Response to Motion for Reconsideration, on the following:

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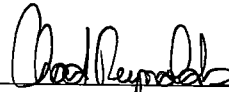
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