

FILED

JUN 23 2014

MISS. PUBLIC SERVICE
COMMISSION

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

**MISSISSIPPI POWER COMPANY
EC-120-0097-00**

DOCKET NO: 2013-UA-189

**IN RE: PETITION OF MISSISSIPPI POWER COMPANY FOR FINDING
OF PRUDENCE IN CONNECTION WITH THE KEMPER
COUNTY INTEGRATED GASIFICATION COMBINED CYCLE
GENERATING FACILITY**

MOTION FOR LEAVE TO FILE SURREBUTTAL TESTIMONY

COMES NOW Intervenor the Sierra Club and files this Motion for Leave to File Surrebuttal Testimony. In support of this motion, the Sierra Club states as follows:

I.

This proceeding involves the prudence of expenditures on the Kemper County Integrated Gasification Combined Cycle Generating Facility ("the Kemper Project") through March 31, 2013. The amount of expenditures at issue is over \$2.8 billion. The subject matter at issue is the prudence of Mississippi Power Company's ("MPC's") decision to proceed with a project that has almost doubled in cost from \$2.4 billion at the time the Commission granted a certificate, to a current projected cost of almost \$5 billion.

II.

On August 9, 2013, Mississippi Power filed its "Initial Submittal of Prudently Incurred Costs." This consisted of a memorandum and the testimony and exhibits of Cynthia F. Shaw, Comptroller and John C. Huggins, Vice President Generation Development. The filing contains no substantive evidence or testimony regarding the reasonableness of Mississippi Power's expenditure of \$2.8 billion on the Kemper plant. Rather, the testimony of Mr. Huggins asserts generically, in approximately two pages of testimony, that the expenditure was prudent and in keeping with industry practice.

III.

On May 23, 2014 MPC filed its rebuttal testimony, which contained its entire case supporting the prudence of its expenditures on Kemper. This testimony totaled hundreds of pages. Despite its length, however, MPC's case in chief was largely devoid of substance. After careful review, the Sierra Club has determined that most of MPC's testimony requires no surrebuttal, and is properly dealt with in cross-examination and briefing. However, MPC's witness Patricia Galloway has made several statements, including some surprising admissions, which require brief additional testimony from David Schlissel. Mr. Schlissel's proposed surrebuttal is included with this motion as Exhibit 1.

IV.

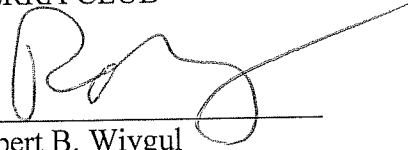
The Sierra Club also notes that Dr. Galloway's testimony relies in large part on interviews she conducted with various MPC or Southern Company personnel associated with the Kemper project. *E.g.*, Galloway testimony at 157 (citing SCS personnel interviewed as source for the basis of the Kemper gasification plant estimate). However, MPC refused to produce, and the Commission refused to require production, of Dr. Galloway's notes of these interviews. The Commission, the Staff and all other parties are therefore unable to evaluate Dr. Galloway's statements, including whether these interviews produced other information which is relevant to Dr. Galloway's conclusions. The Sierra Club further notes that there are factual assertions in Dr. Galloway's testimony which will require further directed discovery. The Sierra Club will file a separate motion for the Commission to permit further limited discovery, and to reconsider its decision on the issue of Dr. Galloway's notes.

The Sierra Club therefore respectfully moves the Commission for permission to file the proposed surrebuttal testimony of David Schlissel.

Respectfully submitted this 20th day of June, 2014.

SIERRA CLUB

By:

A handwritten signature in black ink, appearing to read 'R. Wiygul', written over a horizontal line.

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CERTIFICATE OF SERVICE

I, Robert B. Wiygul, counsel for Sierra Club do hereby certify that in compliance with RP6.122(2) of the Commission's Public Utilities Rules of Practice and Procedure (the "Rules").

(1) An original and twelve (12) true and correct copies of the filing have been filed with the Commission by United States Postal Service this date to:

Brian U. Ray, Executive Secretary
Mississippi Public Service Commission
501 N. West Street, Suite 201-A
Jackson, MS 39201

(2) An electronic copy of the filing has been filed with the Commission via e-mail to the following address:

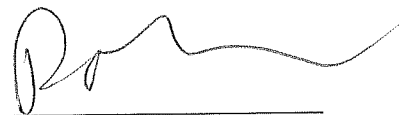
efile.psc@psc.state.ms.us

(3) A copy of the filing has been served via Email and/or by U.S. Mail to all parties to the following:

Ben Stone (MPC)
Shawn Shurden (MPSC)
J. Kevin Watson (Ergon, Inc)
Jeremy Vanderloo (Energy MS, Inc)
Michael Adelman (Blanton)
Queshaun Sudbury
Dennis W. Miller (Martin)
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This the 20th day of June, 2014.



Robert B. Wiygul

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BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION

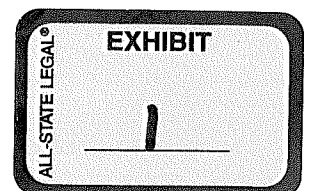
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**IN RE: PETITION OF MISSISSIPPI POWER COMPANY FOR FINDING
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**SURREBUTTAL TESTIMONY OF DAVID A. SCHLISSEL
ON BEHALF OF
SIERRA CLUB**

JUNE 20, 2014



Mississippi Public Service Commission
Docket No. 2013-UN-189
Surrebuttal Testimony of David A. Schlissel

1 **Q. What are your name, position and business address?**

2 A. My name is David A. Schlissel. I am the President of Schlissel Technical
3 Consulting, Inc. My business address is 45 Horace Road, Belmont,
4 Massachusetts 02478.

5 **Q. On whose behalf are you testifying in this case?**

6 A. I am testifying on behalf of the Sierra Club.

7 **Q. Have you previously submitted testimony in this proceeding?**

8 A. Yes. I filed direct testimony on March 14, 2014.

9 **Q. What is the purpose of this surrebuttal testimony?**

10 A. The purpose of this surrebuttal testimony is to respond to the testimony filed by
11 Mississippi Power Company witness Galloway.

12 **Q. Before you address specific points made by Dr. Galloway, have you had a full**
13 **opportunity to review the workpapers and materials underlying her**
14 **testimony in this proceeding?**

15 A. No. At pages 46-48 of her testimony, Dr. Galloway lists the personnel that she
16 interviewed as part of her review. Although Sierra Club requested the notes of
17 these interviews, that request was rejected. Consequently, we have not been
18 provided any of the notes of the interviews conducted by or for Dr. Galloway or
19 for any of the other Company witnesses.

20 **Q. Why is it important to review these interview notes?**

21 A. Without reviewing the notes of the interviews conducted by or for Dr. Galloway it
22 is impossible to know whether she has accurately reported what she was told and
23 whether there were other important points raised in the interviews that she has
24 omitted from her testimony.

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Docket No. 2013-UN-189
Surrebuttal Testimony of David A. Schlissel

1 **Q. Have you regularly received such interview notes in other prudence reviews**
2 **by state regulatory commissions?**

3 A. Yes. I have been involved in well over twenty reviews of power plant
4 construction costs and/or operations. I can't think of a proceeding in which I have
5 been denied full access to the workpapers of Company witnesses including, but
6 not limited to, any notes of interviews conducted by or for those witnesses.

7 In particular, Dr. Galloway and I were both witnesses several years ago in Indiana
8 Utility Regulatory Commission Cause No. 43114 IGCC 4S1 which examined the
9 prudence of Duke Energy Indiana's management of the design, construction and
10 startup of the Edwardsport IGCC project. In that proceeding, my clients asked for
11 and were provided the complete notes of all of the interviews conducted by Dr.
12 Galloway. In fact, I used those notes in my surrebuttal testimony in that
13 proceeding and many of them, if not the majority, ultimately were designated as
14 public, not confidential, materials.

15 **Q. Dr. Galloway testifies that you said that MPC "did not fully understand,**
16 **understated and underestimated the first-mover risks associated with a First-**
17 **of-a-kind ("FOAK") technology, which resulted in unreasonable additional**
18 **costs to the Project."**¹ **Is that true that you testified that MPC did not fully**
19 **understand the first-mover risks associated with Kemper FOAK design?**

20 A. No. It is clear that MPC understood the first-mover risks associated with the
21 Kemper being a first-of-a-kind unit. Instead I testified that MPC was imprudent
22 for rejecting the potential for significant increases in the cost of building the
23 Kemper IGCC Project resulting from the fact that it was a FOAK. MPC was
24 quite specific on this point in its 2009 testimony, arguing vigorously that the risks
25 of installing new technology and the risk of capital cost escalation were "unlikely
26 and comparatively insignificant." In other words, MPC actively minimized the
27 magnitude of that FOAK risk to the Commission. I further testified that a prudent

¹ At page 6, lines 1-3.

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Surrebuttal Testimony of David A. Schlissel

1 utility would have considered the potential for future Kemper capital cost
2 increases especially because it was proposing to build a plant with a first-of-a-
3 kind IGCC technology at commercial scale.²

4 **Q. Dr. Galloway testifies that you said that MPC did not understand the risks of**
5 **a megaproject and the cost impacts of “fast-track” construction.³ Is this**
6 **true?**

7 A. No. I never said that in my direct testimony.

8 Dr. Galloway and I agree that the Kemper Project was exposed to the risks and
9 dangers of being a megaproject and to a “fast-track” schedule. Certainly any
10 utility should have been aware of these risks and dangers, and there was no reason
11 to believe MPC was unaware of these dangers⁴

12 A prudent utility, acting in a reasonable manner, would have been aware of and
13 disclosed all of those risks fully to the Commission. Instead, MPC actively
14 sought to convince the Commission that these risks were trivial.

15 **Q. Do you agree with Dr. Galloway that prudence should not be judged in**
16 **hindsight.⁵**

17 A. Yes. I have applied no hindsight in my criticism of the Company’s trivialization
18 and dismissal of the risks of installing new technology at Kemper and the risk of
19 capital cost escalation as “unlikely and comparatively insignificant.” I testified in
20 Docket No. 2009-UA-014 in 2010 that there were significant risks of a higher
21 construction cost and an extended construction schedule at Kemper due to the fact
22 that (a) Kemper was a first-of-a-kind project employing several technologies that
23 had not yet been used on the commercial scale at which they would be used at
24 Kemper; (b) Kemper had an expedited (i.e., “fast-track” schedule,); and (c) the

² Direct Testimony of David A. Schlissel, at page 2, line 25, through page 3, line 11, page 4, lines 3-11, page 11, lines 6-10, and page 25, line 1, to page 26, line 6.

³ At page 10, lines 4-5.

⁴ Direct Testimony of David A. Schlissel, at page 33, lines 1-9.

⁵ At page 33, lines 1-2

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Surrebuttal Testimony of David A. Schlissel

1 experience of Duke Energy’s Edwardsport IGCC Project provided a warning of
2 what could happen at Kemper.⁶ These warnings were provided in real time, not in
3 hindsight. However, MPC aggressively sought to challenge and dismiss these
4 warnings. A prudent utility would have candidly acknowledged and addressed
5 them.

6 **Q. Do you agree with Dr. Galloway’s testimony that “Unlike the Edwardsport**
7 **IGCC Project, the Kemper IGCC Project represents a FOAK project,**
8 **having no reference plant completed?”⁷**

9 A. This aspect of Dr. Galloway’s testimony is surprising. Dr. Galloway’s testimony
10 is that, unlike Edwardsport, Kemper really was a first-of-a-kind project without
11 any reference plant completed. Dr. Galloway also testifies that Edwardsport had a
12 substantially higher percentage of the engineering completed at the time of its
13 FEED study than did Kemper.⁸ This establishes that Kemper actually had an even
14 greater risk of significant cost increases than Edwardsport experienced. As I
15 noted in my Direct Testimony, by the time of the hearings in the Kemper
16 certification docket in early 2010, the estimated cost of constructing Edwardsport
17 already had increased by some 26 percent in just two years.⁹ I also presented
18 Duke Energy’s explanation of the underlying causes of this cost increase.¹⁰ In
19 fact, the very factors cited by Duke in 2009 as causing a substantial increase in the
20 cost of building Edwardsport, particularly the increases in construction
21 commodities, subsequently contributed to the explosion in the cost of building
22 Kemper. Again, this is not hindsight. MPC was warned but chose to dismiss the
23 warnings and, instead, aggressively represented to the Commission that the risks
24 of installing new technology at Kemper and capital cost escalation were “unlikely

⁶ See the Direct Testimony of David A. Schlissel in this Docket, at page 34, lines 3-13, which refers back to my Phase Two Direct Testimony in Docket No. 2009-UA-014.

⁷ At page 31, lines 4-5.

⁸ At page 424, lines 11-13 and 17-23.

⁹ Direct Testimony of David A. Schlissel, at page 35, line 10, through page 36, line 2.

¹⁰ Id., at page 36, line 3, to page 37, line 15.

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1 and comparatively insignificant.” This was imprudent with no use of hindsight or
2 holding the company to a standard of perfection.

3 **Q. Do you have any comment on Dr. Galloway’s testimony that “On a**
4 **megaproject, management never gets the opportunity to sit back and say**
5 **“everything is going according to plan,” because the plan may, and often**
6 **does, change every day and with those changes, new information is presented**
7 **upon which decisions have to be made?”**¹¹

8 A. Again, this aspect of Dr. Galloway’s testimony is surprising, in that it reinforces
9 the cost and schedule uncertainty inherent in megaprojects. For this reason, it
10 supports my conclusion that at the time of certification docket in early 2010, MPC
11 should have acknowledged that there was substantial uncertainty surrounding the
12 ultimate cost of building Kemper. Instead, the Company trivialized this risk and
13 old the Commission, among other things, that the risks of installing new
14 technology at Kemper and the risk of capital cost escalation were “unlikely and
15 comparatively insignificant.”

16 **Q. Dr. Galloway has testified that you never questioned the certification cost**
17 **estimate back in 2010.**¹² **Is that true?**

18 A. Unfortunately, MPC refused to provide a copy of the Kemper FEED study in
19 2010. Counsel for the Sierra Club was given an opportunity to look at it but not to
20 make a copy for me.¹³ Consequently, my testimony focused on the overall risks
21 that the Kemper Project faced and the potential for substantial increases in the
22 cost of building the plant. For this reason, I recommended that MPC consider the
23 potential for a 20 percent to 40 percent higher capital cost in its Kemper-related
24 economic viability analyses. I did not accept that the Company’s estimated cost
25 for Kemper was going to be on target.

¹¹ At page 59, line 26, to page 60, line 3.

¹² At page 170, lines 11-13.

¹³ Direct Testimony of David A. Schlissel, at page 44, lines 16-22.

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Surrebuttal Testimony of David A. Schlissel

1 **Q.** Have you subsequently seen any evidence that the FEED study did not
2 provide a reasonable guarantee against significant capital cost increases at
3 Kemper?

4 **A.** Yes. See pages 45 and 46 of my March 14, 2014 Direct Testimony in this Docket.

5 **Q.** Does this complete your testimony at this time?

6 **A.** Yes.

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VERIFICATION

BEFORE ME, the undersigned Notary Public in and for the County of

Middlesex, State of Massachusetts, personally came and appeared

David Schlissel, who after being duly sworn did depose and declare that the foregoing is his surrebuttal testimony in this proceeding and that all of the information and assertions contained therein are true and correct to the best of his knowledge, information and belief.

David A. Schlissel

SWORN TO AND SUBSCRIBED before me, on this 20th day of June, 2014.

Teane Scott
NOTARY PUBLIC

My Commission expires April 2, 2021

