

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**AG PROCESSING, INC., a Cooperative; MISSOURI PUBLIC SERVICE COMMISSION,  
OFFICE OF PUBLIC COUNSEL,**

**Respondents,**

**v.**

**KCP&L GREATER MISSOURI OPERATIONS COMPANY,**

**Appellant.**

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DOCKET NUMBER WD74601

**Date: October 23, 2012**

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Appeal from:  
Public Service Commission

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Appellate Judges:  
Division One: James M. Smart, Presiding Judge, Lisa White Hardwick and Gary D. Witt, Judges

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Attorneys:  
Jennifer L. Heintz, Lewis R. Mills, Stuart W. Conrad and David L. Woodsmall,  
Jefferson City, MO, for appellant.  
Karl Zobrist, Lisa Gilbreath and Roger Steiner, Kansas City, MO, for respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**COURT OF APPEALS -- WESTERN DISTRICT**

**AG PROCESSING, INC., a Cooperative; MISSOURI PUBLIC SERVICE  
COMMISSION, OFFICE OF PUBLIC COUNSEL**

**Respondents,**

**v.**

**KCP&L GREATER MISSOURI OPERATIONS COMPANY,**

**Appellant.**

WD74601

Public Service Commission

Before Division One: James M. Smart, Presiding Judge, Lisa White Hardwick and Gary D. Witt, Judges

KCP&L Greater Missouri Operations Company ("KCP&L") appeals from the Missouri Public Service Commission's ("Commission") order requiring KCP&L to pay customer refunds because it failed to prove that a natural gas hedging program was operated prudently. KCP&L contends the order is unlawful because the Commission incorrectly applied the burden of proof.

**REVERSED AND REMANDED.**

**Division One holds:**

The Commission erred in placing the burden of proof on KCP&L to prove that the hedging program was operated prudently. In cases where a complainant alleges that a regulated utility is violating the law, the burden of proof is on the complainant because the burden of proof properly rests on the party asserting the

affirmative of an issue. Ag Processing brought the complaint alleging imprudence and, therefore, Ag Processing should have had the burden of proving that claim. Accordingly, we reverse the order and remand the cause for further consideration under the appropriate burden of proof.

**Opinion by: Lisa White Hardwick, Judge**

October 23, 2012

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