



Motion, ¶2, but SUG fails to directly address that fact in its criticism of MIEC's judgment to proceed in only the Rate Case.

3. The parties to the Rate Case recently met to discuss the resolution of the Rate Case. At that time it became apparent that the Rate Case was likely to settle, leaving the MIEC no options other than to object to settlement of the Rate Case or to intervene in this case, so that it would still have a vehicle in which to address and protect its interests. At that time, the MIEC advised those parties that if the Rate Case settled, it would seek to intervene in this case so that it would still have a vehicle in which to represent its interests. At that time, Laclede's in-house counsel expressed opposition to late intervention in this case. Mr. Swarengen also indicated his opposition. When asked who he represented at that meeting, Swarengen replied that he represented both Laclede and SUG and that his opposition was on behalf of SUG. Laclede's in-house counsel later indicated that he had no objection to the MIEC intervention in this case and the undersigned wrongly assumed that if Laclede no longer objected to the Intervention Motion that SUG would no longer object.

4. The undersigned made no misstatement of fact in the Intervention Motion, nor did the undersigned intend to mislead this Commission or any other party. The MIEC has no interest in seeing any party deprived of an opportunity to be heard on the Intervention Motion, and has no objection to the Commission's reconsideration of its Order sustaining the MIEC's Intervention Motion. But upon reconsideration, the Commission should allow the intervention.

5. Contrary to SUG's Reconsideration Motion, ¶7, as large industrial consumers of utilities, the MIEC has interests that are substantial and different from those of the general public. This Commission has repeatedly and regularly acknowledged the MIEC's role by allowing the MIEC's intervention in utility cases, where the MIEC generally takes an active role,

employing its experts to assist the parties, typically consumers, and the Commission. It is for this reason that the Office of Public Counsel (“OPC”) and other consumer parties typically accept the MIEC intervention with open arms and the Staff consents to such motions. Indeed, counsel for Staff has represented to the undersigned that he has no objection to the MIEC’s continued intervention in this case, and the OPC is filing papers in support of the MIEC on its Intervention Motion.

6. While no one can dispute the vast experience, dedication and expertise of the Staff and OPC, and that they “are perfectly capable of making [a] record,” it is no secret that their resources are spread thin. A review of many of this Commission’s most important utility cases will reveal that the MIEC has taken positions, sometimes on its own, that have served the interests of not only the MIEC, but all consumers. That demonstrates that the public interest will be served by the MIEC’s participation. The public interest is served no less by the MIEC’s participation than it is by the participation of the United Steel Workers District 11, the MDNR, KCP&L, the City of Kansas City, IBEW Local 53, and the Missouri Gas Users Association.

7. Good cause exists to grant the MIEC’s late intervention. The MIEC’s judgment was that it could represent its interests in the Rate Case. Now that the Rate Case will be resolved, MIEC will lose that vehicle to protect its interests. The good cause to support the tardy Intervention Motion in this matter is the abrupt change of facts to where now this matter is the only matter likely to be available to the MIEC to address and protect its interests. The filing of the Rate Case should not be allowed to “head fake” the MIEC out of participation in an important merger affecting its members. The MIEC filed its Intervention Motion within a reasonable time upon learning of the likely settlement of the Rate Case. The material change in facts here is at least as sound a basis for good cause as “MGE overlooked the intervention

deadline and neglected to make provision for this application for intervention[,]” the basis recently accepted by the Commission in Case No. ER-2012-0174 and ER-2012-0175 to accept SUG’s late intervention in those matters. And, in Case No. GR-2001-292 this Commission allowed an over three month tardy intervention of Jackson County and the City of Riverside where the stated good cause for delay was that those entities could not tell for over three months whether they had adequate funds to participate.

8. The surrounding circumstances of the Intervention Motion are markedly different from those of the intervention motion in cases EO-2012-0135 and EO-2012-0136, cited by SUG. There, the intervention motion was late by 14 months and, unlike here, cited a “we just found out” basis for late intervention. Here, the MIEC has provided a substantive basis for finding good cause.

9. In spite of SUG’s assertion that this case is at a “delicate stage of the process,” Laclede, arguably the most interested party here, has no objection to the Intervention Motion, and no other party but SUG opposes the Motion. Indeed, the OPC welcomes the MIEC’s intervention. And SUG admits that no procedural schedule has yet been adopted. Further, as indicated in its Intervention Motion, the MIEC accepts the record as it now stands in this case and accepts any reasonable conditions that the Commission would impose upon the MIEC for its continued intervention.

WHEREFORE, the MIEC requests that it be permitted to remain a party to this case for all purposes.

Respectfully submitted,

BRYAN CAVE, LLP

By: /s/ Edward F. Downey  
Edward F. Downey, #28866  
221 Bolivar Street, Suite 101  
Jefferson City, MO 65101  
Telephone (573) 556-6622  
Facsimile: (573) 556-7442  
[efdowney@bryancave.com](mailto:efdowney@bryancave.com)

Diana M. Vuylsteke, # 42419  
211 N. Broadway, Suite 3600  
St. Louis, Missouri 63102  
Telephone: (314) 259-2543  
Facsimile: (314) 259-2020  
[dmvuylsteke@bryancave.com](mailto:dmvuylsteke@bryancave.com)

Attorney for The Missouri Industrial  
Energy Consumers

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 24th day of May, 2013, to all parties on the Commission's service list in this case.

/s/ Edward F. Downey