

In the Matter of Entergy Arkansas, Inc.'s Notification of )  
Intent to Change Functional Control of Its Missouri Electric )  
Transmission Facilities to the Midwest Independent ) Case No. EO-2013-0431  
Transmission System Operator, Inc. Regional Transmission )  
System Organization or Alternative Request to Change )  
Functional Control and Motions for Waiver and Expedited )  
Treatment )

Pursuant to 4 CSR 240-2.075, Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company (“GMO”) (collectively, the “Companies”) hereby apply to intervene and to become parties to the above-captioned case. In support thereof, the Companies state as follows:

1. KCP&L is a Missouri corporation with its principal office and place of business at 1200 Main Street, Kansas City, Missouri 64105. KCP&L is primarily engaged in the business of generating, transmitting, distributing, and selling electric energy in portions of eastern Kansas and western Missouri. KCP&L is an electrical corporation and public utility as defined in Section 386.020, Mo. Rev. Stat. (2000), as amended.<sup>1</sup> KCP&L provided its Certificate of Good Standing in Case No. EF-2002-315 which is incorporated herein by reference.

2. GMO is a Delaware corporation with its principal office and place of business at 1200 Main Street, Kansas City, Missouri 64105. GMO is primarily engaged in the business of providing electric and steam utility service in Missouri to the public in its certificated areas. GMO is an electrical corporation and public utility as defined in Section 386.020 (2000), as amended. A Certificate of Authority for a foreign corporation to do business in the State of Missouri, evidencing the Company's authority under the law to conduct business in the State of

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Missouri, was filed with the Commission in Case No. EU-2002-1053 and is incorporated herein by reference in accordance with 4 CSR 240-2.060(1)(G). GMO's fictitious name registration was filed in Case No. EN-2009-0015 and is incorporated herein by reference.

3. KCP&L holds Certificates of Convenience and Necessity from the Commission to transact business as an electric public utility in certain areas of the State of Missouri and is principally engaged in the generation, transmission, distribution and sale of electric power and energy. KCP&L has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court that involves customer service or rates, which has occurred within three years of the date of this Application other than the following pending actions: *Emma J. McFarlin and Rebecca Shepherd v. Kansas City Power & Light Company*, Case No. EC-2013-0024; *Earth Island Institute d/b/a Renew Missouri, et al. v. Kansas City Power & Light Company*, Case No. EC-2013-0379. No annual report or assessment fees are overdue.

4. GMO holds Certificates of Convenience and Necessity from the Commission to transact business as an electric public utility in certain areas of the State of Missouri and is principally engaged in the generation, transmission, distribution and sale of electric power and energy. GMO has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court that involve customer service or rates, which has occurred within three years of the date of this Application other than the following pending actions: *Ag Processing, Inc. a Cooperative v. KCP&L Greater Missouri Operations Company*, Case No. HC-2012-0259; *Earth Island Institute d/b/a Renew Missouri, et al. v. KCP&L Greater Missouri Operations Company*, Case No. EC-2013-0380. In addition, no annual report or assessment fees are overdue.

5. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

Tim Rush  
Director-Regulatory Affairs  
Kansas City Power & Light Company  
1200 Main Street, 19<sup>th</sup> Floor  
Kansas City, Missouri 64105  
Phone: (816) 556-2344  
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6. On March 21, 2013, Entergy Arkansas, Inc. (“EAI”) filed its Notice of Intent (“Notice”) to Change Functional Control of Missouri Electric Transmission Facilities to the Midwest Independent Transmission System Operator, Inc. (“MISO”). In its Notice, EAI asserts that it has received orders from all five jurisdictions that set its retail rates granting, subject to conditions, the Entergy Operating Companies’<sup>2</sup> respective requests to change functional control of its transmission facilities to MISO. EAI further asserts that the Entergy Operating Companies have also requested approval from the Federal Energy Regulatory Commission (“FERC”) of the relevant tariffs and contracts that relate to its integration into MISO by June 1, 2013.<sup>3</sup>

7. EAI states that it has not previously filed a functional change of control request regarding its proposal to join MISO with the Missouri Public Service Commission (“MPSC”) because: (i) EAI has no retail customers in Missouri; (ii) does not hold itself out as offering service to the public in Missouri; (iii) does not maintain any tariffs on file with the Commission; (iv) and does not maintain an electric system necessary or useful in the performance of any duty by EAI to serve the public in Missouri.<sup>4</sup>

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<sup>2</sup> The Entergy Operating Companies include EAI; Entergy Gulf States Louisiana, L.L.C.; Entergy Louisiana, LLC; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; and Entergy Texas, Inc.

<sup>3</sup> EAI Notice at para. 1.

<sup>4</sup> Id.

8. EAI alleges that it is submitting its Notice to the MPSC to provide the Commission the opportunity to consider the facts presented and to determine that it has no jurisdiction over EAI's integration into MISO. EAI asks the Commission to determine that it lacks jurisdiction over and dismiss this matter because: (i) EAI's Missouri transmission facilities are used to furnish only wholesale electric service to various cities and electric cooperatives in Missouri subject to the rate jurisdiction of the FERC and retail electric service only to EAI's customers located in north Arkansas subject to the retail rate jurisdiction of the Arkansas Commission; and (ii) by changing functional control, EAI is not selling, disposing, or encumbering Missouri transmission assets serving the general public in Missouri as contemplated by Section 393.190 RSMo. Alternatively, EAI seeks a Commission determination that EAI's change in functional control of its Missouri transmission facilities to MISO is not detrimental to the public interest.<sup>5</sup>

9. As electric utilities, KCP&L's and GMO's interests differ from those of the general public for the following reasons. First, numerous assertions in EAI's Notice appear designed as a pre-emptive strike at the Companies in this matter as they are anticipatory in nature, and specifically refer to and seek rejection of arguments the Companies have set forth in another pending matter before this Commission.<sup>6</sup> EAI's Notice refers to KCP&L's longstanding "opposition" to the Entergy Operating Companies' decision to join MISO, and submits that the FERC has "rejected KCPL's 'loop flow' and related operational claims."<sup>7</sup> Neither EAI's presumption of KCP&L's opposition to the Entergy Operating Companies' decision to join

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<sup>5</sup> EAI Notice at para. 4.

<sup>6</sup> In re Joint Application of Entergy Arkansas, Inc., Mid South TransCo LLC, Transmission Company Arkansas, LLC and ITC Midsouth LLC for Approval of Transfer of Assets and Certificate of Convenience and Necessity, and Merger and, in Connection Therewith, Certain Other Related Transactions, Case No. EO-2013-0396.

<sup>7</sup> EAI Notice at para. 3.

MISO, nor its statement that the FERC has rejected KCP&L's loop flow and related operational claims is accurate.

10. The Companies do not oppose either Entergy's choice to join MISO or their choice to sell their Missouri transmission assets to ITC, as long as specific issues are adequately addressed in order to protect the Companies' interests. Rather, the Companies oppose the use of its system without appropriate compensation and oppose the increases in transmission costs to the Companies based solely on Entergy's voluntary choice to join MISO. The Companies are merely seeking to be held harmless for Entergy's choice.<sup>8</sup> Further, EAI is incorrect in its assertion that the FERC has rejected KCP&L's loop flow and operational claims. FERC deferred ruling on these arguments until Entergy made a filing to join MISO, deciding it did not need to decide these issues to provide the requested contract interpretation as to certain provisions in the Joint Operating Agreement between MISO and SPP.<sup>9</sup>

11. Other statements in EAI's Notice are similarly misleading. EAI states its belief that KCP&L's "MISO-related, FERC-jurisdictional loop flow and transmission seams assertions" are not properly raised before the Missouri Commission.<sup>10</sup> The Companies have not asked the MPSC to decide loop flow and transmission seams issues. Instead, the Companies have referenced loop flow and transmission seams issues to demonstrate that the integration of Entergy Corporation's transmission facilities into MISO will have significant, demonstrable impacts on the seam between MISO and SPP, which runs through the heart of Missouri. Such impacts should be evaluated and considered when this Commission reviews whether EAI's integration into MISO is detrimental to the public interest.

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<sup>8</sup> See Southwest Power Pool Transmission Owners' Protest, Motion for Consolidation and Request for Evidentiary Hearing, Docket No. EC-12-145 at pp. 17-18; 32-33 (January 11, 2013).

<sup>9</sup> Midwest Independent Transmission System Operator, Inc., 136 FERC ¶ 61,010 at 67 (2011), *reh'g denied*, 138 FERC ¶ 61,055 (2012), *appeal pending sub. nom.*, Southwest Power Pool, Inc. v. FERC, No 12-1158 (DC Cir., March 23, 2012).

<sup>10</sup> EAI Notice at para. 4.

12. Further, EAI asserts that the FERC asserted jurisdiction over SPP and KCP&L arguments concerning loop flow and related operational issues, citing, as support for this proposition, 136 FERC ¶ 61,010 (2011).<sup>11</sup> The FERC Order cited by EAI reveals that this Order made no such finding. Instead, the FERC, in deciding a MISO petition for declaratory order regarding confirmation of terms of the Joint Operating Agreement between SPP and MISO, found that the issues raised by KCP&L and others were beyond the scope of the petition. In making this ruling, the FERC stated: “[t]o the extent commenters are concerned with any potential impacts of Entergy Arkansas joining MISO, we anticipate that these issues would be raised and addressed in the filings required to implement any decision by Entergy Arkansas to join MISO as a transmission-owning member.”<sup>12</sup> Entergy Arkansas’ decision to join MISO as a transmission-owning member, and its potential impacts to the public interest in Missouri, is now squarely before the Missouri Commission.

13. EAI notes that certain Missouri utilities have sought and received Commission approval to transfer functional control of their respective transmission assets to RTOs.<sup>13</sup> EAI submits, however, that its transition to MISO is distinguishable in that its facilities in Missouri are used to furnish only wholesale electric service to various cities and electric cooperatives in Missouri.<sup>14</sup> Noting repeatedly that it has no retail customers in Missouri, does not offer electric service to the general public in Missouri, and does not maintain tariffs on file with the Commission, EAI suggests that the MPSC lacks jurisdiction to review and decide whether transfer of functional control of its assets to MISO is detrimental to the public interest.<sup>15</sup>

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<sup>11</sup> EAI Notice at para. 15.

<sup>12</sup> Midwest Independent Transmission System Operator, Inc., 136 FERC ¶ 61,010 at 67 (2011), *reh’g denied*, 138 FERC ¶ 61,055 (2012), *appeal pending sub. nom.*, Southwest Power Pool, Inc. v. FERC, No 12-1158 (DC Cir., March 23, 2012).

<sup>13</sup> EAI Notice at para. 14.

<sup>14</sup> Id.

<sup>15</sup> EAI Notice at para. 4.

14. The Companies dispute EAI's suggestion that the Missouri public interest will not be impacted by EAI's move to MISO. EAI overlooks the fact that the Commission does not evaluate a transaction's potential impact on the public interest in a vacuum, nor is the Commission required to limit its analysis of EAI's transfer of assets to MISO to the confines of the facts and assumptions presented in EAI's Notice.

15. Similarly, EAI asserts throughout its Notice that the MPSC lacks jurisdiction to review and decide whether its decision to transfer functional control of its Missouri transmission assets to MISO is detrimental to the public interest in part because EAI does not serve retail customers in Missouri.<sup>16</sup> The Commission, however, has continually asserted that jurisdiction exists over such facilities by requiring Commission-issued certificates and regulatory approval to transfer such certificates.<sup>17</sup>

16. EAI states that its integration into MISO does not involve a "sale of assets" and, accordingly, the required determination of 4 CSR 240-3.110(1)(D) that the "sale of assets is not detrimental to the public interest" is irrelevant in this proceeding. EAI further submits that, even if the standard was applicable, EAI integrating into MISO is not detrimental to the public interest.<sup>18</sup> The Companies note that 4 CSR 240-3.110(1)(D) applies to any application to sell, assign, lease or transfer assets, and not merely a "sale" as EAI claims. EAI bears the burden to prove that its transfer of assets to MISO is not detrimental to the public interest.<sup>19</sup> This Commission has previously found that a detriment is "any direct or indirect effect of [the]

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<sup>16</sup> EAI Notice at paras. 1, 4, 14, 25, and 29.

<sup>17</sup> See, e.g., In re Application of Interstate Power and Light Co., and ITC Midwest LLC for Approval to Transfer CCN and Transmission Line Facilities, Case No. EO-2007-0485, Order Granting Certificate of Convenience, Granting Variances from Certain Commission Rules, and Authorizing Sale of Assets at para. 5 (August 30, 2007); In re Application of Entergy Arkansas, Inc. for a Certificate of Convenience and Necessity, Case No. EA-2012-0321.

<sup>18</sup> EAI Notice at para 24.

<sup>19</sup> In re Union Elec. Co., Case No. EO-2004-0108, Report and Order on Rehearing at p. 49 (Feb. 20, 2005).

transaction that tends to make the power supply less safe or less adequate, or which tends to make rates less just or less reasonable.’’<sup>20</sup>

17. EAI’s Notice clearly identifies the potential detriment to the Companies. EAI states that its Missouri transmission customers currently take service under the terms and conditions of the Entergy Open Access Transmission Tariff (“OATT”), noting that after the change of functional control of EAI’s transmission facilities to MISO, its transmission customers will take service under the MISO OATT. The Companies anticipate that moving from service under the Entergy OATT to the MISO OATT will more than double its transmission costs. As previously noted in filings before this Commission, several of EAI’s facilities in Missouri are used in providing transmission service from the Crossroads Energy Center (“Crossroads”) (which is physically located in Entergy’s service territory) to GMO service territory. This transmission service for Crossroads uses the Entergy to SPP interconnections at the Omaha switching station to Ozark Beach. The Companies anticipate that the application of MISO’s Schedule 7 through and out transmission service will increase GMO’s firm transmission fees for Crossroads delivery by approximately \$3.76 million per year, and perhaps higher based upon recent data.<sup>21</sup>

18. Although the Companies do not currently know what position they will take in this case, their interests will be directly affected and could be adversely affected by a final order issued in this case. The Companies should therefore be allowed to fully participate in this case so that they can protect their interests. In addition, allowing the Companies to participate as an

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<sup>20</sup> Id.

<sup>21</sup> See, In re Joint Application of Entergy Arkansas, Inc., Mid South TransCo LLC, Transmission Company Arkansas, LLC and ITC Midsouth LLC for Approval of Transfer of Assets and Certificate of Convenience and Necessity, and Merger and, in Connection Therewith, Certain Other Related Transactions, Case No. EO-2013-0396, Response of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company at para. 4 (March 18, 2013).



intervenor serves the public interest because it will afford the Companies an opportunity to provide useful and relevant information that may aid the Commission in its deliberations.

**WHEREFORE**, KCP&L and GMO respectfully request that the Commission issue an order authorizing them to intervene in the above-captioned matter.

Respectfully submitted,

/s/ Roger W. Steiner

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Attorneys for Kansas City Power & Light Company  
and KCP&L Greater Missouri Operations Company

### **CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to all counsel of record in this case this 1<sup>st</sup> day of April, 2013.

*/s/ Roger W. Steiner*

Roger W. Steiner