

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Joint Application of )  
GridLiance High Plains LLC, GridLiance GP, )  
LLC, and GridLiance Holdco, LP (“GridLiance”) )  
NextEra Energy Transmission Investments, LLC, )  
and NextEra Energy Transmission, LLC ) Case No. EM-2021-0114  
 (“NextEra Entities”) for approval of the )  
Acquisition of GridLiance by the NextEra )  
Entities )

**OPPOSITION TO APPLICATION FOR INTERVENTION OF  
MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSION**

COME NOW, pursuant to Commission Rule 20 CSR 4240-2.080(13), NextEra Energy Transmission Investments, LLC and NextEra Energy Transmission, LLC (collectively, the “NextEra Entities”) and GridLiance High Plains LLC (“GridLiance HP”), GridLiance GP, LLC, and GridLiance Holdco, LP (collectively, “GridLiance”), together, the “Joint Applicants,” and respond in opposition to the Application for Intervention filed by the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”) on November 10, 2020 (“Application”) as follows:

1. On October 20, 2020, the NextEra Entities and GridLiance filed a Joint Application respectfully requesting the Commission issue an order disclaiming jurisdiction over the NextEra Entities’ acquisition of the upstream ownership interests of GridLiance, including GridLiance HP (the “Proposed Transaction”), or, in the alternative, approve the Proposed Transaction. Joint Application at 7-8, 12. At the close of the Proposed Transaction, GridLiance HP will continue as the owner of Missouri public utility assets subject to the same rights, obligations, and liabilities as it currently holds. *Id.* at 1, 6, 9.

2. Pursuant to Commission Rule 20 CSR 4240-2.075(3), the Commission may grant an intervention if “[t]he proposed intervenor . . . has an interest which is different from that of the

general public and which may be adversely affected by a final order arising from the case; or . . . [g]ranting the intervention would serve the public interest.”

3. A plain reading of MJMEUC’s Application demonstrates it has no relevant interest in this proceeding. MJMEUC commits “not to interfere with the proposed transaction between GridLiance and NextEra.” Application at ¶ 13. Therefore, MJMEUC concedes its interest is not with the Proposed Transaction, which is the subject matter of the Commission proceeding. Instead, MJMEUC’s claimed interest is based on unsupported speculation that the Commission may make an adverse decision impacting MJMEUC’s federal actions related to a Co-Development Agreement (“Agreement”) between MJMEUC and GridLiance HP currently pending before the Federal District Court for the Western District of Missouri, Southern Division (“Federal Court”). *Id.* at ¶ 14. MJMEUC’s expressed interest, however, is not a legally valid basis to intervene in this proceeding.

4. First, MJMEUC ignores that the Proposed Transaction neither requests nor requires the Commission to make any decision regarding the Agreement or the ownership of the Nixa Assets. Second, MJMEUC’s stated interest is contrariwise to the long-settled principle that the Commission is not a court and has no jurisdiction to adjudicate private contractual disputes, including construing or enforcing contracts. *Wilshire Constr. Co. v. Union Electric Co.*, 463 S.W.2d 903, 905 (Mo. 1971) (“The Public Service Commission cannot ‘enforce, construe nor annul’ contracts, nor can it enter a money judgment.”) quoting *May Dept. Stores Co. v. Union Electric Light & Power Co.*, 341 Mo. 299, 107 S.W.2d 41; *State ex rel. Doniphan Tel. Co. v. Public Service Com.*, 369 S.W.2d 572 (Mo. 1963) (“The commission is not a court. It is a creature of the legislature. Its jurisdiction, powers, and duties are fixed by the statute.”), quoting *State ex rel. Orscheln Bros. Truck Lines, Inc. v. Public Service Commission*, 338 Mo. 572, 92 S.W.2d 882,

884. Against the weight of this precedent, MJMEUC's Application fails to articulate an interest, because it turns on the false premise that the Commission's decision can somehow adversely impact a contractual dispute that it has no jurisdiction to rule upon. Accordingly, there is no legal basis for MJMEUC's intervention, as its request rests on pure speculation that the Commission will do something it has no legal authority to do.

5. Based on a similar inability to articulate an interest, the Commission denied MJMEUC's proposed intervention in an Ameren proceeding, concluding:

The Commission finds that MJMEUC does not have an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case. If the Commission grants AmerenUE's application, then AmerenUE should realize tax savings, which it can pass on to its ratepayers. MJMEUC's rates and ability to receive transmission from the MISO will not be affected. Consequently, MJMEUC will not be adversely affected by a final order arising from the case.

Furthermore, the Commission finds that granting the proposed intervention would not serve the public interest. According to its Asset Purchase and Sale Agreement, AmerenUE must close on this transaction quickly. AmerenUE needs a quick answer from this Commission to be able to plan how to meet its upcoming summer demand. MJMEUC's intervention would likely unduly delay this Commission's decision, and, as discussed above, with no benefit to MJMEUC. Therefore, granting the proposed intervention would not serve the public interest.

(footnote omitted) *Application of Union Electric Company d/b/a Ameren UE For An Order*, Case No. EF-2006-0279 at 2 (Feb. 2, 2006).

6. Similar to the Commission's ruling in the Ameren proceeding, in the instant case, the Commission has no jurisdiction over MJMEUC's contractual dispute or federal claims with GridLiance HP. As a result, the Commission's decision cannot impact MJMEUC's speculative interest to participate in this proceeding to protect its federal "rights, claims and interests." Application ¶ 13. Hence, similar to the Ameren proceeding, here MJMEUC has no interest that may be adversely affected by a final order arising from the case. Further, the public interest is not

served by MJMEUC's intervention, as its federal actions have no place in this proceeding, and would only lead to undue delay and inclusion of non-jurisdictional issues.

7. For example, in a misguided attempt to highlight its federal claims, MJMEUC asserts that the Joint Applicants were required to disclose the federal lawsuits in the Joint Application.<sup>1</sup> MJMEUC is wrong. On their face, the two complaints filed by MJMEUC and attached to its Application are devoid of any mention of customer service or rates. MJMEUC's federal actions are related to a non-jurisdictional, private contractual dispute, not GridLiance HP's provision of transmission service or its transmission rates. The Joint Applicants firmly deny all of MJMEUC's allegations set forth in the Application for Intervention. Given they are wholly beyond the scope of this proceeding, the Joint Applicants will not elaborate on the denial, but, rather, GridLiance HP will continue to address MJMEUC's allegations in the proper forum, the Federal Court.

WHEREFORE, the Joint Applicants respectfully request the Commission to exercise its discretion to enter its order denying MJMEUC's Application for Intervention.

Respectfully submitted,

/s/ Anne E. Callenbach

Anne E. Callenbach MBN #56028

Andrew O. Schulte MBN #62194

Polsinelli PC

900 W. 48<sup>th</sup> Place, Suite 900

Kansas City, MO 64112

Telephone: (816) 572-4754

Facsimile: (816) 817-6496 Fax

[acallenbach@polsinelli.com](mailto:acallenbach@polsinelli.com)

[aschulte@polsinelli.com](mailto:aschulte@polsinelli.com)

ATTORNEYS FOR NEXTERA TRANSMISSION  
INVESTMENTS, LLC AND NEXTERA ENERGY  
TRANSMISSION, LLC

---

<sup>1</sup> 20 CSR 4240.2-060(1)(K) reads: "A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment, or decision has occurred within three (3) years of the date of the application".

/s/ Dean L. Cooper

Dean L. Cooper MBE #36592

BRYDON, SWEARENGEN & ENGLAND  
P.C.

312 E. Capitol Avenue

P. O. Box 456

Jefferson City, MO 65102

Phone: (573) 635-7166

[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

ATTORNEYS FOR GRIDLIANCE GP, LLC,  
GRIDLIANCE HOLDCO, LP., AND  
GRIDLIANCE HIGH PLAINS LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by e-mail or U.S. mail, postage prepaid, this 12<sup>th</sup> day of November, 2020.

*/s/ Anne E. Callenbach*

ATTORNEYS FOR NEXTERA TRANSMISSION  
INVESTMENTS, LLC AND NEXTERA ENERGY  
TRANSMISSION, LLC