

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

In the Matter of the Joint Application of Great Plains )  
Energy Incorporated, Kansas City Power & Light ) Case No. EE-2017-0113  
Company and KCP&L Greater Missouri Operations )  
Company for a variance from 4 CSR 240-20.015 )

**THE MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSION'S  
RESPONSE TO THE OBJECTION OF JOINT APPLICANTS TO MJMEUC'S  
APPLICATION TO INTERVENE OUT OF TIME**

COMES NOW the Missouri Joint Municipal Electric Utility Commission (MJMEUC), by and through counsel, and respectfully submits its response to the opposition of Great Plains Energy Incorporated (GPE), Kansas City Power & Light Company (KCP&L), and KCP&L Greater Missouri Operations Company (KCP&L-GMO) (collectively, Joint Applicants) to MJMEUC's Application to Intervene, filed by Joint Applicants on December 9, 2016. In support of its response, MJMEUC states as follows:

**I. BACKGROUND**

1. On October 12, 2016 Joint Applicants filed an application seeking a variance from the Missouri Public Service Commission's (Commission) prohibition on affiliate transactions in connection with an Agreement and Plan of Merger dated May 29, 2016 pursuant to which GPE will acquire all of the stock of Westar Energy, Inc. (the Transaction).

2. On December 7, 2016, MJMEUC filed its Application to Intervene Out of Time in this proceeding.

3. On December 9, 2016, Joint Applicants filed their opposition to MJMEUC's application. It is important to note that the Joint Applicants filed oppositions to all applications to intervene in this proceeding, and in large part the Joint Applicants repeated the same arguments

in each opposition to a party's application to intervene. The Commission granted all of those applications to intervene.

4. Although the Joint Applicants concede the MJMEUC owns a minority portion of Iatan 2, represents municipal electric systems in Missouri, including some municipal systems operating within the Southwest Power Pool, and some municipal systems that have wholesale power contracts with KCP&L-GMO,<sup>1</sup> Joint Applicants allege that: (a) MJMEUC has presented no facts that demonstrate that MJMEUC has an interest which is different than that of the general public;<sup>2</sup> and (b) that MJMEUC has not demonstrated that it may be adversely affected by a final order.<sup>3</sup>

5. In addition, the Joint Applicants assert that MJMEUC has failed to show good cause for the Commission to grant MJMEUC intervention out of time.<sup>4</sup>

6. Finally, the Joint Applicants argue that MJMEUC has not shown that its intervention would be in the public interest.<sup>5</sup>

## **II. JOINT APPLICANTS OFFER NO SUBSTANTIVE REASON TO DENY MJMEUC'S INTERVENTION**

7. 4 CSR 240-2.075(3) provides that the Commission may grant an application to intervene if the 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 granting the proposed intervention would serve the public interest.

8. MJMEUC meets this standard. MJMEUC's application to intervene described with sufficient detail the nature of its interest in this proceeding, and how a final order may

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<sup>1</sup> Joint Applicants' Opposition at 3.

<sup>2</sup> *Id.* at 2-3.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 1.

<sup>5</sup> *Id.* at 4

adversely affect those interests. Furthermore, MJMEUC's application in this regard is very similar to the applications of other intervenors which this Commission granted.<sup>6</sup>

9. MJMEUC has an interest that is different from that of the general public, in that it represents the interest of municipal electrical systems throughout the state, as well as municipal electric systems directly imbedded in KCP&L-GMO's transmission system that take transmission through SPP, and municipal electrical systems that have wholesale power contracts with KCP&L-GMO. MJMEUC also has interests in the Iatan-2 generating plan co-owned with KCP&L and KCP&L-GMO. MJMEUC and its members have direct and immediate interests in this proceeding that are not currently represented in this matter. A ruling in this matter may adversely affect MJMEUC and its members.

10. MJMEUC believes that its intervention and participation in this proceeding would serve the public interest by clarifying the issues under consideration, ensuring completeness of the record, and assisting the Commission in its decision-making in this case, and wishes to become a party to this case for all purposes.

11. MJMEUC is seeking permission to intervene in this matter pursuant to 4 CSR 240.2.075. Pursuant to 4 CSR 240-2.075(10), the Commission is authorized to grant the instant Application after the October 26, 2016, intervention date for "good cause". Joint Applicants argue that MJMEUC fails to demonstrate good cause for filing an application to intervene forty-two (42) days after the intervention deadline.

12. As MJMEUC noted in its application, the Joint Applicants did not initially signal that this case was a contested case, and the Joint Applicants failed to file the required 60-day notice of a likely contested case pursuant to 4 CSR 240-4.020(2) before filing its application in

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<sup>6</sup> See, for example, *Application to Intervene by the City of Independence, Missouri*; *Application to Intervene of the Missouri Industrial Energy Consumers*; *Application For Intervention of Brightergy, LLC*.

this case. Furthermore, it was not immediately apparent to MJMEUC that this case was in fact dealing with issues related to a transaction whereby GPE (which owns and controls KCP&L and KCP&L-GMO) would acquire Westar Energy. This case may be the only opportunity for many stakeholders to investigate the merger and its possible consequences to their various interests. The Commission can, and should, permit broad participation in this docket.

13. Furthermore, the Joint Applicants fail to point out that they, too, have in the past sought to intervene out of time. Less than two months ago, in Case No. ET-2016-0246, on October 28, 2016, KCP&L and KCP&L-GMO filed an application to intervene out of time fifty-eight (58) days after the deadline (14 days later than MJMEUC's application in this case).<sup>7</sup> KCP&L and KCP&L-GMO argued that it became aware that the case involved electric vehicle policy issues (even though the case style clearly stated that it involved electric vehicles) until after the deadline. The Commission granted the late-filed application to intervene in that case.<sup>8</sup>

14. As it noted in its application, MJMEUC hereby affirmatively accepts the record established in this case, including the requirements of any orders of the Commission, as of the date the instant application was filed, and no party to this matter will be adversely impacted or prejudiced by granting the application to intervene.

WHEREFORE, MJMEUC respectfully requests that the Commission grant its Application to Intervene on its behalf and on behalf of its members, entitling it to fully participate in this proceeding.

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<sup>7</sup> See, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of a Tariff Setting a Rate for Electric Changing Stations*, Case No. ET-2016-0246, EFIS No. 69, October 28, 2016.

Respectfully submitted,

HEALY LAW OFFICES, LLC



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Terry M. Jarrett      MO Bar 45663  
514 E. High St., Suite 22  
Jefferson City, MO 65101  
Telephone: (573) 415-8379  
Facsimile: (573) 415-8379  
Email: [terry@healylawoffices.com](mailto:terry@healylawoffices.com)

Dated: December 13, 2016

### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 13<sup>th</sup> day of December, 2016.



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Terry M. Jarrett

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<sup>8</sup> *Id.*, EFIS No. 70, November 2, 2016.