

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

In the Matter of Missouri-American Water )  
Company’s Request for Authority to )  
Implement a General Rate Increase for Water ) File No. WR-2017-0285  
and Sewer Service Provided In )  
Missouri Service Areas. )

In the Matter of Missouri-American Water )  
Company’s Request for Authority to )  
Implement a General Rate Increase for Water ) File No. SR-2017-0286  
and Sewer Service Provided In )  
Missouri Service Areas. )

**AMEREN MISSOURI’S REPLY TO PUBLIC COUNSEL’S OPPOSITION TO AMEREN  
MISSOURI’S APPLICATION FOR INTERVENTION**

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or Company) and, in compliance with the Commission’s *Order Setting Deadline for Filing Responses to Opposition to Applications to Intervene*, hereby files its response to the opposition of the Office of the Public Counsel (OPC), as follows:

**A. Ameren Missouri’s Intervention Will Serve the Public Interest.**

1. To qualify for intervention, Ameren Missouri must either plead (1) that it has an interest that is different from the general public that *may* be adversely affected by the outcome in this case, *or* (2) that its intervention would serve the public interest. 4 CSR 240-2.075(3). Attempting to defeat Ameren Missouri’s intervention request under the second of those bases, OPC suggests Ameren Missouri has nothing to offer the Commission in this case by claiming that Ameren Missouri does not “gain any special insight or policy perspective into the operations of a water or sewer company by virtue of being a regulated utility.”<sup>1</sup> OPC’s claim is demonstrably incorrect.

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<sup>1</sup> OPC Opposition, p. 5.

2. Ameren Missouri, like most public utilities – whether they provide water, sewer, gas, or electric service – is wrestling with the same issues as MAWC: how do utilities replace aging infrastructure in an environment of flat or declining sales, maintain the service levels customers have come to expect, meet ever-increasing customer service expectations as utility services become even more important to customers’ everyday lives, deal with the pending wave of experienced employee retirements as the country’s workforce ages and, all the while, attract the huge sums of capital the utilities need to do all of those things on favorable terms. The Commission itself is wrestling with those same issues and the policy implications of each. OPC’s premise, that is, that Ameren Missouri has no greater insight into how best the Commission can regulate and support public utilities under its jurisdiction through the rate-setting process while balancing the interests of customers (simply because Ameren Missouri’s product arrives through a wire and not a pipe), is a flawed one. While the technical details may differ between a water utility and an electric utility (pipes versus wires; pumps versus turbines) the regulatory, policy, and business issues are largely the same.

3. OPC’s position also fails to comport with this Commission’s longstanding views on the ability of intervenors to contribute to the discussion of important regulatory issues in rate cases, as evidenced by the Commission’s 2014 rejection of Kansas City Power & Light Company’s (KCP&L) arguments in opposition to the intervention request of the Consumers Council of Missouri (CCM) in KCP&L’s 2014 rate case.<sup>2</sup> To support its contention that CCM’s intervention would serve the public interest, CCM contended that allowing it to intervene would allow CCM to “continue to provide information to the Commission” on the issues in that case.<sup>3</sup> On that basis, this Commission (composed at that time of four of the five current

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<sup>2</sup> *Order Regarding Applications to Intervene*, File No. ER-2014-0370 (Nov. 24, 2014).

<sup>3</sup> *Id.*, p. 2.

Commissioners) rejected KCP&L's opposition, which was similar to OPC's opposition here, and allowed CCM to intervene. In that same Order, this Commission also rejected KCP&L's attempt to prevent Brightergy, Inc.'s intervention, in favor of allowing Brightergy to intervene so that it could obtain greater perspective, insight and information, not less. Brightergy's intervention request was grounded on its contention that it possessed "unique expertise and business perspectives that will be beneficial to the Commission in the decision-making process."<sup>4</sup> The Commission found that justification sufficient, stating that it "has been the Commission's practice to liberally grant intervention to organizations that promote various public policy positions in order to *consider a full range of views before reaching a decision*" (emphasis added).<sup>5</sup> OPC's arguments opposing Ameren Missouri's intervention fly in the face of that practice.

4. Without question MAWC can present *a* utility's views on the important ratemaking issues its rate increase request raises. Staff can also present *a* view on those issues; so, can OPC. But that doesn't mean that any one utility (or consumer group) possesses all useful perspectives, information, experience, or ideas or that the public interest will not be served by intervention of parties with something to add to the discussion and decision-making process. The Commission obviously agrees, as it has already granted intervention to three consumer groups (CCM, Midwest Energy Consumers' Group (MECG) and the Missouri Industrial Energy Consumers (MIEC)) and five different cities who have already joined together to give their perspective on the future test year proposal being debated in this case. The common denominator between the members of those groups? That they are customers of MAWC. Ironically, as customers (under OPC's logic) OPC already represents their interests and they

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

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

shouldn't have been allowed to intervene since they haven't (based on their pleadings) demonstrated that they have "any public policy position different than those endorsed by Public Counsel benefitting ratepayers . . . [by advocating for the establishment of just and reasonable rates]."6

5. At this juncture it should be noted that OPC most certainly does not represent Ameren Missouri's interest as a MAWC customer, OPC's tongue-in-cheek claim to the contrary notwithstanding. "Just and reasonable" rates, from Ameren Missouri's perspective, means rates that reflect the cost of service the utility will likely experience during the time when rates are in effect, and that otherwise allow utilities to invest at optimal levels designed to provide the kind of service customers expect over the *long* term, even if those rates need to be higher than a party like OPC almost always favors.

6. Fairly read, the reasonable conclusion to be drawn from OPC's opposition to Ameren Missouri's intervention is that it has nothing to do with a lack on Ameren Missouri's part of perspectives, ideas, or information and evidence that Ameren Missouri can provide and that the Commission may find helpful as it decides the important issues in this case. Nor is there any indication that OPC's opposition is grounded on any sincere desire or ability to represent Ameren Missouri's interests, as a customer or otherwise. To the contrary, it is reasonable to conclude that OPC opposes Ameren Missouri's intervention because OPC prefers the situation where it has multiple allies in a case advocating by its side for the same or similar positions (all in opposition to the utility that filed the case) and without the worry that others who may disagree with its viewpoints may provide Commissioners with information the Commission may find to be useful or compelling, apart from the information the utility that filed the case may itself provide. If CCM's ability to "provide information," that in nearly all cases lines-up almost

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<sup>6</sup> OPC's Opposition, p. 4.

perfectly with OPC's positions in rate cases, is sufficient to conclude that CCM's intervention serves the public interest, certainly Ameren Missouri's ability to provide information, perspectives, and experience will serve the public interest as well.

**B. Ameren Missouri's Interests are Different Than Those of the General Public and May Be Adversely Affected by the Commission's Decision in this Case.**

7. Ameren Missouri's intervention request is also justified under the other prong of the test outlined in the Commission's intervention rule: that it has an interest that is different than that of the general public which may be adversely affected by the decision in this case. Ameren Missouri's interests are far different than members of the general public; i.e., Ameren Missouri and its interests are far different than the interests of Mr. and Ms. John Q. Public. Indeed, if it were true that Ameren Missouri's interest is no different than that of the general public (as OPC's opposition claims), then the various commercial and industrial customers of MCEG and MIEC (and, for that matter, the subset of Mr. and Ms. John Q. Public that CCM represents) would likewise have interests that are no different than those of the general public. And if that were true, intervention by those parties would be improper because OPC could adequately represent them. In that case, every rate case would have three parties: the utility, Staff, and OPC.

8. OPC is also mistaken to the extent it claims that simply because a Commission decision in this case would not be legally "binding" on Ameren Missouri, decisions in this case could not possibly adversely impact Ameren Missouri's interests. Will there be an adverse impact? No one knows. Might there be? Of course, and that is all the intervention rule requires ("may be adversely affected...").<sup>7</sup> Consider, for example, just how common it is for the

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<sup>7</sup> 4 CSR 240-20.075(3).

Commission to look to its prior decisions involving other utilities in deciding rate case issues; indeed, one of the key arguments the consumer groups (including OPC) in this case make against MAWC's forward test year request is that in *other cases*, including those not involving MAWC, the Commission has virtually always used a historic test year. Indeed, a great deal of Mr. Woodsmall's remarks during the test year oral arguments held yesterday consisted of recounting the circumstances of *other* utilities as justification for strict adherence to an historical test year approach, including invoking Ameren Missouri's recent rate case settlement as "proof" that historical test years "work" in Missouri.

9. The reality is that the Commission's rulings on issues, and what it says regarding those rulings in one rate case, often can and do have an impact on how it rules and discusses the same or similar issue in other utility cases. In reality, what this Commission decides and what it says about an issue can and does affect how those on whom all utilities rely on capital view not just the utility whose rate case is before the Commission, but other utilities as well (recall, again, Mr. Woodsmall's invocation of credit rating agency reports for *Ameren Missouri* and other, *non-MAWC* utilities).

10. This case raises important policy issues for the Commission which have not been examined or vetted for many years, if ever. Those issues are important for customers in general, and they are important for other utilities facing similar issues, like Ameren Missouri. In that regard, we call care.<sup>8</sup> Ameren Missouri has complied with the Commission's intervention rule and demonstrated that it qualifies for intervention under that rule. Ameren Missouri's Application for Intervention should be granted.

WHEREFORE, Ameren Missouri respectfully renews its request that the Commission grant it's Application for Intervention and that it be made a party hereto with all rights to participate in

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<sup>8</sup> Which as Mr. Woodsmall points out, is a question Commissioner Rupp believes should always be asked.

this matter.

Respectfully Submitted,

/s/ James B. Lowery

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Reply was served on all parties of record in this case via electronic mail (e-mail) or via regular mail on this 8<sup>th</sup> day of August, 2017.

/s/ James B. Lowery

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