

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

In The Matter of a Working Case	)	
Consider Mechanisms to Encourage	)	File No. EW-2016-0041
Infrastructure Efficiency	)	

**COMMENTS OF UNITED FOR MISSOURI, INC.**

United for Missouri, Inc. (“UFM”) appreciates this opportunity to comment on the “Staff Investigation and Report” (“Staff Report”) filed previously in the above referenced docket. UFM would first like to compliment the Staff on its fine work. It has done an exemplary job in developing its Staff Report. It has succinctly stated the facts and analyzed the policy for the Commission’s consideration. UFM supports the Staff’s conclusions and files these comments in support thereof.

As the Staff Report states in at least three places, there are two important public policy considerations for the Commission to pursue in this working docket. First is the ability of “residential customer of all income levels to have affordable access to electric services.” The second is “promoting the development of business and industry in the State of Missouri.” UFM supports both of these policies and has a few supporting comments.

Regarding affordable access, UFM recognizes that affordable access is a useful way to characterize the Commission’s primary function to assure just and reasonable rates as required in section 393.130 of the Missouri Statutes, rates which are not unduly discriminatory. In its role as the surrogate for competition, the Commission stands as a guard against utilities charging monopoly rents for their services. Thus, the Commission assures affordability to all customers on a non-discriminatory basis.

Regarding economic development, the Staff Report recognizes a limited role for the Commission to play. The Staff Report is superlative in its discussion of the “Economic Development Public Policy Considerations,” where it states, in part, as follows:

After a rate case sets rates on existing revenues, any additional revenue helps other customers so long as all variable costs are recovered and any additional costs are recovered. Customers still pay their fair share of riders/trackers, unless statute/rule allow opt-out or policy decision. EDR/promotion discounts result in shareholders funding such discounts until a future rate case. Any discount from a utility standard rate or from application of its existing terms and conditions for eligible customers under economic development tariffs will first be borne by shareholders until such time as the next electric rate case when such discounts may be reflected in the proposed revenue requirement and in the proposed rates for customers. This provides an incentive that will guide the utility to be prudent with the offering of any such discount and shall not be excessive or unduly discriminatory. The utility receives an amount above its short-run marginal costs on sales of electricity to new or expanding customers. Customers make large investments and are expected to continue to provide benefits to the system beyond the discount period. The communities see benefits by retaining or increasing jobs and tax base.

Staff promotes/supports economic development as it relates to utility infrastructure to the extent that a utility receives an amount above its marginal costs on sales of electricity to new or expanding customers, providing a contribution to cover fixed costs. A customer making an investment or relocating its operations is expected to provide system benefits and profits well beyond the life of any temporary incentive or promotion rate program.

UFM wholeheartedly supports this description of the goal and method of the Commission’s regulation in the context of promoting economic development. It is well conceived and excellently state. The goal of economic development from a utility standpoint must be entirely self-serving, limited by the Commission in its role to prohibit the exercise of monopoly power. Utility decisions must be based on a profit motive for the utility shareholder and not for any so called governmental goals.

It must be remembered, when discussing economic development, that the starting point for all economic development is free markets. The creation of goods and services and the sales thereof are the source of wealth. Government in its very essence is incapable of creating wealth. Government can to one extent or another create an environment conducive to the creation of wealth, but it does not create wealth in its core role of executing justice.

This core role of government is enshrined in Article I, Section 2 of the Missouri Constitution.

That all constitutional government is intended to promote the general welfare of the people; that all persons have a natural right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry; that all persons are created equal and are entitled to equal rights and opportunity under the law; that to give security to these things is the principal office of government, and that when government does not confer this security, it fails in its chief design.

Of particular note, Chief Justice Holstein, provides an instructive comment in his opinion in the case of *Fischer v. State Highway Commission*, 948 S.W.2d 607 (Mo., 1997) (dissenting in part and concurring in part): “Taken together, these provisions give persons in this state a fundamental right to lawfully acquire, hold, enjoy and dispose of property.” 948 S.W.2d at 613. Unconstrained access to free markets is a fundamental right protected by the Missouri Constitution. To interfere with the fundamental right to dispose of one’s property is a violation of the Missouri Constitution.

UFM recognizes that with utility service comes the necessity to impose certain governmental constraints. And, yet, governmental constraints are only appropriate within the limits of correcting the anomalies created by government

control in the first place. In this case, monopoly power is created by government regulation of public utilities. Such regulation is intended to protect the public safety against expanding duplication of facilities and to protect the citizens' property rights from an entity engaged in a very public arena. As a result, regulatory constraints are necessary in order to offset distortions necessitated by the creation of the monopoly service, namely limitation of monopoly power. Regulation is necessary to protect the fundamental rights of the citizens of the state of Missouri in confronting monopoly power created by government in the first place. It is not intended to achieve a political goal.

Not only is unconstrained access to free markets protected by the Missouri Constitution; free markets are the best way to achieve the greatest economic value. Each buyer and each seller know what is truly in his or her own best interest. The greatest economic wealth is created when a willing buyer and a willing seller determine that a transaction brings the best economic value under the circumstances. Government incentives distort these valuable transaction, increasing the cost of some transactions that would be made, discouraging such transactions, in order to induce other transactions that would not have been made but for the incentive, thus producing a presumably less valuable transaction.

Economic decisions are made for a whole host of reasons, including location of relevant markets, access to qualified labor sources, access to modes of transportation, quality of life considerations and many others. Government's primary role in economic development is to

execute justice, i.e. to defend those fundamental rights expressed by the Missouri Constitution as cited above. The best goals for state government in economic development include keeping taxes low, protecting the liberty of individuals, punishing crime, and guarding against the manipulation of free markets. Each of these contributes to the quality of life that is attractive for economic development. To the extent government exceeds this role and attempts to manipulate free markets for its own purposes, it diminishes the quality of life of the citizens of the state and thereby decreases the potential for economic development.

The Staff Report fosters these appropriate governmental goal and the resulting advantages to economic development. The Staff Report's recommendations are important practical guidance for this Commission in achieving a just and limited application of government power in the economic marketplace of electric service. UFM supports the Staff Report.

UFM has one additional recommendation for the Commission's consideration. Most, if not all, of the electric utilities' economic development riders include a requirement that the recipient of the special rate also be the recipient of some governmental incentive connected with economic development. As UFM's comments herein indicate, UFM believes such incentives distort economic value. UFM recognizes that the Commission has no authority over such incentives. However, UFM does suggest that such requirements in economic development riders should be eliminated. The Commission should permit the utilities to make their own judgment regarding the economic value of a transaction without being constrained by governmental/political incentives. Under such circumstances, the utilities' judgments will be well constrained by their own self-interest and the regulatory paradigm described in the Staff Report.

Wherefore, United for Missouri, Inc. respectfully requests the Commission accept these,  
its Comments of United for Missouri, Inc.

Respectfully submitted,

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