

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

In the Matter of the Application of Kansas City                         )  
Power & Light Company to Implement                                 ) Case No. ER-2014-0370  
A General Rate Increase for Electric Service.                         )

**AMEREN MISSOURI’S RESPONSE TO MECG’S AND MIEC’S OPPOSITION TO  
AMEREN MISSOURI’S APPLICATION TO INTERVENE**

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and in response to the Opposition filed on November 20, 2014 by the Midwest Energy Consumers’ Group (“MECG”) and the Missouri Industrial Energy Consumers (“MIEC”) and the Opposition filed on November 21, 2014 by the Office of the Public Counsel (“OPC”) and the Missouri Public Service Commission Staff (“Staff”), states as follows:

1.       The Commission has consistently decided intervention applications by reference to whether the applicant has complied with the Commission’s intervention rule, 4 CSR 240-2.075. MECG, MIEC, OCP and Staff do not claim that Ameren Missouri failed to timely seek intervention or that Ameren Missouri failed to allege the elements supporting intervention under the Commission’s rule.
  
2.       Instead, MECG, MIEC, OPC and Staff make a myriad of conclusory and unsupported assertions, none of which support denial of Ameren Missouri's intervention request.
  
3.       Both of the filings in opposition to Ameren Missouri’s intervention request appear to imply that the Commission has gotten it wrong over the years when it has routinely allowed utilities to intervene in each other’s rate cases, if timely intervention is sought. It hasn’t. As Ameren Missouri’s Application indicates, in a general rate case such as this the Commission decides a myriad of issues involving revenues, expenses, regulatory mechanisms and, at times, policies that bear on all of those items. While it is true that the Commission’s

decisions are not “binding” in the way that a judgment in a lawsuit to which Ameren Missouri might be a party would be binding on Ameren Missouri, and while there is no *stare decisis* arising from Commission cases, it is undeniably true that the Commission’s decisions on issues in one rate case have or certainly can have a bearing on how it decides the same or similar issues in other cases. Indeed, it seems quite likely that when making decisions in a rate case (or any other case for that matter) Commissioners are mindful of the fact that some of those decisions implicate broader policy considerations that will impact their decisions in other cases. To act as though one of three investor-owned electric utilities in the case has no interest in decisions the Commission may make in one of the other two electric utilities’ rate cases, and could not be (as a practical matter or otherwise) adversely affected by those decisions reflects a world that doesn’t exist.<sup>1</sup>

4. Ameren Missouri has an interest in this case far different than that of the general public, its participation in this case facilitates its protection of that interest and its participation may aid the Commission (which itself promotes the public interest) as the Commission considers issues that often do have policy implications beyond the impact of those decisions in an individual rate case. Those are the requirements of the Commission’s intervention rule, and Ameren Missouri has met them.

5. MEEG and MIEC also speculate about some undefined impact Ameren Missouri’s intervention in the present case could have on settlement of issues or the case in general, referring back to KCPL-GMO’s last Missouri Energy Efficiency Investment Act (“MEEIA”) filing. Neither MEEG nor MIEC know why KCPL-GMO did or did not take whatever positions it chose to take in settlement negotiations of its MEEIA case, and frankly KCPL-GMO’s motivation to settle or not settle, or on what terms, is no one’s business but its

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<sup>1</sup> What one prehearing officer in a Kansas rate case may or may not have ruled has no bearing on this case.

own. Moreover, Ameren Missouri has intervened in numerous rate cases over the years just as other utilities have intervened in its rate cases over the years. MECG and MIEC have not pointed to any instance where Ameren Missouri's participation in such a case has hijacked the case or in any way inappropriately impeded the case's progress. MECG and MIEC will approach the case from the perspective of customers, which is their prerogative. Naturally, Ameren Missouri will approach the case from a utility's perspective, which is its prerogative.

6. OPC and Staff's pleading makes some of the same arguments as MECG and MIEC regarding *stare decisis* as is addressed above. In addition, they make other assertions, principally based on a 2001 Commission decision made in a telecommunications case that the Commission was required by law to decide according to a strict, 30-day timeline provided for under the federal Telecommunications Act. Indeed, OPC and Staff completely misstate the Commission's decision to deny intervention to the group of telecommunications companies that sought intervention in that case. In the *AT&T*<sup>2</sup> case they cite, the proposed intervenors sought intervention on day 18 of the 30 days the statute gave the Commission to decide the case, asserting that they had a *right* to intervene and that they were necessary and indispensable parties. The Commission first examined the claim that they had a right to intervene as a necessary and indispensable party, concluding that they did not.<sup>3</sup> Ameren Missouri takes no issue with the Commission's analysis of that issue, and is not asserting that it has the right to intervene in the present case. After concluding that the proposed intervenors were not necessary or indispensable parties, the Commission turned to the question of whether it could exercise its discretion to allow the intervention, the Commission noting that it had the discretion to do so. Ultimately, the Commission denied the intervention request not because the intervenors had no

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<sup>2</sup> *In Re AT&T Communications of the Southwest, Inc.*, MPSC Case No. TO-2001-455 2001 WL 1868166 (2001).

<sup>3</sup> As the Commission itself stated, the issue in that case was as follows: "Is MITG a necessary or indispensable party to this action?"

interest at all, or because the intervention would not serve the public interest, but for a strictly practical reason, described by the Commission as follows: “the Commission cannot grant intervention in this case *because the statutory time line does not permit extended proceedings such as would be necessary were intervention granted*” (emphasis added). None of the considerations present in the *AT&T* case are present here. Ameren Missouri sought intervention well within the time afforded for intervention requests, at a point very early in this case. *AT&T* is inapposite.

7. Next OPC and Staff allege that Ameren Missouri's interests are represented by KCP&L, because both are electric utilities, and that since Ameren Missouri has a rate case on a schedule that complete before of KCP&L's rate case, it will have the opportunity to address issues in its own case. It is factually accurate that KCP&L and Ameren Missouri are both electric utilities, but of course KCP&L has no obligation to represent any interest other than its own and just because both companies are electric utilities does not mean they always have the same interests. As for the issue of rate case timing, issues may arise differently in different rate cases and, even if they do not, do not provide a reason for denial of Ameren Missouri's intervention request. Indeed, issues could come up in KCP&L's rate case that may not arise in Ameren Missouri's rate case, but that could have a bearing on other cases or Commission policy in general. The fact that Ameren Missouri happens to have a rate case pending is irrelevant to whether it meets the standard for intervention in the Commission's rules. It does.

8. Finally, OPC and Staff make the offensive argument that intervention should be denied because it would provide Ameren Missouri's attorneys with access to KC&L's confidential information. Certainly, KCP&L is aware that Ameren Missouri's intervention makes Ameren Missouri's attorneys able to view confidential information and yet KCP&L is not objecting to the intervention request. Ameren Missouri's attorneys, as is true for all attorneys in

the case, are bound by the Commission's regulations regarding treatment of confidential information. Surely neither OPC nor Staff is asserting that Ameren Missouri's attorneys have or are going to violate those requirements. Under the Commission's rules, there are strict limits on how and in what cases highly confidential or proprietary information can be used. Ameren Missouri's attorneys have and will follow those rules. OPC's and Staff's argument about confidential information is not only offensive, but it also is irrelevant.

9. The bottom line is that Ameren Missouri has an interest in this case far different than that of the general public, and its participation facilitates its protection of that interest and may aid the Commission (and thus promote the public interest) when it must address issues that often do have policy implications. Those are the requirements of the Commission's intervention rule, and Ameren Missouri has met them.

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

Respectfully submitted,

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**Attorneys for Ameren Missouri**

Dated: November 23, 2014

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing Ameren Missouri's Application for Intervention was served via electronic mail (e-mail) or via regular mail on this 23rd day of November, 2014 on counsel of record for all parties to the above-captioned case.

**/s/ James B. Lowery**  
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