

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

In the Matter of Veolia Energy)
Kansas City, Inc. for Authority)
to File Tariffs to Increase Rates)

Case No. HR-2014-0066

**TRUMAN MEDICAL CENTER’S RESPONSE TO VEOLIA’S
MOTION TO DELAY CONSIDERATION OF PETITION TO INTERVENE**

COMES NOW, Truman Medical Center (“TMC”), and in response to the Motion of Veolia Energy Kansas City, Inc. (“Veolia”) to Delay Consideration of TMC’s Petition to Intervene, states as follows:

1. On December 3, 2013, the Commission issued its *Order Suspending Tariff, Scheduling Pre-Hearing Conference, Directing Notice, and Setting Deadline for Intervenors*.

This order established a deadline of December 24, 2013 for motions to intervene.

2. On February 3, 2014, TMC filed a petition to intervene out of time.

3. On February 13, 2014, Veolia filed a Motion to Delay Consideration of Truman Medical Center’s Late-Filed Petition to Intervene (“Motion”). In that Motion, Veolia made several assertions that were either speculative or factually incorrect.

4. First, Veolia alleges that on August 29, 2013, Veolia’s Vice President Charles Melcher met with TMC and conveyed key aspects of Veolia’s rate proposal, including the amount and expected timing of Veolia’s planned rate filings.¹ While this meeting did take place, its purpose was to introduce Charles Melcher to TMC’s staff, not to discuss the details of Veolia’s anticipated rate case filing. TMC was not informed of any of the details of Veolia’s anticipated rate filing, nor its potential impact on the rate that TMC pays Veolia for steam service. Additionally, TMC was not notified at that time that it would be permitted to intervene in that rate case, nor what the deadline for such intervention might be.

¹ *Veolia’s Motion to Delay Consideration of Truman Medical Center’s Late-Filed Petition to Intervene*, ¶ 4.

5. Next, Veolia speculates that TMC “may possibly have been provided confidential Veolia documents by a former Veolia employee and that the former employee may have acted improperly in disclosing those documents to TMC.”² TMC was approached by a former employee of Veolia who offered to act as a consultant on TMC’s behalf with regards to this proceeding. This contact was not solicited by TMC, and TMC has not retained and will not retain that individual’s services. Additionally, TMC has not received any documentation, confidential or otherwise, from that individual.

6. Finally, Veolia asserts that it is in the process of evaluating a potential conflict of interest regarding TMC’s counsel in this matter, Polsinelli PC (“Polsinelli”).³ Polsinelli has represented TMC on numerous matters since 2012, including on issues pertaining to Veolia’s provision of steam service to TMC. In those meetings, Polsinelli has always acted as counsel to TMC and never as counsel to Veolia. While Polsinelli has represented certain affiliated entities of Veolia on other, wholly unrelated, matters, Polsinelli’s representation of TMC in this matter is entirely in compliance with the Missouri Rules of Professional Conduct. Specifically, Comment 34 to Rule 4-1.7 (which addresses legal conflicts) expressly permits a lawyer to represent one part of an extended corporate family and at the same time be adverse to another member of the same corporate family on unrelated matters.⁴

7. TMC’s participation in this proceeding will not prejudice Veolia or any other party. As Veolia’s single largest metered customer, TMC continues to assert that no other party is representing an interest similar to the interest that would be represented by TMC. Accordingly, TMC believes that it should be allowed to participate in these proceedings.

² *Id.* at ¶ 5.

³ *Id.* at ¶ 5.

⁴ *See* Missouri Rules of Professional Conduct, Rule 4-1.7, Comment [35] (“Thus, the lawyer for an organization is not barred from accepting representation adverse to an affiliate in an unrelated matter...”).

WHEREFORE, based on the foregoing, TMC respectfully requests that the Commission deny Veolia's Motion to Delay Consideration of Truman Medical Center's Late-Filed Petition to Intervene, and grant TMC's request to intervene as a party to this proceeding.

Respectfully submitted,



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ATTORNEYS FOR TRUMAN MEDICAL
CENTER

VERIFICATION

STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)

I, Anne E. Callenbach, being first duly sworn, do hereby certify, depose and state that I am the attorney for Truman Medical Center; that I have read the above and foregoing pleading and the facts and allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing pleading by the above said applicant.

Callenbach

Anne E. Callenbach

Subscribed and sworn to before me, a Notary Public this 24th day of February, 2014.

Brenda L. Lee

Notary Public



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent via email on this 24 day of February, 2014, to all parties.