

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Industrial Energy Consumers, *et al.*,)
)
Complainants,)
)
v.) File No. EC-2016-0199
)
Union Electric Company, d/b/a Ameren Missouri)
)
Respondent.)

**MOTION TO INTERVENE OF
WAL-MART STORES EAST, LP, AND SAM'S EAST, INC.**

Pursuant to 4 CSR 240-2.075(1), Wal-Mart Stores East, LP, and Sam's East, Inc., (collectively "Walmart") submit this Motion To Intervene ("Motion") to the Public Service Commission of the State of Missouri (the "Commission"). In support of this Motion Walmart states as follows:

1. Wal-Mart Stores East, LP, is a Delaware limited partnership authorized to do business in the State of Missouri. Sam's East, Inc., is an Arkansas corporation, also authorized to do business in the State of Missouri. The business address of both entities is: Sam M. Walton Development Complex, 2001 SE 10th Street, Bentonville, AR 72716-0550.

2. Walmart is a large retail customer of the Union Electric Company d/b/a Ameren Missouri ("Ameren"), owning and operating over 53 retail stores and related facilities in Ameren's Missouri service territory. Collectively, these facilities consume over 195 million kWh of electricity on an annual basis.

3. On February 1, 2016, the Missouri Industrial Energy Consumers and a number of individual Ameren customers filed their Rate Design Complaint And Motion For Expedited Treatment (hereinafter "Complaint") with the Commission. The Complaint

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makes a number of allegations regarding Noranda Aluminum, Inc., (“Noranda”) and the status of its New Madrid Smelter. The Complaint also requests: 1) a significant reduction of the Industrial Aluminum Smelters (“IAS”) tariff rate under which Noranda currently takes service from Ameren, 2) the accrual of a regulatory asset equal to the resulting rate differential and, 3) ultimate recovery of the regulatory asset from Ameren’s other customers in Ameren’s upcoming general rate case.¹ The Complaint also requests that its request be given expedited treatment by the Commission.

4. Walmart has been a party to several Commission dockets involving Noranda and Ameren, which ultimately resulted in the current IAS tariff.² The extraordinary relief being requested in this proceeding, if adopted, could result in significant changes to Walmart’s cost of electricity, directly and substantially affecting its business and operations in the State of Missouri. Accordingly, Walmart has a direct interest in these proceedings.

5. Further, as a large commercial customer, Walmart’s interests differ from those of other customer groups represented in this proceeding. Given the unique configuration of its facilities, Walmart’s interests cannot be adequately represented by any other existing or future participant in this proceeding.

6. Additionally, allowing Walmart to intervene in this proceeding will serve the public interest by ensuring that the Commission is apprised of the interests of a large

¹ *In the Matter of Union Electric Company d/b/a Ameren Missouri’s Tariffs to Increase Its Revenues for Electric Service*, File No. ER-2016-0179.

² See, e.g., *Noranda Aluminum, Inc., et al., v. Union Electric Company, d/b/a Ameren Missouri*, File No. EC-2014-0223; *Noranda Aluminum, Inc., et al., v. Union Electric Company, d/b/a Ameren Missouri*, File No. EC-2014-0224; and *In the Matter of Union Electric Company, d/b/a Ameren Missouri’s Tariff to Increase Its Revenues for Electric Service*, File No. ER-2014-0258.

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commercial electric customer of Ameren. Because Walmart operates in many different states, it has substantial and unique insights gained in various states and markets regarding issues in rate setting proceedings.

7. The following persons should be included on the service list in this proceeding, and all communications concerning this matter should be addressed to:

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8. Walmart continues to review the Complaint. For purposes of 4 CSR 240-2.075(2)(F), Walmart is currently developing the position it will take in this matter, but is awaiting completion of the evidentiary record in this proceeding. In addition, Walmart is awaiting the Commission's direction in how seemingly related cases³ may impact this case.

9. The Commission's Notice Of Complaint, Order Establishing Time To Respond And Order Establishing Time To Apply To Intervene ("Notice") issued herein February 2, 2016, establishes an intervention deadline of February 9, 2016. Walmart will secure local counsel in compliance with 4 CSR 240-2.040, but has not yet completed that process due to the expedited intervention deadline. Walmart files this Motion in order to timely comply with the Commission's Notice.

³ See, e.g., *In the Matter of Noranda Aluminum's Possible Material Default in a Condition Necessary to Remain on the IAS Rate Schedule Established in Case No. ER-2014-0258*; File No. EO-2016-0203.

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10. The undersigned counsel is admitted to practice law in the States of Oklahoma and Texas, and is in good standing in both states, but is not licensed to practice in the State of Missouri. The undersigned has, however, appeared many times before this Commission on a *pro hac vice* basis. Accordingly, Walmart respectfully requests that its intervention be deemed timely under the Commission's Notice, and that Walmart be allowed a reasonable time within which to complete the association of the undersigned with local counsel and the filing of the appropriate *pro hac vice* pleadings.

WHEREFORE, Wal-Mart Stores East, LP, and Sam's East, Inc., respectfully request that the Commission grant them intervenor status as full parties of record and allow them to fully participate in this proceeding including, without limitation, filing and presenting comments and/or testimony, cross-examination of witnesses, participation in all formal and informal conferences and hearings, and filings of briefs and any other pleadings, to the extent they deem necessary for their full participation herein.

FURTHER, Wal-Mart Stores East, LP, and Sam's East, Inc., respectfully request that they be allowed a reasonable time within which to complete the association of the undersigned counsel with local counsel and the filing of the appropriate *pro hac vice* pleadings.

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Dated this 9th day of February, 2016.

Respectfully submitted,

By /s/ Rick D. Chamberlain

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ATTORNEY FOR WAL-MART STORES EAST,
LP, AND SAM'S EAST, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that on February 9, 2016, a true and correct copy of the foregoing Motion to Intervene was served by U.S. mail, postage prepaid, or by electronic mail addressed to all parties by their attorneys of record as provided by the Secretary of the Commission.

/s/ Rick D. Chamberlain