

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

In the Matter of the Application of Citizens Electric)
Corporation for an Order Authorizing the Sale) **File No. EM-2019-0212**
of Certain Electric Transmission Facilities)

**STAFF RESPONSE TO COMMISSION ORDER
DIRECTING FILING OF STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, and files its Staff Recommendation regarding Citizens Electric Corporation’s (“Citizens”) June 25, 2019, filing of its *Application For Order Authorizing Sale Of Certain Electric Transmission Facilities Or, In The Alternative, An Order Dismissing This Application For Lack Of Jurisdiction*. On June 26, 2019, the Commission issued an *Order Directing Notice, Setting Deadline For Intervention Requests, And Directing Filing Of Staff Recommendation* no later than July 26, 2019. Staff requested until Tuesday, October 15, 2019, to file its recommendation, which the Commission granted on August 7, 2019. Staff Counsel’s Office takes the position that the Commission has jurisdiction which it addresses below. Attached is the Staff Affidavit Recommendation of Daniel I. Beck (“Appendix A”) that the Commission should accept a sale of 34.5 kV, 69 kV, and 138 kV transmission lines, substation equipment and other related items comprising the transaction in question, which has already occurred, to Wabash Valley Power Association, Inc. (“Wabash”), an Indiana nonprofit corporation with its principal offices located at 722 N. High School Road, Indianapolis, Indiana 46214, as not detrimental to the public interest, subject to conditions. In support thereof, Staff states as follows:

1. On January 17, 2019, Citizens filed with the Commission a *Notice Of Intended Case Filing* establishing File No. EM-2019-0212. Citizens stated that it was giving notice that it may file an application seeking an Order from the Commission, pursuant to Section 393.190 RSMo., authorizing the sale of certain electric transmission facilities to Wabash which is not a party to Citizens' Application or an intervenor in the case. Staff would note that it submitted Data Requests to Citizens, several of which Citizens objected to on the grounds that the information requested is beyond the scope of the jurisdiction of the Commission, which is limited by Section 393.110.2 RSMo. Citizens stated that without waiving the objection, it was providing a response. Staff would note that a question that Citizens, or Wabash, might view as management related, the Commission and Staff may view as safety or reliability related.

2. Citizens stated in its filing that pursuant to the Commission's October 19, 2004, Order in Case No. ED-2004-0223,¹ it provided through a letter dated November 26, 2018, to the General Counsel to the Commission and the General Counsel to the Office of the Public Counsel ("Public Counsel") notice of the sale of certain electric transmission facilities. Citizens also noted that on December 12, 2018, the matter of the sale of the electric transmission facilities was discussed in an in-person meeting with members of Staff and Staff Counsel's Office.

3. The Citizens letter dated November 26, 2018 states, in part:

Pursuant to the Commission's Order dated October 19, 2004 in Case No. ED-2004-0223, Citizens Electric Corporation is required to provide you with notice of any fundamental change that it intends to effectuate in its operations, including any transactions specified in Section 393.190.1 RSMO. Section 393.190.1 pertains, in part, to the sale, assignment or

¹ In the Matter of the Application of Citizens Electric Corporation for Cancellation of its Tariff, P.S.C. Mo. Nos. 2 and 7.

transfer of any part of an electric corporation that is necessary or useful in the performance of its duties to the public.

. . . WVPA [Wabash Valley Power Association, Inc.] is a generation and transmission cooperative based in Indianapolis, Indiana and serves Citizens and 22 other distribution cooperative members in the states of Missouri, Illinois and Indiana. WVPA ownership of these assets will enable Citizens and its fellow WVPA members to receive MISO network transmission revenues on these assets and any future constructed transmission assets. This financial benefit will offset the increasing cost of transmission and promote rate stability for Citizens. WVPA ownership of these assets will also shift a significant portion of the reliability compliance obligations (NERC, SERC, etc.) from Citizens to WVPA.² Citizens will, after the closing date, continue to utilize the transmission assets for its electrical needs and will, pursuant to detailed agreements with WVPA, continue to perform operations, maintenance, planning and design functions for the transmission assets.³ [Footnotes added.]

4. On November 13, 2003, Citizens established Case No. ED-2004-0223 by filing an *Application For Cancelation Of Tariff*. As authority for its filing, Citizens cited Section 393.110.2 RSMo. In its November 13, 2003, *Application For Cancelation Of Tariff*, Citizens stated at paragraph 3, page 2 the majority of its consumer owners reside in Ste. Genevieve and Perry Counties, counties of the third classification, and as the successor to Genevieve Electric Cooperative, Citizens was granted a certificate of public convenience and necessity (“CCN”) by the Commission to serve these consumers. The November 13, 2003 Citizens *Application* stated at paragraph 5, page 3 that the Commission “will continue to regulate the **safety and reliability** of Citizens’ operations” and at paragraph 7, page 3 that “cancellation of its tariffs should have no effect on

² Agreement For Assignment Of Responsibility For Complying With Certain Reliability Standards (Amended And Restated), effective December 26, 2018. This document is addressed in paragraphs below. Document provided to Staff by Citizens in response to Staff Data Request No. 18.

³ Operation, Maintenance, System Planning And Design Agreement, effective December 26, 2018. This document is also addressed in paragraphs below. Document provided to Staff by Citizens in response to Staff Data Request No. 18.

Citizens' Certificates of Public Convenience and Necessity as previously granted by the Commission.” (Emphasis Added.)

5. On January 16, 2004, Citizens filed a *Response To Staff Response To Order Directing Filing And Recommendation* in which Citizens noted in paragraph 7, at page 4 that it is incorporated under the General and Business Corporation Act of Missouri, Chapter 351, RSMo., and operates on a not-for-profit cooperative basis while maintaining its status as an “electrical corporation” as that term is defined in Section 386.020(15) RSMo. Citizens further stated in paragraph 7, at page 4 that as formed under and subject to Chapter 351, it “is subject to the provisions of Chapter 393 RSMo., as specified in section 393.010 RSMo.”

5. In paragraph 9, on page 4 of Citizen’s *Response To Staff Response To Order Directing Filing And Recommendation*, Citizen’s further indicated the scope of the Commission’s jurisdiction over it:

9. . . . An electrical corporation operating pursuant to Chapter 393 RSMo, such as Citizens, has **no** legal authority to provide electric service to its customers **without** a certificate of public convenience and necessity. Without legal authority to serve its existing customers or to construct new electric lines and power plants to serve future customers, Citizens would be forced to go out of business. This was not the intent of Section 393.110.2 RSMo. as passed by the legislature. [Emphasis in original.]

6. Citizens set out its history as an electric utility at pages 5-6 of its January 16, 2004 filing in Case No. ED-2004-0223:

11. Citizens' predecessor, Genevieve Electric Cooperative ("Genevieve"), was organized and incorporated as a rural electric cooperative and filed its Articles of Association with the Secretary of State on August 27, 1941. On October 31, 1945, Genevieve acquired all of the property of Missouri General Utilities Company which was located in Perry, Ste. Genevieve and Cape Girardeau Counties, Missouri, and which included the electric lines and equipment in the

towns of Perryville and Ste. Genevieve, Missouri. As a result of the acquisition, Genevieve provided electric service to the residents of the cities of Ste. Genevieve and Perryville.

12. Citizens was organized and incorporated on November 5, 1947. All the property and assets of Genevieve were transferred to Citizens on May 12, 1948. After that date, Genevieve had no assets and no income, and its charter was allowed to forfeit on January 1, 1952. Since May 12, 1948, Citizens has been operating the electric system originally owned by Genevieve and is the successor to Genevieve Electric Cooperative, as recognized by the Commission in its Order issued on February 25, 1948 in Case No. 11,310.

13. Pursuant to Section 393.170 RSMo., Citizens, as successor to Genevieve Electric Cooperative, received its certificate of public convenience and necessity in Consolidated Case Nos. 10,839 and 10,880 on or about June 10, 1947 with supplemental orders issued on February 11, 1950 and March 29, 1951, respectively, and in Case No. 11,839 on or about February 23, 1950.^[4]

7. In the Commission's April 14, 1948, *Report And Order* in Case No. 11,310, at page 2, Genevieve is referred to as a public utility cooperative corporation existing under the provisions of The Cooperative Companies Act, Article 28, Chapter 102, Mo.R.S.A., 1939. At page 3, Citizens is referred to as the Successor, and is a public utility corporation duly organized in November 1947 under the provisions of the General and Business Corporation Act of Missouri, Mo.R.S.A. (Supp. 1945) Sec. 4997, et seq. The Commission stated at page 4, that on January 14, 1946, the Missouri Supreme Court in *State on Inf. Huffman v. Sho-Me Power Cooperative*, 191 S.W.2d 971, 977 (Mo.banc 1946) held that the organization of a cooperative corporation for the purpose of engaging

⁴ In its Application in Case No. 11,310, Citizens stated at pages 4-5: "The Commission has heretofore found public convenience and necessity to exist with respect to the construction, operation and maintenance of the properties of Genevieve. Cases in which said construction or operation and maintenance have been approved and authorized by the Commission are as follows: Case Numbers 4709; 4984; 4985; 5171; 5670; 6662; 9348; 10021; 10323; 10600; 10839 and 10880."

in the electric utility business was not authorized under the Cooperative Companies Act.⁵ The Missouri Supreme Court withheld its order ousting Sho-Me Power Cooperative from its corporate charter to permit a reorganization of the Cooperative under the General and Business Corporation Act. On July 31, 1947 after the reorganization occurred, the Missouri Supreme Court held Sho-Me Power Corporation was properly incorporated to carry on its contemplated business as a public utility. Case No. 11,310, *Report And Order*, p. 4. The Commission analogized meeting the issue of the proper form of incorporation required by the 1946 *Sho-Me Power Cooperative* case to the necessity for the incorporation of Citizens under the General and Business Corporation Act. The Commission noted at page 10 of the Report and Order in Case No. 11,310 that Citizens Electric Corporation, “like Sho-Me Power Corporation, is organized and will exist under a cooperative plan whereby its customers will be its stockholders.”

8. As noted by Citizens in its June 25, 2019, filing of its *Application For Order Authorizing Sale, Or Dismissing Application For Lack Of Jurisdiction*, Section 393.110.2, in part, states:

393.110.2 Notwithstanding any provision in chapter 386 or this chapter to the contrary, the public service commission shall not have jurisdiction over the rates, financing, accounting, or management of any **electrical corporation** which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a **certificate of public convenience and necessity** to serve a majority of its consumer-owners in

⁵ Sho-Me Power Cooperative stated that the parties were agreed that the principal issue was whether a cooperative to engage in the electric business serving the general public may incorporate under the Cooperative Companies Act being Sections 14406 - 14424, and comprising Art. 28, Chap. 102, R.S. '39, Mo.R.S.A. under which Sho-Me was organized. 191 S.W.2d at 976. Sec. 14406 provides in part as follows:

Any number of persons, not less than twelve (12), may associate themselves together as a co-operative association, society or exchange, having all the incidents, powers and privileges of corporations, for the purpose of conducting any agricultural or mercantile business . . .

counties of the third classification as of August 28, 2003. Nothing in this section shall be construed as amending or superseding the commission's authority granted in and pursuant to subsection 1 of section 386.310, in section 386.800, section 393.106, and section 394.312. [Emphasis Added.]

9. Although the second sentence of Section 393.110.2 specifically identifies Sections 386.310.1(safety), 386.800(territorial agreements), 393.106(change of electric supplier), and 394.312(territorial agreement) as still applying to Citizens after Laws 2003, the January 16, 2004 Citizens *Response To Staff Response To Order Directing Filing And Recommendation*, at pages 2-3, paragraph 5, identifies the CCN statutory provision, Section 393.170, as also still applying to Citizens without it being identified in Section 393.110.2 other than in terminology in the first sentence of subsection 2. Throughout its January 16, 2004 filing, Citizens identifies Section 393.170 as still applying to it.

10. On April 21, 2004, Citizens filed its *Response to Second Order Directing Filing* and stated at pages 2-3, paragraph 5 that after the promulgation of Section 393.110.2, the Commission retains powers over: (a) the terms by which a municipality may provide service outside its corporate boundaries (Section 386.800); Citizens' certificated service area and any territorial agreements respecting that service area (Section 394.312); safety (Section 386.310.1); and changes of electric supplier on the basis that it is in the public interest for a reason other than a rate differential (Section 393.106). Citizens uses the one word "safety" for Section 386.310.1, but 386.310.1 refers to the health and safety of Citizens' employees, Citizens' customers, and the public. The Commission has promulgated 20 CSR 4240-3.190(4), (5), and (6) applicable to electric utilities and rural electric cooperatives requiring the reporting of accidents and certain events that may affect the rendering of safe and adequate service.

11. Staff in its June 17, 2004, *Supplemental Response And Recommendation* in Case No. ED-2004-0223 recommended at pages 4-5, paragraph 4 and in the “Wherefore clause” that the Commission order Citizens to comply with the relevant provisions of 4 CSR 240-3.190 and also order Citizens to provide to Staff and Public Counsel reasonable advance notice of any fundamental change that it intended to effectuate in the operation of Citizens, including any transaction similar to one or more of the transactions specified in Section 393.190.1 RSMo. On August 3, 2004, the Commission issued an *Order Directing Filing* in which it directed Citizens to file a supplemental response no later than August 17, 2004, clarifying whether it agreed with Staff’s interpretation that 4 CSR 240-3.190, in part, applied to Citizens. The Commission’s Order referred to the Commission Rule 4 CSR 240-3.190, but not to the statutory Section 393.190.1. Citizens filed on August 10, 2004, *Citizen’s Response To Order Directing Filing*, in which it stated in Paragraph 3, pages 1 and 2:

. . . Staff noted that parts (4) and (5) of revised section 4 CSR 240-3.190 address safety which apply to electrical corporations and rural electrical cooperatives. Citizens agrees that it is subject to the Commission's safety regulations. Citizens intends to comply fully with the Commission's safety regulations, including 4 CSR 240-3.190(4) and (5).

12. On October 19, 2004, the Commission issued an *Order Cancelling Tariff Sheets* in which it directed Citizens to comply with the relevant provisions of 4 CSR 240-3.190, and also ordered Citizens to provide to Staff and Public Counsel reasonable advance notice of any fundamental change that it intended to effectuate in the operations of Citizens, including any transactions specified in Section 393.190.1, RSMo.

13. The minimum safety standards relating to the operation of electrical corporations and rural electric cooperatives are the National Electrical Safety Code (“NESC”), as addressed in 20 CSR 4240-18.010. The Commission seeks to keep this rule current by amending the rule to adopt the most current edition of the NSEC.

14. Staff notes that the courts have found that the Commission’s power may be broader than what is literally reflected in statutory language as a matter of necessary implication from practical necessity, among other things. In *State ex rel. Laclede Gas Co. v. Public Serv. Comm’n*, 535 S.W.2d 561 (Mo. App.1976), wherein Jackson County argued that the Commission had no power to grant interim rate relief. Jackson County argued that “the Commission has only those powers specifically or necessarily by implication conferred upon it by statute, that there is no statute in this state granting the Commission power to grant interim rate increases, and that in the absence of such a statutory grant there can be no such authority.” *Id.* at 565. Jackson County asserted that the fact that at the then current session of the Missouri Legislature, a bill had been introduced for the purpose of empowering the Commission to “‘prescribe temporary schedules, rates, tolls, charges, or joint rates to be charged and collected’ by a public utility pending the hearing and final determination of a permanent increase,” showed that the Commission previously had not been granted that power. *Id.* at 567.

The Western District Court of Appeals held that “[w]hile the amendment to a statute must be deemed to have been intended to accomplish some purpose, that purpose can be clarification rather than a change of existing law. *Hogan v.*

Kansas City, 516 S.W.2d 805, l.c. 811 (Mo.App.1974)”⁶ and that “the Commission has power in a proper case to grant interim rate increases within the broad discretion implied from the Missouri file and suspend statutes and from the practical requirements of utility regulation.” 535 S.W.2d at 567. The Court in Footnote 1 commented that “[a] somewhat analogous question is whether the Commission has authority to grant interim test or experimental rates. The Missouri Supreme Court has long held that the Commission does have this power as a matter of necessary implication from practical necessity.” *Id.* at 567.

15. It should also be noted that Section 386.040 RSMo., among other things, confers on this Commission “...all powers necessary and proper to enable it to carry out fully and effectually all the purposes of this chapter.” Section 386.250(7) extends the Commission’s jurisdiction “[t]o such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly.”

16. On September 27, 2018, Wabash filed at the Federal Energy Regulatory Commission (“FERC”) in Docket No. EC18-164-000 an Application For Authorization Under Section 203 Of The Federal Power Act And Request For Expedited Consideration, Shortened Comment Period, And Certain Waivers. At page 3 of its Application, Wabash stated that it is a generation and transmission cooperative, a nonprofit corporation formed by its members for the purpose of providing wholesale power and transmission service to its members for resale to its members’ retail customers. Wabash also commented at page 3, its native load consists of 25 members, 23 of which are not-for-profit cooperatives

⁶ The Court related that the purpose can also be to particularize existing law. 565 S.W.2d at 567.

located primarily in the rural areas of the states of Indiana, Illinois and Missouri. At page 7, Wabash noted its member cooperatives are also its owners. In Footnote 8, on page 3, Wabash identified Citizens as one of these cooperative members.

17. The Wabash Application stated at pages 4 and 9, in relevant part, as follows:

Page 4, last complete sentence on the page: “As an exempt public utility, CEC [Citizens Electric Corporation] is not regulated by the Commission [FERC] nor is it regulated by the Missouri Public Service Commission.”

Page 9, last complete paragraph/sentence on the page: “Regarding state jurisdiction, this Transaction is not subject to the jurisdiction of any state commission since neither CEC nor WVPA is regulated by the Missouri Public Utilities Commission (‘MoPUC’), and because WVPA’s purchase of the Facilities located in the State of Missouri is not subject to the jurisdiction of the Indiana Utility Regulatory Commission (‘IURC’).”

18. Wabash received the FERC Order Authorizing Acquisition Of Jurisdictional Facilities respecting the subject Citizens transmission facilities as consistent with the public interest on December 4, 2018, 165 FERC ¶62,138 (2018), subject to conditions. On January 2, 2019, Citizens filed notice with the FERC that the acquisition of jurisdictional facilities authorized by the FERC on December 4, 2018, was consummated on December 26, 2018.

19. Staff submitted Data Request No. 20 to Citizens asking, in part, whether Wabash had adopted a policy or practice of purchasing the transmission facilities of its members such as Citizens. Citizens responded “Yes” and provided what is evidently a page from Wabash Valley Board Policy D-5, page 2, Section “2. Ownership” which states, in part, “it is the intent of Wabash Valley to own all Transmission Facilities serving the loads of its Members.” This section further states:

Should a Member sell a member owned Transmission Facility to Wabash Valley, Wabash Valley shall evaluate whether the Transmission Facility meets all applicable code and regulatory compliance standards. Such code/standards shall include, but not be limited to, the National Electrical Safety Code, NERC Reliability Standards, and federal and state environmental laws, as well as other federal, state, and local laws or regulations that may apply. . . . Wabash Valley may require the Member to upgrade and/or modify the Transmission Facilities to meet applicable codes and/or standards as a condition of the sale, which to the extent practicable will be made available to Members.

20. In response to Staff Data Request No. 24, Citizens provided a number of documents relating to Citizens and Wabash's reliability responsibilities. On November 15, 2018, Citizens submitted to SERC a Deactivation Registration Request stating as a reason for the request that Citizens had contracted to sell its transmission assets to its generation and transmission cooperative Wabash effective December 31, 2018. Wabash was to assume the Distribution Provider ("DP") and Transmission Owner ("TO") responsibilities for these assets pursuant to an Amended and Restated Agreement For Assignment of Responsibility for Complying with Certain Reliability Standards effective December 31, 2018. Wabash submitted to SERC on the same date a New Registration Request. It was currently serving as a Distribution Provider in the SERC Region and assumed the Distribution Provider responsibilities of Citizens as well. The North American Electric Reliability Corporation ("NERC") sent a letter dated January 23, 2019, to Wabash confirming a functional registration change for Wabash, NERC Compliance Registry ("NCR"), adding to Wabash's function of TO effective December 26, 2018, in the SERC Region. Wabash is subject to mandatory compliance with the applicable NERC Reliability Standards approved by the FERC. In a NERC letter dated April 23, 2019 to Citizens, NERC provided notice of deregistration of Citizens from the NCR as a registered entity as a DP and TO as of December 26, 2018. Deregistration from the NCR indicates

that the entity is no longer subject to mandatory compliance with the applicable NERC reliability standards that have been approved by the FERC.

21. Staff related in Paragraph 5 above that Citizens alluded in its November 26, 2018 letter that there was an Operation, Maintenance, System Planning And Design Agreement between itself and Wabash for it to continue to perform operations, maintenance, planning and design functions for the transmission assets effective December 26, 2018. Staff asked in Data Request No. 26 whether Citizens in the year prior to the purchase of the Citizens transmission facilities by Wabash made any reduction in the work force number of personnel performing maintenance and operations services for the transmission assets to be purchased by Wabash or has Citizens or Wabash made any change in the work force number of personnel performing this work since the purchase of the transmission facilities by Wabash and whether any change in the number of Citizens personnel performing these maintenance and operations services is planned in the next five (5) years by Citizens or Wabash? Citizens responded that it has not made any significant change in its work force number either prior to or since Wabash's purchase of the transmission facilities and that it is not anticipating any significant changes in its work force number in the next five (5) years.

22. Staff also related in in Paragraph 5 above that Citizens alluded in its November 26, 2018 letter that there was an Amended And Restated Agreement For Assignment Of Responsibility For Complying With Certain Reliability Standards established, administered, and/or enforced by NERC (the "Electric Reliability Organization" or "ERO") and/or SERC ("SERC Reliability Corporation" covering Citizens' area in particular), whereby Wabash was to assume Citizens' responsibility for complying

with reliability standards effective December 26, 2018. Staff asked in Data Request No. 27 whether Citizens made any planned reduction in the work force number of personnel responsible for performing work relating to complying with reliability standards for the transmission assets to be purchased by Wabash in the year prior to the purchase of the transmission facilities by Wabash or has Citizens or Wabash made any change in the work force number of personnel performing this work since the purchase of the transmission facilities by Wabash and whether any change in the number of personnel performing this work is planned in the next five (5) years by Citizens or Wabash? Citizens responded that it did not make any significant change in its work force number either prior to or since Wabash's purchase of the transmission facilities. It further stated that Citizens is assisting Wabash in performing this work pursuant to the Amended And Restated Agreement For Assignment Of Responsibility For Complying With Certain Reliability Standards. Citizens also related that it is not anticipating any significant changes in its work force number in the next five (5) years.

23. Staff inquired in Staff Data Request No. 21 as to what were Citizens customers (i.e., members/owners) told as to what was the reason(s) for the sale of Citizens' transmission facilities to Wabash. Among other things, Citizens pointed Staff to an excerpt from its 2018 Annual Report in its response to Staff Data Request No. 20. At page 2 in the Report to Membership from Rich DeWilde, Board President, and Van Robinson, CEO, the use of the proceeds from the sale of Citizens transmission facilities and the rationale for the sale are identified:

. . . In late December, CEC [Citizens Electric Corporation] sold its high-voltage transmission assets to our power supplier, Wabash Valley Power Association (WVPA), for approximately \$25 million. **Most of the proceeds from this transaction went to retire existing debt on those assets. This**

sale deepens the long-term relationship with WVPA and **allows each partner to focus on its core strengths**. While **CEC will continue to perform many of the same day-to-day functions (operations, maintenance, planning and design)**, **WVPA will concentrate on emerging issues like network transmission revenue and regulatory compliance**. We're optimistic that CEC's members will see financial benefits and **reliability improvements** from this transaction in the years to come. [Emphasis added.]

Citizens also identified a discussion of the sale of the transmission facilities noted in the October-December 2018 Quarterly Board of Directors' Highlights in its response to Staff Data Request No. 20:

- Received reports on WVPA's proposed purchase of the Corporation's transmission assets; reaffirmed its authorization to sell said assets to WVPA; directed management to file, if necessary, for approval thereof with the Missouri Public Service Commission; certified that the proceeds from the sale would be used to pay off certain of the Corporation's RUS [Rural Utilities Service] debt; and established an escrow account to facilitate closing on the sale;

24. Wabash on December 13, 2018 applied with the Missouri Secretary of State for a Certificate of Authority for a Foreign Cooperative Association. Item 6 on page 1 of the Application states, "The cooperative association's purpose complies with Section 351.1006 RSMo." Page 2 of the *Application* is a Certificate Of Existence of the Indiana Secretary of State. Connie Lawson, Indiana Secretary of State, certifies that the records of the Indiana Secretary of State disclose that Wabash duly filed the requisite documents to commence business activity under the laws of the State of Indiana on December 12, 1963, and was in in existence or authorized to transact business in the State of Indiana on November 21, 2018. Page 3 is a Certificate of Registration of the Missouri Secretary of State, CF001400794, for Wabash, having filed an Application conforming to the Missouri Cooperative Association Law, as of December 13, 2018, is duly authorized to transact business in the State of Missouri and is entitled to any rights

granted Cooperative Associations. Section 351.1000 RSMo. 2016 states that “Sections 351.1000 to 351.1228 shall be known and may be cited as the ‘Missouri Cooperative Associations Act’”. Sections 351.1000 to 351.1228 were added by Laws 2011, S.B. 366. The “Missouri Cooperative Associations Act” is within “The General and Business Corporation Law of Missouri”.

25. A comparison of Section 393.110.2 and comparable sections of Chapter 394 Rural Electric Cooperatives that apply to the Commission raise a few interesting points. Under Section 393.110.2, the Commission has no jurisdiction over the “rates, financing, accounting, or management” of Citizens and, under Section 394.160.1, the Commission has no jurisdiction over the “**service**, rates, financing, accounting or management” of a cooperative. (Emphasis added.) The first word “service” that the Commission has no jurisdiction over respecting rural electric cooperatives is not found in Section 393.110.2. Section 394.160.1 refers to the cooperative constructing, maintaining, and operating its transmission and distribution lines and the rules of the Commission and the safety of the public and employees. Subsections 394.160.2 and .3 refer to the Commission in regards to Subsection 394.160.1. Under Sections 393.110.2 and 394.312 and 386.800, the Commission has authority over territorial agreements between/among cooperatives, electrical corporations, and municipally owned utilities. Sections 393.106 and 394.315 address change of electric suppliers. Major distinctions in the limitation of the Commission’s power is that Section 393.110.2 in essence refers to Citizens, the entity still regulated by the Commission, as a Section 386.020(15) “electrical corporation,” holding Section 393.170 “certificates of convenience of necessity” from the Commission which it has not sold to Wabash, neither of which applies to a Chapter 394 cooperative.

26. Section 393.110.2 did not terminate the Commission's jurisdiction over Citizens. Citizens remains an "electrical corporation" within the limited jurisdiction of the Commission. On July 11, 2019, Governor Michael L. Parson signed into Law effective August 28, 2019, House Bill 355 which, among other things, amends Section 386.020(15), the definition of "electrical corporation," to clearly exclude certain named and described entities:

The term "electrical corporation" shall not include:

- (a) Municipally owned electric utilities operating under chapter 91;
- (b) Rural electric cooperatives operating under chapter 394;
- (c) Persons or corporations not otherwise engaged in the production or sale of electricity at wholesale or retail that sell, lease, own, control, operate, or manage one or more electric vehicle charging stations;

27. In 1961 in Missouri, Associated Electric Cooperative, Inc. ("AECI"), incorporated, as a generation and transmission cooperative, under Chapter 394, "The Rural Electric Cooperative Law," Section 394.010, et seq. In the letter dated November 26, 2018 from Van Robinson CEO of Citizens to the General Counsel to the Commission and the General Counsel to the Office of the Public Counsel providing notice of the sale of Citizens transmission facilities to Wabash, Mr. Robinson refers to Wabash as a generation and transmission cooperative that serves Citizens and 22 other distribution cooperative members.

28. In its *Application For Order Authorizing Sale, Or Dismissing Application For Lack Of Jurisdiction*, Citizens asserted that the sale of the transmission facilities to Wabash was not detrimental to the public interest because it would have no substantive or negative effect on Citizen's operations and daily business due to the terms and

conditions of the Facility Purchase Agreement (Appendix B to the Application) “including, but not limited to:

- a. Applicant⁷ will retain its Commission-issued certificate of public convenience and necessity;
- b. Applicant will retain ownership of all underlying real estate associated with the Property⁸;
- c. The Property can only be sold to a third party by Purchaser⁹ with the prior written consent of Applicant;¹⁰
- d. Applicant has an absolute, unconditional right to repurchase the Property upon 180 days written notice to Purchaser;¹¹
- e. Applicant retains the right to construct, own and operate future constructed transmission facilities; and
- f. Applicant will, per written agreement with the Purchaser, continue to perform operations, maintenance, planning, and design of the Property to ensure it provides safe and reliable service to the Applicant’s members.”

29. The Facility Purchase Agreement, Paragraph 15.C. states as follows regarding Citizens having the option to purchase the Property including other denominated transmission facilities:

⁷ “Applicant” refers to Citizens.

⁸ “Property” refers to those certain 34.5 kV, 69 kV, and 138 kV transmission lines, substation equipment and other related items set forth within Exhibit “A” in Appendix B to the Application.

⁹ “Purchaser” refers to Wabash.

¹⁰ The Facility Purchase Agreement Paragraph 15.A. states as follows: “Purchaser agrees that it will not sell the Property, or any additions, upgrades or replacements thereof, to any third party after Closing without Seller’s prior written consent.”

¹¹ The Facility Purchase Agreement Paragraph 15.B. states as follows:

The Parties also agree that Seller shall, subject to any required regulatory approvals, have the right at any time after Closing upon not less than 180 days’ prior written notice to Purchaser to repurchase the Property, and any additions, upgrades and replacements thereof, or any part thereof, from Purchaser at its then current OCD [original cost depreciated] value on the same terms and conditions contained in this Agreement. The Property shall be free of all liens upon repurchase.

The Parties agree that **in the event Seller ceases to be a member of Purchaser, Seller shall**, subject to all required regulatory approvals, **have the option to purchase all of the Property, including any additions, upgrades and replacements thereto and any additional sole-use transmission lines and substations located in the state of Missouri and owned by Purchaser serving Seller** at its then current OCD [original cost depreciated] value within one (1) year after Seller ceases to be a member of Purchaser and on the same terms and conditions as contained in this Agreement. The Property shall be free of all liens upon repurchase. [Emphasis added.]

30. The “written agreement” referred to in item “f” in Paragraph 28 above is the Operation, Maintenance, System Planning And Design Agreement. The Agreement was entered into on September 27, 2018 effective December 26, 2018 between Citizens and Wabash for Citizens ** _____

_____ **

(Emphasis added, p. 1.) ** _____

_____ ** (p. 4.)

Besides the quotation above referring to Wabash ** _____

_____ ** (Emphasis
added, p. 5.)

31. The Western District Court of Appeals' decision in *StopAquila.Org v. Aquila, Inc.*, 180 S.W.3d 24 (Mo.App. W.D. 2005) ("*StopAquila.Org*") raises the question of the requirement of a CCN from the Commission for Wabash or even Citizens to construct transmission. At the time of *StopAquila.Org*, Section 393.170.1 stated as follows minus the language in brackets which was added in 2018 by the General Assembly:

No gas corporation, **electrical corporation**, water corporation or sewer corporation **shall begin construction of** a gas plant, **electric plant**, water system or sewer system[, other than an energy generation unit that has a capacity of one megawatt or less,] **without first having obtained the permission and approval of the commission.** (Emphasis added.)

In *dicta* in *StopAquila.Org* at 36, the Western District Court of Appeals read transmission out of being covered by Section 393.170.1:

. . . **The terms "electric plant" and "transmission lines" are not synonymous under the Public Service Commission Law. While "electric plant" is defined** to include "any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power," § 386.020(14), **"transmission line" is not defined.** And under any reasonable definition, a transmission line does not generate electricity as an electric plant does. A transmission line is not a source of significant levels of noise, and it does not emit pollutants in the same way that a generating facility emits pollutants. Nor does a transmission line require the construction of roads and buildings or siting near fuel sources or water. . . . (Emphasis added.)

In 2008, the Western District Court of Appeals in *State ex rel. Cass County v. Public Serv. Comm'n*, 259 S.W.3d 544, 549 (Mo.App. W.D. 2008) took a different approach:

. . . Traditionally, the PSC has exercised this authority by granting two different types of CCN, roughly corresponding to the permission and approval required under the first two subsections of section 393.170. **Permission to build transmission lines or production facilities is generally granted in the form of a “line certificate.”** See 4 CSR 240-3.105(1)(B). **A line certificate thus functions as PSC approval for the construction described in subsection 1 of section 393.170.**⁶ Permission to exercise a franchise by serving customers is generally granted in the form of an “area certificate.” See 4 CSR 240-3.105(1)(A). Area certificates thus provide approval of the sort contemplated in subsection 2 of section 393.170. . . .

⁶ (Footnote 6, among other things, references the Western District Court of Appeals’ decision in *StopAquila.Org*.)

However, in the next court decision the Missouri Supreme Court decided in *Grain Belt Express Clean Line, LLC v. Public Serv. Comm’n*, 555 S.W.3d 469, 471, 474 (Mo.banc 2018)(*Grain Belt*) that Section 393.170.1 requires the Commission grant a CCN to Grain Belt for the construction of a transmission line, but Section 393.170.1 does not require prior consent from affected counties before the granting of a line CCN. *Grain Belt* applied for a line certificate under Section 393.170.1. Grain Belt related it would not be providing retail service to electric consumers. *Grain Belt* did not apply for an area certificate under Section 393.170.2. The case was remanded by the Court to the Commission to determine whether the proposed project was necessary or convenient for the public service. On March 20, 2019, the Commission issued a Report And Order On Remand in File No. EA-2016-0358 in the *Grain Belt* case that Grain Belt had met its burden of proof to demonstrate that it was qualified for a CCN under Section 393.170.1

RSMo. Therefore the Commission granted Grain Belt's Application to, among other things, construct a high voltage direct current transmission line and associated facilities, subject to conditions.

The most recent court decision is from the Western District Court of Appeals in *Kansas City Power & Light Co. v. Public Serv. Comm'n* ("KCP&L"), 2019 WL 2651187, WD 82182, (June 28, 2019) where the Court took the same approach as in its decision in *StopAquila.Org*:

. . . Additionally, an "electric plant" is not the same as a "transmission line." See *Stopaquila.org*, 180 S.W.3d at 36-37 (noting that the "terms 'electric plant' and 'transmission lines' are not synonymous under the Public Service Commission Law"); *Harline*, 343 S.W.2d at 182 (rejecting the argument that the definition of "electric plant" includes a "transmission line"). . . .

The Commission has sought transfer of the June 28, 2019 decision in *KCP&L* to the Missouri Supreme Court as have KCP&L and GMO. The Commission In its filing with the Missouri Supreme Court has raised the matter of the inconsistent Missouri appellate court decisions regarding whether the term "electric plant" includes "transmission lines."

Finally, on February 1, 2019, Ivenenergy Transmission LLC, and its parent company Ivenenergy Investment Company ("Ivenenergy") and Grain Belt filed a joint application requesting the Commission to approve Ivenenergy's acquisition of Grain Belt. On September 11, 2019, the Commission issued an Amended Report And Order in Case No. EM-2019-0150 approving Ivenenergy's acquisition of Grain Belt subject to the same conditions placed upon Grain Belt in the Report And Order On Remand in File No. EA-2016-0358. The Commission noted on page 11 of its Amended Report And Order that it had granted CCN's to companies operating transmission facilities in

Missouri, and as with Grain Belt, their transmission facilities supplied wholesale electricity under rates set by FERC and the companies have no Missouri retail customers. The Commission identified the following cases: *In the Matter of Entergy Arkansas, Inc.*, File No. EO-2013-0431, Report And Order, 23 Mo.P.S.C.3d 226 (2013); *In the Matter of GridLiance High Plains LLC*, File No. EA-2019-0112, Order Granting Certificate Of Convenience And Necessity (2018); *In re Ameren Trans. Co. of Illinois*, File No. EA-2017-0345, Order Approving Unanimous Stipulation And Agreement (2018); *In re Transource Missouri LLC*, File No. EA-2013-0098, Report And Order, 23 Mo.P.S.C.3d 160 (2013); *In re Interstate Power & Light Co.*, File No. EO-2007-0485, Order Granting Certificate Of Convenience And Necessity, 16 Mo.P.S.C.3d 354 (2007); *In re IES Utilities, Inc.*, File No. EA-2002-296, Order Granting Certificate Of Public Convenience And Necessity, 11 Mo.P.S.C.3d 261 (2002).

32. Since Citizens retains the CCNs and the ownership of all underlying real estate associated with the Property, this matter appears to facilitate if Citizens chooses to sell to Wabash and Wabash chooses to purchase from Citizens additions, upgrades and replacements and additional sole-use transmission lines and substations constructed by Citizens particularly on all underlying real estate associated with the Property. Staff is unaware of Wabash having any CCNs. It is Staff's position that in order for Wabash to construct any transmission facilities, Wabash would need to apply for a CCN(s) to the Commission pursuant to Section 393.170.1 RSMo. Supp. 2018.

33. Respecting the not detrimental to the public interest standard, the Missouri Supreme Court delineated the standard and prescribed its application for cases filed

pursuant to Section 393.190 in *City of St. Louis v. Public Serv. Comm'n*, 73 S.W.2d 393, 400 (Mo.banc 1934) when it stated:

The state of Maryland has an identical statute with ours, and the Supreme Court of that state in the case of *Electric Public Utilities Co. v. Public Service Commission*, 154 Md. 445, 140 A. 840, loc. cit. 844, said: "To prevent injury to the public, in the clashing of private interest with the public good in the operation of public utilities, is one of the most important functions of Public Service Commissions. It is not their province to insist that the public shall be benefited, as a condition to change of ownership, but their duty is to see that no such change shall be made as would work to the public detriment. 'In the public interest,' in such cases, can reasonably mean no more than 'not detrimental to the public.'"

In *Re Great Plains Energy, Inc., Kansas City Power & Light Co., and Aquila, Inc., Report And Order*, 17 Mo.P.S.C.3d 338, 536 (July 1, 2008), the Commission stated that it summed up, most cogently and completely the standard when it issued its Report And Order On Rehearing, 13 Mo.P.S.C.3d 266, 293 (February 10, 2005) in the Union Electric Company d/b/a AmerenUE ("AmerenCIPS" or "MetroEast") case.¹² In said Report And Order On Rehearing in a Section it entitled "The Governing Standard under Section 393.190.1," the Commission stated, in part, as follows:

In considering whether or not the proposed transaction is likely to be detrimental to the public interest, the Commission notes that its duty is to ensure that UE provides safe and adequate service to its customers at just and reasonable rates. **A detriment, then, is any direct or indirect effect of the transaction that tends to make the power supply less safe or less adequate, or which tends to make rates less just or less reasonable. The presence of detriments, thus defined, is not conclusive to the Commission's ultimate decision because detriments can be offset by attendant benefits. The mere fact that a proposed transaction is not the least cost alternative or will cause rates to increase is not detrimental to the public interest where the transaction will confer a benefit of equal or greater value or remedy a deficiency**

¹² *In the Matter of the Application of Union Electric Company, d/b/a AmerenUE, for an Order Authorizing the Sale, Transfer and Assignment of Certain Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company, d/b/a AmerenCIPS, and, in Connection Therewith, Certain Other Related Transactions*, Case No. EO-2004-0108.

that threatens the safety or adequacy of the service. (Emphasis added by Commission; Report And Order On Rehearing, 17 Mo.P.S.C.3d at 536.)

As previously noted, under Section 393.110.2, the Commission does not have jurisdiction over the rates, financing, accounting, or management of Citizens.

34. As a condition of the Commission accepting the sale of the electric transmission facilities in question, pursuant to Section 393.190 RSMo., the Commission should direct that none of the events set out in Paragraphs 28 and 29 above should occur without Citizens first filing with the Commission and advising the Commission that it is considering the question or questions of whether to:

- a. Not retain its Commission-issued certificates of public convenience and necessity;
- b. Retain its ownership of all underlying real estate associated with the Property;
- c. Authorize the Property to be sold to a third party by Purchaser with its prior written consent;¹³
- d. Not to exercise its absolute, unconditional right to repurchase the Property upon 180 days written notice to Purchaser;¹⁴
- e. Not retaining the right to construct, own and operate future transmission facilities;
- f. Not to continue to perform, per written agreement with the Purchaser, operations, maintenance, planning, and design of the Property to ensure it provides safe and reliable service to its members; and
- g. Cease to be a member of Purchaser, and not purchase all of the Property, including any additions, upgrades and replacements and any additional sole-use transmission lines and substations located in the state of Missouri and owned by Purchaser serving Seller

¹³ Inclusive of Footnote 10.

¹⁴ Inclusive of Footnote 11.

Also Citizens and Wabash should enter into an agreement such that since Citizens and Wabash have entered into the Operation, Maintenance, System Planning And Design Agreement and the Agreement For Assignment Of Responsibility For Complying With Certain Reliability Standards (Amended And Restated), Citizens should be responsible for meeting the requirements of 20 CSR 4240-3.190(4), (5), and (6) and any reporting to the Commission addressed in 20 CSR 4240-18.010. Finally, given that Wabash is not a party or intervenor in the instant case, Wabash must agree to provide notice to the Commission that it is considering selling the Property¹⁵ in the Citizens service territory to an entity other than Citizens. It is Staff's recommendation that based on the Commission ordering and Citizens agreeing to the respective conditions set out herein, and for Wabash agreeing to the respective conditions set out above, the Commission should accept the Citizens Application respecting the sale of the Citizens transmission facilities to Wabash as not detrimental to the public interest.

35. Staff would note that through Wabash's internet website, Staff accessed the December 31, 2018 and 2017 Independent Auditors' Report of Wabash Valley Power Association, Inc. by Deloitte & Touche LLP ("Deloitte"). The March 22, 2019, opinion of Deloitte states:

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Wabash Valley Power Association, Inc. and its subsidiary as of December 31, 2018 and 2017, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

¹⁵ Including any additions, upgrades and replacements and any additional sole-use transmission lines and substations located in the state of Missouri and owned by Purchaser serving Seller.

On page 7, in the section Notes To Consolidated Financial Statements As Of And For The Years Ended December 31, 2018 And 2017, 2. Summary Of Significant Accounting Policies appears the following subsection:

Concentration of Risk-Approximately 13% of Wabash Valley Power's total revenues for 2018 and 10% of 2017 were derived from sales to Citizens Electric Corporation (Citizens). Accounts receivable balances for Citizens account for 10% of total accounts receivable as of December 31, 2018 and 7% as of December 31, 2017.

Attached is the Staff Affidavit of Mark L. Oligschlaeger ("Appendix B") which relates that such a statement of concentration of risk is intended to routinely provide relevant information and the specific percentages disclosed should not be viewed as unusual.

WHEREFORE Staff's Recommendation is for the Commission to accept the sale of Citizen's transmission facilities to Wabash as not detrimental to the public interest subject to the Commission ordering and Citizens agreeing to the respective conditions set out above for Citizens, and Wabash agreeing to the respective conditions set out above for Wabash.

Respectfully submitted,

/s/ Steven Dottheim

Steven Dottheim, Mo. Bar No. 29149
Chief Deputy Staff Counsel
E-mail: steve.dottheim@psc.mo.gov
Phone: 573-751-7489
Fax: 573-751-9285

Jamie S. Myers, Mo. Bar No. 68291
Legal Counsel
E-mail: jamie.myers@psc.mo.gov
Phone: 573-526-6036
Fax: 573-751-9285

Attorneys for Staff of the
Missouri Public Service Commission
P. O. Box 360
200 Madison St., Ste. 800
Jefferson City, MO 65102

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Staff Response To Commission Order Directing Filing has been transmitted electronically to all counsel of record this 15th day of October, 2019.

/s/ Steven Dottheim

- f. Not to continue to perform, per written agreement with the Purchaser, operations, maintenance, planning, and design of the Property to ensure it provides safe and reliable service to its members¹; and
- g. Cease to be a member of Purchaser, and not purchase all of the Property, including any additions, upgrades and replacements and any additional sole-use transmission lines and substations located in the state of Missouri and owned by Purchaser serving Seller.

Also Citizens and Wabash should enter into an agreement such that since Citizens and Wabash have entered into the Operation, Maintenance, System Planning And Design Agreement and the Agreement For Assignment Of Responsibility For Complying With Certain Reliability Standards (Amended And Restated), Citizens should be responsible for meeting the requirements of 20 CSR 4240-3.190(4), (5), and (6) and any reporting to the Commission addressed in 20 CSR 4240-18.010. Finally, given that Wabash is not a party or intervenor in the instant case, Wabash must agree to provide notice to the Commission that it is considering selling the Property² in the Citizens service territory to an entity other than Citizens.

- 6. The transaction included approximately 244 miles of transmission lines, 8 substations, and 4 taps within substations which make up the transmission system that Citizens owned and operated. The 8 substations and 4 taps within substations are described on pages 1-10 of Exhibit A, List of Assets to the Facilities Purchase Agreement. The 34.5 kV, 69 kV, and 138 kV transmission lines described on pages 11-140 of Exhibit A are summarized in Schedule 2, which is attached to this Affidavit.

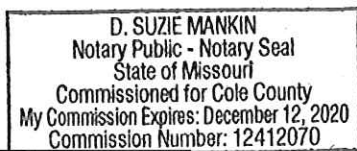
COMES NOW DANIEL I. BECK, PE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing; and that the same is true and correct according to his best knowledge and belief.


Further the Affiant sayeth not.


DANIEL I. BECK, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of October 2019.




Notary Public

¹ 5.a-f. inclusive of Footnotes 7-11 for Paragraph 28 in Staff Response To Commission Order Directing Filing Of Staff Recommendation to which this Affidavit is attached.

² Including any additions, upgrades and replacements and any additional sole-use transmission lines and substations located in the state of Missouri and owned by Purchaser serving Seller.

Daniel I. Beck, P.E.

Manager of Engineering Analysis Department
Industry Analysis Division

Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

I graduated with a Bachelor of Science Degree in Industrial Engineering from the University of Missouri at Columbia. Upon graduation, I was employed by the Navy Plant Representative Office in St. Louis, Missouri as an Industrial Engineer. I began my employment at the Commission in November, 1987, in the Research and Planning Department of the Utility Division (later renamed the Economic Analysis Department of the Policy and Planning Division) where my duties consisted of weather normalization, load forecasting, integrated resource planning, cost-of-service and rate design. In December, 1997, I was transferred to the Tariffs/Rate Design Section of the Commission's Gas Department where my duties include weather normalization, annualization, tariff review, cost-of-service and rate design. In June 2001, I was transferred to the Engineering Analysis Section of the Energy Department, which was created by combining the Gas and Electric Departments. I became the Supervisor of the Engineering Analysis Section, Energy Department, Utility Operations Division in November 2005. Since that time my title has been changed to reflect reorganizations and my current title is Manager of the Engineering Analysis Department, Industry Analysis Division. My job duties have basically remained the same since 2005 but in October 2015, I was given added responsibilities in the area of depreciation.

I am a Registered Professional Engineer in the State of Missouri. My registration number is E-26953.

**List of Cases in which prepared testimony was presented by:
DANIEL I. BECK, PE**

Company Name	Case No.
Union Electric Company	EO-87-175
The Empire District Electric Company	EO-91-74
Missouri Public Service	ER-93-37
St. Joseph Power & Light Company	ER-93-41
The Empire District Electric Company	ER-94-174
Union Electric Company	EM-96-149
Laclede Gas Company	GR-96-193
Missouri Gas Energy	GR-96-285
Kansas City Power & Light Company	ET-97-113
Associated Natural Gas Company	GR-97-272
Union Electric Company	GR-97-393
Missouri Gas Energy	GR-98-140
Missouri Gas Energy	GT-98-237
Ozark Natural Gas Company, Inc.	GA-98-227
Laclede Gas Company	GR-98-374
St. Joseph Power & Light Company	GR-99-246
Laclede Gas Company	GR-99-315
Utilicorp United Inc. & St. Joseph Light & Power Co.	EM-2000-292
Union Electric Company d/b/a AmerenUE	GR-2000-512
Missouri Gas Energy	GR-2001-292
Laclede Gas Company	GR-2001-629
Union Electric Company d/b/a AmerenUE	GT-2002-70
Laclede Gas Company	GR-2001-629
Laclede Gas Company	GR-2002-356
Union Electric Company d/b/a AmerenUE	GR-2003-0517
Missouri Gas Energy	GR-2004-0209
Atmos Energy Corporation	GR-2006-0387
Missouri Gas Energy	GR-2006-0422
Union Electric Company d/b/a AmerenUE	GR-2007-0003
The Empire District Electric Company	EO-2007-0029/EE-2007-0030
Laclede Gas Company	GR-2007-0208
The Empire District Electric Company	EO-2008-0043

cont'd DANIEL I. BECK, PE
List of Cases in which
prepared testimony was presented

<u>Company Name</u>	<u>Case No.</u>
Missouri Gas Utility, Inc.	GR-2008-0060
The Empire District Electric Company	ER-2008-0093
Trigen Kansas City Energy Corporation	HR-2008-0300
Union Electric Company d/b/a AmerenUE	ER-2008-0318
Kansas City Power & Light Company	ER-2009-0089
KCP&L Greater Missouri Operations Company	ER-2009-0090
Missouri Gas Energy	GR-2009-0355
The Empire District Gas Company	GR-2009-0434
Union Electric Company d/b/a AmerenUE	ER-2010-0036
Laclede Gas Company	GR-2010-0171
Atmos Energy Corporation	GR-2010-0192
Kansas City Power & Light Company	ER-2010-0355
KCP&L Greater Missouri Operations Company	ER-2010-0356
Union Electric Company d/b/a Ameren Missouri	GR-2010-0363
Kansas City Power & Light Company	ER-2012-0174
KCP&L Greater Missouri Operations Company	ER-2012-0175
Chaney vs. Union Electric Company	EO-2011-0391
Veach vs. The Empire District Electric Company	EC-2012-0406
The Empire District Electric Company	ER-2012-0345
KCP&L Greater Missouri Operations Company	ET-2014-0059
Kansas City Power & Light Company	ET-2014-0071
Union Electric Company d/b/a Ameren Missouri	ET-2014-0085
Missouri Gas Energy	GR-2014-0007
Union Electric Company d/b/a Ameren Missouri	EA-2012-0281
Union Electric Company d/b/a Ameren Missouri	EA-2014-0136
Summit Natural Gas of Missouri, Inc.	GR-2014-0086
Grain Belt Express Clean Line LLC	EA-2014-0207
Union Electric Company d/b/a Ameren Missouri	ER-2014-0258
Kansas City Power & Light Company	ER-2014-0370
Ameren Transmission Company of Illinois	EA-2015-0146
KCP&L Greater Missouri Operations Company	EA-2015-0256

cont'd DANIEL I. BECK, PE
List of Cases in which
prepared testimony was presented

<u>Company Name</u>	<u>Case No.</u>
KCP&L Greater Missouri Operations Company	ER-2016-0156
Union Electric Company d/b/a Ameren Missouri	ER-2016-0179
Kansas City Power & Light Company	ER-2016-0285
Grain Belt Express Clean Line LLC	EA-2016-0358
The Empire District Electric Company	EO-2017-0277
Spire Missouri, Inc. dba Spire's division Laclede Gas	GR-2017-0215
Spire Missouri, Inc. dba Spire's division Missouri Gas Energy	GR-2017-0216
Liberty Utilities	GR-2018-0013
Union Electric Company d/b/a Ameren Missouri	GR-2019-0077

Summary of Transmission Lines

Case No. EM-2019-0212

Circuit	Voltage	Miles	Structures	Poles	Notes	Conductor	Easements
T2 A&B	34.5 kV	2.234	25	25		1/0F CWC	9
T10	69 kV	29.54	276	391		1/0F CWC	87
T11	69 kV	21.14	216	294	*****	3/0 ACSR	67
T12	69 kV	0.32	9	12		477 ACSR	1
T13	69 kV	7.13	63	122		4/0 ACSR	16
T14	69 kV	0.38	10	10	*	3/0 ACSR	2
T15A	69 kV	0.5	9	12		477 ACSR	16
T15B	69 kV	0.61	15	17		477 ACSR	4
T15A-T15B	69 kV	1.39	27	27	**	477 ACSR, two circuits	0
T16	69 kV	0.9	16	16		7#7 CW	4
T17	69 kV	3.58	80	82		3/0 ACSR	36
T18	69 kV	0.56	19	22	**	477 ACSR	19
T19	69 kV	16.79	165	287		477 ACSR	43
T20	69 kV	0.48	14	14		477 ACSR	8
T21	69 kV	8.86	84	132		477 ACSR	32
T22	69 kV	8.88	135	158		477 ACSR	48
T23	69 kV	11.64	91	170		477 ACSR	32
T24	69 kV	5.6	40	82		477 ACSR	22
T25	69 kV	1.74	40	40		477 ACSR-350 CWC	8
T26	69 kV	6.06	101	103		477 ACSR-1/0 ACSR	24
T27	69 kV	7.45	58	123		477 ACSR	23
T28	69 kV	3.59	65	65		477 ACSR	20
T29	69 kV	0.44	7	7		477 ACSR	1
T30	69 kV	0.83	19	19		477 ACSR	4
T31	69 kV	0.23	5	5		477 ACSR	3
T32	69 kV	2.15	20	20	**	477 ACSR	7
T33	69 kV	7.08	48	48	**	477 ACSR	25
T34	69 kV	7.57	59	59	**	477 ACSR	25
T35	138 kV	17.48	147	147	**	795 ACSR	73
T36	69 kV	3.83	27	27	**	477 ACSR	20
T37	69 kV	9.51	65	65	**	477 ACSR	28
T39	138 kV	27.83	172	325	***	556.5 ACSR	83
T40	138 kV	23.57	145	307	**	954 ACSR	84
T41	69 kV	0.08	5	5		477 ACSR	2
T42	69 kV	3.59	32	32	*****	477 ACSR	12
		243.564	2309	3270			888

* AT&T owns one wood pole structure

** Steel Poles

*** 325 wood poles, 16 steel lattice structures owned by AmerenUE

***** Description on page 138 shows 329 wood poles, 32 poles is the correct number

***** Also includes 3 Wire Line Licenses from the Missouri-Illinois Railroad

transactions with Citizens are at the lower end of reportable concentration of risk percentages. Further, the inclusion of such an analyses in an auditor report in this manner is intended to routinely inform the reader of relevant concentration of risk information.

COMES NOW MARK L. OLIGSCHLAEGER and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing; and that the same is true and correct according to his best knowledge and belief.

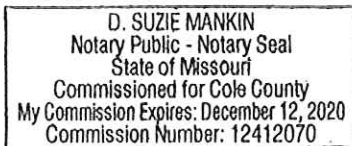
Further the Affiant sayeth not.




MARK L. OLIGSCHLAEGER

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 15th day of October 2019.





Notary Public

MARK L. OLIGSCHLAEGER

Educational and Employment Background and Credentials

I graduated from Rockhurst College in Kansas City, Missouri in 1981, with a Bachelor of Science degree in Business Administration, with a major in Accounting.

In November 1981, I passed the Uniform Certified Public Accountant examination and, since February 1989, have been licensed in the state of Missouri as a CPA.

I have been employed by the Missouri Public Service Commission (“Commission”) since September 1981 within the Auditing Department. In April 2011, I assumed the position of Manager of the Auditing Department, Commission Staff Division, of the Commission.

I have been employed by this Commission as a Regulatory Auditor for approximately 37 years and have submitted testimony on ratemaking matters numerous times before the Commission. I have also been responsible for the supervision of other Commission employees in rate cases and other regulatory proceedings many times. As Manager of the Auditing Department, I am responsible for managing and coordinating the work of all auditors on cases assigned to the Auditing Department.

The cases in which I have submitted written testimony for the Commission Staff are shown in the following table:

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
KCP&L Greater Missouri Operations Company	EC-2019-0200	Cross-Rebuttal: Sibley Retirement Deferral
Missouri-American Water Company	WO-2019-0184	Rebuttal: Infrastructure System Replacement Surcharge (ISRS)
Spire Missouri, Inc., d/b/a Spire	GU-2019-0011	Rebuttal: Commission Assessment AAO
The Empire District Electric Company	EA-2019-0010	Rebuttal Report: Economic Feasibility
Missouri-American Water Company	WO-2018-0373	Direct: Net Operating Loss
The Empire District Electric Company	ER-2018-0366	Rebuttal: Tax Reform
Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company	ER-2018-0145 and ER-2018-0146	Surrebuttal: Tax Cuts and Jobs Act
Union Electric Company, d/b/a Ameren Missouri	ET-2018-0132	Rebuttal: Accounting and Ratemaking
Empire District, a Liberty Utilities Company	EO-2018-0092	Rebuttal: Asbury Regulatory Asset; Affiliate Transaction Variance
Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities	GR-2018-0013	Rebuttal: Tracker Proposals Surrebuttal: Tracker Proposals; Pensions/OPEBs
Missouri-American Water Company	WU-2017-0351	Rebuttal: Property Tax AAO Surrebuttal: Property Tax AAO
Missouri-American Water Company	WR-2017-0285	Direct: Future Test Year Rebuttal: Future Test Year New Tax Legislation
Spire Missouri, Inc., d/b/a Spire (Laclede Gas Company / Missouri Gas Energy)	GR-2017-0215 and GR-2017-0216	Rebuttal: Tracker Proposals; Other Policy Proposals; Software Costs
Union Electric Company, d/b/a Ameren Missouri	EO-2017-0176	Direct: CAM Approval

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri Gas Energy and Laclede Gas Company	GO-2016-0332 and GO-2016-0333	Rebuttal: ISRS Updates; Capitalized Incentive Compensation; Hydrostatic Testing
Kansas City Power & Light Company	ER-2016-0285	Rebuttal: Tracker Proposals; Use of Projected Expenses; Expense Trackers in Rate Base
Laclede Gas Company and Missouri Gas Energy	GO-2016-0196 and GO-2016-0197	Rebuttal: ISRS True-ups
Union Electric Company, d/b/a Ameren Missouri	ER-2016-0179	Rebuttal: Transmission Tracker; Noranda Deferral; Regulatory Reform
KCP&L Greater Missouri Operations Company	ER-2016-0156	Rebuttal: Tracker Proposals; Use of Projected Expenses; Tracker Balances in Rate Base; Deferral Policy
Missouri-American Water Company	WR-2015-0301	Rebuttal: Environmental Cost Adjustment Mechanism; Energy Efficiency and Water Loss Reduction Deferral Mechanism Tracker
Laclede Gas Company	GO-2015-0178	Direct: ISRS True-ups
Kansas City Power & Light Company	EU-2015-0094	Direct: Accounting Order – Department of Energy Nuclear Waste Fund Fees
Union Electric Company, d/b/a Ameren Missouri (2018)	EO-2015-0055	Rebuttal: MEEIA Accounting Conditions
Union Electric Company, d/b/a Ameren Missouri (2015)	EO-2015-0055	Rebuttal: Demand-Side Investment Mechanism
Kansas City Power & Light Company	ER-2014-0370	Rebuttal: Trackers Surrebuttal: Trackers; Rate Case Expense
Kansas City Power & Light Company	EO-2014-0255	Rebuttal: Continuation of Construction Accounting
Union Electric Company, d/b/a Ameren Missouri	EC-2014-0223	Rebuttal: Complaint Case – Rate Levels
Kansas City Power & Light Company	EO-2014-0095	Rebuttal: DSIM
Union Electric Company, d/b/a Ameren Missouri	ET-2014-0085	Surrebuttal: RES Retail Rate Impact
Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co.	EU-2014-0077	Rebuttal: Accounting Authority Order

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Kansas City Power & Light Company	ET-2014-0071	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
KCP&L Greater Missouri Operations Company	ET-2014-0059	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
Missouri Gas Energy, A Division of Laclede Gas Company	GR-2014-0007	Surrebuttal: Pension Amortizations
The Empire District Electric Company	ER-2012-0345	Direct (Interim): Interim Rate Request Rebuttal: Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization Surrebuttal: State Income Tax Flow-Through Amortization
KCP&L Greater Missouri Operations Company	ER-2012-0175	Surrebuttal: Transmission Tracker Conditions
Kansas City Power & Light Company	ER-2012-0174	Rebuttal: Flood Deferral of off-system sales Surrebuttal: Flood Deferral of off-system sales, Transmission Tracker conditions
Union Electric Company, d/b/a Ameren Missouri	ER-2012-0166	Responsive: Transmission Tracker
Union Electric Company, d/b/a Ameren Missouri	EO-2012-0142	Rebuttal: DSIM
Union Electric Company, d/b/a Ameren Missouri	EU-2012-0027	Rebuttal: Accounting Authority Order Cross-Surrebuttal: Accounting Authority Order
KCP&L Greater Missouri Operations Company	EO-2012-0009	Rebuttal: DSIM
Missouri Gas Energy, a Division of Southern Union	GU-2011-0392	Rebuttal: Lost Revenues Cross-Surrebuttal: Lost Revenues
Missouri-American Water Company	WR-2011-0337	Surrebuttal: Pension Tracker
The Empire District Electric Company	ER-2011-0004	Staff Report on Cost of Service: Direct: Report on Cost of Service; Overview of the Staff's Filing Surrebuttal: SWPA Payment, Ice Storm Amortization Rebasing, S02 Allowances, Fuel/Purchased Power and True-up
The Empire District Electric Company	ER-2010-0130	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; Surrebuttal: Regulatory Plan Amortizations

**CASE PARTICIPATION OF
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Company Name	Case Number	Issues
Missouri Gas Energy, a Division of Southern Union	GR-2009-0355	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Rebuttal: Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; Surrebuttal: Environmental Expense, FAS 106/OPEBs
KCP&L Greater Missouri Operations Company	EO-2008-0216	Rebuttal: Accounting Authority Order Request
The Empire District Electric Company	ER-2008-0093	Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding
Missouri Gas Utility	GR-2008-0060	Report on Cost of Service; Overview of Staff's Filing
Laclede Gas Company	GR-2007-0208	Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact
Missouri Gas Energy	GR-2006-0422	Unrecovered Cost of Service Adjustment; Policy
The Empire District Electric Company	ER-2006-0315	Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up
Missouri Gas Energy	GR-2004-0209	Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure
Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P- Electric and Steam	ER-2004-0034 and HR-2004-0024 (Consolidated)	Aries Purchased Power Agreement; Merger Savings
Laclede Gas Company	GA-2002-429	Accounting Authority Order Request
Union Electric Company	EC-2002-1	Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles
Missouri Public Service	ER-2001-672	Purchased Power Agreement; Merger Savings/Acquisition Adjustment
Gateway Pipeline Company	GM-2001-585	Financial Statements
Ozark Telephone Company	TC-2001-402	Interim Rate Refund
The Empire District Electric Company	ER-2001-299	Prudence/State Line Construction/Capital Costs

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri Gas Energy	GR-2001-292	SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP
KLM Telephone Company	TT-2001-120	Policy
Holway Telephone Company	TT-2001-119	Policy
Peace Valley Telephone	TT-2001-118	Policy
Ozark Telephone Company	TT-2001-117	Policy
IAMO Telephone Company	TT-2001-116	Policy
Green Hills Telephone	TT-2001-115	Policy
UtiliCorp United & The Empire District Electric Company	EM-2000-369	Overall Recommendations
UtiliCorp United & St. Joseph Light & Power	EM-2000-292	Staff Overall Recommendations
Missouri-American Water	WM-2000-222	Conditions
Laclede Gas Company	GR-99-315 (remand)	Depreciation and Cost of Removal
United Water Missouri	WA-98-187	FAS 106 Deferrals
Western Resources & Kansas City Power & Light	EM-97-515	Regulatory Plan; Ratemaking Recommendations; Stranded Costs
Missouri Public Service	ER-97-394	Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation
The Empire District Electric Company	ER-97-82	Policy
Missouri Gas Energy	GR-96-285	Riders; Savings Sharing
St. Louis County Water	WR-96-263	Future Plant
Union Electric Company	EM-96-149	Merger Savings; Transmission Policy
St. Louis County Water	WR-95-145	Policy
Western Resources & Southern Union Company	GM-94-40	Regulatory Asset Transfer
Generic Electric	EO-93-218	Preapproval

**CASE PARTICIPATION OF
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Company Name	Case Number	Issues
Generic Telephone	TO-92-306	Revenue Neutrality; Accounting Classification
Missouri Public Service	EO-91-358 and EO-91-360	Accounting Authority Order
Missouri-American Water Company	WR-91-211	True-up; Known and Measurable
Western Resources	GR-90-40 and GR-91-149	Take-Or-Pay Costs

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

<u>COMPANY NAME</u>	<u>CASE NUMBER</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14