

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 27th day
of February, 2013.

In the Matter of the Application of Kansas City)
Power & Light Company for Authority to)
Extend the Transfer of Functional Control of)
Certain Transmission Assets to the Southwest)
Power Pool, Inc.)

File No. EO-2012-0135

In the Matter of the Application of KCP&L)
Greater Missouri Operations Company for)
Authority to Extend the Transfer of Functional)
Control of Certain Transmission Assets to the)
Southwest Power Pool, Inc.)

File No. EO-2012-0136

**ORDER DENYING APPLICATION
TO INTERVENE**

Issue Date: February 27, 2013

Effective Date: February 27, 2013

On November 1, 2011, the Commission issued a Notice opening the above-captioned files. On November 2, the Commission issued an Order providing notice of such. In that Order, the Commission also set an intervention deadline of November 22, 2011.

Application to Intervene

On February 1, 2013, the Missouri Industrial Energy Consumers filed an application to intervene out of time. Although it does not have a position on the issues of this case, MIEC states that as large industrial customers of Kansas City Power & Light and KCP&L Greater Missouri Operations Company, its interests are different than those of the general public and that such interest may be adversely affected by a final order arising from this

case. MIEC also states that its participation in this case will serve the public interest by assisting the Commission's record for decision.

Finally, MIEC states the following as good cause for filing its application to intervene out of time:

Counsel for MIEC only recently became aware of the impact of this proceeding on the MIEC, and additional time beyond the intervention deadline was required to obtain authority to intervene from the MIEC members.

Response in Opposition to Application to Intervene

On February 11, 2013, KCPL and GMO filed a response opposing MIEC's application to intervene. KCPL and GMO point out that: the application to intervene was filed more than 14 months out of time; the statement of "good cause" is insufficient; and, MIEC fails to identify the impact this proceeding will have on its member companies.

In support of its position that MIEC's statement of good cause is insufficient, KCPL and GMO direct the Commission to its Case No. GR-2006 0422; a rate case for Missouri Gas Energy (MGE) wherein the Commission denied late intervention to an applicant for a similar statement of good cause. The companies cite to the Commission's language in that order:

Were the Commission to accept "we just found out" as good cause for filing a request to intervene almost two months out of time, "good cause," as used in the Commission's rule, would have no substance. This is particularly so when it is a proposed intervenor's business to know what is going on in its environment. The Commission will therefore deny [the] request to intervene.

MIEC did not file a reply to KCPL and GMO's opposition.

Discussion

Commission rule 4 CSR 240,075 (10) requires a showing of good cause for applications to intervene filed out of time. The application filed by MIEC was well beyond

the intervention deadline. The Commission's decisions have no precedential value¹ and are therefore not binding on the Commission. However, consistent, rather than arbitrary rulings, will serve the expectations of those practicing before the Commission. MIEC's statement of good cause mirrors the statement of good cause noted by KCLP and GMO. Further, the passage of time in this case after the close of the intervention deadline is far longer than that of the MGE case. Finally, KCPL and GMO oppose the application to intervene. In light of the insufficiently stated good cause, this opposition must not be in vain. The Commission will therefore deny MIEC's application to intervene.

THE COMMISSION ORDERS THAT:

1. The Missouri Industrial Energy Consumers' application to intervene is denied.
2. This order shall become effective upon issuance.

BY THE COMMISSION



Shelley Brueggemann
Acting Secretary

(S E A L)

Jarrett, Stoll, and W. Kenney, CC., concur.
Gunn, Chm., and R. Kenney, C., dissent.

Jones, Senior Regulatory Law Judge

¹ *State ex rel. AG Processing, Inc. v. Public Service Comm'n*, 120 S.W.3d 732, 736 (Mo. banc 2003).