

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 9th day of
October, 2019.

In the Matter of the Application of KCP&L Greater)	
Missouri Operations Company for Approval of a)	<u>File No. EO-2019-0244</u>
Special Rate for a Facility Whose Primary Industry)	Tariff No. YE-2020-0002
Is the Production or Fabrication of Steel in or)	
Around Sedalia, Missouri)	

**ORDER DENYING MOTION TO DISMISS PARTY AND
DENYING MOTION TO QUASH OBJECTION**

Issue Date: October 9, 2019

Effective Date: October 9, 2019

On September 24, 2019, Staff filed a motion asking the Commission to dismiss Midwest Energy Consumers Group (MECG) as a party because Staff doubts MECG's claim to represent any entity other than itself. On the same date, Staff filed a separate motion to quash MECG's objection to a stipulation and agreement entered into by Staff, KCP&L Greater Missouri Operations Company (GMO), and Nucor Steel Sedalia, LLC (Nucor) that would fully resolve this case. Responses to those motions were due ten days after they were filed, October 4, 2019.

MECG filed a response on October 4, opposing Staff's motion. Staff replied on October 8, as did GMO. Staff reiterated its previous arguments. GMO urged the Commission to proceed with holding an evidentiary hearing as scheduled, and if it rejects Staff's motion to do so in a manner narrowly tailored to apply to this case only. MECG filed a response to Staff's reply later on October 8. No other responses were filed.

This case began on July 12, 2019, when GMO filed an application seeking authority from the Commission to implement a special incremental load rate for a steel production facility in Sedalia, Missouri. The steel production facility will be owned and operated by Nucor.

MECG applied to intervene on July 22, 2019. MECG's application to intervene represents that it is an incorporated association representing the interests of large commercial and industrial users of electricity. The application also represents that "as a group of large commercial and industrial customers of KCPL-GMO, MECG's interest in this case is different than that of the general public." Further, the application represents that "MECG's intervention will serve the public interest by assisting the record for the Commission's decision in this case."

A procedural conference was held on July 23, 2019. At that time, while on the record, the presiding officer took up MECG's application to intervene.¹ GMO initially questioned MECG's claim to intervene and asked MECG's legal counsel which large commercial and industrial customers of GMO it represented in this case.² Counsel for MECG indicated he represented MECG as a corporate entity, not any particular customers.³ After a brief recess to allow GMO's legal counsel to consult with his client, GMO indicated on the record that it did not object to MECG's application to intervene.⁴ Staff did not oppose MECG's intervention request at that time. The presiding officer then

¹ Transcript, Page 5, Lines 3-8.

² Transcript, Page 5, Lines 9-13.

³ Transcript, Page 6, Lines 20-24.

⁴ Transcript, Page 10, Lines 18-20.

granted MEEG's unopposed application to intervene.⁵ Thereafter, MEEG participated in this case as a party.

On September 19, 2019, GMO, Staff, and Nucor filed a non-unanimous stipulation and agreement that would resolve all aspects of this case, and would, if approved by the Commission, allow GMO's special rate for Nucor to go into effect. MEEG filed a timely objection to the stipulation and agreement on September 24, 2019. The Office of the Public Counsel, the only other party to the case, did not object to the non-unanimous stipulation and agreement. If not for MEEG's objection, the stipulation and agreement could be presented to the Commission for approval as a unanimous stipulation and agreement. With the stipulation and agreement having been objected to, the case is set for evidentiary hearing on October 17 and 18, 2019. Staff responded to MEEG's objection by filing its motion to dismiss MEEG as a party and to quash MEEG's objection to the stipulation and agreement.

Staff's motions to dismiss MEEG and to quash its objection are based on the premise that MEEG's either does not represent any customer of GMO, or if it does represent such a customer, it should be compelled to identify that customer. The Commission's rule on intervention, 20 CSR 4240-2.075 is not consistent with Staff's position. That rule requires that a motion to intervene by an association, other than an incorporated association or other entity created by statute, include a list of all its members.⁶ Thus, while an unincorporated association must disclose its members, an

⁵ Transcript, Page 10, Lines 21-23.

⁶ 20 CSR 4240-2.075(2)(D).

incorporated association, such as MCEG, is not required to do so. Similarly, another provision of the Commission’s rule on intervention states:

If the commission grants intervention to an association, *other than an incorporated association or other entity created by statute*, the commission is not granting intervention to the “association,” but is granting intervention to the individual members of the association. (Emphasis added)⁷

The Commission granted MCEG intervention on its own behalf as a corporate entity, not as an association for which it would be required to disclose its members. In sum, MCEG is the party, not any members it may have.

The Commission will deny Staff’s motion to dismiss MCEG as a party. Given that decision, Staff’s motion to quash MCEG’s objection to the non-unanimous stipulation and agreement, which is premised on MCEG being dismissed as a party, is without support and will also be denied.

THE COMMISSION ORDERS THAT:

1. Staff’s Motion to Dismiss Purported Party is denied.
2. Staff’s Motion to Quash Purported Objection is denied.
3. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge

⁷ 20 CSR 4240-2.075(4)