

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

In the Matter of Union Electric Company)	
d/b/a AmerenUE for Authority to File)	
Tariffs Increasing Rates for Electric)	<u>Case No. ER-2010-0036</u>
Service Provided to Customers in the)	
Company's Missouri Service Area.)	

**RESPONSE IN OPPOSITION TO APPLICATION TO INTERVENE OUT OF TIME OF
KANSAS CITY POWER AND LIGHT COMPANY**

COMES NOW the Office of the Public Counsel and for its Response in Opposition to Application to Intervene Out of Time of Kansas City Power and Light Company states as follows:

1. On July 24, 2009, Union Electric Company d/b/a AmerenUE filed a general rate increase case. On July 27, the Commission issued an order that, among other things, established an intervention deadline. The order stated: “Any proper person or entity wishing to intervene shall file an application to intervene no later than August 17, 2009....”

2. On October 27, three months after AmerenUE filed its rate case, the Kansas City Power & Light Company filed an application to intervene out of time.

3. The Commission’s intervention rule (4 CSR 240-2.075) requires that an entity seeking intervention state the proposed intervenor’s interest in the case and reasons for seeking intervention. The Commission will allow a timely intervention if it finds: 1) that the proposed intervenor has an interest different from that of the general public which may be adversely affected in the case; or 2) that the public interest is served by granting intervention.

4. With respect to the first of these grounds, an interest in the case, KCPL simply states:

KCP&L's interest in this case arises from its status as one of only four investor-owned electric utilities regulated by the Commission in this state with a direct and specific interest in the issues raised in this case, including the Commission's treatment of various revenue and expense items.

While the Commission has held that "interest" does not require a showing of direct pecuniary interest, it must necessarily be something more than general curiosity. KCPL has had three months to examine AmerenUE's rate case filing, and apparently all it has gleaned is that the two companies are in the same line of business. This is not a sufficient showing of an interest to allow intervention. Similarly, the Commission has held that the possibility of being "adversely affected" need not require a showing of direct financial harm. But again, it must require something more than KCPL's unsupported recitation (obviously lifted verbatim from the rule) that its unspecified interest "may be adversely affected by a final order arising from this case." Clearly, the Commission's treatment of "various revenue and expense items" specific to AmerenUE cannot have any direct impact on KCPL, so KCPL's interest is no greater than that of any other regulated utility. If the Commission had intended to allow a utility to intervene in a case based solely on a showing that the proposed intervenor is a regulated utility, then the Commission's rules would so provide. They do not; they require a more direct interest.

5. With respect to the second of the grounds upon which the Commission may grant intervention, a finding that such grant will further the public interest, KCPL is even less forthcoming. KCPL just avers that "Moreover, KCP&L's intervention is in the public interest." KCPL appears to base this statement entirely on the fact that it is a regulated utility providing electric service like AmerenUE. Again, the Commission's rules do not support a grant of intervention based solely on a showing that the proposed intervenor is a regulated utility. KCPL has not demonstrated grounds sufficient to support intervention, even if it had timely filed its request.

6. Because KCPL seeks intervention long after the expiration of the Commission-ordered intervention period, it must satisfy the requirements of 4 CSR 240-2.075(5) in addition to 4 CSR 240-2.075(2) and (4). 4 CSR 240-2.075(5) requires that an applicant show good cause. Obviously, the good cause requirement pertains to showing good cause for an untimely filing, yet KCPL believes it can skate past this requirement by simply repeating that “KCP&L may be able to provide the Commission the perspective of a different Missouri utility regarding the various accounting and regulatory issues raised in this case.” As discussed above, this statement is inadequate to justify a timely intervention, and thus is even more inadequate as the sole grounds for allowing intervention 71 days out of time.

WHEREFORE, Public Counsel respectfully requests that the Commission deny the application to intervene of the Kansas City Power and Light Company.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 29th day of October 2009.

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