

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

In the Matter of the Application of Kansas)
City Power & Light Company to) Case No. ER-2014-0370
Implement a General Rate Increase for)
Electric Service.)

**REPLY IN OPPOSITION TO AMEREN
MISSOURI’S APPLICATION FOR INTERVENTION**

COMES NOW the Missouri Office of the Public Counsel (OPC) (and joined by the Commission’s Staff) for its Reply in Opposition to the Application for Intervention filed by Union Electric Company d/b/a Ameren Missouri (“Ameren”), and states:

1. On November 11, 2014, Ameren filed an application to intervene to participate in the rate increase proposed by Kansas City Power & Light Company (KCP&L). Granting intervention would allow Ameren to: present evidence, seek discovery from any other party, review confidential data, argue a position on KCP&L’s proposed increase, cross-examine all witnesses including KCP&L witnesses, and negotiate settlement terms, including the ability to object to an otherwise unanimous stipulation and agreement.

2. Ameren’s application states that it “has an interest in this case that is different from that of the general public and which may be adversely affected by a final order arising from this case.” That interest, according to Ameren, is that Ameren is “one of three investor-owned electric utilities regulated by the Commission in the 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.”

3. Commission rule 4 CSR 240-2.075 prescribes the procedures by which an individual or entity may intervene in a case. The rule states that the Commission will grant intervention only where: (1) the proposed intervener has an interest that is different from that of the general public; (2) the proposed intervener has an interest which may be adversely affected by a final order arising from the case; and (3) Granting intervention “would serve the public interest.” 4 CSR 240-2.075(3).

4. Intervention for Ameren should be denied for the following reasons:

a. Ameren cannot be adversely affected by this case because it involves the terms and conditions for rendering service to KCP&L customers in the KCP&L service territory, which is distinctly different from Ameren customers and the Ameren service territory. Rates set for KCP&L will have no impact on Ameren’s rates. Any decision rendered by the Commission in KCP&L’s rate case will apply only to KCP&L and not to Ameren. Moreover, the Commission “is not bound by stare decisis” based on prior administrative decisions, so long as its current decision is not otherwise unreasonable or unlawful.” *State ex rel. Praxair, Inc. v. PSC*, 328 S.W.3d 329, 340 (Mo. Ct. App. 2010). The Commission is not bound by the decisions it renders in this case when considering any future case for Ameren. Accordingly, Ameren has not shown that its interests could be adversely affected by the outcome of this case.

b. Ameren’s application does not provide *any* explanation to support its assertion that granting intervention would serve the public interest, and simply states, “Moreover, Ameren Missouri’s intervention is in the public interest.” It is not entirely clear whether Ameren’s next sentence attempts to provide the rationale for the public interest assertion. If it is, the entire basis of its assertion of a “public interest” is that

Ameren is also an electric company. The public interest would in no way benefit from Ameren's participation in this case, and Ameren has not satisfied its burden of establishing how its participation would serve the public interest.

c. Denying intervention would be consistent with past Commission practice where intervention is denied when the requesting party is not "a necessary and indispensable party" to the case. Case No. TO-2001-455, *In the Matter of the Application of AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc., and TCG Kansas City, Inc., for Compulsory Arbitration of Unresolved Issues With Southwestern Bell Telephone Company pursuant to Section 252(b) of the Telecommunications Act of 1996*, Report and Order, September 13, 2001 (*AT&T*). In *AT&T*, a group of telecommunications companies with a financial interest in the outcome of AT&T's application were denied intervention by the Commission. *Citing Ballmer v. Ballmer*, 923 S.W.2d 365, 368 (Mo. App., W.D. 1996). In denying intervention, the Commission concluded, "The fact that the intervention applicant may suffer an adverse monetary impact from the proceeding is not necessarily sufficient to confer a right to intervene." The mere fact that these were also telecommunications companies was no justification for granting intervention, just as Ameren also being an electric company is no justification for granting intervention.

d. Ameren's interests as an electric company will be adequately represented by KCP&L's interests as an electric company.

e. Ameren's current rate case is on a track that is ahead of KCP&L's rate case, and therefore, Ameren has a current opportunity to present any ratemaking issues it wishes to bring to the Commission's attention in its own rate case.

f. Ameren and its attorneys would be privy to KCP&L's confidential information.

5. If the Commission denies Ameren's application, it would not necessarily preclude Ameren from requesting that it be permitted to brief the issues. Commission rule 4 CSR 240-2.075(6) states that any person, not a party to a case, may petition the Commission for leave to file a brief as *amicus curiae*.

6. Public Counsel was authorized by Staff Counsel to represent that the Commission's Staff joins Public Counsel in this reply opposing intervention by Ameren.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply in opposition to Ameren's application to intervene and urges the Commission to deny intervention for the reasons stated herein.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston
Marc D. Poston (#45722)
Chief Deputy Counsel
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this November 21, 2014.

Missouri Public Service Commission
Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Missouri Public Service Commission
Nathan Williams
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Nathan.Williams@psc.mo.gov

Kansas City Power & Light Company
Lisa A Gilbreath
4520 Main, Suite 1100
Kansas City, MO 64111
lisa.gilbreath@dentons.com

Kansas City Power & Light Company
James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 35101
jfischerpc@aol.com

Kansas City Power & Light Company
Robert Hack
1200 Main, 16th Floor
P.O. Box 418679
Kansas City, MO 64141-9679
rob.hack@kcpl.com

Kansas City Power & Light Company
Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@kcpl.com

Kansas City Power & Light Company
Karl Zobrist
4520 Main Street, Suite 1100
Kansas City, MO 64111
karl.zobrist@dentons.com

/s/ Marc Poston
