

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Ag Processing, Inc.,)	
)	
Complainant,)	
)	
v.)	<u>File No. HC-2012-0259</u>
)	
KCP&L Greater Missouri Operations Company,)	
)	
Respondent.)	

ORDER GRANTING REQUEST TO INTERVENE

Issue Date: May 1, 2012

Effective Date: May 1, 2012

On April 18, 2012, Triumph Foods, L.L.C. filed a motion to intervene, 49 days out of time.¹ Commission Rule 4 CSR 240-2.075(10) requires a showing of good cause for late intervention. “Good cause,” is defined as showing a “legally sufficient ground or reason” under the circumstances.² Triumph’s motion did not include “good cause” for the motion’s untimeliness.

On April 25, 2012, at the direction of the Commission, Triumph supplemented its motion to intervene. Triumph explains that it did not learn of this matter until March 12, 2012. It then took Triumph time to investigate the matter and retain counsel for

¹ The Commission issued notice of this complaint on January 30, 2012. No intervention deadline was established by order, but the Commission’s Rule 4 CSR 240-2.075(1) operated to set the deadline for February 29, 2012.

² *Wilson v. Morris*, 369 S.W.2d 402, 407 (Mo.1963); *Black’s Law Dictionary*, 6th ed., West Group, 1990, p. 692. To constitute good cause, the reason “must be real, not imaginary, substantial, not trifling, and reasonable, not whimsical, and good faith is an essential element.” *Schuenemann v. Route 66 Rail Haven, Ltd.*, 353 S.W.3d 691, 696 (Mo. App. 2011), *citing to*, *Belle State Bank v. Indus. Comm’n*, 547 S.W.2d 841, 846 (Mo. App. 1977).

its representation. Under those circumstances Triumph explains that its motion to intervene was filed at the earliest possible opportunity. Triumph has also affirmatively stated that it accepts the record and procedural requirements already established in this matter, as required by 4 CSR 240-2.075(10).

No party has objected to Triumph's motion to intervene within the response period set by the Commission. The Commission finds Triumph has satisfied the requirements and shown good cause for late intervention. The Commission will grant Triumph's motion.

THE COMMISSION ORDERS THAT:

1. Triumph Foods, L.L.C.'s motion to intervene, as supplemented, is granted.
2. This order shall become effective immediately upon issuance.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Harold Stearley, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 1st day of May, 2012.