

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

In the Matter of the Joint Application of)
Great Plains Energy Incorporated, Kansas)
City Power & Light Company, and KCP&L) Case No. EE-2017-0113
Greater Missouri Operations Company for)
a Variance from the Commission's Affiliate)
Transaction Rule, 4 CSR 240-20.015)

**REPLY OF JOINT APPLICANTS TO
CONSUMERS COUNCIL'S RESPONSE TO THE
OPPOSITION OF JOINT APPLICANTS TO
CONSUMERS COUNCIL'S APPLICATION TO INTERVENE**

Great Plains Energy Incorporated ("GPE"), Kansas City Power & Light Company ("KCP&L"), and KCP&L Greater Missouri Operations Company ("GMO") (collectively, "Joint Applicants") state the following in reply to the Response of the Consumers Council of Missouri ("Consumers Council") to the Joint Applicants' Opposition to its Application to Intervene ("Response"):

1. On October 28, 2016 the Joint Applicants filed their Opposition to Consumers Council of Missouri's Application to Intervene ("Opposition") in this case. In the Opposition, the Joint Applicants argued that Consumers Council failed to meet the requirements of 4 CSR 240-2.075 ("Intervention Rule") because Consumers Council did not demonstrate either an interest different from the general public or that its intervention would be in the public interest in this case.

2. On November 7, 2016 Consumer Council filed its Response to the Opposition. The only argument that Consumers Council offers to meet the requirements of the Intervention Rule is that because the Office of the Public Council ("OPC") does not exclusively represent retail customers, such customers are not adequately represented by OPC. See Response, ¶ 4.

Consumer Council offers no supporting analysis for its claim that because OPC represents all consumers, the representation of residential consumers would be lacking.

3. The sole precedent that Consumers Council relies upon in its Response concerns the acquisition of Empire District Electric Company, a Missouri public utility, by Liberty Utilities Company and its parent corporation Algonquin Power & Utilities Corp. See Consumers Council Response, ¶ 5. But GPE is not a public utility under Missouri law and, unlike Westar, Empire's Missouri utility operations have been serving the public for years and are fully regulated by the Commission. Therefore, the acquisition of Empire clearly required the approval of the Commission under Section 393.190, as the Commission recognized in its order approving the transaction. See Order Approving Stipulation and Agreement and Authorizing Merger Transaction at 3, In re Joint Application of The Empire District Electric Co., Liberty Utilities (Central) Co., and Liberty Sub Corp. Concerning an Agreement and Plan of Merger, No. EM-2016-0213 (Sept. 7, 2016).

4. The facts in this proceeding are similar to the acquisition of non-Missouri public utilities in 2015 and 2016 by Spire, Inc., a Missouri-based holding company governed by a stipulation comparable to the GPE Stipulation.¹ See Order Closing File, In re Spire, Inc.'s Acquisition of EnergySouth, Inc., No. GM-2016-0342 (Sept. 7, 2016). Significantly, neither Consumers Council nor any other entity took action before this Commission regarding Spire, Inc.'s acquisitions of Alabama Gas Corporation or EnergySouth, Inc., even though Staff had

¹ See Order Approving Stipulation and Agreement, and Approving Plan to Restructure, In re Application of Laclede Gas Co. for an Order Authorizing its Plan to Restructure Itself into a Holding Company, Regulated Utility Company, and Unregulated Subsidiaries, No. GM-2001-342 (Aug. 14, 2001).

alleged that both transactions were subject to the requirement of prior Commission approval and the closing of that the EnergySouth transaction was known to be imminent.

5. Finally, neither Consumers Council's Response nor its Application to Intervene states how it "may be adversely affected by a final order" in this case, or why its intervention "would serve the public interest." These are the touchstones of the Commission's Intervention Rule. See 4 CSR 240-2.075(3)(A)-(B). Consumers Council has not fulfilled these requirements because this proceeding seeks a variance from the asymmetric pricing standards of the Affiliate Transactions Rule under 4 CSR 240-20.015 that would permit transactions between the regulated operations of KCP&L, GMO and Westar to occur at cost.² Although KCP&L and GMO will continue to be regulated public utilities in Missouri, and Westar will continue to be a regulated provider of electric service in Kansas, the Affiliate Transactions Rule could prevent transactions between and among their regulated operations from occurring at cost. The requested variance would allow such transactions to occur at cost and permit the attainment of savings that will ultimately benefit customers of GPE's regulated utility subsidiaries. Indeed, Consumers Council has raised no specific objection to the Joint Applicants' request for a variance from the Affiliate Transactions Rule, but rather seeks to characterize this proceeding as a transaction that requires the Commission's approval under Section 393.190 or the 2001 GPE Stipulation.³ It is not.

6. Nothing regarding this request for a variance from the Affiliate Transactions Rule or the conditions to which the Joint Applicants have agreed in its Stipulation and Agreements with Commission Staff and the Office of the Public Counsel ("OPC") will change the rates,

² The variance request excludes wholesale power transactions that will be based on FERC-approved rates.

³ See Order Approving Stipulation and Agreement and Closing Case, In re Application of Kansas City Power & Light Co. for an Order Authorizing its Plan to Reorganize Itself into a Holding Company Structure, No. Em-2001-464 (July 31, 2001).

charges or terms of service extended to any customer. Therefore, Consumers Council has no interest different from that of the general public and no basis to claim that it may be adversely affected by a final order in this case.

7. Denying Consumers Council intervention would be consistent with other Commission decisions where a party sought to intervene without a sufficient demonstration of interest. In a financing case where Ameren applied for approval to assume a lease relating to the combustion turbine generating facility owned by Audrain County, the Commission denied the intervention application of the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”), noting that “MJMEUC’s rates ... will not be affected.” See Order Denying Application for Intervention at 2, Application of Union Elec. Co. , No. EF-2006-0278 (Feb. 2, 2006) (emphasis added). The Commission found that MJMEUC did “not have an interest which is different from that of the general public” and “will not be adversely affected by a final order arising from the case.” Id. See also Order at 4, In re Union Elec. Co. for Authority to File Tariffs Increasing Rates for Natural Gas Service, No. GR-2010-0363 (Sept. 1, 2010) (MoGas Pipeline LLC denied intervention where it “failed to show that its interest will be affected by an outcome of this case”).

8. The identical situation exists in the subject proceeding, where granting the Joint Applicants’ request for a variance from the Affiliate Transactions Rule and approving the stipulations entered into with Staff and OPC will not change or otherwise affect the rates paid by Consumers Council members. Because Consumers Council has not shown that its interest is different from that of the general public, that it will be adversely affected by a final order, or that its proposed intervention would serve the public interest, its application for intervention should be denied.

WHEREFORE, the Joint Applicants request that the Commission deny Consumers Council of Missouri's Application to Intervene.

/s/ Robert J. Hack

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CERTIFICATE OF SERVICE (PARTIES)

A copy of the foregoing was served upon the below named parties by email or U.S. mail, postage prepaid, this 16th day of November, 2016.

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**CERTIFICATE OF SERVICE
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A copy of the foregoing was served upon the below named parties by email or U.S. mail, postage prepaid, this 16th day of November, 2016.

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