

**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
SIERRA CLUB'S RESPONSE TO THE OPPOSITION
OF JOINT APPLICANTS TO SIERRA CLUB'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 Sierra Club ("Sierra Club") to the Joint Applicants' Opposition to the Application to Intervene ("Response"):

1. On October 28, 2016 the Joint Applicants filed their Opposition to Sierra Club's Application to Intervene ("Opposition"), arguing that the Sierra Club failed to meet the requirements of Subsections (A) and (B) of 4 CSR 240-2.075(3) ("Intervention Rule").

2. In response to the Joint Applicants' argument that Sierra Club had not demonstrated how its interest in this Affiliate Transactions Rule variance proceeding was any different from that of the general public under 4 CSR 240-2.075(3)(A), Sierra Club was only able to assert that it "advances its environmental interest in many dockets before the Commission." See Response, ¶ 2. Notably absent from the catalog of cases that Sierra Club asserts it has participated in was a variance proceeding under the Affiliate Transactions Rule. Id.

3. Sierra Club states that its "environmental interest" distinguishes it from the general public, but this argument ignores that fact that this case does not concern environmental matters. Indeed, Sierra Club's concerns about the "Joint Applicants' ability or inclination to

invest in renewable energy and efficiency programs” (Response ¶ 1) have nothing to do with this case. The Intervention Rule clearly requires an applicant to state “the proposed intervenor’s ... interest in the case” See 4 CSR 240-2.075(2)(E) (emphasis added).

4. That Sierra Club may, in the abstract, have an interest that is different from that of the general public is insufficient. Under the rule, an applicant for intervention must demonstrate an interest with a meaningful connection to the case in which it seeks to participate, and it must also show how that interest “may be adversely affected by a final order arising from the case.” See 4 CSR 240-2.075(3)(A). In this Affiliate Transaction Rule variance proceeding, Sierra Club has failed both to articulate its specific interest in this case and to explain how its interests could be adversely affected by a final order arising from this case.

5. Sierra Club challenges the Joint Applicants’ statement that granting the requested variance will cause no change to any tariff, rate or charge of KCP&L or GMO, arguing: “This assurance is a mere conclusion, which is why Sierra Club has applied to intervene.” See Response, ¶ 3. To the contrary, because there is no proposed change on file to any tariff, rate or charge in connection with this case, it is an objective fact that the contents of both the Stipulation with Commission Staff and the Stipulation with Public Counsel contain no provision that could change any tariff, rate or charge.

6. The third sentence of the preamble to the Affiliate Transactions Rule provides: “The rule and its effective enforcement will provide the public the assurance that their rates are not adversely impacted by the utilities’ non-regulated activities.” See 4 CSR 240-20.015 (“Purpose”). Consistent with this provisions, Joint Applicants only seek a variance with regard to the regulated operations of KCP&L and GMO overseen by this Commission, and the

regulated operations of Westar Energy, Inc. (“Westar”) overseen by the Kansas Corporation Commission.

7. Sierra Club suggests that granting the requested variance may give these utilities a "competitive advantage in the wholesale power markets.” See Response, ¶ 4. This argument is erroneous because by its very terms the variance requested by Joint Applicants excludes whole power transactions. See Stipulation and Agreement (filed Oct. 12, 2016), § (C)(4) at p. 9.¹ It is the Federal Energy Regulatory Commission, rather than this Commission, that has authority over wholesale power rates, terms and conditions. Moreover, Sierra Club’s apparent desire to intervene in this proceeding for the purpose of opposing at-cost transactions between the regulated operations of KCP&L, GMO and Westar, and instead to increase the costs of such transactions is directly contrary to the Purpose of the Affiliate Transaction Rule which, as noted above, is to avoid the possibility that rates will be “adversely impacted.” Such a position is clearly not in the public interest, and fails to meet the Intervention Rule’s requirement that “the proposed intervention would serve the public interest.” See 4 CSR 240-2.075(3)(B).

8. 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.² See Order Closing File, In re Spire, Inc.’s Acquisition of EnergySouth, Inc., No. GM-2016-0342 (Sept. 7, 2016). Significantly, neither

¹ “By the Commission’s approval of this Stipulation, the Signatories intend that the Commission shall grant KCP&L and GMO a variance from the provisions of 4 CSR 240-20.015 ... except for wholesale power transactions, which will be based on rates approved by the Federal Energy Regulatory Commission [emphasis added].”

² 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).

Sierra Club nor any other entity took any action before this Commission regarding Spire, Inc.'s acquisitions of Alabama Gas Corporation or EnergySouth, Inc., even though Staff had alleged that the both transactions were subject to prior Commission approval and the closing of the EnergySouth transaction was imminent.

9. Denying Sierra Club intervention would be consistent with other Commission decisions where a party sought to intervene without a sufficient demonstration of interest in the proceeding. In a financing case where Ameren applied for approval to assume a lease relating to the combustion turbine generating facility owned by Audrain County, Missouri Joint Municipal Electric Utility Commission ("MJMEUC") argued that its requisite interest was found in wholesale energy contracts with AmerenUE. See Order Denying Application for Intervention at 2, Application of Union Elec. Co., No. EF-2006-0278 (Feb. 2, 2006). This is a similar argument to Sierra Club's argument that it has an interest in this proceeding by virtue of its potential effect of on wholesale markets. The Commission rejected this argument and denied the intervention application of MJMEUC, noting that "MJMEUC's *rates ... will not be affected.*" (emphasis added). The Commission rejected MJMEUC's argument finding 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").

10. 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

Sierra Club members. Because Sierra Club 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 Sierra Club'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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