

**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 Service Provided to Customers)
In the Company's Missouri Service Area.)

Case No. ER-2010-0036

**RESPONSE IN OPPOSITION TO APPLICATION FOR INTERVENTION OF
THE MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSION**

COMES NOW Union Electric Company d/b/a AmerenUE (the "Company" or "AmerenUE"), and responds in opposition to the Application for Intervention filed herein by the Missouri Joint Municipal Electric Utility Commission ("MJMEUC")¹ on August 17, 2008, as follows:

1. This is a general *retail* rate increase request case, the sole purpose of which is to set the revenue requirement for AmerenUE's retail customers and the design of the rates those retail customers will pay.
2. MJMEUC serves *wholesale* (i.e., Federal Energy Regulatory Commission ("FERC")-jurisdictional) customers of AmerenUE, and MJMEUC members take transmission service from the Midwest Independent Transmission System Operator, Inc. (the "Midwest ISO") under the Midwest ISO's FERC tariff. The wholesale rates paid by these customers will not, and indeed cannot, be changed in this rate case and the terms and conditions of the transmission service MJMEUC members take from the Midwest ISO will not and cannot be changed in this rate case.

3. Commission Rule 4 CSR 240-2.075 governs applications to intervene.²
- As the Commission has stated, "intervention is the process whereby a stranger becomes a

¹ MJMEUC is a governmental entity created under the provisions of Section 393.700, RSMo..

² See also Section 386.420, which only permits intervention by "persons . . . the commission may allow to intervene . . .".

full participant in a legal action.” *Order Denying Intervention*, Case No. EA-2000-37 (Oct. 21, 1999) (*citing Ballmer v. Ballmer*, 923 S.W.2d 365, 368 (Mo. App. W.D. 1996)).

Subsection (4) of the Rule provides that the Commission “*may* on application permit any person to intervene . . .” upon a showing by the person seeking intervention that:

- (A) the proposed intervenor has an interest which is different from that of the general public *and* which may be adversely affected by a final order arising from the case; or
- (B) granting the proposed intervention would serve the public interest.” (emphasis added).

4. As already noted, this rate case cannot, by definition, affect (adversely or otherwise) MJMEUC’s interests. Moreover, the public interest is not served by allowing a party who has no retail relationship with AmerenUE to participate in AmerenUE’s retail rate increase proceeding. MJMEUC’s direct relationship with AmerenUE (via its members’ wholesale contracts) is exclusively within the FERC’s jurisdiction, and the indirect relationship MJMEUC may have with AmerenUE by virtue of the functional control exercised over AmerenUE’s transmission system by the Midwest ISO is also exclusively a matter within the FERC’s jurisdiction.

5. It is MJMEUC that bears the burden to establish that it meets this Commission’s requirements for intervention. *See, e.g., Augspurger v. MFA Oil Co.*, 940 S.W.2d 934, 937 (Mo. App. W.D. 1997) (discussing the corollary intervention rule contained in the Missouri Rules of Civil Procedure). As already demonstrated, the entire premise of MJMEUC’s attempt to fit within the Commission’s intervention rule is incorrect because this retail rate case doesn’t affect MJMEUC. Consequently, MJMEUC has failed to carry its burden and its intervention request must be denied.

6. MJMEUC's Application for Intervention is deficient in another respect as well. The Commission's rule on intervention requires those who seek to intervene to "state whether the proposed intervenor supports or opposes the relief sought or that the proposed intervenor is unsure of the position it will take." 4 CSR 240-2.075(2). MJMEUC's Application is devoid of any statement respecting its position on the relief sought. For this additional reason, MJMEUC's intervention request should be denied.

WHEREFORE, AmerenUE respectfully requests this Commission to enter its order denying MJMEUC's Application for Intervention, and for such other and further relief deemed proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, to the following parties on the 27th day of August, 2009:

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