

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

In the Matter of the Application of South)
Central MCN LLC for Approval of Transfer of) **File No. EA-2016-0036**
Assets and a Certificate of Convenience and)
Necessity)

MOTION TO INTERVENE
ON BEHALF OF CITY UTILITIES OF SPRINGFIELD, MISSOURI

COMES NOW City of Springfield, Missouri, by and through the Board of Public Utilities, (hereinafter “City Utilities” or “Springfield”), pursuant to 4 CSR 240-2.075, and hereby moves to intervene in this proceeding. Further, and for the reasons stated following, at this time City Utilities opposes the South Central MCN LLC Application, as further described herein. In support thereof, City Utilities states as follows:

1. The City of Springfield is a Constitutional Charter City under the Constitution and laws of the State of Missouri and by its Charter has delegated the power of operation and management of its gas, water, electric, and transit system to the Board of Public Utilities of Springfield, Missouri, designated as City Utilities of Springfield, Missouri.
2. City Utilities provides generation, transmission, and distribution services to approximately 112,000 customers within its 320 square-mile service area in and around the City of Springfield, Missouri. City Utilities is a non-jurisdictional transmission-owning member of the Southwest Power Pool, Inc. (“SPP”), and its principal place of business is 301 East Central, Springfield, Missouri 65801.
3. South Central MCN LLC (“SCMCN”) recites (Application at ¶ 2) that, on August 14, 2015, it and the City of Nixa, Missouri (“Nixa”) executed an Asset Purchase Agreement under which SCMCN agreed to purchase, and Nixa agreed to sell, certain existing

transmission assets. SCMCN's Application states (at ¶ 12) that the transaction requires Nixa to sell, assign, transfer, convey, and deliver to SCMCN Nixa's interest in certain contracts, including Nixa's existing contract with City Utilities to operate and maintain the transmission assets, and an interconnection agreement establishing Nixa's right to interconnect its 69 kV transmission line with City Utilities' electric system.

4. On August 19, 2015, SCMCN filed an Application ("the SCMCN Application") with this Commission pursuant to Sections 393.170 and 393.190, RSMo., 4 CSR 240-2.060, 4 CSR 240-3.105; and 4 CSR 240-3.110, for a certificate of convenience and necessity ("CCN") and any necessary approval authorizing SCMCN to purchase certain existing transmission assets from Nixa. (A copy of the parties' Asset Purchase Agreement, dated August 14, 2015, is attached to SCMCN's application as Appendix A). SCMCN simultaneously filed a Motion for Expedited Treatment requesting that the Commission act no later than October 30, 2015, so that SCMCN and Nixa can consummate the sale of assets by December 1, 2015.
5. On or about August 26, 2015, Nixa filed its Application to Intervene ("the Nixa Application") with the Commission, which was granted on September 9, 2015.
6. The standard governing this Commission's review of the Application is whether the proposed transaction is "detrimental to the public interest." *Environmental Utilities, LLC. v. PSC of the State of Missouri*, 219 S.W.3d 256, 265 (Mo. App. 2007), citing *Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App. 1980).
7. The proposed sale will have a significant negative impact on City Utilities and its customers, and therefore the requested authorization for transfer and for a CCN will be detrimental to the public interest.

8. To the knowledge of City Utilities, allegations made in both the SCMCN Application, and in the Nixa Application, are inaccurate. As a result, City Utilities opposes both applications. Specifically, and without exhausting other allegations with which City Utilities may disagree:

- a. The SCMCN Application (at ¶ V.12.) states that City Utilities will continue providing “comparable services” to “operate and maintain” the Assets. To the contrary, City Utilities does not have an agreement with Nixa to operate the Assets, has not agreed to enter into such agreement, and has not agreed to the assignment of the existing maintenance agreement.
- b. The SCMCN Application further (at ¶ VII.32 & n.9) requires the conclusion that one intended effect of SCMCN’s acquisition of the 69 kV transmission line and related facilities from the City of Nixa is the imposition of electric transmission charges, that are not incurred under the City of Nixa’s ownership of the facility, on City Utilities, and its retail customers. The SCMCN Application goes on to represent (*id.*) that the City of Nixa “will, pursuant to a non-jurisdictional arrangement between the City and [City Utilities], absorb those additional costs through its wholesale rates from [City Utilities], thereby shielding other [City Utilities] customers from the increase in ATRR.” Contrary to this representation, City Utilities has entered into no such agreement. In addition, the only extant “non-jurisdictional arrangement” between the City of Nixa and City Utilities that could accommodate this kind of mitigation could be terminated under the terms of that agreement, while the additional transmission charges resulting from

SCMCN's acquisition of the 69 kV transmission line can be expected to persist for a considerably longer period, based on the expected service life of the facility.

- c. The Nixa Application (at ¶ 4) alleges Nixa has worked with City Utilities "to assure that CU customers will be shielded from any increase in annual transmission revenue requirements resulting from the Transaction." As of the date of filing this Motion to Intervene, City Utilities has entered into no agreement that would provide such assurance. City Utilities estimates that the arrangement with SPP proposed by SCMCN in ¶ 32 of its Application would cost City Utilities customers based on current information an additional amount calculated at approximately Eight Hundred Seventy Five Thousand dollars per year (\$875,000/year), which City Utilities would intend to oppose.
9. Because the SCMCN and Nixa transaction that is the subject of this proceeding impacts City Utilities' customers, City Utilities is an interested party who will be directly affected by a final order on SCMCN's application. No other party can adequately represent City Utilities' interest, and City Utilities' interest in this proceeding is different than that of the general public. Accordingly, the Commission should allow City Utilities to intervene in this proceeding.
10. Because several factual representations that are essential to the findings requested by SCMCN are disputed and lack evidentiary support, City Utilities also requests that, in the event that the SCMCN Application is not summarily dismissed, the Application should be set for an evidentiary hearing. *See State ex rel. AG Processing, Inc. v. Pub. Serv. Comm'n*, 120 S.W.3d 732, 736 (Mo. banc, 2003).

11. Pleadings, notices, orders and other correspondence and communications concerning this motion should be addressed to the undersigned counsel.

WHEREFORE, City Utilities of Springfield, Missouri prays that the Missouri Public Service Commission issue an Order granting its Motion to Intervene, so that it can fully participate in the above-referenced proceeding.

Respectfully submitted,

/s/ John F. Black

/s/ Beverly G. Baughman

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**ATTORNEYS FOR CITY UTILITIES OF
SPRINGFIELD**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of City Utilities' Motion to Intervene was sent to the following parties via () U.S. Mail, postage prepaid, () facsimile, (x) electronic transmission, and/or () hand delivering this 30th day of October, 2015:

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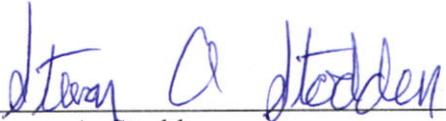
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#30352

VERIFICATION

STATE OF MISSOURI)
) SS.
COUNTY OF GREENE)

Steven A. Stodden, of lawful age, being duly sworn, deposes and says that he is the Associate General Manager Electric Supply for City Utilities of Springfield, Missouri, has knowledge of the facts stated in the foregoing Motion to Intervene, and that said facts are true to the best of his knowledge.



Steven A. Stodden

In witness whereof, I have hereunto subscribed my name and affixed my official seal this 30th day of October, 2015.



Notary Public

My commission expires: Dec. 28, 2018

