

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 30th day
of October, 2019.

In the Matter of the Application of The Empire District)	
Electric Company, The Empire District Gas Company,)	
Liberty Utilities (Midstates Natural Gas) Corp., and)	<u>File No. AO-2017-0360</u>
Liberty Utilities (Missouri Water) LLC for Approval of)	
Their Cost Allocation Manual.)	

ORDER DENYING MOTION TO DISMISS PARTY

Issue Date: October 30, 2019

Effective Date: October 30, 2019

On October 4, 2019, Staff filed a motion asking the Commission to dismiss Midwest Energy Consumers Group (MECG) as a party because Staff doubts MECG's claim to represent any entity other than itself. Responses to that motion were due ten days after it was filed, October 14, 2019. No response has been filed.

MECG's application to intervene, filed on July 10, 2017, represents that it is an incorporated association representing the interests of large commercial and industrial users of electricity and natural gas throughout the State of Missouri, including in the area served by The Empire District Electric Company and The Empire District Gas Company. The application also represents that "the matters to be considered in this case and the Commission's determinations therein could have a direct and significant impact on Empire's cost of energy service and the manner in which it is supplied." Further, the application represents that granting MECG's intervention "would serve the public interest and would assist the Commission in development of a more complete record." No one

opposed MEEG's application to intervene and the Commission granted that application on July 21, 2017, finding that MEEG's interest in this case differs from that of the general public, and may be adversely affected by a final order arising from this case. The Commission further found that allowing MEEG to intervene would serve the public interest.

Staff's motion to dismiss MEEG is based on the premise that MEEG either does not represent any customer of Empire, or if it does represent such a customer, it should be compelled to identify that customer. The Commission's rule on intervention, 20 CSR 4240-2.075, is not consistent with Staff's position. That rule requires that a motion to intervene by an association, other than an incorporated association or other entity created by statute, include a list of all its members.¹ Thus, while an unincorporated association must disclose its members, an incorporated association, such as MEEG, is not required to do so. Similarly, another provision of the Commission's rule on intervention states:

If the commission grants intervention to an association, *other than an incorporated association or other entity created by statute*, the commission is not granting intervention to the "association," but is granting intervention to the individual members of the association. (Emphasis added)²

The Commission granted MEEG intervention on its own behalf as a corporate entity, not as an association for which it would be required to disclose its members. In sum, MEEG is the party, not any members it may have.

The first part of the Commission's rule on intervention indicates the Commission may grant intervention if the proposed intervenor has an interest in the proceeding that

¹ Commission Rule 20 CSR 4240-2.075(2)(D).

² Commission Rule 20 CSR 4240-2.075(4)

differs from that of the general public, and that may be adversely affected by a final order arising from the case.³ The second part of the rule is broader, and allows for intervention if the Commission finds that allowing the intervention would serve the public interest.⁴

Under the first part of the rule, the rate a customer seeking to intervene might pay could be the basis for intervention, but allowable intervention is not limited to affected ratepayers. Indeed, the Commission routinely allows parties to intervene that are not customers of the involved utility. For example, Sierra Club and the Natural Resources Defense Council's applications to intervene in cases are frequently based in part on their representation that their interest in preserving and protecting environmental values could be adversely affected by the Commission's decision.

Under the second part of the rule, the party seeking to intervene does not need to assert any sort of direct link to the involved utility. Rather, the Commission may allow a party to intervene if it finds that the intervention would serve the public interest. Just as the Commission has found that allowing a party with expertise in environmental matters to intervene will serve the public interest, the Commission has found that allowing MEEG, a party with an expertise in representing the interest of large commercial and industrial concerns, to intervene will serve the public interest.

Staff's motion does not demonstrate any reason for the Commission to change its determination that allowing MEEG to intervene will serve the public interest. Therefore, the Commission will deny Staff's motion to dismiss MEEG as a party.

³ Commission Rule 20 CSR 4240-2.075(3)(A).

⁴ Commission Rule 20 CSR 4240-2.075(3)(B).

THE COMMISSION ORDERS THAT:

1. Staff's Motion to Dismiss Intervenor is denied.
2. This order shall be effective when issued.

BY THE COMMISSION



Morris L. Woodruff

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Hall, Rupp, and
Coleman, CC., concur.

Woodruff, Chief Regulatory Law Judge


STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 30th day of October 2019.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

October 30, 2019

File/Case No. AO-2017-0360

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@psc.mo.gov

**Empire District Electric Company,
The**

Diana C Carter
428 E. Capitol Avenue, Suite 303
Jefferson City, MO 65101
Diana.Carter@LibertyUtilities.com

Empire District Gas Company, The

Diana C Carter
428 E. Capitol Avenue, Suite 303
Jefferson City, MO 65101
Diana.Carter@LibertyUtilities.com

Liberty Utilities

Diana C Carter
428 E. Capitol Avenue, Suite 303
Jefferson City, MO 65101
Diana.Carter@LibertyUtilities.com

Liberty Utilities (MNG)

Diana C Carter
428 E. Capitol Avenue, Suite 303
Jefferson City, MO 65101
Diana.Carter@LibertyUtilities.com

Midwest Energy Consumers Group

David Woodsmall
308 E. High Street, Suite 204
Jefferson City, MO 65101
david.woodsmall@woodsmallllaw.com

**Missouri Public Service
Commission**

Mark Johnson
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
mark.johnson@psc.mo.gov

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.