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Data Center
Missouri Public
Service Commission

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978. The Company's tariffs which are the subject matter of this proceeding were suspended pursuant to the authority vested in this Commission by Section 393.150, RSMO 1978.

The burden of proof to show that the proposed increased rates are just and reasonable is upon the Company.

Orders of this Commission must be based upon competent and substantial evidence upon the whole record.

The Commission after notice and hearing, may order a change in the rate, charge, or rental, in any regulation or practice affecting the rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting said rate, charge or rental thereafter to be observed.

The Commission may consider all facts, which in its judgment, have any bearing upon a proper determination of the price to be charged with due regard, among other things, to a reasonable average return upon the capital actually expended, and to the necessity of making reservations out of income for surplus and contingencies.

Any evidence received without objection which has probative value shall be considered along with other evidence in the case. Evidence which is not of such quantity to be persuasive of the fact to be established may be rejected even if not objected to or controverted.

When the Company's existing rates and charges are insufficient to yield reasonable compensation for electric service rendered by it in this State, and accordingly, revisions in the Company's applicable tariff charges, as herein authorized, are proper and appropriate and will yield the Company a fair return on the net original cost rate base or the fair value rate base found proper herein new rates resulting from the authorized revisions that will be fair, just, reasonable and sufficient and not unduly discriminatory or unduly preferential should be authorized.

Although there is no requirement that a test year, or any other specific procedure, be used, a test year is commonly utilized in an attempt to measure a period of normal operations, to which reasonable adjustments may be made to permit the establishment of a reasonable estimate of conditions during the period of time in which the new rates will be in effect.

Under ordinary circumstances, adjustments to a test year are confined to those permitting a matching of revenues and expenses. When known increases in expenses will occur, the inequity in disallowances for a lack of precise measurement may outweigh the potential for unfairness in the allowance of the expense for which the precise corresponding revenues cannot be established.

No individual allowance is improper if it has not contributed to an ultimate rate level that is in excess of that which is fair and reasonable.

Any motion not previously ruled on should be considered denied, and any objection not previously ruled on should be considered overruled.

It is therefore,

Ordered: 1. That the proposed revised electric tariffs filed by Union Electric Company of St. Louis, Missouri, and herein suspended, are hereby disapproved and Company is

authorized to file in lieu thereof, for approval of this Commission, tariffs designed to increase revenues by approximately $65,205,000.

Ordered: 2. To the extent that the revised tariffs herein authorized allow the recovery of forecasted increases in the cost of fuel, the increased rates shall be subject to refund in the manner provided for in paragraph IV.A of Exhibit 5, received in evidence in this matter.

Ordered: 3. That the tariffs to be filed herein shall embody the rate design herein found to be reasonable and proper, and may be charged for service rendered on and after the effective date of this Report and Order.

Ordered: 4. The Company and Staff shall agree on a proposed form of study, including estimated costs, of the labor hours and wages used in providing service to the Company's subsidiaries and the value of those services. The proposal shall be presented to the Commission within ninety (90) days from the effective date of this Report and Order.

Ordered: 5. Docket No. EO-83-2 is hereby established for the purpose of investigating Union Electric Company's residential insulation program.

Ordered: 6. In its next general rate proceeding the Company shall file, as a portion of its case in chief, a new class cost of service study.

Ordered: 7. That this Report and Order shall become effective on the 14th day of July, 1982.

Fraas, Chm., McCartney, Dority, Shapleigh and Musgrave, CC., Concur. and certify compliance with the provisions of Section 536.080, RSMo 1978.

In the matter of KANSAS CITY POWER & LIGHT COMPANY of Kansas City, Missouri, for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the Company.*

Case No. ER-82-66
Decided July 14, 1982

Expense §§46, 64. Maintenance of construction standards is not an expense directly related to construction but a current expense.

Expense §50. Dues to voluntary organization conducting research and development properly expensed.

Expense §50. Dues to voluntary organization not properly expenses where direct benefit to ratepayer not quantified.

Expense §75. Known change in overtime wage rate proper adjustment despite asserted drop in number of overtime hours.

Expense §79. Cash flow analysis relied on solely to determine flow-through or normalization of tax timing differences.

Expense §79; Valuation §57. Property taxes are current expenses regardless of whether the subject property is to become a capital asset or whether the subject property has ceased being used and useful.

KCPL Exhibit No. 150
Date 6/29/15 Reporter Jenni
File No. ER-2014-0370

*For additional orders in this case see pages 264 and 267.

previous calendar quarter in carrying on his work. By its own terms, the Act does not apply to any person who "merely appears before a committee of the Congress of the United States in support of or in opposition to legislation." Nor does the Federal Registration of Lobbying Act require EEI to report expenditures related to its efforts to influence the executive branch of the federal government, regulatory commissions and presidential task forces, or its efforts related to its support of witnesses testifying before congressional committees.

The Staff, on the other hand, uses the Commission's definition of lobbying found in the Commission's report and order in Kansas City Power & Light Company's last rate case, ER-81-42. There, the Commission defined lobbying as "an attempt to influence the decisions of regulators and legislators in general." *See* : ER-81-42, *Re: In the Matter of Kansas City Power & Light Company*, page 23 (June 17, 1981). The Staff, Public Counsel and the Company spent a considerable amount of time arguing over what a definition of lobbying should be. The evidence in this case makes it clear that substantially more than 2 percent of EEI's expenditures and efforts are directed toward influencing the decisions of regulators and legislators in general. The Commission once again reaffirms its definition of lobbying as found in ER-81-42. However, the Commission has heard this 2 percent argument concerning EEI's lobbying activities on numerous occasions in the past, and has uniformly rejected that argument. The Commission holds that the fact that EEI reports 2 percent of its expenditures as lobbying expenses under the Federal Registration of Lobbying Act is irrelevant to the Commission's consideration of this issue.

The fact that EEI applies a substantial portion of its expenditures and efforts toward lobbying is not necessarily, however, determinative of this issue either. The Company attempts to show direct benefits to ratepayers accruing from EEI's activities in several areas. Most notable is the Company's argument that the ratepayers were saved millions of dollars by the modification of the Staggers Act. The Staff asserts that it could find no quantifiable evidence that the amendment of the Staggers Act was due to EEI activity. Staff claims that the amendment of the Staggers Act was due to the actions of groups other than the Edison Electric Institute. The Commission finds in this case that there is insufficient direct evidence of what "extensive efforts" went into EEIs "coordinated industry attack to amend the Staggers Act bill during its legislative process."

In ER-81-42, *Re: In the Matter of Kansas City Power & Light Company*, page 24 (June 17, 1981), the Commission stated the following:

> The rule has always been that dues to organizations may be allowed as operating expenses where a direct benefit can be shown to accrue to the ratepayers of the company. Conversely, where that sort of benefit does not appear, disallowance of the dues is required. It follows that the mere fact that an activity might fall within the very broad general definition of lobbying as used by Public Counsel should not necessarily mean that it is an improper expense for ratemaking purposes. This question is one of benefit or lack of benefit to the ratepayers.

The Commission still believes the question is one of benefit to the ratepayer. In the instant case there appears to be some possible benefit, but

until the Company can better quantify the benefit and the activities that were the causal factor of the benefit, the Commission must disallow EEI dues as an expense. The Commission also points out that the Company needs to develop some method of allocating expenses between its shareholders and the ratepayers once the benefits and activities leading thereto have been adequately quantified.

J. *Forecasted Fuel Stipulation*

During the hearing the Company, Staff and Public Counsel entered into a stipulation and agreement on the issue of forecasted fuel. The stipulation and agreement was marked and offered as Exhibit 76. Intervenors DOE, GM, and Armco did not sign the stipulation and agreement and opposed it at the hearing.

The stipulation and agreement provides a method for setting fuel prices based on forecasted prices. A refund provision exists in the event the actual prices fall below the projected prices set by the stipulation and agreement.

DOE, GM and Armco are not opposed to the pricing method of the stipulation and agreement. They oppose the stipulation only as it concerns the handling of any refund that may result. The stipulation and agreement states that "the amount to be refunded, plus interest, shall be held and accounted for by the Company until its next electric permanent general rate increase proceeding at which time such amount, plus accrued interest for the period held, shall be credited against any revenue deficiency therein determined." (Exhibit 76, paragraph 7.) DOE, GM and Armco assert that any refund that might accrue should not be allowed to offset any revenue deficiency in the next rate case. GM and Armco's position is that the increase will be collected on a kilowatt hour basis. Consequently, if a refund results and it is used to offset any revenue deficiency in the next rate case, the customers who paid the higher fuel prices may not receive the full benefit of a refund associated with those higher fuel prices.

At the presentation of the stipulation, paragraphs 11 through 17 of the stipulation and agreement, Exhibit 76, were withdrawn by the Company, Staff and Public Counsel, and the stipulation and agreement was submitted as an amendment to the hearing memorandum. The Commission is of the opinion that the stipulation and agreement should be accepted, except for the last sentence in paragraph 7, which provides how any refund will be handled. The Commission is of the opinion that should any refund become necessary, the Commission shall determine at that time how to apply the refund. The Commission therefore, by this report and order, hereby accepts Exhibit 25 (Wasson), Exhibit 17 and Exhibits 76 through 82. The substantive portion of the stipulation and agreement as adopted by the Commission is as follows:

> 1. Since fuel quantities required for Missouri retail use are directly related to normalized and annualized test year megawatt hours generated, precise quantification of fuel quantities required for purposes of this stipulation and agreement is subject to the Commission's decision with respect to the issues of "Test Year Revenues" and "Fuel Mix and Interchange" wherein Staff and Company differ on the appropriate level of normalized and annualized test year megawatt hours and fuel mix and interchange sales and purchases. Once normalized and annualized fuel use is determined, all parties agree that the fuel price component of permanent

base rates shall be based on May 1982 fuel prices as determined at the time of the June 28, 1982 audit date for the true-up proceeding recommended in this matter.

2. The additional revenue requirement resulting from this stipulation and agreement will be based on fuel quantities required to generate electricity for Missouri retail use, directly related to normalized and annualized test year megawatt hours, priced at fuel prices as described in Appendix A hereto.

3. The revenue requirement associated with forecasted increases in the prices of coal from Peabody Power Mine, Amax Coal Company, Arch Mineral Corporation, and Pittsburg and Midway Coal Mining Company, the forecasted price of coal from Atlantic Richfield (ARCO) Company, and the forecasted increase of the cost of gas will be subject to refund, pending investigation and audit of actual last known delivered prices as of October 31, 1982. Such additional revenue requirement associated with the forecasting of coal and gas prices will be collected pursuant to rate schedules filed as authorized by the Commission in this case, and calculated to recover such amount on a cents per kilowatt hour basis. Said rate schedules will bear an appropriate legend identifying the cents per kilowatt hour subject to refund.

4. It is anticipated that last known delivered coal and gas prices *as of* October 31, 1982 will be determined and capable of audit by no later than November 30, 1982; said latter date is thus agreed to be the cutoff date for purposes of accumulating and determining such prices *as of* October 31, 1982. Company states that, to its knowledge, no changes in natural gas prices to the Company will be imposed and be effective between October 31, 1982 and January 31, 1983.

5. For purposes of determining actual last known delivered coal and gas prices as of October 31, 1982, Company, Public Counsel and Staff recommend that the Commission open an investigatory proceeding separate and distinct from this case for the purposes of audit and verification of said actual delivered coal and gas prices. The entirety of the record made in this case shall be incorporated by reference as evidence in said investigatory proceeding. Hearings in said investigatory proceeding are recommended to commence and conclude during the month of December 1982, with an order therefrom to be issued and made effective by no later than December 31, 1982.

6. At the time of said investigatory hearing, it shall be determined whether the aggregate of the actual last known delivered fuel prices for coal from Peabody Power Mine, Amax Coal Company, Arch Mineral Corporation, Pittsburg and Midway Coal Mining Company, and Atlantic Richfield (ARCO) Company as of October 31, 1982 is less than, equal to, or greater than those aggregate prices as forecasted in this Case No. ER-82-66. It shall also be determined whether the actual last known gas price to the Company is less than, equal to, or greater than that gas price forecasted in this Case No. ER-82-66. In the event said actual aggregate coal price or said actual gas price is equal to or greater than said respective forecasted prices with respect to the fuel burn as set by this Commission in this case, the Company shall have no refund obligation, and the legend on the filed rate schedules shall have no further force and effect; the Commission at its option may direct the refiling of said schedules to remove such legend. In the event, however, that said actual aggregate coal price or said actual gas price is less than the respective forecasted prices, then the Company shall be obligated to refund an amount, with interest, as determined in paragraph 7 below, and shall submit to the Commission permanent tariff sheets reflecting rates based on actual October 31, 1982 prices.

7. In the event it is determined that the Company is obligated to refund amounts collected pursuant hereto, the refund amount shall be calculated on the basis of actual kilowatt hours billed at the rates subject to refund for the period July 24, 1982 through the period interim rates are collected, multiplied by the cents per kilowatt hour difference between the actual price as of October 31, 1982 and the price as forecast for October. In addition to the amount calculated above, the Company shall be obligated to pay simple interest thereon at the authorized overall rate of return set in Case No. ER-82-66 for the Company by the Commission.

8. Company agrees that in its next electric permanent general rate proceeding, it will, to the extent practicable, base any procedure which it proposes to utilize for forecasting of coal prices upon the contracts which control coal prices from its suppliers. Such procedure will include disaggregating coal prices into component parts. These components shall include, without limitation: labor expense, materials and supplies, capital recovery, electricity (where rate increases are known), and severance, ad valorem and black lung taxes where these price components can be calculated in accordance with known relationships. Where increases in such components are fixed (as in the case of union-management labor contracts) or otherwise known, the established levels of increase shall be utilized to determine the corresponding component of coal price. Where components are related to specific indices, Company shall forecast the changes in these indices to establish the level of the associated coal price component. Any residual costs which cannot be determined as set forth above may be forecast by any party.

9. Attached hereto and incorporated herein by reference is Appendix A. Said appendix sets forth the amounts to be included in rates subject to refund.

10. Attached hereto and incorporated herein by reference is Appendix B, which sets forth an illustration of the methodologies to be used to calculate fuel expense to be included in rates subject to refund and revised permanent rates after the December 1982 true-up. In the event, however, that the difference so calculated is less than .01¢ per kilowatt hour, the Company shall not file new tariff sheets but will continue to charge its ratepayers under the provisions as set forth in paragraph 7 below. All said differences above .01¢ per kilowatt will be rounded to the next .01¢ per kilowatt.

Appendix A is attached to Exhibit 76. Appendix B has been updated by the parties and is marked as Exhibit 109.

K. *Fuel Mix and Interchange*

The Staff and Company disagree on the amount of oil and gas to be used in the Company's fuel mix. The Company and Staff also disagree as to the price of replacement energy in relation to the fuel mix and the pricing of interchange sales and purchases.

Oil use in the Company's fuel mix is 111,000 barrels, whereas the Staff's mix calls for 53,000 barrels. The ultimate question raised by the parties is whether oil consumption is going up or down. The Staff points out that oil consumption has been declining over the last two years. This, the Staff claims, is due to cheaper purchased power being available and the availability of the Company's Iatan plant, which became operable in 1980.

The Company, on the other hand, claims that unusual circumstances existed in 1981 that resulted in a low consumption of oil. The Company maintains that significant amounts of cheap purchased power were available in the summer of 1981 which cannot be expected to be available in 1982. The Company found that while Kansas City was experiencing hot weather, the areas to the north of Kansas City were substantially cooler. The Company