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July 1, 1999

FILED

JUL 1 1999

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Executive Secretary
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

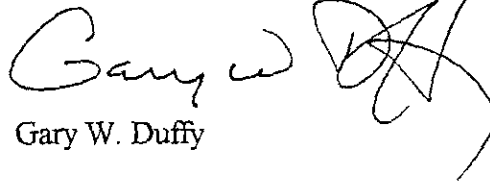
RE: Case Nos. EX-99-442, HX-99-443, GX-99-444, GX-99-445

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find four originals and fourteen copies of a Joint Motion for Implementation of Contested Case Procedures in each of these cases. I understand that the filing of four originals is sufficient since these are not consolidated cases.

If you have any questions, please give me a call.

Sincerely yours,


Gary W. Duffy

Enclosures

cc w/encl:

Office of Public Counsel
Bill Gipson
Tim Rush
Bob Amdor
Gary Clemens
Bill Niehoff
Mike Pendergast

Rob Hack
Ricky Gunter
Jeff Dangeau
Bill Riggins
Jeff Keevil
Jim Fischer

9

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

FILED

JUL 1 1999

Missouri Public
Service Commission

In the Matter of the Missouri Public)
Service Commission's Proposed Rule)
Regarding Affiliate Transactions for) Case No. EX-99-442
Electric Utilities)

In the Matter of the Missouri Public)
Service Commission's Proposed Rule)
Regarding Affiliate Transactions for) Case No. HX-99-443
Steam Heating Utilities)

In the Matter of the Missouri Public)
Service Commission's Proposed Rule)
Regarding Affiliate Transactions for) Case No. GX-99-444
Gas Utilities)

In the Matter of the Missouri Public)
Service Commission's Proposed Rule)
Regarding Marketing Affiliate Transactions) Case No. GX-99-445
for Gas Utilities)

**JOINT MOTION FOR IMPLEMENTATION OF
CONTESTED CASE PROCEDURES**

COME NOW UtiliCorp United Inc., d/b/a Missouri Public Service (MPS); The Empire
District Electric Company (Empire) and St. Joseph Light & Power Company (SJLP), and for
their joint motion in these dockets respectfully state as follows:

1. The Commission caused to be published in the *Missouri Register* of June 1, 1999
certain proposed rules and has established the above-referenced cases on its docket to deal with
such proposed rules. MPS, Empire and SJLP are likely to be affected by each of these proposed
rules, if adopted, in that SJLP has steam, electric and gas operations, Empire has electric
operations, and MPS has gas and electric operations subject to the jurisdiction of the

Commission. The proposed rules appear to impose significant and extensive new requirements upon their Missouri jurisdictional operations.

2. In each of the proposed rules, the Commission cites Section 393.250 RSMo as its statutory authority to promulgate these rules. Assuming for purposes of this motion that provision supports such Commission action, the Commission should attempt to comply with that statute and provide interested parties with the additional procedural due process which is afforded and required by that statute. In brief, § 386.250(6) RSMo requires that "a hearing shall be held at which affected parties may present evidence as to the reasonableness of any proposed rule." This statutory requirement for a hearing, and especially the requirement that there be "evidence," transforms these proceedings from a simple rulemaking into "contested cases." The law requires that parties to contested cases be afforded certain procedural rights. See § 536.070 RSMo.

3. While the Commission has scheduled three separate days of hearing for the proposed rules in September, the notice appearing in the *Missouri Register* does not contemplate a contested case procedure, which would involve, at a minimum, the presentation of evidence through witnesses, cross-examination of witnesses by all parties, and the ability of parties to file briefs once a transcript is produced.

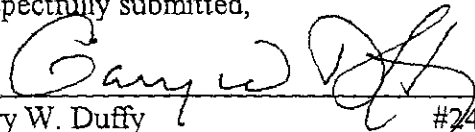
4. The Commission should attempt to remedy this deficiency in an expeditious manner by issuing an order to all gas, electrical and heating corporations under its jurisdiction which clarifies that all of the procedural due process rights of a contested case will be afforded to them in these cases.

5. In such an order, the Commission should schedule additional days for hearing to

accommodate such witnesses and cross examination. This could be accomplished in at least two different ways. One would be to re-notice the rules in a subsequent edition of the *Missouri Register* with additional time established for each of the hearings. Another possibility would be to simply continue the hearing that has already been set on a particular rule to a future date if there are more witnesses and cross-examination than can be accommodated on the one day that has been scheduled. The Commission should also make provision for the filing of briefs after the conclusion of the hearings.

WHEREFORE, MPS, Empire and SJLP move that the Commission take the actions necessary to afford the affected parties to these cases the full rights of due process afforded participants in contested cases under Missouri law.

Respectfully submitted,



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Attorney for
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The Empire District Electric Company
St. Joseph Light & Power Company

Certificate of Service

I hereby certify that a copy of the foregoing has been either mailed or hand-delivered to the Office of the Public Counsel this 1st day of July, 1999.



Gary W. Duffy