

CONFIDENTIAL
FOR STAFF DISCUSSION PURPOSES ONLY

MEMORANDUM

TO: David Rauch Gordon Persinger
Ken Rademan Joan Wandel
Sam Goldammer Doyle Gibbs
Jay Moore Mark Oligschlaeger
Steve Rackers

FROM: Steven Dottheim

DATE: February 15, 1995

SUBJECT: Further Revised Counterproposal To UE (Revised as of
2/15/95, 9:30 a.m.)

I forgot to raise the matter at our Friday afternoon, February 10, meeting, but after giving it further thought, I think we should visit with OPC before we give a counterproposal to UE. I would like to discuss this further at our Wednesday, February 15, 3:30 p.m. meeting.

If they have not already done so, Doyle and Steve need to review the monitoring procedures utilized the SWBT incentive regulation experiment to determine if we have forgotten anything that needs to be added to our counterproposal to UE. For instance, the SWBT monitoring procedures indicate that in the last year of the incentive regulation experiment, SWBT was to provide additional reports and data. Is that situation applicable to the UE situation? If it is, what are the additional reports and data that we should require UE to provide in the last year of an incentive regulation plan?

I. STAFF'S PERMANENT RATE REDUCTION ALTERNATIVE

- (1) Rate reduction to all Missouri electric customers of \$ 60 million exclusive of license, occupation, franchise, gross receipts, or other similar fees or taxes effectuated on an equal percentage basis within and among classes
 - (a) Tariffs to implement the reduction would become effective with the first billing cycle following the entry of a final nonappealable order of the Commission, i.e., Staff will not enter into a settlement agreement unless a settlement agreement is reached to which no interested entity will appeal a final Commission order - projected filing date of Stipulation And Agreement is April 1, 1995 -

projected effective date of rate reduction is
for service rendered on and after May 1, 1995

- (2) No incentive regulation (i.e., UE may not file rate increase case and Staff and OPC may not file rate reduction cases prior to January 1, 1998
- (3) Moratorium to January 1, 1998 unless
 - (a) Return on common equity falls below 10.00% (calculation includes any sale of emission allowances and is performed as indicated in UE's Attachment B, Schedule 1, Page 1 of 3), or
 - (b) Unusual event occurs which would have a significant adverse impact on electric operations, such as an act of God; or a significant change in the federal or state tax laws
- (4) Nuclear decommissioning costs
 - (a) Rates would be increased to reflect increased annual decommissioning costs, if UE's return on common equity for 12 months ending June 30, 1996 is less than 10.00% (calculation includes any sale of emission allowances and is performed as indicated in UE's Attachment B, Schedule 1, Page 1 of 3) - amount of increase in decommissioning costs, determination of UE's return on equity and timing of increase in rates based on (i) agreement of signatories to this settlement agreement and the parties to the decommissioning case, or (ii) resolution by the Commission
 - (b) If UE's return on common equity for 12 months ending June 30, 1996 is not less than 10.00% (calculation includes any sale of emission allowances and is performed as indicated in UE's Attachment B, Schedule 1, Page 1 of 3), as determined based on agreement of the signatories to this settlement agreement or resolution by the Commission, then any increase in the annual decommissioning costs would not result in any increase in UE's rates
- (5) Full scale Staff audit of UE will commence March 1, 1995 even if negotiations are still occurring, and will continue unless a settlement agreement is

February 15, 1995

Page 3

reached with UE to which no interested entity will appeal a final Commission order

- (6) Nothing in the settlement agreement is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right of access to information and any statutory obligation

II. STAFF'S REFUND/PERMANENT RATE REDUCTION ALTERNATIVE

- (1) One time refund to all customers of \$35 million, exclusive of license, occupation, franchise, gross receipts, or other similar fees or taxes and rate reduction to all customers of \$35 million, exclusive of license, occupation, franchise, gross receipts, or other similar fees or taxes
 - (a) Credit to all customers will be effectuated, based on KWH sales for 1994, by applying credits in the first billing cycle following the entry of a final nonappealable order of the Commission i.e., Staff will not enter into a settlement agreement unless a settlement agreement is reached to which no interested entity will appeal a final Commission order
 - (b) Tariffs to implement the reduction, on an equal percentage basis within and among classes, would become effective with the first billing cycle following the entry of a final nonappealable order of the Commission, i.e., Staff will not enter into a settlement agreement unless a settlement agreement is reached to which no interested entity will appeal a final Commission order - projected filing date of Stipulation And Agreement is April 1, 1995 - projected effective date of rate reduction is for service rendered on and after May 1, 1995
- (2) Nuclear decommissioning costs
 - (a) Rates would be increased to reflect increased annual decommissioning costs, if UE's return on common equity for 12 months ending June 30, 1996 is less than 10.00% (calculation includes any sale of emission allowances and is performed as indicated in UE's Attachment B, Schedule 1, Page 1 of 3) - amount of increase

in decommissioning costs, determination of UE's return on equity and timing of increase in rates based on (i) agreement of signatories to this settlement agreement and the parties to the decommissioning case, or (ii) resolution by the Commission

- (b) If UE's return on common equity for 12 months ending June 30, 1996 is not less than 10.00% (calculation includes any sale of emission allowances and is performed as indicated in UE's Attachment B, Schedule 1, Page 1 of 3), as determined based on agreement of the signatories to this settlement agreement or resolution by the Commission, then any increase in the annual decommissioning costs would not result in any increase in UE's rates, but will be included in the calculation of UE's returns in determining whether sharing is to occur

- amount of increase in decommissioning costs and determination of UE's return on equity, based on (i) agreement of the signatories to this settlement agreement and the parties to the decommissioning case, or (ii) resolution by the Commission - increase in decommissioning costs reflected in the calculation of return on equity in determining whether sharing is to occur

- (c) Rates would not be decreased to reflect a decrease in decommissioning costs - decrease in decommissioning costs reflected in the calculation of return on equity in determining whether sharing is to occur
- (3) Full scale Staff audit of UE will commence March 1, 1995 even if negotiations are still occurring, and will continue unless a settlement agreement is reached with UE to which no interested entity will appeal a final Commission order

- (4) Incentive regulation sharing grid:

<u>Earnings Level</u>	<u>UE</u>	<u>Customer</u>
Between 11.70% and 12.50% ROE	100%	0%
That portion of earnings between 12.51% and 14.00% ROE	50%	50%
That portion of earnings between 14.01% ROE and above	0%	100%

- (5) Incentive regulation in effect for full three year period (i.e., UE may not file rate increase case and Staff and OPC may not file rate reduction cases through April 30, 1998) unless

(a) Return on common equity falls below 10.00% (calculation includes any sale of emission allowances), or

(b) Unusual event occurs which would have a significant adverse impact on electric operations, such as an act of God; or an extended outage or shut-down of a major generating unit or units; or a significant change in the federal or state tax laws

- (6) Monitoring of incentive regulation based on UE supplying to Staff and OPC, on a timely basis, the reports and data Staff and OPC identify - these reports and data must be provided as part of any incentive regulation settlement agreement - Staff and OPC will follow-up with data requests, meetings, and interviews, as need be, to which UE must respond on a timely basis

- Staff and OPC are not asking that any new reports be developed by UE but that information presently being recorded and maintained by UE be provided to Staff and OPC - the reports and data that must be provided include the following:

(a) Annual operating and construction budget and any updates/revisions with explanation/reasons for updates/revisions

(b) Monthly operating budgets and any updates/revisions with explanation/revisions for updates/revisions

February 15, 1995

Page 6

- (c) Annually - explanation of significant variances between budget and actual
 - (d) Monthly F & S reports
 - (e) Directors reports
 - (f) Current chart of accounts (revised/updated in 1994 when new general ledger system installed - 29 digit account numbers adopted)
 - (g) Monthly surveillance reports
 - (h) Quarterly reports/studies of rate of return on rate base including supporting workpapers
- (7) ROE for sharing determination calculated by using methodology agreed upon by signatories to the settlement agreement (See monitoring procedures for SWBT experiment as a starting point for details)
- (a) Staff and UE will get together to determine what items, based on prior Commission orders, should be excluded from the calculation of UE's return on common equity - these items need to be identified by April 1, 1995
 - (b) The previous twelve month period (i.e., May 1 through April 30) will be the period used in determining sharing
 - (c) Ninety days after the calendar year, a preliminary earnings report along with a proposed sharing report will be submitted by UE - a final earnings report and proposed sharing report will be submitted within 105 days after the end of the calendar year - this report will provide the actual results of the year to be examined
 - (d) UE's earnings will be adjusted to normalize the effects of any sharing credits from the prior year that are embedded in the earnings
 - (e) If Staff/OPC find evidence that operating results have been manipulated to reduce amounts to be shared with customers or to misrepresent actual earnings or expenses, they may file a complaint with the Commission requesting that a full investigation and hearing be conducted regarding their complaint

- (f) UE/Staff/OPC reserve the right to bring issues which cannot be resolved by them and which are related to the operation or implementation of the incentive plan, to the Commission for resolution - examples include disagreements as to the mechanics of calculating the monitoring report, alleged violations of the settlement agreement, or alleged manipulations of earnings results - an allegation of manipulation could include significant variations in the level of expenses associated with any category of costs where no reasonable explanation has been provided - the Commission will determine in the first instance whether a question of manipulation exists and should be heard
 - (g) Staff/OPC have the right to present to the Commission concerns over any category of cost that has been included in UE's monitoring results and has not been included previously in any UE ratemaking proceedings
 - (h) Differences among UE/Staff/OPC should be brought to the Commission's attention for guidance as early in the process as possible
 - (i) The final report will be filed by April 15 (or the first business day thereafter) following the monitoring period - signatory parties have 30 days after this report is filed to provide notice that there may be areas of disagreement not previously brought to the attention of the Commission that need to be resolved
- (8) In the final year of the incentive regulation experiment, UE, Staff, and OPC shall meet to review monitoring procedure reports and additional information required to be provided. Five months before the scheduled end of the incentive regulation experiment, UE, Staff, and OPC will file their recommendations with the Commission as to whether the incentive regulation experiment should be continued as is, continued with changes (including new rates, if recommended), or discontinued. Copies of the recommendations shall be served on all parties to UE's incentive regulation experiment docket.
- (9) Nothing in the settlement agreement is intended to impinge or restrict in any manner the exercise by

February 15, 1995
Page 8

the Commission of any statutory right, including
the right of access to information and any
statutory obligation

SD:ceb

cc: Rob Hack
Bob Schallenberg