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July 3, 2000

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
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FILED
JUL 3 2000
Missouri Public
Service Commission

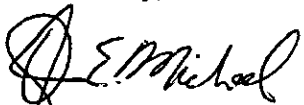
**RE: St. Joseph Power and Light
Case No. EO-2000-845**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **Public Counsel's Motion to Dismiss St. Joseph Light and Power Company's Application for Accounting Authority Order, or in the Alternative, Request for Hearing.** I have on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to all counsel of record. Please "file" stamp the extra enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,


Douglas E. Micheel
Senior Public Counsel

DEM:jb

cc: Counsel of Record

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

FILED

JUL 3 2000

Missouri Public
Service Commission

In the matter of the application of)	
St. Joseph Light & Power Company for)	Case No. EO-2000-845
the issuance of an accounting authority)	
order relating to its electrical operations.)	

**PUBLIC COUNSEL'S MOTION TO DISMISS ST. JOSEPH LIGHT AND POWER
COMPANY'S APPLICATION FOR ACCOUNTING AUTHORITY ORDER, OR IN THE
ALTERNATIVE, REQUEST FOR HEARING**

Comes Now the Office of the Public Counsel (Public Counsel) and for its Motion to Dismiss St. Joseph Light and Power Company's Application for Accounting Authority Order, or in the Alternative, Request for Hearing pursuant to Section 393.140(8) RSMo 1994 states as follows:

1. On June 23, 2000, St. Joseph Light and Power Company (Company or SJLP) applied for an Accounting Authority Order (AAO) authorizing Company to defer "incremental costs" incurred by Company as a result of the June 7, 2000 incident at the Lake Road Plant and further requests recovery of these incremental costs "in order to maintain its financial integrity and to continue to provide high-quality services to its customers." (Application ¶ 8)

2. The costs for which Company is requesting deferral do not meet the AAO standard that the Commission has applied since the seminal case of Re: Missouri Public Service, 1 Mo.P.S.C. 3d 200 (1991) (Case No. EO-91-358 et al). In that case, Missouri Public Service Company requested deferral: 1) for costs associated with the rebuild of its Sibley Generating Station, partly in response to the Federal Clean Air Act, so that it would burn low-sulfur western coal, and 2) for certain purchase power contracts. Staff and Public Counsel opposed both requests for AAO deferral. The Commission granted deferral for the Sibley related costs, and denied deferral of the purchase power contracts, explaining its reasoning as follows:

The deferral of costs from one period to another period for the development of a revenue requirement violates the traditional method of setting rates. Rates are usually established based upon a historical test year which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses. State ex. rel. Union Electric Company v. PSC, 765 S.W.2d 618, 622 (Mo. App. 1988).

Allowable operating expenses are those which recur in the normal operations of a company, and a company's rates are set for the future based upon its past experience for a test year with adjustments for annualizations, normalizations and known and measurable changes. Under historical test year ratemaking, costs are rarely considered from earlier than the test year to determine what is a reasonable revenue requirement for the future. Deferral of costs from one period to a subsequent rate case causes this consideration and should be allowed only on a limited basis. This limited basis is when events occur during a period, which are extraordinary, unusual and unique, and not recurring. (emphasis added)

Id. at 205

Maintaining the financial integrity of a utility is also a reasonable goal. The deferral of costs to maintain current financial integrity means sustaining a specific return on equity, this is not the purpose of regulation. It is not reasonable to defer costs to insulate shareholders from any risks. If costs are such that a utility considers its return on equity unreasonably low, the proper approach is to file a rate case so that a new revenue requirement can be developed which allows the company the opportunity to earn its authorized rate of return. Deferral of costs just to support the current financial picture distorts the balancing process used by the Commission to establish just and reasonable rates. Rates are set to recover ongoing operating expenses plus a reasonable return on investment. Only when an extraordinary event occurs should this balance be adjusted and costs deferred for consideration in a later period. (emphasis added)

Id. at 207.

The Commission allowed deferral of the Sibley costs, but denied the deferral of the purchase power contracts because those were recurring expenses that were part of the power company's customary, ongoing business activities. Re: Missouri Public Service at 210. Paragraphs five and six and Appendix B of Company's Application suggests that Company's "incremental costs" for which it seeks deferral will consist of purchased power costs. Purchased power costs for an electric utility are not extraordinary costs. Likewise market fluctuations in purchased power costs are not extraordinary or unusual.

3. The incident at the Lake Road Plant is not an "extraordinary" or "nonrecurring" event as such outages occur from time to time. For example, Unit 5 of Kansas City Power and Light Company's (KCPL) Hawthorn generation unit experienced an explosion and was out of service for a substantial period. KCPL has not sought AAO relief with respect to the explosion, even though KCPL had an increase in purchased power costs.

4. The continued operation of Company's electric power facilities on June 7, 2000 was or should have been a matter within the control of Company's management. Company has not alleged that an Act of God or any unforeseen natural disaster led to the June 7, 2000 incident. The incident at the Lake Road Unit may have resulted from improper maintenance procedures, employee error or numerous other factors within SJLP's control. Investigation will reveal where responsibility ultimately lies; however, the responsibility for compensating Company for costs incurred as a result of such an incident should not be borne by the ratepayers. It would be unjust and unreasonable to order the deferral of certain costs that could potentially be recovered from ratepayers as a result of an incident that should have been within the control of Company management.

5. The incident is a matter for which Company could have been better insured and thus mitigated such "incremental" costs.

6. No statutory authority exists to grant "recovery" of costs in this AAO proceeding as requested by Company in paragraph 8 of its Application. ("...Company has no other recourse but to seek recovery of these incremental costs...")

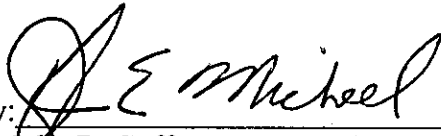
7. Company has asserted in its Application that its financial integrity has been threatened by the incident at the Lake Road Plant, but has provided no information supporting this assertion. If Company's revenue is deficient, it may file a rate case. If Company has an immediate and severe deficiency, it may also file an emergency or interim rate case. State ex rel. Laclede Gas Co. v. Public Service Commission,

535.S.W.2d 561, 567 (Mo. App.1976). If Company does not avail itself of these procedures it should not be assumed that Company's financial integrity is threatened.

WHEREFORE, Public Counsel respectfully requests that the Commission dismiss Company's Application, or in the alternative, requests a hearing on the issues raised herein pursuant to 393.140(8) and an opportunity for Public Counsel to file prepared testimony to support its position on these matters.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 3rd day of July, 2000:

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