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MO. PUBLIC SERVICE COMMISSION

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March 18, 1987

FILED
MAR 19 1987

PUBLIC SERVICE COMMISSION

Mr. Harvey G. Hubbs
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: Arkansas Power & Light Co.
Case No. AO-87-48

Dear Mr. Hubbs:

Enclosed for filing in the above-referenced matter please find three (3) copies of the following:

1. Intervenor's Reply to the Response of Union Electric Company to the Motion of Doe Run Company, et al. to Suspend Phase-In Tariffs of Arkansas Power & Light Company; and

2. Intervenor's Reply to Staff's Response to Motion to Suspend Phase-In Tariffs.

I have this date mailed a copy of the same to all parties of record.

Sincerely yours,


Robin E. Fulton

REF:alw

Enclosures

cc: All Parties of Record

FILED

BEFORE THE PUBLIC SERVICE COMMISSION OF THE

MAR 19 1987

STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

In the matter of Arkansas Power)
& Light Company of Little Rock,)
Arkansas, for authority to file)
tariffs increasing rates for) Case No. ER-85-265
electric service provided to)
customers in the Missouri)
service area of the Company.)

and

In the matter of the investi-)
gation of the revenue effects) Case No. AO-87-48 ✓
upon Missouri utilities of the)
Tax Reform Act of 1986.)

INTERVENORS' REPLY TO STAFF'S RESPONSE
TO MOTION TO SUSPEND PHASE-IN TARIFFS

This pleading is in brief reply to the Response filed by the Staff of the Missouri Public Service Commission (Staff) to Intervenor's Motion to Suspend Phase-In Tariffs. This Reply is very brief due to the time constraints of the effective date of the phase-in tariffs.

I. The Staff in Paragraph 4 of its Response asserts that if the Commission does suspend the phase-in tariffs, the suspension would "precipitate a full-scale rate case." Staff bases this assertion on its reading of State ex rel. Utility Consumers Council of Missouri, Inc. v. PSC, 585 S.W.2d 41 (Mo. 1979).

Intervenors contest this assertion. As noted in the earlier filed Motion of Intervenor, AP&L's tariffs contain a tax adjustment clause that mandates the reduction or increase in rates

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resulting from an increase or decrease in any tax rate. As noted in that Motion, pursuant to that clause and Hotel Continental v. Burton, the Commission has the authority to order AP&L to reduce its rates to reflect the reduced income tax rates. Therefore, if the Commission does, in fact, suspend the tariffs, the issue can be limited in the preceding case as to whether or not the phase-in tariffs should be offset by the income tax reduction for year two of the phase-in. Additionally, given the admission of AP&L in its December 15, 1986, filing in the tax docket that no other significant costs have changed that would affect tax savings, the Commission need not look at any other costs. Intervenor note that Staff apparently views this position of Intervenor with favor, given Staff's comments in Paragraph 5.

In addition, the Staff apparently has forgotten that in the phase-in tariffs are monies directly attributable to taxes. If the phase-in does go into effect, AP&L ratepayers will be paying for these excess taxes in addition to the tax savings of AP&L on its other rates.

Intervenor do not see that the legal risks noted in Paragraphs 4 and 5 of Staff's Response should detract the Commission from its mandated duty of protecting Missouri ratepayers from the monopolistic practices of major utilities. AP&L is (or at the very least, will effective July 1, 1987) collecting excessive revenues, which it acknowledges to be at least \$1.65 million. It has reduced rates substantially in Arkansas. Other major utilities in Missouri have indicated, through pleadings or

informal conferences, their willingness to reduce tariffs to reflect reduced income tax rates.

Simply put, by allowing the phase-in to go into effect, the Commission is penalizing Missouri ratepayers and allowing AP&L to collect excessive revenues. This should not be allowed to occur.

WHEREFORE, Intervenors respectfully request that the Commission grant the Intervenors' Motion to Suspend Tariffs and limit the resulting hearing to consideration of tax savings applicable to AP&L as a result of the Tax Reform Act.

Respectfully submitted,

SCHNAPP, GRAHAM, REID & FULTON

By: Robin E. Fulton
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ASARCO, Inc. and
Doe Run Company

PROOF OF SERVICE

THE UNDERSIGNED CERTIFIES THAT A COMPLETE COPY OF THIS INSTRUMENT WAS SERVED UPON THE ATTORNEY OF RECORD OF EACH PARTY TO THE ABOVE BY ACTUALLY ENCLOSED THE SAME IN ENVELOPES ADDRESSED TO SAID ATTORNEYS AT THEIR BUSINESS ADDRESS AS DISCLOSED IN THE PLEADINGS OF RECORD HEREIN, WITH FIRST-CLASS POSTAGE FULLY PREPAID, AND BY DEPOSITING SAID ENVELOPES IN A U. S. POST OFFICE MAIL BOX

IN FREDERICKTOWN, MISSOURI ON THE 18th DAY
OF March, A.D. 19 87
R. E. Fulton OF
SCHNAPP, GRAHAM & REID
135 EAST MAIN
FREDERICKTOWN, MISSOURI