

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

In the matter of the application of various )  
electrical corporations for the rescission )  
of 4 CSR 240-22.010, 4 CSR 240-22.020, )  
4 CSR 240-22.030, 4 CSR 240-22.040, )  
4 CSR 240-22.050, 4 CSR 240-22.060, )  
4 CSR 240-22.070, and 4 CSR 240-22.080. )

Case No. EO-99-365

**FILED**  
APR 27 1999  
Missouri Public  
Service Commission

**UNANIMOUS STIPULATION AND AGREEMENT**

Come now St. Joseph Light & Power Company ("SJLP"), The Empire District Electric Company ("Empire"), AmerenUE ("UE"), Kansas City Power & Light Company ("KCPL"), UtiliCorp United Inc. d/b/a Missouri Public Service Company ("MPS"), the Staff of the Missouri Public Service Commission ("Staff") and the Office of the Public Counsel ("OPC"), by and through their respective counsel, and state to the Commission that they have reached a settlement of what they perceive to be all of the issues in this docket and request that the Commission accept the terms of this unanimous Stipulation and Agreement as a complete resolution of this docket for the period of time addressed in the Stipulation.

1. On February 25, 1999, SJLP, Empire and UE filed a petition to rescind the administrative rules of the Commission found in 4 CSR 240-22. On March 9, 1999, those same parties filed a Motion to Extend Procedural Schedule by 30 days, indicating that the parties were

discussing a possible settlement. On April 12, 1999, the Staff of the Commission filed a similar motion to extend the procedural schedule. Staff requested that it be allowed until April 22, 1999 to file its recommendations; that the date for responses to that be moved to April 29, 1999, and the deadline for Commission action be moved to May 6, 1999. That motion was supported by all of the parties.

2. After much discussion and negotiation, the parties have reached an agreement which does not call for the Commission to rescind 4 CSR 240-22, but instead calls for the filing of an application for a variance from 4 CSR 240-22 for all of the affected electric companies from its requirements for varying periods, conditioned upon their agreement to periodic meetings with Staff and OPC to cover specific discussion topics which are set out below. The undersigned parties have reached the following stipulations and agreements:

A. That the undersigned parties agree that SJLP, Empire, MPS, KCPL, and UE may file an application for variance with the Commission from the provisions of 4 CSR 240-22, conditioned upon their agreement to the Discussion Topics contained in **Appendix A** hereto as a procedure to be followed in lieu of the filings otherwise required under 4 CSR 240-22 for the specified time periods, and that Staff and OPC shall support the granting of said application for variance before the Commission.

B. That the variance to be sought by SJLP, Empire, MPS, KCPL and UE shall cover the following specified time periods and the filings which would otherwise be due under 4 CSR 240-22 at such times, and thereby exempt them from making such filings:

1) For SJLP, the filing due in April 1999 (which is presently subject to an extension and waiver granted by the Commission in Case No. EO-99-386 on March 30, 1999);

the filing due in April 2002, and the filing due in April 2005.

2) For UE, the filing due in December 1999; and the filing due in December 2002.

3) For KCPL, the filing due in July 2000; and the filing due in July 2003.

4) For MPS, the filing due in February 2001; and the filing due in February 2004.

5) For Empire, the filing due in September 2001; and the filing due in September 2004.

C. That in return for being granted a variance by the Commission for the time periods and filings under 4 CSR 240-22 as specified in paragraph 2.B., the affected electric companies agree to meet with representatives of the Staff and the OPC and discuss the topics set out in **Appendix A** hereto, according to its terms, during the period of their respective variance.

D. That at any time before the expiration of such variance granted by the Commission, but after June 1, 2001, any of the affected electric companies may make any filing with the Commission in regard to an extension of such variance, or the rescission of 4 CSR 240-22, or any other filing in regard to 4 CSR 240-22 as they may desire, and neither Staff nor OPC shall be obligated by this document to either support or oppose any such filing. The Staff and OPC shall have the right to oppose any such filings made after June 1, 2001, if they so desire.

E. That to allow the Commission sufficient time to consider this Stipulation and Agreement, and the concomitant Application for Variance to be filed by the affected electric companies, the undersigned parties jointly recommend that the Commission issue an order postponing the time period in which it is required to act on the Petition for Rescission until June

1, 1999.

F. That if the Commission grants a variance to the affected electric companies in the manner contemplated by this Stipulation and Agreement on or before June 1, 1999, the petitioners agree to voluntarily withdraw their Petition for Rescission of Administrative Rules filed on February 25, 1999, and further agree not to refile any similar petition for the rescission of 4 CSR 240-22, before June 1, 2001, *provided that* such companies are operating under the terms of a Commission-approved variance incorporating the provisions of Appendix A, and there have been no orders or additional requirements of the Commission, or amendments to 4 CSR 240-22, which have taken effect and which place a greater administrative burden on such companies with regard to reporting of the topics contained in Appendix A than what appears in Appendix A; it being the intention of the undersigned parties that Appendix A reflects the maximum amount of reporting which they will be required to perform concerning the topics covered in Appendix A during the period of the variances.

3. This Stipulation and Agreement represents a negotiated settlement for the sole purpose of disposing of Case No. EO-99-365. None of the signatories shall be prejudiced or bound in any manner by the terms of this Stipulation and Agreement in this proceeding or in any other proceeding except as permitted by law.

4. None of the signatories shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation underlying or allegedly underlying this Stipulation and Agreement.

5. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not

approve and adopt this Stipulation and Agreement, in total, and grant variances to the affected electric companies in the manner contemplated by the Stipulation and Agreement, this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

6. If the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights to examine witnesses pursuant to Section 536.070 RSMo 1994; to present oral argument or written briefs pursuant to Section 536.080.1 RSMo 1994; to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and to judicial review pursuant to Section 386.510 RSMo 1994.

7. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties pursuant to this paragraph shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become of a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

8. The Staff shall also have the right to provide, at any agenda meeting at which this

Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order issued in this case.

9. The Staff shall have the right to file suggestions or prepared testimony in support of this Stipulation and Agreement, and the other parties shall have the right to file responsive suggestions or prepared testimony.

10. Nothing in this Stipulation and Agreement is intended to impinge or restrict in any manner the exercise by the Commission or by the Public Counsel (or any party except as expressly stated herein) of any right or obligation, including any right to conduct discovery and obtain access to information.

WHEREFORE, the signatories respectfully request that the Commission issue an Order which postpones the time period in which it is required to act on the Petition for Rescission until June 1, 1999; and, after the filing of the Application for Variance to be filed by the affected electric companies, grants such variances and approves this Stipulation and Agreement as the resolution of this docket.

Respectfully submitted,

William I. Niehoff by GWD

William I. Niehoff MBE # 36448  
AmerenUE  
1901 Chateau Avenue  
P.O. Box 66149 MC 1310  
St. Louis, MO 63166-6149  
Tel: 314 554-2514  
Fax: 314 554-4014  
Attorney for AmerenUE

Gary W. Duffy

Gary W. Duffy MBE #24905  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 E. Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
Tel: (573) 635-7166  
Fax: (573) 635-3847  
Attorneys for  
St. Joseph Light & Power Company  
The Empire District Electric Company

William G. Riggins by GWD

William G. Riggins MBE# 42501  
Kansas City Power & Light Company  
1201 Walnut  
Kansas City, MO 64141-9679  
Tel: (816) 556-2785  
Fax: (816) 556-2787  
Attorney for Kansas City Power & Light Co.

John B. Coffman by GWD

John B. Coffman MBE# 36591  
Deputy Public Counsel  
Truman State Office Building, Room 250  
P.O. Box 7800  
Jefferson City, MO 65102  
Tel: (573) 751-5565  
Fax: (573) 751-5562  
Attorney for Office of the Public Counsel

Christine J. Egbarts by GWD

Karl Zobrist MBE# 28325  
Christine J. Egbarts MBE# 45773  
Blackwell Sanders Peper Martin LLP  
2300 Main Street, Suite 1000  
Kansas City, MO 64108  
Tel: (816) 983-8000  
Fax: (816) 983-8080  
Attorneys for UtiliCorp United Inc.

Steven Dottheim by GWD

Steven Dottheim MBE #29149  
Chief Deputy General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
Tel: (573) 751-7489  
Fax: (573) 751-9285  
Attorney for the Staff of the Missouri Public  
Service Commission

#### CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was mailed or hand-delivered on April 27, 1999, to all counsel of record.

Gary W. Duffy

Gary W. Duffy

## **ALTERNATIVE TO ELECTRIC UTILITY RESOURCE PLAN FILINGS DISCUSSION TOPICS**

### **MEETINGS WITH COMMISSION STAFF AND OFFICE OF PUBLIC COUNSEL**

1. Scheduled meetings - two per year:
  - a.. AmerenUE - January and July, starting July 1999
  - b. Kansas City Power & Light - February and August, starting August 1999
  - c. Missouri Public Service - March and September, starting September 1999
  - d. Empire District Electric - April and October, starting October 1999
  - e. St. Joseph Light & Power - May and November, starting November 1999

### **MEETING AGENDAS:**

1. **Load Forecast Changes - For scheduled meetings after changes are made**
  - a. Revisions in short-term forecasts of summer peak demands;
  - b. Revisions in long-term forecasts of drivers, energy and peak demands; and
  - c. Changes in sales to wholesale customers, including firm capacity sales to other utilities.
2. **Generation and Transmission Resource Plans - Two times per year**
  - a. Capacity needs for next ten years, including reserves;
  - b. Capacity additions: new units and/or purchases for which a commitment has been made;
  - c. Planned unit re-ratings or retirements; and
  - d. Planned upgrades to the transmission system
3. **Planned Alternatives to Generation Capacity Additions - Two times per year**
  - a. Impact on capacity needs included in 2.a. above (e.g., impact of interruptible load on capacity needs); and
  - b. Explanation of changes in planned alternatives to generation capacity additions.
4. **How Regulated Electric Utilities are Responding to Changes from Industry Restructuring – One time per year**
  - a. Changes in electricity markets (e.g. new products in the wholesale energy markets);
  - b. Changes in corporate structure (e.g., reorganized and/or new business units);
  - c. Major changes in business unit systems impacting Missouri customers (e.g., new Customer Information Systems); and
  - d. Updates on marketing activities for energy-related services (products and services that affect the usage of energy by the end-use consumer) offered in the utility's service territory by the regulated entity (highly confidential).



**5. Programs for Low Income Customers – One time per year**

- a. Proposed new programs;
- b. Updates on existing programs; and
- c. Executive summaries for distribution to Commissioners (not confidential)

**NOTIFICATION OF RESOURCE ACQUISITIONS (2 and 3 above)**

- 1. Within one hundred twenty (120) days from the time of committing to acquire a specific resource, the utility will send a letter to the Manager of the Electric Department and the Office of the Public Counsel including:
  - a) A description of the resource need and acquisition (not confidential); and
  - b) An attachment describing (can contain highly confidential material):
    - i. The process used in deciding to acquire the resource;
    - ii. The impact of the resource acquisition on capacity reserves; and
    - iii. The proposed rate making treatment of the resource.
- 2. If a filing has been made with the Commission within the previous one hundred twenty days containing the information in 1. above, then no letter with attachment is required.

**ADDITIONAL TOPIC FOR MEETINGS AFTER POTENTIAL RESTRUCTURING LEGISLATION:**

At such future time as a retail electric restructuring law may be enacted which allows retail electric competition in Missouri and the Commission determines to investigate market power issues in connection therewith, the following additional discussion topic will be added to the agenda: Updates on marketing activities for energy-related services (products and services that affect the usage of energy by the end-use consumer) offered in the utility's service territory by affiliates (if any) of the regulated entity (highly confidential).

RECEIVED

MAY 04 1968

COMM. 1301  
PUBLIC SERV.