

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. EM-83-248

In the matter of the joint application of the utility companies comprising the Union Electric System for permission and authority (i) to merge Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company with and into Union Electric Company and (ii) to carry out the transactions contemplated by the mergers.

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Richard W. French, Assistant Public Counsel, and Darnell W. Pettengill Assistant Public Counsel, P. O. Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the Public.

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#### REPORT AND ORDER-

On January 31, 1983, Union Electric Company (UE), Missouri Utilities Company (MU), Missouri Power & Light Company (MPL) and Missouri Edison Company (ME), (Applicants) filed a joint application to merge MU, MPL and ME into UE and to carry out the transactions contemplated by the mergers. Applicants filed a Motion for Setting Hearing on May 12, 1983. The Staff's Response to Motion for Setting Hearing was filed on June 7, 1983. On June 20, 1983, the Commission issued its Order Scheduling Proceedings.

By order dated July 25, 1983, the Commission granted the applications to intervene filed by Dundee Cement Company and the City of Cape Girardeau. On July 29, 1983, the Commission issued an order scheduling local hearings, directing notice to customers and rescheduling the prehearing conference. The Commission issued an order on August 12, 1983, directing the parties to file supplemental direct testimony on certain issues. On August 19, 1983, the Commission issued its Order Granting Interventions of the Villages of Flint Hill and St. Paul, the Cities of Wentzville,

St. Peters, Kearney, O'Fallon, Jefferson, Old Monroe, Louisiana, Moberly, Eldon, Elsberry, Mexico, Boonville, Shelbyville, Bevier, Bland, Belle, Brookfield, Hamilton, Bucklin, Kidder, Kingston, New London, Canton, Versailles, Stover, Wellsville, Atlanta, Lawson, Wood Heights, Kirksville, Hurdland, Green, Edina, Excelsior Springs, New Haven and LaGrange, the Green Hills Regional Planning Commission, Missouri Municipal League, the State of Missouri and the following Industrial Intervenors: ACF Industries, Incorporated, Anheuser-Busch, Inc., Ford Motor Company, General Motors Corporation, Mallinckrodt, Inc., McDonnell Douglas Corporation, Monsanto Company, Nooter Corporation, PPG Industries, Inc., Pea Ridge Iron Ore Co. and St. Joe Minerals Corporation. On August 26, 1983, the Commission granted the amended application to intervene filed on behalf of the City of Louisiana and also granted the withdrawal of the application to intervene filed on behalf of the City of Canton. The Commission, in its order dated September 1, 1983, granted both the application to intervene filed on behalf of the City of Troy and the amended application to intervene filed on behalf of the City of Kirksville. On September 8, 1983, the Commission issued an Order Rescheduling the Evidentiary Hearing and granting the City of Atlanta's amended application to intervene. The Commission granted the Motion to Intervene filed on behalf of the Village of New Melle on September 14, 1983. The prehearing conference scheduled in this case for September 27-29, 1983, was held and a Hearing Memorandum was filed. Public hearings were held on September 19, 1983, in Cape Girardeau, on September 20, 1983, in Moberly, on September 30, 1983, in St. Louis, and also on September 30, 1983, in Clayton, and on October 11, 1983, in Jefferson City. The Commission issued its Order Setting Additional Hearing Dates and Granting Motion to Withdraw Application to Intervene filed by the Roman Catholic Church on October 20, 1983.

On October 31, 1983, the Joint Applicants filed their Motion to Strike Testimony. Intervenors O'Fallon, Wentzville, Troy, New Melle and Flint Hill filed a Motion for Report on Issue of Elimination of Competition from Alternate Bulk Power

Sources on November 7, 1983. Suggestions in Opposition to Applicants' Motion to Strike Testimony submitted by Intervenors Bucklin, Hamilton, Kingston and Kidder, Missouri were filed on November 9, 1983. The Joint Applicants filed their Objection to Motion for Report on Issue of Elimination of Competition from Alternate Bulk Power Sources on November 9, 1983. The Cities of O'Fallon and Wentzville filed their Memorandum in Opposition of Motion to Strike Testimony on November 9, 1983. The Staff of the Missouri Public Service Commission (Staff) filed its Response to Motion for Report on November 10, 1983. On November 23, 1983, the Commission issued an Order Denying Motion for Additional Report.

A hearing was held on October 31, 1983, November 1, 1983, November 3, 1983, November 9, 1983, and November 10, 1983. Parties did not waive the reading of the transcript pursuant to Section 536.080, RSMo 1978. Initial and reply briefs were filed by most of the parties. The city of St. Peters and the village of St. Paul filed a Notice to Join in Brief of the City of Jefferson et al. on November 17, 1983. On November 28, 1983, the Staff and the Applicants filed a Stipulation and Agreement on the issues relating to irrigation rates, municipal street lighting rates and Whiteman Air Force Base.

#### Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

UE is a Missouri corporation, authorized to do business in Illinois and Iowa. The principal business of UE is to provide electric energy to customers in Missouri, Illinois and Iowa. The territory UE serves in Missouri includes the City of St. Louis and St. Louis County and portions of five adjacent counties: St. Charles, Franklin, Jefferson, St. Francois and Ste. Genevieve, and portions of Miller, Morgan and Camden counties in central Missouri. UE also serves three areas in Illinois, including the cities of East St. Louis and Alton, and an area in Iowa

near the Keokuk hydroelectric plant, including the cities of Keokuk and Fort Madison. In addition to the retail electric business, UE also serves fifteen wholesale electric customers, twelve of which are located in Missouri and three in Iowa.

As of December 31, 1982, the population of UE's service area was estimated to be 2,079,324, of which 1,800,162 are in Missouri. UE's electric customers numbered approximately 801,250 as of December 31, 1982, of which 714,564 were in Missouri. As of December 31, 1982, UE distributed natural gas to approximately 17,200 customers in Alton, Illinois, and vicinity, and provided steam heating service in downtown St. Louis to approximately 286 customers.

UE has three utility subsidiaries--MU, MPL and ME. These companies operate only in Missouri. UE also owns all the stock of Union Colliery Company which owns coal reserves in Illinois. In addition, UE owns 40 percent of the common stock of Electric Energy, Inc., which owns and operates a 1,100,250 kilowatt steam generating plant at Joppa, Illinois, which supplies power to the Paducah Project of the Department of Energy.

UE owns six steam electric plants, two hydroelectric generating plants, one pumped-storage hydro plant, six combustion turbines, which have an estimated aggregate net capability of 6,500,000 kilowatts, of which 5,600,000 kilowatts are steam generating capacity. As of December 31, 1982, UE owned approximately 3,334 circuit miles of electric transmission lines, 14,030 pole miles of overhead distribution lines, 6,783 miles of underground cable, and 331 substations with a transformer capacity of approximately 32,083,000 kVA. UE also owns a propane-air gas plant in Alton, Illinois, with a daily natural gas equivalent capacity of 12,000 Mcf and 259 miles of gas mains in the City of Alton, Illinois, and vicinity. Other properties of UE include a steam distribution system in downtown St. Louis and office buildings, warehouses, garages and repair shops at various locations throughout the territory served.

The UE System is composed of MU, MPL, ME and UE. UE owns all of the issued and outstanding shares of common stock of MU (956,345 shares). The issued and outstanding shares of preferred stock of MU are owned by third parties. UE owns all the issued and outstanding shares of common stock of MPL (3,000,000 shares). The issued and outstanding shares of preferred stock of MPL are owned by third parties. UE owns all the issued and outstanding shares of common stock of ME (444,445 shares). There are no outstanding shares of preferred stock of ME. MU, MPL and ME currently purchase almost all of their electric requirements from UE under wholesale rates regulated by the Federal Energy Regulatory Commission (FERC).

Witness Smith, Executive Vice President and Director of Union Electric Company, testified that UE's stockholder approval of the merger has been obtained.

MPL is a Missouri corporation with its executive office at 101 Madison Street, Jefferson City, Missouri 65101. MPL is engaged in providing electric service to approximately 94,000 customers residing in the Missouri counties of Adair, Audrain, Boone, Caldwell, Callaway, Chariton, Clark, Clay, Clinton, Cole, Cooper, Daviess, DeKalb, Franklin, Gasconade, Gentry, Howard, Knox, Lewis, Livingston, Macon, Maries, Miller, Moniteau, Monroe, Montgomery, Osage, Pike, Ralls, Randolph, Ray, Schuyler, Scotland, Shelby, Sullivan and Warren under the jurisdiction of this Commission. MPL also distributes natural gas in 38 communities to approximately 35,000 customers in central and northeast portions of Missouri and steam service to the state government in Jefferson City, Missouri, under the jurisdiction of this Commission.

MPL owns two combustion turbines and 11 internal combustion engine units which have an estimated aggregate net capability of 76,000 kilowatts. MPL's generating capacity is used primarily for peak power requirements. During 1982 MPL purchased approximately 89 percent of its electric energy from UE and 10 percent from Kansas City Power & Light. As of December 31, 1981, MPL owned approximately 1,715 circuit miles of electric transmission lines, 260 substations with a

transformer capacity of approximately 2,413,000 kVA, and related distribution systems, a propane-air gas plant at Jefferson City, Missouri, with a daily natural gas equivalent capacity of 7,500 Mcf and 708 miles of gas mains. Other properties of MPL include a steam distribution system, office buildings, warehouses, garages and repair shops.

ME is a Missouri corporation with its executive office at 202 South Third Street, Louisiana, Missouri 63353. ME is engaged in the business of providing electric service to approximately 32,300 customers residing in the Missouri counties of Lincoln, Montgomery, Pike, St. Charles and Warren under the jurisdiction of this Commission. ME also distributes natural gas in northeastern Missouri to approximately 6,200 customers in 20 communities under the jurisdiction of this Commission. As of December 31, 1982, ME owned approximately 358 circuit miles of electric transmission lines, 78 substations with a transformer capacity of approximately 759,000 kVA and related distribution systems and 299 miles of gas mains. During 1982, ME purchased 100 percent of its electric energy requirements from UE. Properties of ME include office buildings, warehouses, garages and repair shops.

Witness David C. Harrison, president and director of Missouri Power & Light Company and Missouri Edison Company, testified that the proposed merger is in the public interest since it will reduce the cost of operation. Mr. Harrison also testified that MPL's stockholder approval of the merger has been obtained and that the board of directors of ME and UE have approved the merger as of December, 1982.

MU is a Missouri corporation with its executive office at 400 Broadway, Cape Girardeau, Missouri 63701. MU is engaged in the business of furnishing electric service to approximately 60,000 customers residing in the Missouri counties of Butler, Cape Girardeau, Cooper, Dunklin, Miller, Mississippi, Moniteau, Morgan, New Madrid, Pettis, Saline, Scott and Stoddard as a public utility under the jurisdiction of this Commission. MU also distributes natural gas to approximately

49,000 customers in 32 communities in central and southeastern Missouri and water service to approximately 11,000 customers in the City of Cape Girardeau, Missouri, as a public utility under the jurisdiction of this Commission. MU owns one combustion turbine and two internal combustion engine units which have an estimated aggregate capability of 27,000 kilowatts. During 1982, MU purchased approximately 98 percent of its electric energy requirements from UE and two percent from Arkansas Power & Light. As of December 31, 1982, MU owned approximately 601 circuit lines of electric transmission lines, 98 substations with a transformer capacity of approximately 1,223,000 kVA, and related distribution systems, three propane-air gas plants in Cape Girardeau and Columbia, Missouri, with a daily natural gas equivalent capacity of 10,440 Mcf, 1,036 miles of gas mains, two pumping, purification and water treatment plants and 185 miles of water mains. Other properties of MU include office buildings, warehouses, and garages at various locations throughout the territory served.

Witness Lengefeld testified as president and chief executive officer and director of MU that the proposed merger is in the public interest since the merger of MU with and into UE will reduce the cost of operation. Lengefeld also testified that the necessary MU stockholder approval of the merger was obtained.

Applicants have requested authority from this Commission to merge MU, MPL and ME with and into UE, to apply the existing subsidiary rates for gas, water and steam service, to apply the existing UE electric rates and rules and regulations throughout the subsidiaries' service areas, to issue up to 86,620 shares of preferred stock and to transfer all certificates of convenience and necessity, franchises, works or systems, licenses, leases and permits, mortgages, bonds and other evidences of indebtedness and other rights and obligations from MU, MPL and ME to UE as a part of this merger.

Generally, application of UE's tariffs to the subsidiaries' electric customers would result in a decrease in rates; however, it would result in an increase in rates to certain classes of customers including municipalities.

The Staff of the Public Service Commission (Staff) and the Office of Public Counsel (Public Counsel) recommend approval of the merger because of the increased efficiency and resulting cost savings to be flowed through to customers. The Cities of Jefferson, Atlanta, Bevier, Belle, Bland, Boonville, Cape Girardeau, Edina, Eldon, Elsberry, Excelsior Springs, Kearney, Louisiana, Lawson, Mexico, Moberly, New London, Versailles, Wood Heights and Kirksville (Jefferson City et al.) are principally concerned over rates for cities and are not interested in delaying or obstructing any savings related to reductions in rates of other customers. The Green Hills Regional Planning Commission, the Cities of Brookfield, Bucklin, Hamilton, Kidder and Kingston, Missouri (Green Hills et al.) request the Commission to deny the merger because of the increase in rates to the cities. The City of Kirksville feels that Applicants fail to show that the merger would not lessen competition among suppliers which would provide power since there will be three less potential purchasers on the wholesale market. Kirksville further states that MPL has purchased ten percent of its power from a source other than UE for several years, contracts between UE and MPL are not perpetual and the contracts likely violate federal antitrust laws and Sections 3 and 7 of the Clayton Act. Therefore, the city of Kirksville recommends that the merger not be allowed. The cities of O'Fallon, Troy, Wentzville and the villages of Flint Hill and New Melle (O'Fallon et al.) recommend that the merger should not be approved because of the probability of lessening competition. The city of St. Peters joined in the brief of Jefferson City et al. However, in the Hearing Memorandum, the city of St. Peters recommends that the merger not be approved because of the substantial increase in rates and the lack of cost of service data. Cape Girardeau, which did not file a brief, states in the Hearing Memorandum that it opposes the merger. The Industrial Intervenors: Monsanto Company, ACF Industries, Inc., Anheuser-Busch, Inc., Ford Motor Company, General Motors Corporation, Mallinckrodt, Inc., McDonnell Douglas Corporation, Nooter Corporation, PPG Industries, Inc., Pea Ridge Iron Ore Co. and St. Joe Minerals Corporation

(Monsanto et al.) recommend that the merger should be approved. Dundee Cement Company (Dundee) does not oppose the merger per se if appropriate steps are taken to assure that it does not cause customers of UE's subsidiaries to face discriminatory rates. The State of Missouri representing Southeast Missouri State University (SEMO) neither supports nor opposes the proposed merger but is concerned with the impact of the possible rate increase.

The Commission finds that the proposed merger will permit consolidation into one corporate entity the accounting, data processing, engineering, financial, legal, operations, planning, purchasing, rates and other services which are presently carried on separately by each corporation. The Commission further finds that this will result in certain economies by eliminating duplication of efforts, will contribute to management efficiency and will result in a net annual savings of \$9.7 million.

Shares of preferred stock of MU and MPL will be acquired by UE which will convert them into shares of its preferred stock. All of the issued and outstanding shares of common stock of MU, MPL and ME, of which UE is the sole owner, will be cancelled after the effective date of the merger and no stock of UE will be issued in exchange therefor. Since UE owns all the outstanding common equity of the subsidiaries, there is no purchase price for the equity interest. However, there will be 60,000 shares of MPL preferred stock and 26,620 shares of MU preferred stock outstanding. UE is proposing to trade, on a one-for-one basis, shares of UE preferred stock for MPL and MU shares with an approximate ten percent increase in the annual dividend to be paid to MPL and MU preferred shareholders. This amounts to approximately \$39,000 per year in increased dividends at the time of the merger. Applicants' witness testified that this increase is necessary to encourage shareholders to vote for the merger and exchange their existing shares.

All debt obligations of UE, MU, MPL and ME included in their first mortgage bonds will remain outstanding after the merger and will remain obligations of UE as

the surviving corporation under the Plans of Merger, and in the case of bonds, will continue to be secured by first mortgage liens on the respective properties of UE, MU, MPL and ME, which will be held by UE on the effective date of the merger. Neither the rights of creditors of UE, MU, MPL and ME nor any liens upon their properties will be impaired by the merger. The outstanding indebtedness owed by each subsidiary to UE will be cancelled upon the effective date of the merger.

Upon the effectiveness of the merger, MU, MPL and ME will cease to exist and will become part of UE, the surviving corporation. UE will acquire all the certificates of convenience and necessity, franchises, works or systems, licenses, leases and permits of MU, MPL and ME. UE will directly provide electric, gas, water and steam service to subsidiary customers as of the effective date of the merger. The Applicants propose to provide electric service under UE's tariffs as of the effective date of the merger and other services under the subsidiaries' tariffs.

The Commission is of the opinion that the merger will not result in any additional financial risk to the surviving entity and that the financing flexibility may be improved as a result of the combination of the companies' earnings in determining the ability to issue debt and preferred stock.

The Commission finds that UE will continue to provide electric, gas and water service pursuant to 4 CSR 240-10.030, the Standards of Quality Rule, after the merger. The Commission further finds that the present customer contact structure for handling customer complaints will remain in effect after the merger.

The Commission is of the opinion that UE's plant investment represents 89 percent of all electric utility property on a merged basis, that the subsidiary companies have not reviewed their depreciation rates in recent years, and that UE's tariff rates will be applied to most of the electric service customers. The Commission finds that for the natural gas properties, the present tariffs of each of the subsidiaries are to be maintained; therefore, separate depreciation expense, plant and reserve should be maintained by each individual company. The Commission

concludes that the depreciation rates to encompass all electric companies after the merger should be UE's present depreciation rates and that the depreciation rates presently prescribed by each subsidiary company for gas properties should be maintained after the merger.

The cost savings to the merged company will result from the elimination of approximately 304 subsidiary jobs which will be partially offset by the need to add approximately 54 jobs in St. Louis. Other savings include a reduction from allocation of distributable property on a systemwide basis, a reduction in insurance premiums, a reduction in computer rental, and elimination of expenses associated with maintaining three corporate headquarters office buildings. The costs of integrating the subsidiary operations include modification of present customer records, cash processing, reporting procedures, numerous computer programs and implementation of common construction standards. Other costs include severance pay to employees whose jobs are eliminated and shareholder approval costs.

Savings to UE for salaries of employees who have left minus those who have been added in St. Louis for 1983 are \$2,000,000. UE stated that the cost savings enjoyed by UE should be flowed through to the ratepayers of the subsidiaries if the merger is approved, however, not the \$2,000,000 since rate case activity has been curtailed and offsetting costs will be incurred the next year.

The subsidiary companies buy their power with certain exceptions from UE. These contracts to buy power from other sources have been cancelled and UE will provide all power needs in the future. The subsidiaries and UE are bound by contracts to buy, except for the subsidiaries own generation, and to provide all the requirements. Also, since UE owns all the common stock of all the subsidiaries, it controls the operations of these subsidiaries through the selection of the subsidiaries' boards of directors to whom the officers of the subsidiaries report. MPL had purchased electricity from Kansas City Power & Light Company for its Excelsior Springs district. For the twelve-month period ending August 31, 1983, the

average purchase price under that contract was 4.474 cents per kilowatthour. For the same period, the purchases from UE averaged 2.876 cents per kilowatthour. MU had a contract with Arkansas Power & Light under which they purchased electricity for the Senath district at an average rate of 5.7 cents per kilowatthour in 1982. The UE rates for the southeast district averaged 2.6 cents per kilowatthour in 1982.

Dr. Kuhlman, the witness for the Cities of O'Fallon et al., testified that the wholesale market for electric power has the potential for a substantial degree of competition which could replace regulation. He also stated that there would be a change in the relationship between the subsidiaries and UE if the merger was approved, since presently the subsidiaries have some independence to shop for power and after the merger that flexibility would disappear and result in less competition. Staff pointed out that there was no evidence to show that competitively priced bulk power in the quantities that would be required by the subsidiaries is now or will in the future be available. UE believes that competition cannot replace regulation in the wholesale market for electric power, and that because of the nature of the bulk power market, the subsidiaries would need long-term commitments for power and would not be in a position to shop for power in the other bulk power markets. Further, UE states that it has designed and built its generation and transmission system on the basis of what is best for the entire system. Public Counsel argues that if the cost claimed by UE to provide electricity to its customers were higher than necessity due to low cost alternate suppliers, the Commission has authority to disallow those costs in the setting of just and reasonable rates. Public Counsel pointed out that since 1959 UE and its subsidiaries have had its power centrally dispatched by UE dispatchers so the power is supplied on a systemwide basis.

The Commission finds that with the merger a degree of flexibility will be lost which might have allowed the subsidiary companies in the future to purchase power on the bulk power market if power was available and if it was cheaper than buying from UE. However, the Commission is of the opinion that it is sheer

speculation as to whether competition as proposed by Intervenor would ever exist, and further this mere possibility does not offset the clear benefits of the merger proposal at this time. Also, the Commission points out that other governmental agencies have jurisdiction over the issue of a potential lessening of competition in the bulk power market. Therefore, the Commission finds that a potential lessening of competition in the bulk power market does not constitute a detriment to the public in this case.

Having considered all of the evidence in the record, the Commission finds that no detriment to the public has been shown to exist if this application to merge MU, MPL and ME with and into UE is granted.

The Commission must also consider the rates to be applied. Applicants request that UE's rates be applied to the subsidiaries' electric customers and all other customers would be served under their present rates. Staff agrees with UE's proposal to apply UE's rates to subsidiary electric customers except for municipal service rates, street lighting rates, traffic signal rates and cotton ginning rates. Public Counsel agrees with Staff's proposal and emphasized no surcharge should be levied. Jefferson City et al. recommend that the rates for municipalities be frozen until the next rate case and a surcharge be applied to all other customers to make up for the loss in revenue. Green Hills et al. recommend that the merger not be considered until the next rate filing or that municipal rates be frozen and other electric customers be placed on UE's tariffs with the surcharge or to leave all subsidiary customers on the subsidiary rates and permit the merger and apply a negative surcharge to all customers except municipals. Kirksville requests that the application of UE's rates be deferred for those customers who will receive a rate increase until the next rate case. Kirksville further rejects Staff's proposal because of the size of the impact of the rate increase to the municipals. The City of O'Fallon et al. recommend that the Applicants' shareholders absorb the cost of honoring the franchise contracts of the cities. The City of St. Peters joined in the

brief of Jefferson City et al. However, in the Hearing Memorandum, the city of St. Peters agreed with Staff's proposal with certain limitations. Cape Girardeau, which did not file a brief, states in the Hearing Memorandum that if the merger is approved, it would favor freezing municipal lighting and pumping tariffs at existing rates. The State of Missouri representing SEMO request that either the current rate be frozen without any power transfer to UE or that the cost of power be phased in over two years with a monthly increase. The Industrial Intervenors, Monsanto et al., and Dundee agree with UE that its rates should be applied to all electric customers of the subsidiaries. Dundee argues that there should be no surcharge to make up for the loss of municipal revenues since that is discriminatory.

The Commission finds that the level of revenue generated by the application of UE rates to the subsidiary electric customers as proposed by UE results in a net revenue effect for the UE System of a negative \$740,000 taking into consideration annual savings and one-time savings. This revenue figure does not include the \$2,000,000 in savings to the Company in 1983.

UE's proposal to flow through savings to the electric subsidiary customers is based upon the reduction in administrative and general expenses in the subsidiary companies' service areas. Based upon these facts, the Commission finds that flowing through savings to the electric subsidiary companies' customers in the form of a rate reduction is reasonable.

Rates generally should be based on specific cost-of-service studies. Therefore, there should be great hesitancy in approving substantial increases in rates for any customer class in the absence of a cost-of-service study. The Commission finds that the proposed increases as evidenced by Exhibit 13, Schedule MP, page 2-4, for municipal service rates, municipal fixed rates, municipal street lighting rates, municipal lighting rates, municipal pumping rates, traffic signals rates, private lighting rates, outdoor lighting rates, athletic field lights rates, cotton ginning and irrigation rates, irrigation rates, Whiteman Air Force Base and

SEMO's rates are substantial and in the absence of a cost-of-service study supporting those cost increases, the Commission finds that the proposed application of UE's rates to these customers would be unreasonable.

Except for certain classes and two customers referred to herein, the Commission finds that the cost differences between UE and its subsidiaries and the subsidiaries themselves are relatively insignificant, that UE's current rates adequately track those costs since UE's filed tariffs have been approved by this Commission as an outcome of two rate design cases, EO-78-163 and ER-83-163. The Commission notes that none of the subsidiary companies have had the level and structure of their rates examined in a class cost-of-service study. Having considered the subsidiary companies' revenue requirements, the class revenue requirements and rate structure changes, the Commission finds that the application of UE's rates to the subsidiaries' electric customers, with the following exceptions, is reasonable: Municipal fixed rates, municipal service rates, municipal pumping rates, municipal lighting rates, municipal street lighting rates, traffic signals rates, cotton ginning and irrigation rates, irrigation rates, private lighting rates, outdoor lighting rates, athletic field lights rates and the rates applied to Southeast Missouri State University and Whiteman Air Force Base.

The Commission finds that the municipal fixed rates and municipal fixed street lighting rates should be increased to the municipal service rates and the municipal street lighting rates in effect for each subsidiary company. The Commission, in Case Nos. ER-82-180 and ER-82-198 found that these contracts were below cost and discriminatory. The Commission ordered that service under the fixed rate contracts for municipal services and street lighting should be eliminated in two phases. Six months after the effective date of the new rates established by those orders, the company was to bill all municipalities with fixed rate contracts remaining in effect by an additional amount which is one-half of the net difference between the company's filed municipal tariff schedules and the rates provided for in

the individual contracts. The first phase has been implemented. The Commission further ordered that with the effective date of the tariffs filed pursuant to the Commission's order in the company's next general rate proceeding, all service to the affected cities should be rendered at the rate prescribed in the company's tariff schedules.

The Commission finds that there will be no future rate cases for the subsidiary companies, and the companies would have filed such cases but for the merger. The Commission has not found any changed circumstances which would cause it to change its decisions in Case No. ER-82-180 and ER-82-198. Based upon these facts, the Commission believes that the final phase-in of municipal fixed contract rates proposed in orders in ER-82-180 and ER-82-198 should be implemented.

By not increasing the municipal tariff rates, the Commission is allowing all municipalities approximately one year to anticipate the possibility of a substantial increase in rates in the future. This increase may result from an application of UE tariffs to the subsidiaries' electric municipal customers and the possible large increase in UE's rates when Callaway One comes on line. UE is planning on filing its next rate case in February, 1984.

The Commission finds that the present subsidiary rates for municipal pumping rates, traffic signals rates, private lighting rates, outdoor lighting rates, athletic field lights rates, cotton ginning and irrigation rates, irrigation rates, Whiteman Air Force Base and SEMO rates should be maintained until the effective date of the Report and Order in the next rate case.

The Commission does not approve the Stipulation and Agreement entered into by the Staff and Company regarding irrigation rates, municipal street lighting rates and the Whiteman Air Force Base rates.

The Commission finds that the Company should notify the Commission immediately if any average user in any class will receive more than an approximate 25 percent rate increase, other than the municipalities previously receiving service

under the fixed municipal service and fixed municipal lighting rates. If there are such users, then the Commission may act to ameliorate the impact of the rate increase upon them at that time.

The Commission further finds that UE is to provide cost-of-service studies relating to municipal service, municipal and private lighting, irrigation, cotton gin and traffic signal rates in its next rate case. The Commission expects UE to make other appropriate cost studies in its next rate case. Any party who wants the Commission to order a cost-of-service study for a particular class of UE customer should file a request with the Commission and show good cause for such a request at the earliest possible time.

The Commission authorizes UE to provide gas, water and steam service under the subsidiaries' present rates to the subsidiary customers.

The Commission determines that UE should file tariff provisions reflecting the refund provisions contained in the Applicants' tariffs as agreed to by the Staff and the Applicants in the Hearing Memorandum.

The Commission finds that UE should be authorized to apply the existing UE rules and regulations throughout the subsidiaries' service areas. However, upon UE's first assessment of a late payment charge on a given customer of MPL or ME during 1984, the customer should be notified of the assessment but should not be charged.

#### Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

This case is before the Commission pursuant to Section 393.190, RSMo 1978, which provides that a utility may not merge without having first secured from the Commission an order authorizing the company to do so. This Commission has held in many cases that the sole issue to be decided by it is whether the proposed transactions are detrimental to the public interest. Re: Laclede Gas Company, 92 PUR3d 426, 430 (Mo. PSC 1971); Re: Southeast Missouri Telephone Company and

Southwestern Bell Telephone Company, 3 Mo. PSC (N.S.) 19; Re: Doniphan Telephone Company, 10 Mo. PSC (N.S.) 147; Re: Capital City Telephone Company and United Utilities, Inc., 13 Mo. PSC (N.S.) 519; and Re: Kansas Power & Light Company, Report and Order, p. 6 (September 12, 1983). It is not required that the applicants prove that the public will be benefited in transactions such as mergers. A shareholder should be allowed to sell or otherwise dispose of or deal with his property unless it would be detrimental to the public. State ex rel. City of St. Louis v. Public Service Commission of Missouri, 73 SW2d 393 (Mo. en banc 1934).

The evidence shows that the proposed merger of MPL, MU, ME in and with UE will not be detrimental to the public interest.

Pursuant to Section 393.180, RSMo 1978, the Commission authorizes UE to issue up to 86,620 shares of preferred stock and cancel the existing preferred stock of the subsidiaries.

The Commission, after notice of hearing, may order a change in the rate, charge or rental in any regulation or practice affecting the rate, charge or rental and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting said rate, charge or rental thereafter to be observed.

Objections to Exhibits 17, 18, 19, 20, 21, 24, 30, 48, 52, 62, 63, 64 and 65 are overruled and those exhibits are received into evidence.

Any motion not previously ruled on should be considered denied, and any objection not previously ruled on should be considered overruled.

It is, therefore,

ORDERED: 1. That Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company are authorized to merge with and into Union Electric Company.

ORDERED: 2. That Union Electric Company is authorized to apply the existing subsidiary rates for gas, water and steam service.

ORDERED: 3. That Union Electric is authorized to apply the existing Union Electric rates throughout the subsidiaries' service areas with the following exceptions: Municipal service, municipal street lighting, municipal fixed, municipal lighting, municipal pumping, private lighting, outdoor lighting, athletic field lights, traffic signals, cotton ginning and irrigation, irrigation, Southeast Missouri State University and Whiteman Air Force Base.

ORDERED: 4. That Union Electric Company is authorized to apply each subsidiary electric municipal service, municipal street lighting and municipal lighting rate now in effect to the municipalities in the current subsidiary company's territory.

ORDERED: 5. That Union Electric Company is authorized to apply each subsidiary company's rate now in effect for its electric customers in the current subsidiary company's territory served on municipal pumping, private lighting, outdoor lighting, athletic field lights, traffic signals, cotton ginning and irrigation, and irrigation rates.

ORDERED: 6. That Union Electric Company is authorized to apply the present rates in effect for Whiteman Air Force Base and for Southeast Missouri State University.

ORDERED: 7. That Union Electric Company is authorized to issue up to 86,620 shares of preferred stock and cancel the existing preferred stock of the subsidiaries.

ORDERED: 8. That Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company are authorized to transfer their certificates of convenience and necessity, franchises, works or system, licenses, leases and permits, mortgages, bonds, other evidences of indebtedness and other rights and obligations to Union Electric Company.

ORDERED: 9. That the authority herein granted shall be exercised within thirty (30) days of the effective date hereof or this order shall be of no force or effect.

ORDERED: 10. That Union Electric Company shall notify the Commission immediately if any average user in any class will receive more than an approximate 25 percent rate increase, other than the municipalities previously receiving service under the fixed municipal service and fixed municipal lighting rates.

ORDERED: 11. That Union Electric Company shall file tariffs reflecting refund provisions contained in the existing tariffs: MPL Tariff Sheet No. 11.2, MPL Tariff Sheet No. 11.3, MPL Tariff Sheet No. 11.4, ME Tariff Sheet No. 3.1, ME Tariff Sheet No. 3.2, and MU Tariff Sheet No. E-4.

ORDERED: 12. That Union Electric Company is to provide cost-of-service studies relating to municipal service, municipal and private lighting, irrigation, cotton gin and traffic signal rates in its next rate case.

ORDERED: 13. That any class of customers which want additional cost-of-service studies from Union Electric Company shall file a request with this Commission and show good cause for such a study at the earliest possible time.

ORDERED: 14. That Union Electric Company's present depreciation rates shall be prescribed for all electric properties.

ORDERED: 15. That Union Electric Company is to maintain the presently prescribed Union Electric Company, Missouri Utilities Company, Missouri Power & Light Company and Missouri Edison Company depreciation rates for gas, water and steam heating properties.

ORDERED: 16. That Union Electric Company is authorized to apply the existing Union Electric rules and regulations throughout the subsidiaries' service areas provided, however, upon Union Electric's first assessment of a late payment charge on a given customer of Missouri Power & Light Company or Missouri Edison Company during 1984, the customer shall be notified of the assessment but shall not be charged.

ORDERED: 17. That the tariffs to be filed herein shall embody the rates herein found to be reasonable and proper, and may be charged for service rendered on and after thirty (30) days of the effective date of this Report and Order.

ORDERED: 18. That this Report and Order shall become effective on the  
28th day of December, 1983.

BY THE COMMISSION

*Harvey G. Hubbs*  
pm

Harvey G. Hubbs  
Secretary

(S E A L)

Shapleigh, Chm., Musgrave, Mueller  
and Hendren, CC., Concur and certify  
compliance with the provisions of  
Section 536.080, RSMo 1978.

Dated at Jefferson City, Missouri,  
on the 15th day of December, 1983.