

STEWART & KEEVIL, L.L.C.
ATTORNEYS AT LAW

CHARLES BRENT STEWART
JEFFREY A. KEEVIL

1001 CHERRY STREET
SUITE 302
COLUMBIA, MISSOURI 65201-7931

ORIGINAL

TELEPHONE (573) 499-0635
FACSIMILE (573) 499-0638

January 21, 2000

FILED

JAN 21 2000

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

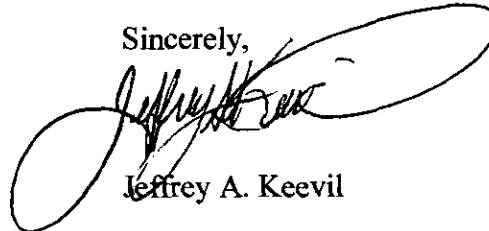
RE: Case No. EM-2000-369
In the matter of the joint application of UtiliCorp United Inc. and The Empire
District Electric Company

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case are an original and fourteen (14) copies of a RESPONSE TO UTILICORP AND EMPIRE'S MOTION TO ESTABLISH PROCEDURAL SCHEDULE on behalf of the City of Springfield, Missouri, through the Board of Public Utilities ("City Utilities").

Copies of this filing have on this date been mailed or hand-delivered to counsel of record. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er
Enclosures
cc: counsel of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

JAN 21 2000

Missouri Public
Service Commission

In the Matter of the Joint Application of)
UtiliCorp United Inc. and The Empire)
District Electric Company for Authority)
to Merge The Empire District Electric)
Company with and into UtiliCorp United)
Inc., and, in Connection Therewith, Certain)
Other Related Transactions.)

Case No. EM-2000-369

**RESPONSE TO UTILICORP AND EMPIRE'S MOTION
TO ESTABLISH PROCEDURAL SCHEDULE**

COMES NOW Intervenor, the City of Springfield, Missouri, through the Board of Public Utilities ("City Utilities"), and for its Response to UtiliCorp and Empire's Motion to Establish Procedural Schedule respectfully states as follows:

1. In its Notice Regarding Motion to Establish Procedural Schedule issued on December 17, 1999 (the "Notice"), the Commission allowed the parties herein to file responses to the Motion to Establish Procedural Schedule filed herein by UtiliCorp United Inc. and The Empire District Electric Company ("Joint Applicants") no later than January 21, 2000.

2. The schedule proposed by the Joint Applicants in their Motion to Establish Procedural Schedule is unreasonable and should be rejected by the Commission because it neither (i) seeks to consolidate this case with Case No. EM-2000-292 and proceed with both cases according to the schedule adopted for this, the later, case, nor (ii) recognizes that the schedule for this case must be delayed significantly if the two cases are not consolidated due to the fact that both cases will require the attention of the same witnesses and counsel.

3. As further discussed in City Utilities' Response to the Office of the Public Counsel's Motion to Consolidate in Case No. EM-2000-292 which is being filed contemporaneously herewith, both cases (Case Nos. EM-2000-292 and EM-2000-369) will require the attention of the same expert witnesses. If the cases are not consolidated, the procedural dates for this case must be significantly delayed in order to allow the experts (as well as attorneys) adequate time to devote to the analysis of Case No. EM-2000-292, the conduct and analysis of discovery¹ in Case No. EM-2000-292, the preparation and review of testimony in Case No. EM-2000-292, and the preparation for and participation in hearings and briefing in Case No. EM-2000-292. The experts (as well as attorneys) should not, and cannot, be expected to proceed with two substantially similar cases involving substantially similar parties and electric systems on different, overlapping procedural schedules, but should be allowed to devote all necessary time and attention to one **consolidated** case.

4. Therefore, if this case is consolidated with Case No. EM-2000-292, City Utilities proposes the following procedural schedule be adopted for the consolidated cases, which proposal is generally (although not precisely) based on the time frames adopted by the Commission in its procedural schedule order issued on December 21, 1999, in Case No. EM-2000-292:

Rebuttal testimony by all parties other than Joint Applicants – June 23, 2000
Surrebuttal testimony by all parties – July 21, 2000
Prehearing conference – August 14, 2000
List of issues – August 21, 2000
Position statements – September 5, 2000
Hearing – September 18-22, 2000

¹ The Commission must remember that its discovery rule provides that data requests be answered within 20 days, thereby providing at least 40 days before receipt of responses to follow-up data requests is required. It is unlikely that, in a case as complex as the instant case, only two sets of data requests (initial and follow-up) will be all that is required for submission to the Joint Applicants.

5. If the cases are not consolidated, in order to allow the expert witnesses the opportunity to fully analyze the filing in Case No. EM-2000-292, prepare and analyze discovery in Case No. EM-2000-292, prepare and analyze testimony in Case No. EM-2000-292, and to otherwise fully participate in Case No. EM-2000-292 without having their time and attention needlessly divided between Case No. EM-2000-292 and Case No. EM-2000-369, a schedule must be adopted for this case (Case No. EM-2000-369) which does not overlap the schedule previously adopted by the Commission for Case No. EM-2000-292. Therefore, if the cases are not consolidated, City Utilities proposes the following procedural schedule be adopted for this case:

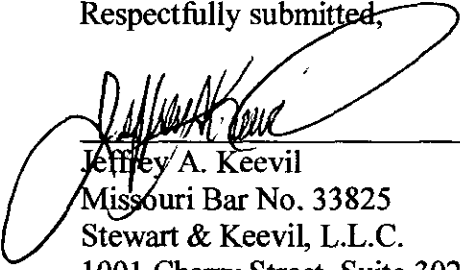
Rebuttal testimony by all parties other than Joint Applicants – August 25, 2000
Surrebuttal testimony by all parties – September 22, 2000
Prehearing conference – October 16, 2000
List of issues – October 23, 2000
Position statements – November 3, 2000
Hearing – November 13-17, 2000

However, City Utilities would note that it supports consolidation of the two cases, as set forth in City Utilities' Response to the Office of the Public Counsel's Motion to Consolidate in Case No. EM-2000-292 which is being filed contemporaneously herewith, and that therefore the proposed schedule set forth in paragraph 4 above is the preferred schedule.

WHEREFORE, City Utilities respectfully requests the Commission issue an order rejecting the procedural schedule proposed herein by the Joint Applicants in their Motion to Establish Procedural Schedule, consolidating Case No. EM-2000-292 and Case No. EM-2000-369, and adopting the procedural schedule proposed in paragraph 4 above as the procedural schedule for the consolidated cases. In the alternative, at a minimum, the Commission should issue an order rejecting the procedural schedule proposed herein by

the Joint Applicants in their Motion to Establish Procedural Schedule and adopting the procedural schedule proposed in paragraph 5 above as the procedural schedule for this case if the two cases are not consolidated.

Respectfully submitted,



Jeffrey A. Keevil
Missouri Bar No. 33825
Stewart & Keevil, L.L.C.
1001 Cherry Street, Suite 302
Columbia, Missouri 65201
(573) 499-0635
(573) 499-0638 (fax)

ATTORNEY FOR THE CITY OF
SPRINGFIELD, MISSOURI, THROUGH
THE BOARD OF PUBLIC UTILITIES

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by placing same in first-class mail with proper postage affixed, or by hand delivery, to counsel of record on this 21st day of January, 2000.

