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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
)	
vs.)	<u>Case No. EC-98-573</u>
)	
St. Joseph Light & Power Company,)	
)	
Respondent.)	

ORDER ADOPTING PROCEDURAL SCHEDULE

At a prehearing conference held on November 4, 1998, the parties were directed to file proposed procedural schedules. The Staff of the Missouri Public Service Commission (Staff) filed a Motion to Establish Procedural Schedule on November 6. AG Processing, Inc. (AGP) filed a Motion to Establish Procedural Schedule on November 10. St. Joseph Light & Power did not file its own Motion but a letter received on November 12, from James Swearengen, attorney for SJLP, indicates that SJLP supports the proposed procedural schedule set out in AGP's motion.

The proposed procedural schedules offered by Staff and AGP are identical in most particulars. AGP's proposed schedule would establish a date of April 30, 1999 for "any party to file a motion for leave to file additional testimony related to any new factual allegations that are raised for the first time in the 4/23/99 surrebuttal". This date will

not be incorporated into the procedural schedule because new factual allegations should not be raised for the first time in the surrebuttal testimony. If any party does have any objection to the offered surrebuttal testimony they should raise those objections as soon as possible.

The other difference between the proposed procedural schedules is that AGP's proposed schedule provides for the filing of direct and rebuttal testimony by SJLP, Office of Public Counsel (OPC) and AGP on February 19, 1999. Staff's proposed schedule provides for filing of only rebuttal testimony by SJLP, OPC and AGP. The Staff, as the moving party in this case, is the only party who will be filing direct testimony. 4 CSR 240-2(7)(C) provides that:

Where only the moving party files direct testimony, rebuttal testimony and schedules shall include all testimony and schedules which explain why a party rejects, disagrees or proposes an alternative to the moving party's direct case.

This provision will permit the non-moving parties to file, as rebuttal, the testimony to address any affirmative recommendations on issues including but not limited to class cost of service and rate design, which they seek to file as direct testimony.

The Commission has reviewed the motions and the procedural schedules proposed by the parties and will adopt the procedural schedule set forth in this order. The Commission will apply the conditions set out below to the procedural schedule in this case.

A. The Commission will require the prefiling of testimony in compliance with the requirements of 4 CSR 240-2.130, including the filing

of testimony on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays in the proceedings caused by allegations of unfair surprise at the hearing.

B. Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless the Commission has first established a protective order. The party that considers information to be proprietary or highly confidential must request a protective order and indicate the material's proper classification at the time of filing. Any testimony or schedule filed without a protective order first being established, or its classification clearly indicated, shall be considered public information.

C. The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing and the order in which they shall be called, an appendix containing definitions of technical terms, each party's position on the disputed issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. Staff will be responsible for preparing and filing the hearing memorandum.

D. The Commission emphasizes the importance of the deadline for filing the hearing memorandum. Staff will be responsible for preparing and filing the hearing memorandum, and, unless the Commission orders otherwise,

the hearing memorandum shall be filed on or before the date set. Each party is required to provide Staff with its position on each unresolved issue at least two business days prior to the filing deadline for the hearing memorandum. Each party shall either present their signature element (a signed page), shall provide written authorization to permit the General Counsel to sign for that particular party, or shall be available to sign the final draft at the offices of the General Counsel prior to the filing deadline. A hearing memorandum which is not signed is considered noncompliant as to the party whose signature is missing and any party who fails or refuses to sign the final copy of the hearing memorandum is hereby ordered to file its own hearing memorandum, which follows the same numbering and topic outline, by the hearing memorandum filing date.

E. Any party wishing to offer a prefiled exhibit into evidence must bring to the hearing three copies of the exhibit for the court reporter. If the exhibit has not been prefiled, the proponent must also bring six copies for the Commissioners and regulatory law judge, and copies for opposing counsel.

F. The Commission's general policy provides for the filing of the transcript within two weeks after the conclusion of the hearing. Any party seeking to expedite the filing of the transcript shall tender a written request to the regulatory law judge at least five days before the hearing.

G. The briefs to be submitted by the parties shall follow the format established in the hearing memorandum. Initial briefs must set

forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission. Initial briefs shall be limited to 100 pages and reply briefs to 75 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

IT IS THEREFORE ORDERED:

1. That the following procedural schedule is adopted for this proceeding, subject to the conditions discussed above:

<u>Date</u>	<u>Event</u>
December 16, 1998	Staff Additional Direct Testimony
February 19, 1999	Company, OPC and Intervenor Rebuttal Testimony
March 16, 1999	Company, OPC and Intervenor Rebuttal Testimony to Staff Additional Testimony of December 16
April 1,2,5,6 & 7, 1999	Prehearing Conference
April 23, 1999	All Parties - Surrebuttal Testimony
May 6, 1999	Hearing Memorandum and Reconciliation
May 17,18,19,20 & 21, 1999	Hearing

2. That the prehearing conference and the evidentiary hearing will be held in the Commission's office on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Anyone wishing to attend who has special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing

conference at: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline
- 1-800-829-7541.

3. That this order shall become effective on December 3, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Morris L. Woodruff, Regulatory Law
Judge, by delegation of authority
pursuant to 4 CSR 240-2.120(1),
(November 30, 1995) and Section 386.240,
RSMo 1994.

Dated at Jefferson City, Missouri,
on this 23rd day of November, 1998.

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION