

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

CASE NO. ER-80-17

In the matter of Union Electric Company of St. Louis, Missouri, for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the Company.

A Stipulation and Agreement, reached by all remaining parties, being fair and equitable, will be adopted by the Commission.

APPEARANCES: Paul Agathen and Stewart W. Smith, Jr., Attorneys at Law,  
P. O. Box 149, St. Louis, Missouri 63166, for Union Electric Company.

Robert McNicholas, Attorney at Law, Associate City Counselor,  
Room 314, City Hall, 12th and Market, St. Louis, Missouri 63103, for City of St. Louis, Missouri.

Herman Barken, Attorney at Law, Assistant County Counselor,  
41 South Central, Clayton, Missouri 63105, for St. Louis County, Missouri.

James M. Fischer, P. O. Box 1216, Jefferson City, Missouri 65102,  
for the Office of the Public Counsel and the Public.

Mark McGuire, Certified Legal Intern, and Patricia E. Rousseau,  
Attorney at Law, Legal Service of Eastern Missouri, 607 North Grand, St. Louis, Missouri 63103, for Intervenor, Union Sarah Community Corporation.

Treva Hearne, Assistant General Counsel, and Steve Dottheim,  
Assistant General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On July 6, 1979, Union Electric Company of St. Louis, (Company) filed with this Commission revised tariffs designed to produce annual additional revenues of \$81,600,000 for electric service rendered in the Missouri portion of the Company's service area. The tariffs were suspended for 120 days beyond the proposed effective date of August 5, 1979, and by further order issued on September 17, 1979, the tariffs were suspended an additional six months to June 3, 1980, unless otherwise ordered. That order established a schedule for the filing of prepared testimony and exhibits as well as the time for a prehearing conference and hearing.

On June 30, 1980, Union Sarah Community Corporation filed a motion seeking a hearing in the service area. By order issued February 6, 1980, a hearing was set in the St. Louis City Hall on February 28, 1980.

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A prehearing conference was held as scheduled in Jefferson City commencing February 21, 1980. Hearings were held as scheduled in St. Louis, Missouri, at 1:00 p.m., and 7:00 p.m., on February 28, 1980, during which the testimony of eighteen witnesses was received.

Upon the convening of the hearing in the Commission's office in Jefferson City, Missouri, on March 3, 1980, the parties offered a Stipulation and Agreement proposing to dispose of all issues in this matter.

On March 14, 1980, Coalition for the Environment filed a Motion For Leave To Withdraw From Proceedings.

#### 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:

The Stipulation and Agreement, signed by all of the remaining parties to this matter, is hereinafter set forth in its entirety:

#### **STIPULATION AND AGREEMENT**

Pursuant to an order of the Missouri Public Service Commission, hereinafter referred to as the Commission, issued in this proceeding, a prehearing conference was commenced February 21, 1980, in the Commission's offices in Jefferson City, Missouri.

Representatives of the Missouri Public Service Commission Staff, (Staff), the Union Electric Company (Union Electric), the Office of the Public Counsel (Public Counsel), ACF Industries, Inc., Anheuser-Busch, Inc., Chrysler Corporation, Emerson Electric Co., General Motors Corporation, McDonnell Douglas Corporation, Missouri Portland Cement Co., Monsanto Co., PRG Industries, Inc., St. Joe Minerals Corporation (Industrial Intervenor), County of St. Louis, Missouri (St. Louis County), and City of St. Louis, Missouri (St. Louis City) attended and participated in the prehearing conference. Intervenor, Coalition for the Environment and Union Sarah Community Corporation (Union Sarah) did not appear at the prehearing conference.

As a result of the prehearing conference, the Staff, Union Electric, Public Counsel, the Industrial Intervenor, St. Louis County, Union Sarah, and St. Louis City stipulate and agree as follows:

1. That Union Electric be allowed to implement revised rates designed to increase Missouri jurisdictional gross annual revenues by \$20,473,500, (exclusive of applicable gross receipts and franchise taxes) of which \$9,200,000 shall be considered to be related to increased fuel costs.

2. That this Stipulation and Agreement represents a negotiated dollar settlement for the sole purpose of disposing of Case No. ER-80-17, and none of the parties to this Stipulation and Agreement shall be prejudiced or bound by the terms of this Stipulation and Agreement in any future proceeding or in this proceeding in the event that the Commission does not approve this Stipulation and Agreement.

3. None of the parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost of service determination, or cost allocation underlying any of the rates provided for this Stipulation and Agreement. However, the parties state that, if this negotiated settlement had not been reached, the positions of the Company, Staff, and Public Counsel regarding the approximate revenue increase (decrease) excluding gross receipts taxes would have been as follows:

Company	- \$52,152,000
Staff	- \$20,947,000 to \$26,198,000
Public Counsel	- (\$4,604,000) to \$637,000

4. That this Stipulation and Agreement is intentionally silent respecting an agreed rate of return.

5. That the right to judicial review pursuant to Section 386.510 RSMo 1978, is waived.

6. That the prefiled testimony and exhibits sponsored by Staff witnesses Richey, Ketter, Gibbs, Liddy, Ashbaugh, Pfeiffer, Rackers, Lawson, Turner, and Shackleford shall be received in evidence without the necessity of these witnesses taking the stand. That the prefiled testimony and exhibits sponsored by the Company witnesses Wucher, Kovach, Allen, and Cornelius shall be received in evidence without the necessity of these witnesses taking the stand. That the prefiled testimony and exhibits sponsored by Public Counsel witness Ahlrah shall be received in evidence without the necessity of this witness taking the stand.

7. That the right to cross-examine the witnesses named in paragraph six with respect to the prefiled testimony and exhibits sponsored by such witnesses is waived.

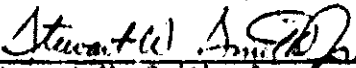
8. That testimony given by the public at the public hearings on February 28, 1980 in St. Louis City be made part of the record in this proceeding.

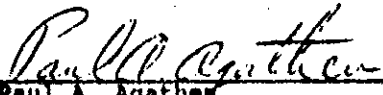
9. That the Staff shall reserve the right to submit to the Commission, in memorandum form, an explanation of its rationale for entering into this Stipulation and Agreement and to provide to the Commission whatever further explanation the Commission requests. Such memorandum shall not become a part of the record of this proceeding and shall not bind or prejudice any party in any future proceeding or in this proceeding in the event the Commission does not approve the Stipulation and Agreement.

10. That the revised rates be effective for meters read on and after thirty days subsequent to the effective date of the Commission Order approving this Stipulation and Agreement. This Stipulation and Agreement does not constitute acquiescence by any

party to an implementation date for the revised rates beyond June 3, 1980.


Respectfully submitted,

  
Stewart W. Smith, Jr.  
General Counsel


  
Paul A. Agathon

Attorneys for Union Electric  
Company

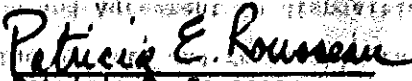
Union Electric Company  
1901 Gratiot Street  
St. Louis, Missouri 63166

  
Robert C. Johnson  
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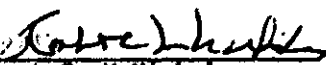
Attorney for Industrial Intervenors

  
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Attorney for the Office of  
Public Counsel

Of the witnesses testifying at the hearing in St. Louis, only two presented complaints relative to service. Those complaints involved contentions of high bills and since the complaints were of a rather vague nature, arrangements were made to have members of the Commission Staff render further assistance to those two witnesses.

Much of the testimony concerned objections to the use of nuclear power, not an issue in this proceeding. Much of the testimony in St. Louis concerned objections to the Company's earning money to pay for the Callaway nuclear generating facility under construction. No allowance has been claimed and none

shall be granted in this case to reflect the Company's investment in the Callaway nuclear generating plant. Earnings for that generating facility, or for that matter any other generating facility, can be allowed by this Commission only when the facility is completed and used in public service.

At the hearing on March 3, 1980, when the Stipulation was offered, a statement was offered into the record on behalf of St. Louis County indicating that while the County felt that the proposed agreed on increase of \$20,473,500 was reasonable, that it would like for the Commission to take into consideration that the small commercial customers were presently paying a disproportionately high share of rates. The statement was joined in by the City of St. Louis.

The only evidence offered in this matter as to rate design is on behalf of the Company. Since the Stipulation does not address rate design, the Commission is of the opinion that it is not an issue in this matter. The Commission has under consideration an investigation of the rate design of Union Electric Company in Case No. EO-78-163, which will be decided concurrently with the instant case and will treat on the rate design to be utilized by the Company.

The Commission is of the opinion that the Stipulation, as presented by the parties, should be adopted as a fair and equitable resolution of all of the issues presented in this case.

#### Conclusions

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

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978.

The Company's tariffs, which are the subject matter of this proceeding, were suspended pursuant to authority vested in this Commission by Section 393.150, RSMo 1978, and the burden of proof to show that the increased rates are just and reasonable is upon the Company.

The Commission may consider all facts which, in its judgment, have any bearing upon a proper determination of the setting of fair and reasonable rates.

The Commission may accept a Stipulation and Agreement in disposition of the issues in a rate proceeding when it appears that the proposed settlement is fair and equitable to all concerned. In the instant case, since all parties,

remaining in the proceeding, have agreed to the proposed settlement, the Commission is of the opinion that the settlement should be adopted and that the Company should be allowed to file revised tariffs in conformance therewith.

The parties have voluntarily assumed involvement in this proceeding and a voluntary request to withdraw should be granted, therefore, the Motion For Leave to Withdraw From Proceedings filed by Coalition for the Environment is hereby granted.

It is, therefore,

ORDERED: 1. That the Stipulation and Agreement received in evidence in this matter as Joint Exhibit No. 1 and hereinabove set forth, is hereby accepted and adopted in disposition of all matters in this proceeding.

ORDERED: 2. That pursuant to the Stipulation and Agreement, the proposed revised tariffs filed by Union Electric Company of St. Louis, Missouri, in this case be, and the same are, hereby disapproved and the Company is authorized to file in lieu thereof, for approval of this Commission, tariffs designed to increase gross revenues, exclusive of gross receipts and franchise taxes, by approximately \$20,473,500 on an annual basis.

ORDERED: 3. That Union Electric Company shall submit to this Commission, on or before April 28, 1980, tariffs, for the Commission's approval, designed to implement the revenue increase authorized herein.

ORDERED: 4. That the tariffs to be filed pursuant to this Report and Order may be effective for meters read on and after thirty (30) days subsequent to the effective date of this Report and Order.

ORDERED: 5. That this Report and Order shall become effective on the 30th day of April, 1980.

BY THE COMMISSION

*D. Michael Hearst*

D. Michael Hearst  
Secretary

(S E A L)

Slavin, Chm., McCarty, Fraas,  
Dority and Bryant, CC., Concur  
and certify compliance with the  
provisions of Section 536.080,  
RSMo 1978.

Dated at Jefferson City, Missouri,  
this 24th day of April, 1980.