

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 23rd  
day of February, 1996.

Staff of the Missouri Public Service	)	
Commission,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>CASE NO. WC-96-92</u>
	)	
KMB Utility Corporation,	)	
	)	
Respondent.	)	

ORDER APPROVING STIPULATION AND AGREEMENT

On September 22, 1995, the Staff of the Commission (Staff) filed a complaint against KMB Utility Corporation (KMB). On September 27, 1995, the Commission notified KMB of the complaint and directed KMB to either answer the complaint or explain any action taken to satisfy the complaint. On October 30, 1995, KMB filed a letter ostensibly in answer to the complaint, signed by its president, Danny Dowell.

On November 8, 1995, the Commission rejected KMB's letter as an improper pleading and directed KMB to file a proper answer through an attorney no later than November 30, 1995. On November 27, 1995, KMB filed a proper answer through an attorney.

On January 25, 1996, Staff, KMB, and the Office of the Public Counsel (OPC) filed a Stipulation and Agreement (Attachment A to this Order and incorporated herein by reference) which proposed to settle all issues in this case. The Stipulation and Agreement (Stipulation) provides that KMB will modify its tariff to contain the following language in lieu of the

language currently contained in Tariff Sheet P.S.C. Mo. No. 1, 1st Revised Sheet No. 6B-1:

**EIERA Loan Payment Surcharge:** A monthly surcharge of \$6.27 will be added to each customer's bill. The proceeds from this surcharge will be accounted for separately from other Company funds and will be used solely for making the regularly scheduled monthly principal and interest payments on the Company's EIERA loan. Any proceeds from this surcharge that are in excess of the regularly scheduled monthly EIERA loan payment will be used for prepayment of the principal balance of the EIERA loan. In the event the proceeds from this surcharge are not sufficient to make the regularly scheduled monthly EIERA loan payment, the balance of the payment will be made using other Company funds. This surcharge will be reviewed annually and is subject to change by the Commission based upon changes in the number of customers, billing and collection history or for other such good cause as the Commission may order. This surcharge will terminate when the EIERA loan approved in Case No. WF-94-64 is paid off or on November 1, 1998 whichever shall first occur.

The Stipulation states that KMB agrees to record the receipt and disbursement of all proceeds collected pursuant to its Lakewood Hills EIERA loan payment surcharge tariff in an account on its books which is separate and apart from all of its other operating accounts. KMB additionally agrees to maintain supporting documentation for this account on its books that shows the amount of EIERA loan payment surcharges billed and collected each period, as well as the amount of loan payment disbursements due and made each month. This supporting documentation is to include records showing the number of customers billed, the number of customers who paid each billing period, and proof of payment for each monthly loan payment.

The Stipulation also provides that proceeds collected pursuant to KMB's EIERA loan payment surcharge utilized for principal payments on

the Lakewood Hills EIERA loan will be accounted for as contributions in aid of construction, as an offset to plant in service, for ratemaking purposes. The Stipulation further provides that the proceeds collected pursuant to KMB's EIERA loan payment surcharge are to be used only for meeting the principal and interest obligations of the Lakewood Hills EIERA loan, and that principal payments on the Lakewood Hills EIERA loan which are made with other KMB funds due to a shortfall in the collection of proceeds from the EIERA loan payment surcharge tariff will not be treated as contributions in aid of construction for ratemaking purposes.

KMB agrees to make full principal and interest payments on its Lakewood Hills EIERA loan on a monthly basis and to keep current its payments on this obligation at all times. In addition, to the extent that KMB is not now current on both principal and interest owed on this EIERA loan, KMB agrees to become current no later than February 10, 1996. Furthermore, KMB agrees that proceeds collected pursuant to the EIERA loan payment surcharge tariff which are in excess of the full monthly principal and interest payment will be used for prepayment of the Lakewood Hills EIERA loan's principal balance, and that its obligation to make both principal and interest payments in full each month remains in effect until such time as the EIERA debt is fully discharged.

The Commission has reviewed the complaint, the answer, and the Stipulation in this matter. The Stipulation provides for the consistent payment and ultimate discharge of KMB's EIERA debt. Also, the provisions regarding the booking of the loan payment surcharge proceeds and the continued oversight of the Commission are beneficial for purposes of protecting the public interest in the future. Thus, the Commission finds that the Stipulation in this case is just and reasonable.

The Commission may approve a stipulation of the issues in a case if it finds that the stipulation is just and reasonable. The Commission has so found and thus determines that the Stipulation in this case should be approved.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement filed in this case (Attachment A) is hereby approved and adopted.
2. That KMB Utility Corporation shall file a tariff sheet as contemplated by the Stipulation and Agreement approved in Ordered Paragraph 1 within ten (10) days of the effective date of this Order, to be effective thirty (30) days thereafter.
3. That this Order shall become effective on March 5, 1996.

BY THE COMMISSION



David L. Rauch  
Executive Secretary

(S E A L)

Zobrist, Chm., McClure, Kincheloe,  
and Drainer, CC., Concur.  
Crumpton, C., Dissents.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Staff of the Missouri Public Service  
Commission,

Complainant,

v.

KMB Utility Corporation,

Respondent.

Case No. WC-96-92

FILED

JAN 25 1966

MISSOURI  
BIG SPRINGS COMMISSION

## UNANIMOUS STIPULATION AND AGREEMENT

COME NOW KMB Utility Corporation (KMB or Company), the Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (OPC) and for their unanimous stipulation and agreement state as follows:

1. KMB agrees to modify its tariff to contain the following language, in place of the language currently contained on tariff sheet P.S.C. Mo. No. 1, 1st Revised Sheet No. 6B-1:

**EIERA Loan Payment Surcharge:** A monthly surcharge of \$6.27 will be added to each customer's bill. The proceeds from this surcharge will be accounted for separately from other Company funds and will be used solely for making the regularly scheduled monthly principal and interest payments on the Company's EIERA loan. Any proceeds from this surcharge that are in excess of the regularly scheduled monthly EIERA loan payment will be used for prepayment of the principal balance of the EIERA loan. In the event the proceeds from this surcharge are not sufficient to make the regularly scheduled monthly EIERA loan payment, the balance of the payment will be made using other Company funds. This surcharge will be reviewed annually and is subject to change by the Commission based upon changes in the number of customers, billing and collection history or for other such good cause as the Commission may order. This surcharge will terminate when the EIERA loan approved in Case No. WF-94-64 is paid off or on November 1, 1998 whichever shall first occur.

2. KMB agrees to record the receipt and disbursement of all proceeds collected pursuant to its Lakewood Hills EIERA loan payment surcharge tariff in an account on its books which is separate and apart from all other operating accounts of the Company. KMB further agrees to maintain supporting documentation for this account on its books that shows the amount of EIERA loan payment surcharges billed and collected each period, as well as the amount of loan payment disbursements due and made each month. This supporting documentation shall at least include records which show the number of customers billed and the number of customers who paid each billing period, along with a record of the proof of payment for each monthly loan payment made.

3. Staff, KMB and OPC agree that proceeds collected pursuant to KMB's EIERA loan payment surcharge utilized for principal payments on the Lakewood Hills EIERA loan will be accounted for as contributions in aid of construction, as an offset to plant in service, for ratemaking purposes.

4. Staff, OPC and KMB agree that principal payments on the Lakewood Hills EIERA loan which are made with other Company funds due to a shortfall in the collection of proceeds from the EIERA loan payment surcharge tariff will not be treated as contributions in aid of construction for ratemaking purposes.

5. KMB agrees to use the proceeds collected pursuant to its EIERA loan payment surcharge only for meeting the principal and interest obligations of the Lakewood Hills EIERA loan.

6. KMB agrees to make full principal and interest payments on its Lakewood Hills EIERA loan on a monthly basis. KMB further agrees to keep current its payments on this obligation at all times. To the extent that KMB is not now current on both principal and interest

owed on this EIERA loan, relevant to the payments due subsequent to the Commission's May 12, 1995 Order in Case No. WR-95-296, KMB agrees to get current no later than February 10, 1996.

7. KMB agrees that proceeds collected pursuant to the EIERA loan payment surcharge tariff which are in excess of the full monthly principal and interest payment will be used for prepayment of the Lakewood Hills EIERA loan's principal balance.

8. KMB agrees that the Commission has both the power and the authority to supersede contracts and agreements of any kind involving a regulated entity that are contrary to the Commission's scheme of regulation.

9. KMB agrees that at all times subsequent to the Commission's May 12, 1995 Order in Case No. WR-95-296 it was obligated to make both principal and interest payments in full each month, beginning with the June 10, 1995 payment, during the repayment period established for the Lakewood Hills EIERA loan obligation. KMB further agrees that its obligation to make both principal and interest payments in full each month remains in effect until such time as the subject EIERA debt is fully discharged.

10. Nothing in this Stipulation and Agreement shall be construed to in any way modify the terms of original note between KMB and EIERA, nor shall anything in this agreement prejudice any rights EIERA may have against KMB under a separate and distinct action on the original note.

11. General Terms and Provisions.

a. If the Public Service Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights:

- i. to call, examine or cross-examine witnesses pursuant to Section 536.070(2), RSMo 1994;
- ii. to present oral argument and written briefs pursuant to Section 536.080.1, RSMo 1994;
- iii. to have the Commission read any transcript resulting from this proceeding pursuant to Section 536.080.2, RSMo 1994; and
- iv. to judicial review pursuant to Section 386.510, RSMo 1994.

b. Nothing in this Stipulation shall constitute an agreement by the parties as to the reasonableness of the amount or value for ratemaking purposes of any specific planned or completed expenditure made by the Company.

c. The provisions of this Stipulation and Agreement have resulted from extensive negotiations among the signatories and are interdependent. If the Commission does not approve this Stipulation and Agreement in total, it shall be void and no party shall be bound, prejudiced or in any way affected by any of the agreements or provisions hereof.

d. Except as specified herein, no party shall be bound, prejudiced or in any way affected by any of the agreements or provisions hereof in any future proceeding, or in any proceeding currently pending under a separate docket.

e. At the Commission's request, the Staff may give the Commission a written explanation of its rationale for entering into this Stipulation and Agreement, if the Staff also gives a copy of its explanation to each signatory to this Stipulation and Agreement. In that event, each signatory may give the Commission a responsive written explanation within five (5) business days of receipt of the Staff's explanation, if the responding signatory contemporaneously gives a copy of such responsive written explanation to all other signatories.

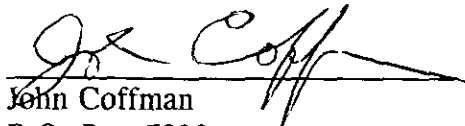


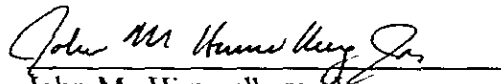
Each signatory agrees to keep the Staff's and other signatories' explanations confidential, and to treat them as privileged to the same extent as settlement negotiations under the Commission's rules. No signatory acquiesces in or adopts the explanations of another signatory. Such explanations shall not become a part of this proceeding's record, nor bind or prejudice any signatory in any proceeding.

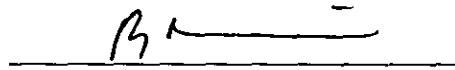
f. The Staff may provide whatever oral explanation the Commission requests at any agenda meeting, if the Commission has given notice that it may consider this Stipulation and Agreement at the meeting. The Staff shall inform the other signatories as soon as practicable when the Staff learns that the Commission will request such explanation. The Staff's explanation in agenda shall be subject to public disclosure, except to the extent it pertains to matters protected from disclosure.

WHEREFORE, the parties respectfully request that the Commission approve this Stipulation and Agreement in its entirety and accept it as settlement of the complaint filed in this case by the Staff.

Respectfully Submitted,

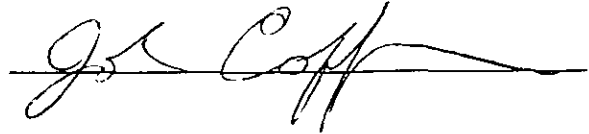
  
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(314)  
ATTORNEY FOR KMB

### CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as listed below this 25<sup>th</sup> day of January, 1996.

A handwritten signature in cursive script, appearing to read "John Coffman", written over a horizontal line.

John Coffman  
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Attorney for KMB  
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KMB Utility Corporation  
3433 West Outer Road  
Arnold, MO 63010

Service List  
WC-96-92  
January 25, 1996

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