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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri Public Service, a Division of UtiliCorp United Inc., Proposed Tariffs to Increase Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company.	)))))	**Case No. ER-93-37** (REMAND)

REPORT AND ORDER ON REMAND

Issue Date: April 4, 1997

Effective Date: April 15, 1997

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APPEARANCES

James C. Swearengen and **Sondra B. Morgan**, Brydon, Swearengen & England, P.C., Post Office Box 456, 312 East Capitol Avenue, Jefferson City, Missouri 65102, for Missouri Public Service, a division of UtiliCorp United Inc.

Richard S. Brownlee, III, Hendren and Andrae, Post Office Box 1069, 235 East High Street, Jefferson City, Missouri 65102, for Sedalia Industrial Energy Association.

Lewis R. Mills, Jr., Deputy Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Thomas R. Schwarz, Jr., Senior Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

ADMINISTRATIVE LAW JUDGE: **Elaine E. Bensavage.**

Table of Contents

REPORT AND ORDER ON REMAND

Procedural History

On July 31, 1992, Missouri Public Service, a division of UtiliCorp United Inc. (MoPub or Company) filed tariff sheets reflecting increased rates for electric service. On August 28, 1992, the Missouri Public Service Commission (Commission) issued a Suspension Order And Notice of Proceedings establishing a procedural schedule.

On November 20, 1992, the Commission granted intervention to Sedalia Industrial Energy Association (Association). On November 24, 1992, the Commission established the year ending September 30, 1992, as updated through April 30, 1993, as the proper test year to be used in this case. Prepared testimony was filed by the parties pursuant to the established procedural schedule. On February 1, 1993, a prehearing conference was convened as scheduled and a hearing memorandum and a reconciliation of the issues were subsequently filed.

On March 8, 1993, a hearing was convened as scheduled. The Commission granted the Association's request to be excused from the hearing. On March 19, 1993, a Nonunanimous Stipulation And Agreement (Stipulation) was filed by MoPub, the Association, and the Staff of the Commission (Staff). The Office of the Public Counsel (Public Counsel) did not join in the Stipulation. Briefs were subsequently filed by the parties.

On April 22, 1993, the parties filed a joint motion requesting that MoPub be authorized to implement the class cost-of-service and rate design changes which were not disputed by any party. On May 5, 1993, a hearing was held on the merits of the joint motion and on May 12, 1993, the Commission granted the parties' joint motion. On May 28, 1993, the Commission approved tariff sheets filed by MoPub implementing the undisputed class cost-of-service and rate design changes on an interim basis pending the final order in this case. On June 3, 1993, a "true-up"[1] hearing was held in which the Stipulation and the parties' true-up report were received into the record.

The Commission issued its original Report And Order in this case on June 18, 1993. On August 6, 1993, the Commission issued its Order Granting Rehearing And Clarification, which granted the parties an opportunity to file additional testimony and evidence on the disputed issues in this case. This order also made the tariffs filed pursuant to the June 18, 1993 Report And Order interim subject to refund, as of the effective date of the order, pending a final order in this case. On August 13, 1993, the Commission issued an order which stayed that portion of the Commission's order which determined that MoPub's tariffs should be made interim subject to refund. This provision was later rescinded by Commission order dated September 17, 1993.

The Commission issued its Report And Order On Rehearing in this case on February 25, 1994. This decision was appealed to the Circuit Court of Cole County, which issued its Order And Judgment on May 4, 1995. The Circuit Court reversed and remanded the case to the Commission with directions to make proper findings of fact on eight issues. Upon remand the Commission scheduled and held a prehearing conference on December 19, 1995. At that time the parties formally waived on the record their rights to present additional testimony, to receive another hearing, or to file additional briefs.

[1] The Commission never issued an order specifically authorizing a true-up period; rather, the Commission established a test year ending September 30, 1992 as updated through April 30, 1993. This was based on Staff's suggestions in both its test year and true-up recommendations. However, a true-up was anticipated in Staff's recommendations, and the updated period was functionally the equivalent of a true-up period, since the update period ended April 30, 1993, at least one-and-a-half months after the scheduled hearing date which began on March 8, 1993. In the future Staff should take care not to confuse an update period with a true-up period. The purpose of the true-up is described in the direct testimony of Steve M. Traxler, Exhibit 55, pp. 3-5.

On April 23, 1996, the Commission issued an Order Directing The Filing Of Additional Information. The Commission found that it could not adequately review the issue of UtiliCorp Headquarters Expense without a further breakdown of the proposed disallowance amount, and directed the parties to provide a breakdown of Staff's proposed $1,200,000 disallowance by Responsibility Center. Staff supplied the breakdown, but indicated that in order to make its computations, it was required to obtain information from MoPub which was not in the record of this case. On May 3, 1996, the Commission issued its Order Directing Further Proceedings, which directed the parties to file a pleading indicating whether they would stipulate to the admission into the record of Staff's breakdown, including the underlying information provided to Staff by MoPub. Both Public Counsel and MoPub were unwilling to stipulate. On August 13, 1996, the Commission issued an Order Setting Supplemental Hearing. A supplemental hearing was subsequently held as scheduled,[2] and Exhibits 90 and 91 were entered into the record.[3]

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.

On July 31, 1992, MoPub filed revised electric rate schedules designed to increase its annual electric revenue by approximately $19.4 million or

[2] Public Counsel filed a petition for a Writ of Prohibition and Writ of Mandamus with the Circuit Court of Cole County on August 20, 1996, claiming that the Commission had no authority to conduct an additional hearing. The writ application was denied on August 21, 1996.

[3] Exhibit 90 contains the underlying information supplied to Staff by MoPub. Exhibit 91 contained Staff's breakdown of the UtiliCorp costs.

8.4 percent. The updated reconciliation filed by the parties on March 5, 1993 (Exhibit 2) shows that MoPub was seeking an increase of approximately $16.5 million, while Staff supported an increase in the amount of $1.7 million and Public Counsel supported a $1.4 million increase.

On March 19, 1993, MoPub, Staff and the Association filed a Stipulation (Exhibit 88) in this case. The Stipulation is nonunanimous, as Public Counsel is not a signatory. As a result of the Stipulation, MoPub would be allowed to file tariff sheets increasing its electric revenues by $8 million. On June 3, 1993, the stipulated $8 million amount was adjusted based on the true-up of customer levels, fuel expense and plant in service. Based on the true-up audit, the stipulating parties requested that MoPub be authorized to file tariffs reflecting an increase of $4,865,804.

On May 28, 1993, the Commission approved tariff sheets filed by MoPub implementing the class cost-of-service and rate design changes, which were not disputed by any party, on an interim basis pending the final order in this case. The adjusted increase of $4,865,804 is based on this rate design.

The ultimate issue to be determined in this case is the establishment of just and reasonable rates to be charged to MoPub's Missouri electric customers. The Commission cannot simply find the Stipulation to be just and reasonable and summarily adopt it. As the Stipulation is nonunanimous, the Commission must treat the case as fully contested and decide the disputed issues before it. ***State ex rel. Office of the Public Counsel v. Public Service Comm'n,*** Case No. CV194-461CC, Order and Judgment, slip op. at 4-5 (Cole County Cir. Ct. May 4, 1995). After making such findings, the Commission may then determine the appropriate amount of the rate increase, if any, and decide if the amount provided for by the nonunanimous Stipulation is just and reasonable. ***Id.*** at 5.

The Commission determines the remaining disputed issues as follows:

(1) Accounting Authority Orders

In 1989 MoPub filed an application for an Accounting Authority Order (AAO) to defer certain costs associated with the Sibley Generating Station life extension and western coal conversion projects. The Commission granted an AAO in Case No. EO-90-114 allowing the deferral of costs and consolidated that case with MoPub's then pending rate case for consideration of the ratemaking treatment to be afforded the deferrals. In its Report And Order issued in Case No. ER-90-101 the Commission allowed the deferrals to be amortized and included in rate base while ordering certain modifications to the AAO deferral amounts. Since the actual costs deferred from September 30, 1990 to October 17, 1990 were not available, the Commission ordered that those deferral costs be considered in MoPub's next rate case. ***In re Missouri Public Service***, 30 Mo. P.S.C. (N.S.) 320, 341 (1990).

Subsequent to the decision in ER-90-101, MoPub filed for another AAO in May 1991 to defer additional costs associated with the Sibley projects, which was docketed as Case No. EO-91-358. In that application MoPub requested authorization to defer costs, similar to those in EO-90-114, for the Sibley life extension and coal conversion projects after January 1, 1992. The Commission, as it had in Case No. EO-90-114, found that the projects were an extraordinary occurrence and that the costs could be deferred for a definite period of time. The Commission found that the issue of recovery of the deferred costs in rates would be addressed in a general rate case if one was filed prior to December 31, 1992. MoPub filed this general rate case on July 31, 1992 and included as part of its proposed increase in revenue requirement the deferral costs from September 30, 1990, to October 17, 1990, and the deferral costs from January 1, 1992 through June 1993.

In this case MoPub is requesting recovery of depreciation and carrying costs associated with the Sibley projects. The deferral costs are calculated as follows:

1. Net carrying cost plus depreciation. Carrying costs on depreciation are calculated and removed from the gross carrying costs to determine net carrying costs amount.
2. The carrying costs on the unpaid balances of invoices have been removed from the deferral.
3. The carrying cost rate is compounded semiannually.
4. A half-month convention is utilized for the carrying costs, whereby a half-month's carrying cost is computed during the month an amount is placed in service.
5. Property taxes are excluded from the deferral calculation.
6. These deferral costs are booked into Account 186 as authorized by the Commission in Case No. EO-91-358.

MoPub proposes to recover the deferred costs over a 20-year period. These costs include $235,466 for the period September 30, 1990 to October 17, 1990, and $3,069,797 for the period January 1, 1992 through June 30, 1993.

Staff initially opposed the deferral of a portion of the costs as proposed by MoPub, but the Stipulation at paragraph 6 indicates that Staff agreed to allow MoPub to include the AAO "deferrals authorized in Cases No. EO-90-114 and EO-91-358, as adjusted by MoPub, to be reflected in rate base and amortized over a twenty-year period." Public Counsel opposes the inclusion of any of these deferred costs in MoPub's revenue requirement.

Public Counsel's position is based upon its contention that recovery of the deferred costs would distort the matching of revenues and expenses for a period in determining just and reasonable rates. Public Counsel contends that MoPub's earnings during the deferral period were more than sufficient to maintain MoPub's rate of return during that period and therefore recovery of the deferral costs in this case is unwarranted. Public Counsel asserts that all of the parties agree that MoPub's earnings levels during the deferral period were excessive and therefore there is only one possible resolution of this issue.

After a review of the evidence on this issue the Commission is unable to adopt Public Counsel's position or its reliance on one factor to deny the recovery of the deferred costs. Based upon the evidence, the Commission considers this issue as involving two separate amounts of deferral costs. There are the deferral costs left from Case No. EO-90-114 which were carried over from the Commission's Report And Order in ER-90-101, and there are the deferral costs accumulated by MoPub pursuant to the AAO authorized in Case No. EO-91-358.

The EO-90-114 deferrals are those from September 30, 1990 to October 17, 1990. These deferral costs were not approved in Case No. ER-90-101 because the actual deferral costs were not available by the operation of law date in that case, October 17, 1990. However, the Commission finds that the reasoning in that case supporting the recovery of these deferred costs should be adopted here. The deferred costs from September 30, 1990 to October 17, 1990 would have been approved in ER-90-101 if actual costs had been available. Now that the actual costs have been calculated consistent with the Commission's decision in ER-90-101, it is reasonable to allow the recovery of those costs. The findings from Case No. ER-90-101 are as follows:

> The Commission determines that Company should be allowed to reflect in rates, as provided hereinafter, costs deferred pursuant to the AAO. The Commission finds that Staff/Public Counsel have provided no substantial evidence to support

> exclusion of all of these deferred costs. The Commission determines there is ample evidence of the significant impact of this enterprise on Company's financial status. As Company has pointed out, it expects to defer costs in September, 1990, amounting to 23 percent of its electric net income. Although Staff/Public Counsel have raised questions about the relative cost of these projects vis-à-vis other alternatives and the objectivity and depth of Company's study of these alternatives, Staff/Public Counsel do not contend that Company was imprudent to proceed with these projects.
>
> The Commission finds unpersuasive the contention of Staff/Public Counsel that these costs have already been recovered in rates. Company seeks recovery of these costs from the beginning of 1989 through October 17, 1990. 1989 is the test year and these rates are set prospectively. Since even Staff/Public Counsel admit Company requires some rate increase, the relevance to this issue of passed [sic] over-recovery is nebulous at best.

In re Missouri Public Service, 30 Mo. P.S.C. (N.S.) 320, 340 (1990).

The Commission finds further that allowing the recovery of the remainder of the EO-90-114 deferral costs does not distort the matching of expenses and revenues since these costs were deferred during a pending general rate case and a rate increase was found to be reasonable in that case. Even though the costs were deferred outside of the test year in Case No. ER-90-101, the only reason they were not included in the revenue requirement calculation was that they were not known and measurable. Now that they are known and measurable, the Commission finds the costs should be recovered on the same basis as the other EO-90-114 deferred costs.

The Commission authorized MoPub to defer the additional costs associated with the Sibley rebuild project and the coal conversion project in Case No. EO-91-358 for the period January 1, 1992 through June 30, 1993. In that case the Commission found that it would be unreasonable to deny deferral of the remainder of the costs associated with the two projects. ***In re Missouri Public Service***, 1 Mo. P.S.C. 3d 200 (1991). The Commission stated that it had already found the projects to be extraordinary events and that determination would be followed in Case No. EO-91-358. By granting MoPub the authority to defer these costs, the Commission did not decide the proper ratemaking treatment of these costs but found that these costs would be considered in a general rate case, if one was filed before December 31, 1992. The instant case, Case No. ER-93-37, was filed in July 1992.

The Commission recognized in its Report And Order in Case No. EO-91-358 that the deferral of costs from one period to another violates the traditional method of setting rates based upon a test year. As stated in that Report And Order:

> Allowable operating expenses are those which recur in the normal operations of a company, and a company's rates are set for the future based upon its past experience for a test year with adjustments for annualizations, normalizations and known and measurable changes. Under historical test year ratemaking, costs are rarely considered from earlier than the test year to determine what is a reasonable revenue requirement for the future. Deferral of costs from one period to a subsequent rate case causes this consideration and should be allowed only on a limited basis.

In re Missouri Public Service, 1 Mo. P.S.C. 3d 200, 205 (1991). The limited basis is usually an event found to be extraordinary, as with the Sibley rebuild and coal conversion projects.

The Commission thus agrees in general with Public Counsel that the deferral of these costs does fall outside the traditional matching of expenses and revenues. The Commission finds this is reasonable where events are found to be extraordinary. In Case No. EO-91-358 the Commission withheld the decision on the ratemaking treatment of the deferrals until this case, so that it could look at all relevant factors to determine whether recovery should occur. Examples of issues which might be raised in a subsequent ratemaking proceeding were noted in that decision. ***Id.*** at 204, 206. Those issues were intended to be addressed *in context* during a ratemaking proceeding, where all relevant factors could be explored.

In this case Public Counsel would have the Commission look at actual earnings, out of context, as the sole criterion for determining recovery of these costs. According to Public Counsel, if a company were earning over its authorized rate of return during the period when the costs were being deferred, no rate recovery should be allowed. But by looking solely at earnings, Public Counsel is violating the same principle of matching which it invokes to argue against the granting of AAOs in general.

The Commission finds that there are other factors besides earnings which must be considered in reaching a decision on the recovery of deferred costs. Of course, the earnings level of a company is the initial and primary focus. In this case, however, the evidence indicates that during 1991 when MoPub was allegedly overearning, no AAO was in effect and no deferrals were occurring. This fact alone detracts significantly from Public Counsel's position. The evidence indicates that MoPub's earnings in the early months of the deferral period were above the return on equity authorized in ER-90-101, while during the remainder of the period earnings fell below that level. In addition, such factors as weather normalization or other adjustments to earnings must be considered if all relevant factors are to be weighed in looking at the earnings level during the deferral period. Staff witness Carver admitted that he had not done the complete analysis necessary to consider whether MoPub's earnings were excessive for these periods.

The Commission finds Public Counsel's limited analysis is not sufficient to support a decision to deny recovery. In addition, the Commission finds that other factors support the recovery of the deferral costs. The innovative approach taken by MoPub in completing the two projects is an important factor. The construction of the project was extended over several years and has permitted MoPub to return Sibley to service for peak use periods. Also, the projects themselves have extended the life of the Sibley plant by 20 years and have brought the plant into closer compliance with Clean Air Act standards. These factors have benefited ratepayers and will benefit ratepayers in the future. These economic and environmental benefits are important factors.

Based upon the evidence as discussed above, the Commission finds that the recovery of the deferred costs as proposed by MoPub and agreed to in the Stipulation And Agreement is reasonable. Recovery of these costs recognizes the benefits that the two projects will bring to ratepayers and recognizes MoPub's financial condition during the period of the deferral.

(2) Postretirement Benefits Other Than Pensions/FAS 106

Postretirement benefits other than pensions (PBOPs) are benefits[4] paid to retired employees which are not related to pensions — generally health care, dental care, and life insurance. Traditionally, these costs were treated identically for both financial reporting and ratemaking purposes: PBOP expenses were booked at the time the utility paid out cash for benefits to its retired employees, which is often referred to as the "pay-as-you-go" or "cash" method. In 1990, the Financial Accounting Standards Board (FASB) issued Financial Accounting Standard (FAS) 106, which established accrual accounting of PBOP expense for financial reporting purposes. Actuarial calculations are generally used to determine the appropriate accrual amount. Regulated utilities are required to follow the standards promulgated by the FASB for financial reporting purposes, unless the utility seeks authorization from its applicable regulatory body to deviate from FASB's Generally Accepted Accounting Principles

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[4] These benefits are also sometimes referred to as "other post employment benefits" (OPEBs) or "other postretirement benefits" (OPRBs).

(GAAP), in which case the authorization must also meet the requirements of FAS 71, Accounting For The Effects Of Certain Types Of Regulation.

FAS 106 mandates that companies use an accrual method of accounting for financial reporting of PBOPs after December 15, 1992. At the time of the filing of this rate case, utility companies under the Commission's jurisdiction, including MoPub, had accounted for PBOPs for ratemaking purposes on a cash basis, as the benefits are paid out to former employees. Accrual accounting under FAS 106 requires MoPub to accrue the cost of these benefits in the same period the employees are earning the benefits. Thus, FAS 106 requires companies to record PBOP expense, for financial reporting purposes, in the amount of the benefit obligation that it estimates its employees have earned during the period, plus an amortization of PBOP costs of prior periods which have not been previously recorded as expense (a transition benefit obligation or "TBO"). The TBO represents the PBOP benefits related to employee service already rendered at the time of the change in accounting methods, and may be amortized over the average remaining active service period of employees prior to eligibility for retirement, but no more than 20 years.

MoPub recommends that the Commission adopt the accrual accounting method for determining PBOPs for ratemaking purposes. MoPub asserts that the accrual method will provide a more objective tool for measuring PBOPs expense for rate allowance, will make comparisons between regulated and nonregulated companies more meaningful, and will result in intergenerational equity between customer classes. Additionally, MoPub contends it will not be able to create a regulatory asset unless it conforms with the guidance provided by FASB's Emerging Issues Task Force (EITF)[5] consensus.

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[5] The EITF is a task force attached to the FASB, which is charged with advising the FASB on emerging issues and on the implementation of FASB pronouncements. The EITF established guidelines regarding the implementation of FAS 106.

Public Counsel recommends that the Commission require a continuation of the pay-as-you-go or cash accounting method for ratemaking purposes. Public Counsel's main opposition to converting to an accrual method centers on the fact that, unlike pensions, nuclear decommissioning, and depreciation, PBOPs are not long-term legal obligations of a company because these benefits, and any obligation to fund them, can be altered or eliminated at will by the company. Public Counsel, therefore, reasons that there cannot be any legally imposed requirement to provide current funding for future payments. Furthermore, Public Counsel objects to the adoption of the accrual method because of the difficulty in estimating PBOPs benefit obligations decades in the future and the fact that FAS 106 is more sensitive to changes in actuarial assumptions than pension costs determined under FAS 87. In addition, Public Counsel contends that the expense level of PBOPs under FAS 106 is not known and measurable as it is based on uncertain, speculative assumptions and future events.

The position taken by Staff in its testimony on this issue is essentially the same as that of Public Counsel. Staff's briefs did not address this issue and the Stipulation is silent.

The Commission need not decide which method is preferable since the General Assembly, in enacting § 386.315, RSMo 1994, has spoken on this subject. Section 386.315 permits a utility to use FAS 106 for ratemaking purposes if the assumptions and estimates used by the utility in determining FAS 106 expenses are based on sound actuarial principles, if the utility uses an independent external funding mechanism that restricts disbursements only for qualified retiree benefits, and if the funding mechanism includes terms which require all funds to be used for employee or retiree benefits.

The Commission is bound to apply the law as it exists at the time of its decision. ***State ex rel. Holland Industries v. Missouri Div. of Transp.,*** 762 S.W.2d 48 (Mo. App. 1988). Based upon this case, the Commission should give effect to § 386.315. Here there is statutory direction which suggests that the legislature intended the general rule to apply. Section 386.315.3 provides: "Any public utility which was the subject of a rate proceeding resulting in the issuance of a report and order subsequent to January 1, 1993, and prior to the effective date of this section . . . may file one set of tariffs modifying its rates to reflect . . . the utility's expenses for post-retirement employee benefits other than pensions, as determined by Financial Accounting Standard 106. . . ." While none of the parties has raised the issue of the applicability of § 386.315, the rule that the law must be applied as it exists at the time of decision is not dependent upon a party raising the question but is to be applied independent of the parties' contentions. ***Holland Industries*** at 51.

The Commission notes that had either its original Report And Order or its Report And Order On Rehearing become final, MoPub would have been authorized to invoke the tariff procedure in § 386.315.3. The Commission determines that MoPub should be permitted to implement FAS 106 for ratemaking purposes, and to amortize over a 20-year period the transition benefit obligation, in accordance with § 386.315. This is consistent with ***Holland Industries***, which requires the Commission to apply the law in effect at the time of its decision.

(3) Transmission Capability – Distribution Substations

The genesis of this issue originated in Case No. ER-90-101, a prior rate case involving MoPub. At issue was the classification of 123 substations as either transmission or distribution. Staff contended that a substation should be classified as transmission if it could perform any transmission function, and sought reclassification of all 123 substations as transmission facilities. Staff cited ***In re Arkansas Power and Light Co.***, 28 Mo. P.S.C. (N.S.) 435, 462-63 (1986) in support of its position. MoPub claimed that the standard cited by Staff applied only to transmission lines and not to distribution substations, and maintained that only a portion of these substations served a transmission function.

The Commission concluded as follows:

> The Commission determines that all 123 substations should be classified as transmission facilities. The Commission further determines that this standard should be applied to substations as well as to lines. One of the major FERC cases applying this standard involves "...step-down transformation facilities ...." Docket No. ER-76-184, *Re: Kansas City Power & Light Company,* 3 FERC Par. 63,008, p. 65,092 (1977). This FERC decision found these transformation facilities to be subject to the allocator. This standard applies to facilities which could, under any conditions, serve a transmission function. Company's own witness concludes that "...these stations *for the most part* do not serve functionally as transmission ...." Exhibit 35, p. 29....The Commission finds not only that Company has not shown that these facilities could perform no transmission function but that Company, by its own evidence, has demonstrated that these facilities could perform some transmission functions.

In re Missouri Public Service, 30 Mo. P.S.C. (N.S.) 320, 336 (1990).

The issue of whether certain substations should be classified as transmission or distribution also relates to the issue of jurisdictional allocation. Jurisdictional allocation apportions the cost and depreciation expense of assets contained in Federal Energy Regulatory Commission (FERC) generation and transmission accounts between the Missouri retail (under the Commission) and wholesale (under the FERC) jurisdictions. Rates are recovered from each jurisdiction based on an allocation factor. Thus, if distribution plant is erroneously classified as transmission, wholesale customers would be required to pay a portion of plant costs which essentially serve only retail customers; likewise, if transmission plant is erroneously classified as distribution, retail customers would be required to pay virtually all of the plant costs that benefit both retail and wholesale customers. If the plant is classified differently in the two jurisdictions, rate recovery for the plant may be disallowed and fall into the "jurisdictional void."

Plant may be directly assigned to a jurisdiction, or may be "rolled in" and assigned indirectly through the allocation factor. MoPub does not appear to dispute Staff's allocation factor, determined through use of a four-hour coincident peak (4 CP) methodology, except to the extent that Staff rolled in the 123 substations. MoPub claims that 90 of the 123 substations serve no transmission function and have no transmission capability, and should be classified as distribution. MoPub submits that it is not seeking to relitigate the issue from Case No. ER-90-101, but rather to provide the Commission with the engineering reports it found lacking in that case.

In support of its position, MoPub conducted an engineering study of all substations 33 kV or higher to determine whether there was a transmission function or capability.[6] MoPub states that it used as a guideline sound engineering principles, including standard definitions published by the American National Standards Institute/Institute of Electrical and Electronics Engineers (ANSI/IEEE) and incorporated in the National Electric Safety Code (NESC), and definitions in the Uniform System of Accounts (USOA) of the Code of Federal Regulations (CFR). The substations were categorized as multiple (having three or more transmission lines entering the station), loop feed (having two transmission lines with some type of protection scheme), and radial (having one transmission line with no protection scheme).

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[6] MoPub explains that it considered performing a detailed analysis which would classify each piece of equipment in the substations as transmission or distribution, but determined that this would be cost prohibitive. MoPub notes that Staff concurred such a study would be impractical.

Substations categorized as "multiple" were classified as transmission, since the protection system will allow the transmission system to continue to operate should one of the lines sustain a fault. Substations categorized as "loop feed" were classified as distribution, since the purpose for the protection system is not to support the transmission system, but to isolate a faulted transmission line so that the distribution load will remain in service. Likewise, substations categorized as "radial" were also classified as distribution.

Using the standard definitions as a guideline, MoPub analyzed the substations for transmission function or capability, and concluded that 33 of the 123 substations were indeed transmission substations, while the remaining 90 were distribution substations. One factor MoPub considered was whether the transmission system could function with the loss of the substation. MoPub notes that distribution substations are not built to support the transmission system, and that additional load can trigger overloads, causing relays to trip feeder breakers at adjoining substations and possibly conductor burn-downs. MoPub explains that it would need to increase its investment and add additional equipment in order to allow these distribution substations to provide transmission service.

MoPub also claims that the substations reclassified as distribution do not provide any additional reliability to wholesale customers. MoPub asserts that the costs of the substations should be assigned based upon why the costs were incurred. It points out that the Commission's Economic Analysis Department did not reclassify any of MoPub's distribution plant in determining cost of service for rate design. MoPub concludes that it has provided adequate evidence that the 90 substations it has reclassified as distribution do not have transmission function or capability, while Staff has presented no evidence that these substations have such function or capability.

In addition, MoPub continues to assert that Staff has misinterpreted ***In re Kansas City Power & Light Co.***, Docket No. ER76-184, 3 F.E.R.C. ¶ 63,008 (July 13, 1977). In support MoPub presented rebuttal testimony by Frank L. Branca, Vice President of Power Supply for Kansas City Power & Light Company (KCPL), who participated in FERC Docket No. ER76-184. Branca testified that although there was some confusing language in the FERC decision, FERC did not intend the roll-in of 161/12 kV and 34/12 kV substations, which transform voltage down to 12 kV, a distribution voltage level. Branca further stated that KCPL has not rolled-in its 161/12 kV and 34/12 kV substations subsequent to this FERC decision, and FERC has not challenged KCPL's interpretation of the FERC decision.

Finally, MoPub contends that FERC does not allow the roll-in of substations with a low-side voltage of less than 34 kV. MoPub notes that Staff's proposal treats all substations with a primary voltage of 34 kV or greater as transmission substations, without regard to the secondary voltage leaving the substation. MoPub further notes that because the Commission reclassified all substations 33 kV and higher as transmission substations in Case No. ER-90-101, MoPub lost approximately $250,000 in rate relief in the jurisdictional void, since FERC accepted only a portion of the reclassification of distribution substations.

Staff rolled in the 123 substations in determining its jurisdictional allocation factor. Staff contends that the Commission properly relied on the FERC decision in Docket No. ER76-184 in reaching its own decision in Case No. ER-90-101, and that Staff's position in this case is consistent with the Commission's findings in Case No. ER-90-101. Staff identified the 90 disputed substations from its previous investigation in Case No. ER-90-101. Staff was unable to complete a physical inspection concerning the transmission capability of the 90 substations, although it later stated that a full engineering analysis, including physical inspection, is preferable for developing jurisdictional allocations. Staff also takes issue with certain statements made in MoPub's testimony, and with the classification of certain substations pursuant to MoPub's study. Further, Staff submits that because rate design is a revenue-neutral issue and has no impact on Staff's revenue requirement calculations, the fact that the Economic Analysis Department did not use Staff's jurisdictional allocator in its rate design development is immaterial.

The Commission finds that 90 of the 123 substations should be reclassified as distribution in conformity with MoPub's engineering study, while the 33 substations identified in that study as transmission should remain classified as transmission. In Case No. ER-90-101, the Commission found that MoPub had provided no evidence that the 123 substations could perform no transmission function, and had inferentially conceded that these facilities had some transmission capability. MoPub responded to that decision by conducting an engineering study in this rate case to separate those substations which did or could perform a transmission function.[7] In contrast, Staff has essentially relied on its previous investigation in Case No. ER-90-101 and the Commission's decision therein. Staff did not conduct an engineering study in this case, and did not complete a physical inspection of the substations, even though it indicated that both were preferable when developing jurisdictional allocations.

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[7] Staff itself explains that the reclassification of substations for the purpose of rolling them into the jurisdictional allocations study is a temporary reclassification for ratemaking purposes. Thus, the issue of reclassification could be revisited in a future rate proceeding.

It is unclear how many substations, if any, Staff did inspect. However, in Case No. ER-90-101 Staff physically inspected only 30 of the 123 substations.

Although the Commission does not necessarily endorse MoPub's approach, the Commission finds in this case that MoPub met its burden of proof by conducting an engineering study. Staff did not present an alternative approach and failed to rebut the reasonableness of MoPub's approach. In those instances where Staff questioned certain statements or specific classifications made by MoPub, most of these questions were refuted in MoPub's surrebuttal testimony. In addition, there was evidence to suggest that MoPub lost money in the jurisdictional void on the issue of substation classification. Likewise, since the Economic Analysis Department did not reclassify MoPub's distribution plant, the same classification of substations will consistently be used for both jurisdictional allocations and rate design. Based upon the evidence, the Commission concludes that MoPub's position on this issue is more reasonable than the position of Staff.

(4) UtiliCorp Headquarters Expense

Approximately 29.97 percent of UtiliCorp United Inc. (UtiliCorp or UCU) Headquarters Expense has been allocated to MoPub and included in the rates it proposes. In general, all UtiliCorp Headquarters (UCU-HQ) costs are pooled and allocated among operating divisions and subsidiaries based upon the Massachusetts Allocation Formula, which uses the factors of relative revenues, relative payroll costs, and net plant investment balances to determine the relative size of the divisions and subsidiaries. A simple average of the three factors yielded the amount allocated to MoPub and to the other divisions and subsidiaries.

MoPub claims that it has benefited from the UtiliCorp corporate structure, and its merger and acquisition (M&A) activity. MoPub contends that

UtiliCorp provides it with a number of services such as executive oversight, senior operational management, corporate governance, financing, volume purchasing, task forces, as well as a variety of other services. In addition, MoPub asserts that Staff's position on the UCU-HQ issue is essentially an attempt to relitigate the UtiliCorp corporate office issue which was previously decided in Case No. ER-90-101. *See* ***In re Missouri Public Service***, 30 Mo. P.S.C. (N.S.) 320, 349-51 (1990). MoPub also maintains that it has accomplished significant achievements under the present UtiliCorp corporate structure. While MoPub continues to disagree that expenses associated with M&A activities should be excluded from rates, MoPub submits that in order to eliminate this item as an issue in this case, it made an adjustment to exclude M&A costs from the UCU-HQ annualization.

Staff states that it is not seeking to relitigate the issue from Case No. ER-90-101, since its approach is different and it does not recommend the disallowance of the entire amount of UCU-HQ expense as Staff did in the earlier case. Staff proposes two major categories of disallowance. Staff first contends that certain types of UCU-HQ costs which would be disallowed if incurred directly by MoPub should also be disallowed. In this first category, Staff proposes the disallowance of two types of costs: incentive compensation paid to UCU-HQ employees, and Trans-UCU corporate jet aircraft expenses. Staff's second category contains certain UCU-HQ costs which represent ownership costs of the parent organization that are supportive of the interests of shareholders, but of no direct tangible benefit to ratepayers. Staff considers many of these costs to be indirect M&A costs.

Staff argues that UtiliCorp maintains no comprehensive listing and description of its activities for purposes of regulatory review. In the absence of such documentation, Staff conducted detailed discovery in each significant area of UCU-HQ activity, reviewed written work products of UCU-HQ personnel, conducted file searches, interviewed personnel at both UCU-HQ and MoPub, and examined accounting documentation. The principal areas of UCU-HQ activity are organized by UtiliCorp into 17 Responsibility Centers (RCs), which are accounting and budgetary cost codings that align with general areas of activity. Staff uses the RC organization as the starting point for its analysis of its proposed disallowance. Since all UCU-HQ labor costs are contained in RC/13 (Human Resources), Staff first allocated the labor costs among the various RCs. Likewise, Staff also allocated among the various RCs facilities costs and other overhead contained in RC/07 (Support Services) and RC/09 (Accounting Journals).

Staff makes a number of arguments in support of its proposed disallowance. While not all of the arguments are made with respect to every RC, the Commission will nevertheless summarize Staff's arguments. In many instances Staff claims that not all M&A costs, particularly indirect M&A costs, have been excluded. Staff contends that a portion of ownership costs should be excluded from rates since these costs present no direct tangible benefit to ratepayers but instead support the interests of shareholders. Staff also asserts that in many instances MoPub does not need the service, or the service represents a duplication of effort by UtiliCorp and MoPub. For purposes of consistency, Staff also maintains that administrative costs related to activities which are charged below-the-line should also be charged below-the-line. Further, Staff indicates that certain RCs provide for the needs of nonregulated subsidiaries in a way likely to result in a cross-subsidy. In addition, Staff maintains that some of UtiliCorp's activities such as its political and legislative agenda, its political action committee, its charitable foundation, and certain public relations and advertising costs should not be charged to Missouri ratepayers.

After a careful review of all of the evidence on this issue, the Commission finds that some, although not all, of Staff's proposed disallowance is warranted. The evidence presented by MoPub provides no formalized analysis of the benefits related to these expenses, and does not discuss any detriments. The Commission recognizes that it would be difficult for either MoPub or Staff to perform a very specific quantitative analysis. Nevertheless, the Commission finds that some link must be shown between the costs and benefits before it may conclude that the costs are necessary or reasonable. The Commission notes, for example, that some of the benefits alleged by MoPub involve UtiliCorp's greater buying power. However, centralized purchasing is the responsibility of RC/08, Operations, for which Staff proposed no disallowance.

There is a plethora of evidence that growth by acquisition is a central element of UtiliCorp's strategy, including statements made by UtiliCorp in annual shareholder reports and in job position descriptions. For example: "UtiliCorp serves as a parent company, not an operator. Operations are primarily under the divisions and subsidiaries. ... UtiliCorp's corporate emphasis is on acquisitions, instruction and consulting to subsidiaries, and consolidation of key services." (Brosch Direct, Ex. 31, Sch. 13-1, 13-2). Similarly, UtiliCorp has made statements which support Staff's contention that departments other than the Corporate Development RC (RC/01) are involved, albeit indirectly, in M&A activity: "The organization has pursued an aggressive growth strategy through acquisition. In order to accomplish this strategy, it is vital that the Company develop and maintain excellent relations and positive perceptions with the financial community, stockholders, regulators, public officials and the media." (***Id.*** at Sch. 6-1). Likewise, UtiliCorp states that "[t]he complexities of the Company's acquisition program and the resultant growth have created significant challenges in the accounting and regulatory areas," and "[t]he Company is unusual among utilities in its aggressive strategy of growth through acquisition. ... [This strategy] has also increased the complexity and the importance of financial operations to the Company's long-term success." ***Id.*** at Sch. 10-1 and 11-1. Finally, a January 21, 1992 memorandum from the Chief Financial Officer (CFO) to the CEO states: "Having ready access to capital markets is essential for UtiliCorp's acquisition program." (Brosch Surrebuttal, Ex. 32, Sch. 16-1).

The Commission finds that MoPub has not segregated all costs relating to M&A activity, particularly the indirect costs. One of MoPub's own witnesses supports a finding that indirect M&A costs have not been included: "It is simply not true, as suggested by Mr. Brosch, that any *significant* portion of the corporate office staff, other than the corporate development personnel, is *dedicated* to merger and acquisition activities." (Richard Green Rebuttal, Ex. 26, p. 15) (emphasis added). In addition, while RCs other than the Corporate Development RC (RC/01) contribute support for M&A activity, the costs segregated by MoPub as M&A costs in these other RCs comprise only 1.2 percent of the total UtiliCorp payroll.

The Commission determines that MoPub has not excluded all expenses related to M&A activity from UCU-HQ costs, including expenses which may be considered indirect M&A costs. This determination does not relate to the appropriateness of the UtiliCorp corporate structure, as MoPub contends, but rather to a promise made at the time UtiliCorp was formed.

> When UtiliCorp was formed Company assured the Commission that the ratepayers would suffer no detriment from UtiliCorp's activities but would experience the benefits associated with UtiliCorp's activities. The Commission believes that it is inconsistent with this pledge to include M&A costs in the expenses reflected in MPS's [Missouri Public Service's] rates. The Commission is of the opinion that it is inappropriate for MPS's ratepayers to pay for these activities which have little to do with MPS's goal of providing safe and adequate electric service in Missouri.

In re Missouri Public Service, 30 Mo. P.S.C. (N.S.) 320, 350-51 (1990). Thus, in finding that an additional disallowance is necessary, the Commission does not take issue with the appropriateness of UtiliCorp's corporate structure or its growth strategy, but merely finds that certain costs should not be borne by Missouri ratepayers. Indeed, the Commission finds that MoPub has received some benefit from UtiliCorp's growth strategy. Nevertheless, the Commission notes that continual M&A activity does not necessarily benefit MoPub because the bulk of the benefits, such as greater buying power, economies of scale, and administrative centralization, have already been realized. In this regard any potential benefits to MoPub's ratepayers from UtiliCorp's active pursuit of acquisitions in European and other international markets are less easily realized.

Because Staff has analyzed the issue of UCU HQ expense by RCs, the Commission will discuss each RC separately. In some instances the Commission does not agree with Staff that any disallowance for a particular RC is warranted. In other instances the Commission has reduced the disallowance proposed by Staff by approximately one-half or more. The Commission has reduced certain Staff proposed disallowances because Staff included ownership costs as part of its rationale for the disallowances. The Commission is reluctant to exclude an expense on the basis that it is an ownership cost since the appropriateness *per se* of UtiliCorp's corporate structure is not in issue. Finally, in some instances the Commission has agreed with Staff's recommended disallowance amount. That agreement is based upon the Commission's determination that certain costs should be accounted for below-the-line because they are of a nature which should not be funded by ratepayers, or because a particular RC provides services to certain divisions and subsidiaries which do not have in-house staffs. While the Commission has no objection in principle to the use of the Massachusetts

Allocation Formula, the Commission has some concern that it assumes all UCU-HQ benefits are spread equally among the various divisions and subsidiaries.

(a) <u>Incentive Compensation and Jet Aircraft Expense</u>: While Staff proposes a disallowance of incentive compensation for UtiliCorp employees, it does not elaborate on its rationale for doing so, but instead refers to the testimony of Staff witness Larry G. Cox. However, Staff witness Cox dealt only with the issue of incentive compensation for MoPub employees, rather than UtiliCorp employees. The issue of incentive compensation for MoPub employees is not one of the issues which the Commission has been specifically asked to decide. The Commission is unwilling to speculate about how this issue may have been resolved among the parties. Based upon the record before it, the Commission will not separately disallow the incentive compensation for UtiliCorp personnel.

Since MoPub has agreed to disallow the aircraft expenses allocated to MoPub in UCU-HQ costs, this is no longer an issue in the case.

(b) <u>RC/00, Executive</u>: Staff proposes a 50 percent disallowance. As previously noted, there is an abundance of evidence that M&A is an important strategy for UtiliCorp and that it is constantly seeking M&A candidates. There is also evidence that the divisions are intended to be operated autonomously, with minimal management involvement. Both the Chief Executive Officer (CEO) and the Vice Chairman engaged in foreign and domestic travel relating to M&A activity, which most likely also required preparation. Yet the CEO allocated only 78.5 hours for M&A activity during a 15-month period, the equivalent of approximately two weeks. Forty of those hours involved a trip to New Zealand. Presumably, preparation was required for this trip. The CEO is personally involved in major transactions and kept apprised of opportunities. He must evaluate and present acquisition proposals to the Board of Directors. The status of M&A activity is discussed at weekly officer meetings and at other times when appropriate. There is enough evidence to conclude that this RC is both directly and indirectly involved in M&A activity, which has not been adequately accounted for. The Commission finds that 25 percent of the costs in this RC should be disallowed.

(c) <u>RC/01, Corporate Development</u>: Both Staff and MoPub agree that 100 percent of the expense in this RC should be excluded. The Commission concurs.

(d) <u>RC/02, Corporate /Shareholder Relations</u>: Staff proposes a 50 percent disallowance. The functions of this RC include investor relations, public relations, press relations, community relations, marketing, and advertising. This RC is involved in M&A activity and related public relations. The emphasis is on investor relations, but the functions are different from those in the Shareholder Relations RC (RC/12) for which no disallowance was proposed by Staff. This emphasis on investor relations is dictated by the need for ready access to capital markets in order to pursue UtiliCorp's M&A strategy. The Senior Vice President of Corporate Relations also has some involvement with UtiliCorp's Washington, D.C. political consultant.

This RC also incurs costs to prepare and issue press release, and to consult with divisions and subsidiaries which do not have their own communications staff. Because these costs are not segregated out before application of the Massachusetts Allocation Formula, MoPub ratepayers may be subsidizing the communications needs of those divisions and subsidiaries. In addition, since relative payroll cost is one of the factors used under the Massachusetts Formula to determine the allocation of UCU-HQ costs, those divisions and subsidiaries may be paying less than their fair share of the UCU-HQ costs. Videos and other products produced by this RC do not necessarily support MoPub's needs. However, because this RC does provide a benefit to MoPub's interests, the Commission finds that a 25 percent disallowance is more appropriate.

(e) <u>RC/03, Public Affairs</u>: Staff proposes a 100 percent disallowance of this RC as a matter of ratemaking policy, stating that legislative monitoring and advocacy efforts should be charged below-the-line. The Commission agrees. Because of the diverse nature of UtiliCorp, the focus of its political agenda is broader than that of MoPub, and centers on UtiliCorp's strategy of growth by acquisition. Missouri ratepayers should not involuntarily fund an agenda which may be irrelevant to or inconsistent with the provision of safe and reliable electric service at reasonable rates. For example, UtiliCorp drafted and supported in Congress legislation involving a foreign tax credit which would benefit UtiliCorp's foreign acquisition interests, but which provides little advantage to MoPub ratepayers. Similarly, this RC has been involved in legislative issues such as casino gambling in Kansas City, the limitation of elected city officials to two terms, and screening potential political candidates and ballot issues.

Moreover, this RC acts as a liaison between the CEO and the Company's Washington, D.C. consultant, and deals directly with office holders and other parties who influence legislative and political issues. In addition, expenditures for civic, political and related activities are required to be charged to a below-the-line account under the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission (FERC).

(f) <u>RC/04, Accounting</u>: Staff proposes a 25 percent disallowance. The Commission concurs. This RC is responsible for completing a separate and independent consolidated forecast of potential M&A candidates from a corporate financial impact perspective. It is also responsible for integrating newly acquired businesses into UtiliCorp's accounting practices and systems. This RC also incurs costs to maintain accounting records for certain UtiliCorp nonregulated subsidiaries which do not have in-house accounting personnel. Because these costs are not segregated out before application of the Massachusetts Allocation Formula, MoPub ratepayers may be subsidizing the accounting needs of those subsidiaries. In addition, since relative payroll costs is one of the factors used under the Massachusetts Formula in determining the allocation of UCU-HQ costs, those subsidiaries may be paying less than their fair share of the UCU-HQ costs. Moreover, *MoPub* accounting personnel prepare certain *UtiliCorp* accounting statements, and are supervised by several personnel in this RC. This RC also is responsible for foreign currency translations, a determination of accounting policies which comply with the requirements of foreign countries, and a determination of accounting policies for the unregulated operations. There is little indication that MoPub benefits from this RC, as MoPub has a very substantial accounting staff of its own.

(g) <u>RC/05, Chief Financial Officer</u>: Staff proposes a 25 percent disallowance. The Chief Financial Officer (CFO) interacts closely with the Senior Vice President of Corporate Development (RC/01) to ensure the most advantageous financing of mergers and acquisitions. The CFO must recommend the best long-term financial structure for the corporation given its aggressive growth strategy. The CFO must obtain the funds required to achieve the Company's growth objectives and to integrate the various functions of the department with both corporate and subsidiary operating requirements, including those of MoPub. In addition, there was evidence that most of UtiliCorp's utility-related capital expenditures could be met with internally generated funds, while its most significant need for external capital has been its utility acquisition program and nonregulated investments. The Commission finds that 10 percent of the costs in this RC is a more appropriate disallowance.

(h) <u>RC/06, Finance</u>: Staff proposes a 25 percent disallowance. There was evidence that most of UtiliCorp's utility-related capital expenditures could be met with internally generated funds, while its most significant need for external capital has been its utility acquisition program and nonregulated investments.

An employee in this RC acts as Treasurer of the Employee Political Action Commitee (PAC), and as such collects contributions, distributes payments to candidates, and files reports with the Federal Election Commission. Likewise, this employee acts as Administrator and Secretary of UtiliCorp's Charitable Foundation, and develops a grantmaking program and evaluates proposals. Ratepayers should not be required to involuntarily fund activities such as these. In particular, the political agenda of the PAC may even be detrimental to the interests of the ratepayers. Considering all the facts, the Commission finds that 10 percent of the costs in this RC is a more appropriate disallowance.

(i) <u>RC/07, Support Services</u>: The costs in this RC were allocated by Staff to the other RCs as overhead costs. Therefore, Staff proposes no separate disallowance for this RC, and the Commission concurs.

(j) <u>RC/08, Operations</u>: Staff has proposed no disallowance for this RC. The Commission concurs.

(k) <u>RC/09, Accounting Journals</u>: The costs in this RC were allocated by Staff to the other RCs as overhead costs. Therefore, Staff proposes no separate disallowance for this RC, and the Commission concurs.

(l) <u>RC/10, Corporate Secretary</u>: Staff proposes a 25 percent disallowance. The diverse duties of the Corporate Secretary largely result from the complexity of UtiliCorp's diversified business holdings. This RC is also involved with the UtiliCorp Charitable Foundation and the Employee Political Action Committee (PAC). However, as the Corporate Secretary coordinates legal and record-keeping functions necessary to MoPub's operations, a 10 percent disallowance of the costs in this RC is appropriate.

(m) <u>RC/11, Information Systems</u>: Staff proposes a 25 percent disallowance. The Commission concurs. This RC enhances UtiliCorp's acquisition process by providing to the acquisition team timely consultation and expertise on information systems. This RC also incurs costs to provide technical consulting and applications development support for certain UtiliCorp nonregulated subsidiaries. Because these costs are not segregated out before application of the Massachusetts Allocation Formula, MoPub ratepayers may be subsidizing the needs of those subsidiaries. In addition, since relative payroll costs is one of the factors used under the Massachusetts Formula in determining the allocation of UCU-HQ costs, those subsidiaries may be paying less than their fair share of UCU-HQ costs. MoPub also has a significant investment in information systems and computer services staff, and does not depend on this RC to maintain its existing systems, which are oriented to mainframe products rather than the personal computer-based applications to which the RC is oriented.

(n) <u>RC/12, Shareholder Relations</u>: Staff has proposed no disallowance for this RC. The Commission concurs.

(o) <u>RC/13, Human Resources</u>: The bulk of the costs in this RC were allocated by Staff to the other RCs as labor costs. What remains is apparently the costs relating to UtiliCorp's human resources personnel. Staff proposes a 25 percent disallowance of the remaining costs because the incentive compensation and corporate-owned life insurance programs are treated below-the-line in Staff's revenue requirement determination, and thus the related administrative costs should also be disallowed for consistency. Staff also notes that this RC is involved with the UtiliCorp Charitable Foundation, and points out that the integration of functions may not be consistent with the stand-alone needs of the individual business units.

The Commission finds that no disallowance of the remaining costs in this RC is necessary. The Commission does not agree with Staff that disallowance of these administrative costs will provide for symmetry with other disallowed costs. First, the administration of the incentive compensation and corporate-owned life insurance programs is only a part of the overall matters that human resources personnel deal with in relation to Company employees, and the Commission is not disallowing all or even most of the costs related to UtiliCorp employees. Perhaps most cogently, the Commission has not been specifically asked to decide whether the incentive compensation and corporate-owned life insurance programs should be treated below-the-line, and the Commission will not speculate as to how these issues may have been resolved among the parties. The Commission has already disallowed a portion of the costs in another RC which is also involved with the Charitable Foundation. Finally, Staff lists no examples of how the RC's focus on the "integration of functions" might be inconsistent with the specific needs of MoPub, but instead merely speculates that there may be an inconsistency with the stand-alone needs of the individual business units.

(p) RC/14, Internal Audit: Staff has proposed no disallowance for this RC. The Commission concurs.

(q) RC/15, Regulatory: Staff has proposed no disallowance for this RC. The Commission concurs.

(r) RC/16, Taxes: Staff suggests that these costs are not needed because MoPub has its own personnel who handle tax matters, and thus Staff proposes to disallow 25 percent of this RC. However, UtiliCorp is required to file a consolidated federal income tax return which incorporates the stand-alone tax calculations prepared independently by the major operating divisions. In essence, Staff's argument is that the costs in this RC are an ownership cost. The Commission is unwilling to exclude an expense solely on the basis that the cost is an ownership cost, since the appropriateness *per se* of UtiliCorp's corporate structure is not in issue.

(5) Integrated Resource Planning Costs

MoPub originally requested that $1,890,238 be allowed in rates to reflect the incremental annual cost of compliance with the Commission's integrated resource planning (IRP) rule. MoPub later reduced this request to $632,613, which it contends is the absolute minimum necessary to comply with the rule, based on the assumption that its analysis will be limited to once every three years. The rule requires electric utilities to engage in supply-side and demand-side management (DSM) planning, including such things as load analysis/forecasting, fuel forecasting, and environmental cost assessment. MoPub's projected costs include the cost for additional labor, computer software, customer information system (CIS) modifications, consultants, and other miscellaneous costs. MoPub argues that these expenses are measurable and reasonable as an absolute minimum level of expense required to comply with the IRP rule.

Staff expresses reservations about the reasonableness of MoPub's projected costs. Staff contends that MoPub did not solicit consultant bids through a request for proposal (RFP) process, that the bids lack detail concerning the specific tasks and responsibilities of the consultants, that some generic data could be used and expenses shared with other Missouri electric utilities regarding certain aspects of compliance efforts, and that no showing was made that the amount to be spent was justified in terms of the value of the information to be obtained. By far Staff's biggest concern, however, is its belief that MoPub's requested IRP costs are not known and measurable because they are based on estimates. Staff maintains that measurable costs are those which can be documented — for example, by a signed commitment of employment or a contract for the purchase of software or consultant services. Consistent with that belief, Staff offered to true up to April 30, 1993 its labor annualization to include all employees hired for IRP purposes by that date, and to include in IRP costs equipment and software, with depreciation and amortization, purchased by that date. In addition, Staff indicated it would be willing to consider Accounting Authority Order (AAO) treatment for IRP costs. Staff recommends that only the test year level of expense, $325,246, be allowed in rates. Public Counsel agrees with Staff's position that the Commission should allow in rates only the actual known and measurable expenditures necessary to comply with the IRP rule, as updated through the true-up period.

MoPub emphasizes that the consultant bids are known and measurable. The Company also asserts that it is not prudent to assume the availability of generic data, and that joint studies with other Missouri electric utilities are not practical or cost-effective; that Staff's logic is circular with regard to its suggestion that a showing of the cost-effectiveness of the IRP spending level be made prior to the IRP analysis itself; and that Staff's April 30, 1993 cutoff date will require MoPub to enter into premature contracts. In addition, MoPub notes that the IRP costs are unlikely to qualify for AAO treatment because they are not large enough and are recurring costs.

The Commission finds that the amount of IRP expense requested by MoPub beyond Staff's allowance is outside the test year as updated through the true-up period, and thus will not permit proper matching of revenues, expenses, and rate base. This expense is not known and measurable, but instead is projected or estimated.

Thus the Commission finds that the appropriate amount to allow in rates is the test year level of IRP costs, $325,246.[8] However, Staff should true up to April 30, 1993 both its labor annualization (to include all employees hired for IRP purposes by that date) and its IRP costs (to include all equipment and software, with depreciation and amortization, purchased for IRP purposes by that date).

(6) Return on Equity/Capital Structure

A resolution of the disputed issues of the appropriate capital structure and return on equity must be determined before the total weighted cost of capital, or the required rate of return, can be calculated for MoPub.

(A) Capital Structure

MoPub proposes a capital structure of 50.13 percent long-term debt, 5.12 percent preference stock, and 44.75 percent common equity. This is the per books capital structure assigned to MoPub by UtiliCorp. These capital structure ratios were developed using a "pure play" analysis to determine a "target" capital structure based upon an analysis of the capital ratios for publicly traded companies in the same line of business. A range of 45 to 50 percent was produced for common equity. UtiliCorp also assigned to MoPub the outstanding preference stock and long-term debt which existed at the date of the formation of UtiliCorp. Subsequent issues of long-term debt were allocated to the various divisions in two different ways.

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[8] This figure is consistently referred to in the record as the test year amount. However, the updated reconciliation (Exhibit 2) shows $271,000 as the amount Staff proposes to allow in rates. The Commission thus stresses that its intent is to allow only the test year amount of IRP costs in rates, as that amount is updated through the true-up period.

Further, MoPub explains that UtiliCorp has a need to assign an appropriate capital structure to its divisions for several reasons. First, the financial markets could not adequately evaluate the appropriateness of UtiliCorp's consolidated capital structure without separate reference to the parts which make up the whole. For example, an unsuitable capital allocation could be regarded as a substantial management deficiency. Second, the allocation of a capital structure allows UtiliCorp to set goals and evaluate the performance of its divisions.

Staff proposes a capital structure of 50.85 percent long-term debt, 7.34 percent short-term debt, 5.38 percent preference stock, and 36.43 percent common equity. This represents the consolidated capital structure for UtiliCorp. Staff chose to use UtiliCorp's consolidated capital structure because MoPub is an operating division of UtiliCorp, and as such, has no direct access to capital markets. An investor can only indirectly invest in MoPub through a direct investment in UtiliCorp, thus MoPub must look to UtiliCorp to obtain capital funds.

Public Counsel proposes a capital structure of 50.00 percent long-term debt, 5.85 percent preference stock, and 44.15 percent common equity. These capital structure ratios were also developed using a pure play analysis. Public Counsel chose the adoption of this hypothetical structure instead of the consolidated capital structure for UtiliCorp because financial data for UtiliCorp, which is a diversified utility company with substantial nonregulated operations, incorporate the risk/return characteristics of those nonregulated subsidiaries. Public Counsel claims that the companies selected for the analysis represented mid-sized, nondiversified, non-nuclear, Midwestern electric and combination gas/electric utilities. The study produced a zone of reasonableness between 44.15 percent and 51.71 percent for common equity. Public Counsel picked the low end of the zone as more consistent with UtiliCorp's actual capital structure. Public Counsel also selected the average percent of preference stock in the capital structures of the pure play companies.

The Commission finds that MoPub's proposed capital structure is the most reasonable and should, therefore, be used. Both MoPub and Public Counsel used a hypothetical, pure-play approach to determining the proper capital structure ratios. This approach is always subject to the judgment of the analyst as to which companies are comparable and what final percentage to use for each component. Nevertheless, in this case ten of the eleven companies used by Public Counsel in its pure play study were also used by MoPub in its study. The results of Public Counsel's study and the chosen capital structure were very similar to MoPub's assigned capital structure, and in fact Public Counsel's study essentially validates MoPub's study. However, MoPub's assigned capital structure does not rest solely on the pure play study, but also on UtiliCorp's decision to allocate to MoPub the outstanding preference stock and long-term debt existing at the time UtiliCorp was formed, as well as its choice of methods to allocate subsequent issues of long-term debt among its various divisions. Neither Staff nor Public Counsel adequately challenges the propriety of these allocations.

Because MoPub must raise capital through UtiliCorp, the use of UtiliCorp's consolidated capital structure may be a valid approach. However, this is not the best approach for this case because UtiliCorp is comprised of both operating utility divisions and unregulated subsidiaries, and its capital structure reflects that mix. Use of MoPub's assigned capital structure will help insulate it to some extent from UtiliCorp's unregulated subsidiaries, and the assigned structure is actually analogous to the capital structures of comparable electric utilities.

Although the capital structures proposed by MoPub and Public Counsel are substantially the same, the Commission determines that use of MoPub's assigned capital structure is warranted. This structure was assigned to MoPub several years prior to this case based upon a comprehensive system of capital structure allocation by UtiliCorp, in conformity with Securities and Exchange Commission (SEC) requirements and Generally Accepted Accounting Principles (GAAP). Use of it will allow year-to-year continuity and permit easier period-to-period comparisons. Finally, the Commission determines that in this case it will not impose a different capital structure on a utility where the management of the company has chosen an appropriate capital structure.

(B) Return on Equity

MoPub proposes a return on equity of 13.50 percent, with an overall weighted cost of capital of 11.08 percent. MoPub selected a group of electric utility companies from ***Value Line Investment Survey***, eliminating combination utilities, holding companies, and utilities which were excessively diversified, nuclear fuel based, financially troubled, or not listed on the New York Stock Exchange (NYSE). It then used a discounted cash flow (DCF) model to analyze the data and reach its result.

Growth for the "pure play" companies was determined to be between 4.6 and 5.1 percent, for an average of 4.85 percent. MoPub then increased the growth rate to a range of 5.0 to 5.5 percent because of its belief that the historical growth rate will not be representative of growth in the future. MoPub posits that the move toward energy efficiency in the recent past represents a one-time shift in the growth pattern of energy consumption. The dividend yield for the pure play companies was then determined to be 6.04 percent. MoPub next made two adjustments, one to account for historically low interest rates, and another to make an annual adjustment. MoPub submits that it is reasonable to expect that the next major trend in interest rates will be an increase from the current historic low levels. The two adjustments took the dividend yield first to 6.2 percent, then to 6.3 percent. Lastly, MoPub made a further adjustment to reflect the average flotation cost and price pressures resulting from the sale of equity. This raised the dividend yield to 6.6 percent.

Based on the above growth factor and dividend yield rate, MoPub calculated a discounted cash flow estimate of 11.6 to 12.1 percent for the return on equity. MoPub then raised these figures to a range of 12.5 to 13.0 percent to reflect current market circumstances such as the interaction between the low interest rates, capital flows, and the value of the dollar. Finally, MoPub made a risk adjustment which raised its recommended return on equity to 13.5 percent. MoPub states that this is necessary to reflect that it is riskier than the pure play group as a result of risks related to its construction programs and the change in its coal source.

Staff proposes a return on equity ranging from 10.59 to 11.55 percent, with an overall weighted cost of capital of between 9.64 to 9.99 percent. Staff directly analyzed the cost of equity for UtiliCorp using the discounted cash flow method. Its calculation was based on a combination of UtiliCorp's historical growth rate with the average projected growth rate, which produced a growth rate range of 4.60 to 5.56 percent, along with an average expected dividend yield of 5.99 percent. This resulted in a discounted cash flow estimate of 10.59 to 11.55 percent for the return on equity.

Staff then tested the reasonableness of its DCF result using several different methods. Staff computed the average risk premium above the yield of "Baa" rated Moody's Public Utility Bonds for UtiliCorp's expected return on common equity, which produced an estimated cost of equity of 11.01 to

11.59 percent. Staff next performed a pro forma pretax interest coverage calculation for UtiliCorp on a consolidated basis, which resulted in a range of 2.23 to 2.33 times, well within the Standard and Poor's "BBB" benchmark range of 1.5 to 3.0. Likewise, Staff also looked at projected returns predicted for UtiliCorp by Salomon Brothers Inc.'s ***Electric Utility Monthly*** (10.75 percent) and ***The Value Line Investment Survey: Ratings & Reports*** (10.5 for 1993 and 11.0 for 1995-97).

In addition, Staff also tested the reasonableness of its results by examining a comparable group of "BBB" rated electric utilities. Staff eliminated UtiliCorp, and looked for publicly traded companies with accessible financial information and positive dividends per share (DPS) compound growth and annual dividend payment for the preceding five years. The growth rate ranged from 0.50 to 5.66 percent, and the projected dividend yield ranged from 5.16 to 7.44 percent, with the return on equity at 9.70 percent. Staff notes that the growth rate range and dividend yield for UtiliCorp is within the ranges calculated for these "BBB" companies. Next Staff did a similar examination using "A" rated electric utilities instead. The growth rate was between 1.00 to 8.00 percent, and the dividend yield between 5.68 and 8.04 percent, with the return on equity at 9.69 percent. Again, the UtiliCorp figures are within the ranges for these "A" companies. Since there is usually a 37 basis point spread between the cost of equity for "A" and "Baa" rated companies, Staff adjusted the return on equity for "BBB" rated electric companies to 10.06 percent. Finally, Staff checked the return on equity for the "BBB" comparables by analyzing the market-to-book ratios, and concluded that the low end of the return on equity for UtiliCorp would produce an acceptable ratio.

Staff recommended that the Commission set MoPub's return on equity between 10.59 and 11.07 percent, which is at the low end of Staff's

10.59-to-11.55 range for UtiliCorp. Staff states that UtiliCorp's unregulated operations have increased its business risk profile moderately. Further, utility operations are considered less risky than unregulated operations, and electric utilities less risky than gas. Since the return on equity was calculated for UtiliCorp, which is riskier than MoPub, Staff suggests that a return on equity from the lower end of the range is more appropriate.

Public Counsel proposes a return on equity of 10.27 percent, with an overall weighted cost of capital of 9.528 percent. Public Counsel also used the discounted cash flow method. Using the same eleven pure play companies it used to determine its proposed capital structure, Public Counsel calculated the historic growth rate using the compound annual growth rate method, as averaged, and the average of ***Value Line's*** five- and ten-year historical growth computations, then calculated the projected retention growth using the average of the projected earned return on equity times the projected retention rate. Based upon the results, Public Counsel picked a growth rate range of 3.93 to 4.05 for the pure play companies. The low end represents the historical growth rates in dividends, while the high end represents the average historic growth rate. Public Counsel recommends 4.20 as the growth rate for MoPub, which is slightly higher than the high end of the range, because the common equity percentage recommended for MoPub's capital structure was at the low end of the zone of reasonableness.

Public Counsel next calculated the dividend yield using three methods. First, Public Counsel computed the dividend yield using FERC's generic rate of return measure developed for electric utilities, which resulted in an average dividend yield for the pure play companies of 6.04 percent; second, computed the yield using ***Value Line's*** projected 1993 dividends, which resulted in 6.07 percent; and third, computed the yield using ***Value Line's*** year-ahead estimated dividend yield, which resulted in 5.98 percent. Public Counsel recommended the use of the highest figure, 6.07 percent, as the dividend yield.

Using the growth rate of 4.20 percent and dividend yield of 6.07 percent, Public Counsel calculated a DCF cost of equity capital of 10.27 percent. Public Counsel subsequently tested the reasonableness of the DCF result, using the current ratio of market price to book value per share for the pure play companies, which resulted in an equity capital cost range of 10.12 to 10.27 percent.

The Commission finds that MoPub's proposed return on common equity is not warranted. MoPub makes several upward adjustments in order to arrive at its proposed figure of 13.50 percent, without adequately justifying the basis for the adjustments. The Commission agrees with Public Counsel that MoPub wishes to substitute the judgment of its witnesses for that of the capital markets. Since no one can predict when interest rates will return to "normal," use of data showing the expectations of current investors is appropriate. The Commission also determines that the link between interest rates and utility stocks is included in the market's pricing of the stocks. In addition, an upwards adjustment for flotation costs is not warranted since MoPub does not issue common stock. Likewise, an upwards adjustment to reflect current market circumstances is also unnecessary since the DCF method is a forward-looking model.

Further, the Commission finds that if MoPub truly believed that the companies it chose for its pure play group were less risky than MoPub, it should have used different comparables. The Commission notes that MoPub excluded five of the companies in the pure play group it used to determine its target capital structure from the pure play group it used to determine its required return on equity. This inconsistency remains unexplained. Staff also demonstrated through a coefficient of variation analysis based upon MoPub's calculated mean and standard deviation for net operating income that while MoPub's risk is somewhat greater than the "A" rated electric utilities, its risk is lower than the "BBB" rated electric utilities. Nevertheless, Staff's recommended return on common equity is higher than the required returns for either the "A" or "BBB" groups. Finally, at least some of the risk which MoPub perceives has been mitigated by this Report And Order since the Commission has granted rate recovery of the costs deferred in the Accounting Authority Orders relating to the Sibley Rebuild and western coal conversion.

The Commission has reviewed the remaining evidence and finds the range proposed by Staff to be more reasonable than the number proposed by Public Counsel. Staff used actual data for UtiliCorp, then adjusted its ultimate recommendation to reflect its belief that MoPub is less risky than UtiliCorp. Staff also performed approximately twice as many calculations to test the reasonableness of its recommendation as did Public Counsel. In addition, several of Public Counsel's tests were less specific.

The Commission finds that it should choose the high end of Staff's recommendation to reflect the risks facing MoPub during this time period. Based upon the record as a whole, the Commission finds that the appropriate return on common equity for purposes of establishing MoPub's revenue requirement is 11.55 percent.

(7) Turbine Maintenance Accrual

MoPub seeks to include in rates a five-year amortization of $2.1 million in maintenance expense for the turbine inspection, refurbishment and overhaul of Sibley Unit No. 3. The expense consists of $1.2 million for the turbine overhaul, $400,000 for the refurbishment, and $500,000 for the turbine inspection. A portion of the maintenance was previously done on a three-year cycle due to wear on the parts, with the remainder done on a five-year cycle. However, due to the Sibley Rebuild, this maintenance will be done on a five-year cycle. MoPub seeks special treatment for these maintenance projects due to the large dollar amount involved.

Staff opposes the inclusion in rates of approximately $420,000 as the annual amount of the total $2.1 million five-year amortization for the turbine maintenance. Staff maintains that inclusion of this cost would violate two ratemaking principles: (1) the cost distorts the relationship between annualized revenues and expenses because the cost is estimated to occur two years in the future, with no consideration of offsetting revenue growth; and (2) the cost is not known and measurable. Staff does not oppose use of an Accounting Authority Order (AAO) to defer these costs if the costs are significant enough to preclude MoPub from earning its authorized rate of return by a material amount. Public Counsel took no position on this issue.

MoPub responds that the turbine maintenance is a fixed expense not affected by future revenues, and the amortization allows the costs to be matched to the customers causing the wear and tear on the turbine. MoPub also opines that AAO treatment of this expense is inappropriate because the expense is recurring and not extraordinary.

The Commission finds that the proposed turbine maintenance amortization is outside the test-year period as updated through the true-up period, and thus its inclusion in rates will distort the revenue/expense/rate base relationship. Moreover, the Commission finds that the amount of the turbine maintenance cost is not known and measurable. While there is little real dispute that the maintenance will be performed in 1995, as Staff appears to concede in its rebuttal testimony, the cost is an estimated cost and not a known cost. No evidence was presented to document the cost or otherwise prove that the cost will definitely be at least the estimated $2.1 million.

The Commission is also of the opinion that it would be inappropriate for MoPub to collect money from the ratepayers prior to incurring the actual maintenance expense. To do so would in effect give MoPub an advance which it could then invest until such time as the money was actually needed, thus earning a return on the money. Nevertheless, the Commission is aware that since the turbine maintenance is performed only once every five years on average, it is likely that the cost would fall outside the test year in a given ratemaking proceeding. The Commission is therefore willing to entertain an application for an AAO with respect to the turbine maintenance expense, although it cannot, of course, predetermine how it would rule on such an application.

Based upon the evidence presented, the Commission determines that MoPub's five-year amortization of the turbine maintenance expense for Sibley Unit No. 3 should be excluded from rates.

(8) Interest On Customer Deposits

Initially MoPub proposed an adjustment to lower the amount of interest paid on customer deposits from 9 percent to 6 percent. Pursuant to the nonunanimous Stipulation, however, Staff and MoPub have agreed that the interest paid by MoPub on customer deposits will remain at 9 percent. Public Counsel disagrees and maintains that the interest on customer deposits should equal the gross rate of return paid by all customers on other amounts included in rate base. Public Counsel's recommended rate of return would result in an interest rate of 12.405 percent. Public Counsel contends that using its proposed interest rate on customer deposits will eliminate the "artificial lowering" of revenue requirement created by the Company's alleged use of customer deposits to lower rate base. Public Counsel also argues that its rate would eliminate a subsidy provided by those ratepayers who are required to make a deposit.

The Commission initially notes that Public Counsel raised a similar argument previously, which was rejected by the Commission. *See* ***In re Missouri Cities Water Co.***, 1 Mo. P.S.C. 3d 119, 132-33 (1991). There is no credible evidence that ratepayers who do not pay a customer deposit are unfairly benefited or subsidized by those who do. Although customers deposits constitute funds which are held by MoPub, they are not funds made available for the purpose of investment in plant or equipment. Customer deposits are held in trust for return to the customer when service is ended or for the settling of unpaid amounts due for service. The purpose of customer deposits is to minimize the utility's risk of late payments and nonpayments, since the utility cannot protect itself by refusing to serve a high-risk customer, as could a nonregulated industry. Late payments or nonpayments may increase a utility's collection lag component of cash working capital or increase its uncollectible accounts, in either case burdening the ratepayers as a whole.

It is also appropriate to consider Public Counsel's proposed interest rate in light of current low market interest rates. Public Counsel concedes that the primary purpose of a customer deposit is to help reduce bad debt but contends that customer deposits have virtually eliminated this risk. However, Public Counsel does not directly challenge either the amount of the deposit, or the criteria used to determine who will be required to provide a deposit. Given the discrepancy between Public Counsel's proposed rate and current market rates, the Commission finds that it would be anomalous to reward customers who represent a risk of bad debt and have met the criteria for a deposit requirement by providing interest at a rate above the market rate. While Public Counsel claims that a customer could not voluntarily make a deposit in order to obtain the high rate, setting an interest rate substantially above the market rate would send an improper signal to customers as a whole.

Given the Commission's concern that the interest rate used for customer deposits bear a rational relationship to market rates, the Commission finds that it would be appropriate to authorize an interest rate which is equal to one percent above the prime lending rate as published in ***The Wall Street Journal.*** This rate shall be implemented on May 1, 1997, and shall be set at the amount which is published in ***The Wall Street Journal*** for the last business day of March, 1997. This rate shall be adjusted annually by again using the prime lending rate published in ***The Wall Street Journal*** for the last business day in December of each year, with the revised rate to be implemented on the first of January of each year. An interest rate linked to the prime lending rate, which can be adjusted annually, will be fairer for both MoPub and its customers who pay deposits.

Revenue Requirement

The Commission finds, based upon its resolution of the disputed issues, that MoPub is entitled to a rate increase of $8,512,159. Since this figure is more than the $8 million provided for in the Stipulation, the Commission finds that the Stipulation is just and reasonable and thus should be approved. The amount of the rate increase to which MoPub is entitled, based upon the Stipulation as adjusted by the true-up audit, is $4,865,804. MoPub was authorized to file revised electric tariff sheets and rate schedules designed to produce an increase in its annual electric revenues of $4,865,804 pursuant to Ordered Paragraph 2 of the Commission's initial Report And Order issued on June 18, 1993. MoPub filed its tariff sheets and rate schedules on June 23, 1993, which were approved by the Commission on June 25, 1993. Thus the current tariff sheets and rate schedules previously filed by MoPub are, therefore, in order and need not be amended.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Missouri Public Service is engaged in the provision of gas and electric service to customers in portions of Missouri and, as such, is a public utility pursuant to §§ 386.020(14) and 386.020(18), RSMo Cum. Supp. 1996. The Commission has jurisdiction over the operations and rates charged by MoPub pursuant to Chapters 386 and 393 of the Missouri Revised Statutes. The Commission must consider all matters which come before it which have a bearing on the determination of the price to be charged for electric service. Section 393.270(4), RSMo 1994.

Orders of the Commission must be based upon competent and substantial evidence, based upon the record as a whole, and must be reasonable and not arbitrary, capricious, or contrary to law.

The Commission is also authorized to entertain and approve stipulations and agreements among the parties. § 536.060, RSMo 1994. The standard for Commission approval of a stipulation is whether it is just and reasonable.

Because Public Counsel is not a signatory to the Stipulation in this case, it is nonunanimous. The Commission may not summarily adopt it as just and reasonable. ***State ex rel. Fischer v. Public Service Comm'n***, 645 S.W.2d 39 (Mo. App. 1982). Section 386.420 requires that the Commission issue a report setting out its findings concerning any disputed issues.

The ultimate issue to be determined by the Commission is the establishment of just and reasonable rates. The Commission has made such findings, has determined that the Stipulation is just and reasonable, and hereby adopts the Stipulation And Agreement.

IT IS THEREFORE ORDERED:

1. That the tariff sheets filed by Missouri Public Service, a division of UtiliCorp United Inc., on July 31, 1992, reflecting an increase in its annual electric revenues of approximately $19,400,000 are hereby rejected.

2. That the Commission, based upon the evidence of record, hereby reaffirms its adoption of the nonunanimous Stipulation And Agreement in its initial Report And Order issued on June 13, 1993.

3. That the Commission hereby reaffirms its approval of the revised electric tariff sheets and rate schedules designed to produce an increase in annual electric revenues of $4,865,804, filed by Missouri Public Service, a division of UtiliCorp United Inc., on June 23, 1993 and approved by the Commission on June 25, 1993.

4. That Missouri Public Service, a division of UtiliCorp United Inc., is hereby authorized to implement on a permanent basis the rate design and class cost of service changes approved on an interim basis by the Commission on May 28, 1993.

5. That Missouri Public Service, a division of UtiliCorp United Inc., is hereby directed to file evidence demonstrating that its adoption of Financial Accounting Standard 106 will comply with § 386.315, RSMo 1994.

6. That this Report And Order On Remand shall become effective on April 15, 1997.

BY THE COMMISSION

Cecil I. Wright

Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., McClure, Crumpton
and Drainer, CC., concur.

Dated at Jefferson City, Missouri,
on this 4th day of April, 1997.