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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 28th
day of May, 1997.

In the Matter of Missouri Public Service, a)
Division of UtiliCorp United Inc.'s Tariff)
Designed to Increase Rates for Electric Service) Case No. ER-97-394
to Customers in the Missouri Service Area of the)
Company.)

In the Matter of the Application of UtiliCorp)
United Inc. for an Order Authorizing the Transfer)
of Certain Electric Generation Assets Used to) Case No. EM-97-395 ✓
Provide Service to Customers in Its Missouri)
Public Service Division and Related Transactions.)

ORDER REGARDING CONSOLIDATION AND INTERVENTIONS
AND ADOPTING PROCEDURAL SCHEDULE

UtiliCorp United Inc. d/b/a Missouri Public Service (MPS or the company) submitted proposed tariff sheets to the Commission on March 21, 1997, designed to implement a general rate increase for electric service provided to Missouri customers. MPS filed an Application on the same date asking Commission approval for the transfer of certain electric generating assets and other transactions concerned with the creation of an affiliate to operate as an exempt wholesale generator (EWG).

Consolidation: MPS filed a Motion to Consolidate on March 21, stating that both the rate case and the application to transfer assets constitute the company's movement toward a more competitive environment and are thus related. MPS stated that the two cases are driven by the same facts and circumstances and should be consolidated.

The Staff of the Commission filed a Motion For Extension of Time in Which to Respond to Motion to Consolidate and OPC filed a response

supporting Staff's motion. The Commission granted an extension of time. Staff filed objections to the motion to consolidate on May 1, stating that there are no common questions of law or fact between the cases and that decisions in the two cases involve different legal issues and standards. Staff argued that the Commission should not be required to decide the novel issues presented by EM-97-395 on the statutory time frame allotted for the rate case.

The Office of the Public Counsel (OPC) filed its Response in Opposition to Motion to Consolidate on May 1, stating that the transfer of facilities to a sister company is unprecedented in Missouri and its resolution will involve complex issues. OPC argued that these issues should not be tied to the rate case's eleven-month operation of law period.

MPS filed a reply to the Staff and OPC pleadings on May 5, and a supplemental reply on May 9; Staff responded on May 13. The Commission conducted an early prehearing conference to consider consolidation and other issues on May 16. After the prehearing conference MPS again addressed the consolidation issue in its pleading regarding a procedural schedule.

The Commission has considered the pleadings, arguments and on the record statements of the parties and is persuaded that it would not be appropriate to consolidate these cases for all purposes. The issues presented by EM-97-395 have not been considered by this Commission before. It is imperative that the parties and the Commission have adequate time to study the issues involved. Consolidation would impose an artificial time limit on the Commission's deliberations. However, to the extent possible, the Commission finds that consolidation of discovery efforts is in order. Because the cases will not be on the same time line for decision, there

will be no cutoff of discovery in EM-97-395 when discovery has been completed in ER-97-394. Since this consolidation is temporary, and for discovery purposes only, discovery related pleadings may carry captions for both cases. However, a copy of each pleading that is relevant to a particular case must be filed in that case's official case file in order to assure a complete record when each case comes before the Commission for hearing.

EM-97-395 Procedural Schedule: Although the Commission is not consolidating these cases, it is important that both cases proceed expeditiously. Accordingly the Commission will set a date for the evidentiary hearing in EM-97-395 and direct the parties to file a procedural schedule setting out the dates for the filing of testimony, the prehearing conference, and the filing of the Hearing Memorandum.

ER-97-394 Procedural Schedule: At the prehearing conference the administrative law judge directed the parties to file all proposals regarding a procedural schedule for ER-97-394 no later than May 21. Staff and OPC jointly filed a proposed procedural schedule; MPS filed a virtually identical proposal. The International Brotherhood of Electrical Workers, Local Union No. 814 (the Union) filed a response agreeing to the proposed schedule but asking that the prehearing conference not be rescheduled because of a schedule conflict for counsel. Staff and OPC proposed the inclusion of a "Statement of Issues" to be filed on September 26 intended to list the issues at an early point in the proceedings. MPS included in its proposal that an "Agreement among parties on issues" be filed September 26. The Commission favors the parties specifying the issues in dispute at an early point in the proceedings and will include the September 26 date. However, the Statement of Issues is for the use of the

parties in negotiations and in preparing for hearing so the formal filing of that document will be optional.

The Commission has reviewed the proposed procedural schedule and will adopt it. The Commission regrets that the date set for the prehearing conference will pose an inconvenience for the Union but, given the fact that this case is set for hearing in December, it is essential to establish a procedural schedule immediately.

Interventions: At the early prehearing conference the City of Independence, Missouri was granted intervention in EM-97-395 and the following parties were granted intervention in both cases:

Union Electric Company
International Brotherhood of Electrical Workers,
 Local Union No. 814
City of Kansas City
Sedalia Industrial Energy Users Association
Kansas City Power & Light Company
St. Joseph Light and Power Company
Missouri Gas Energy
The Empire District Electric Company

Jackson County, Missouri applied for intervention in both cases. MPS filed a response stating that it had no objection to Jackson County intervening as a political entity but objected to the County's allegation that it intervenes in order to protect the interests of its citizens as users of electric service. MPS argued that the public interest is represented by the Public Counsel and Jackson County's intervention must be limited to protecting its own interests as an MPS customer.

The Commission agrees with MPS that Jackson County may represent its own interests but that the general public interest is represented by the Office of the Public Counsel pursuant to Section 386.710, RSMo 1994. Jackson County qualifies for intervention as a political subdivision under 4 CSR 240-2.075(4), and intervention will be granted on that basis.

Western Resources, Inc. (WRI) filed for intervention in both cases on the grounds that: a) it owns certain generation and transmission plant in common with UtiliCorp which could be affected by some of UtiliCorp's proposals; and b) it is a potential competitor of UtiliCorp for electric customers and the proposal regarding competitive transition charges could affect its competitive position.

MPS objected to WRI's intervention on the grounds that WRI is not a public utility offering service in Missouri and has no Missouri interests that would give it standing to intervene. MPS also argued that even if it was a current competitor of UtiliCorp, this Commission has found that status as a competitor alone is not sufficient for intervention. MPS stated that the commonly owned plant referred to by WRI is located outside the State of Missouri.

The Commission has considered WRI's applications to intervene and MPS's objections, and finds that WRI should not be permitted to intervene in the rate case because it has not shown that it has an interest that would give it standing to intervene. WRI should be permitted to intervene in EM-97-395 because of the common ownership of plant that could be affected by the Commission's decision in that case.

Motion to Strike Testimony: Staff filed a motion to strike certain testimony which the Commission will not take up here. The motion was filed on May 15; the ten-day response period ends on May 27. The Commission will consider the merits of that motion after the response period has ended.

IT IS THEREFORE ORDERED:

1. That the Motion to Consolidate filed by UtiliCorp United Inc. d/b/a Missouri Public Service on March 21, 1997, is denied with the exception that data requests and related pleadings may be prepared and filed using both case numbers and captions.

2. That Jackson County, Missouri is granted intervention in ER-97-394 and EM-97-395 pursuant to 4 CSR 240-2.075(4) and its intervention is limited to representing its own interests and not those of the general public which are represented by the Office of the Public Counsel.

3. That the application to intervene filed by Western Resources, Inc. in Case No. ER-97-394 is denied pursuant to 4 CSR 240-2.075(4).

4. That the application to intervene filed by Western Resources, Inc. in Case No. EM-97-395 is granted pursuant to 4 CSR 240-2.075(4).

5. That the following procedural schedule is adopted for ER-97-394:

Staff, OPC, and Intervenors' Direct Testimony	September 9, 1997, 3:00 p.m.
Prehearing Conference	September 22-26, 1997, 10:00 a.m.
Statement of Issues (optional)	September 26, 1997
All Parties Rebuttal	October 17, 1997, 3:00 p.m.
All Parties Surrebuttal	November 21, 1997, 3:00 p.m.
Hearing Memorandum and Reconciliation	November 26, 1997

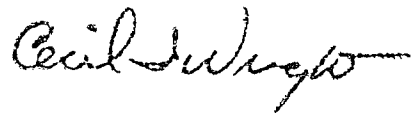
6. That the Commission will conduct an evidentiary hearing in Case No. EM-97-395 on January 26 - 30, 1998, beginning at 10:00 a.m., in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

7. That the parties to Case No. EM-97-395 shall file a proposed procedural schedule in that docket only no later than June 16, 1997, setting out the dates for the filing of the testimony and the hearing memorandum, and for a prehearing conference.

8. That anyone wishing to attend any prehearing conference or evidentiary hearing at the Commission who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing conference or hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

9. That this order shall become effective on the date hereof.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

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

ALJ: Wickliffe