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On September 25, 1998, UtiliCorp United Inc. d/b/a Missouri Public Service (MPS or Company) filed its application for a variance from certain refund provisions of its Purchased Gas Adjustment Clause (PGA) from Section IV (Refund Factors), found in its current tariffs at Sheet 37 and Sheet 38. MPS stated that it has received two refund checks in the amounts of \$429,012.02 and \$500,265.26 from Williams Natural Gas Company and one check in the amount of \$40,889.72 from Panhandle Eastern Pipe Line Company. These refund checks relate to overcharges of ad valorem taxes charged by first sellers of natural gas and collected from their customers during the years 1983 to 1988. Refunds to customers were required by order of the Federal Energy Regulatory Commission (FERC) in FERC Docket RP97-369-000. The refund checks apply to gas purchased by MPS. MPS stated that it would be inappropriate and inefficient to refund these amounts to customers of MPS at this time because, principally, the decision rendered by FERC is not yet a final judgment and is still subject to appeal and change. MPS also requested expedited treatment because MPS is required to make its winter PGA filing between October 15

and November 4, and if the Commission does not grant this variance by November 4, the Kansas ad valorem tax refund will become a part of MPS' winter PGA filing and refunds will be made in accordance with the tariff. MPS asserted that issuing refunds at this time would not be in the best interest of MPS or its customers because if the FERC order is changed or reversed, the Company may be required to recover part of the refunds from its customers.

The Commission reviewed MPS' application for variance and found it in substantial compliance with Commission rules regarding applications for a variance pursuant to 4 CSR 240-2.060(11)(A-G). Given the stated need for expedited treatment, the Commission directed Staff and any other interested party to respond by October 9.

On October 5, Staff filed its memorandum recommending that the Commission deny MPS' Application for Variance. Staff stated that it does not expect FERC or the courts to overturn the decision concerning the Kansas ad valorem tax refunds because the refund obligation has been confirmed by the U.S. Court of Appeals for the District of Columbia. The Staff also stated that on remand, the FERC has proceeded with refund procedures in a conservative manner, which minimizes the possibility that refunds will be reduced in later proceedings. Finally, Staff stated that if some future FERC or court order required the Kansas ad valorem refunds to be returned to Kansas producers, the existing PGA procedures could be used to fund such recapture at the appropriate time.

Staff also stated that if the Commission chose to grant the variance requested Staff recommended that the Commission include two conditions in its Order Granting Variance ordering MPS to:

1) Hold the refund amounts in an escrow account until there is a final resolution of the Kansas ad valorem tax refunds, and any administrative costs incurred in maintaining the escrow account be the responsibility of MPS, not its customers.

2) That interest be paid by MPS at the rate of six per cent simple interest, compounded annually, as stated in the refund provision of the Company's tariff.

MPS filed its Response to Staff Recommendation on October 13. MPS alleged that if it is required to make these refunds and then later recover these refunds, or some part, by surcharge, this process could be unpopular because the time difference between refund and surcharge could result in some difference in customers receiving refunds and those customers burdened by the surcharge. Additionally, MPS claimed that if refunds occur and recovery of excess funds is necessary, interest would need to be recovered also from the person in possession of the funds. The Company cited no authority in support of this statement. MPS stated that it has reviewed the conditions proposed by Staff if the Commission chose to grant the requested variance and MPS finds those conditions acceptable. MPS stated that the escrow of these funds potentially avoids the undeniable expense of the refund and recovery process, which can be time consuming, expensive and may be avoided, if the Company's request for variance is granted.

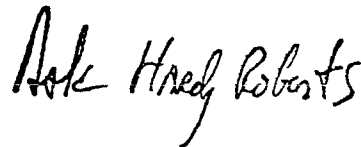
The Commission has reviewed the Application for Variance, Staff's memorandum, and MPS' Response to Staff Recommendation. The Commission finds that it is not necessary to delay the refunds ordered by FERC related to the Kansas ad valorem taxes because these refunds have already been delayed from the 1983 to 1988 period in which these monies were collected. Any further delay would not be in the best interest of MPS'

customers. Any adjustments that may be needed at a later time can be provided for through the existing PGA procedure. Therefore, MPS' Application for Variance will be denied.

IT IS THEREFORE ORDERED:

1. That the Application for Variance filed by UtiliCorp United Inc. d/b/a Missouri Public Service filed on September 25, 1998 is denied.
2. That this order shall become effective on November 13, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Murray, Schemenauer
and Drainer, CC., concur.
Crumpton, C., absent.

Register, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION