

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 24th
day of July, 1992.

Application of Union Electric Company)
to sell transformer and related) Case No. EM-92-164
equipment.)

ORDER APPROVING SALE OF ELECTRIC DISTRIBUTION EQUIPMENT

On January 14, 1992, Union Electric Company (UE) filed an application requesting Commission approval of the sale of electric distribution equipment consisting of one primary to secondary voltage padmount transformer; 440 feet of 3-inch schedule 40 plastic conduit; and 480 feet of electric cable (hereinafter referred to as distribution equipment) to its customer, Mastercard International (Mastercard). In support of its application, UE states that Mastercard has requested to purchase the distribution equipment in order to receive service as a primary service customer and receive service from UE under rate 4(M) instead of rate 3(M). UE states that the annual savings to Mastercard will be approximately \$44,000. Additionally, UE states that Mastercard will maintain the distribution equipment once Mastercard assumes ownership. UE states that if the sale is consummated, it will provide electric service to Mastercard at a primary voltage, at a mutually agreed upon delivery point, and that in all other respects electric service to Mastercard will continue as before.

UE states that the net book value of the distribution equipment is approximately \$24,900 and the proposed sale price is \$41,100, which reflects the reproduction cost of the equipment. UE states that the distribution equipment is treated as distributable property for tax purposes and is allocated to and subject to all Missouri political subdivisions in which it has property. In

accordance with Section 393.190, RSMo 1990, UE submitted a statement showing that the impact from the proposed sale on the tax revenues of the political subdivisions in which it has any facilities will be de minimis. UE states that this is due to the large number of taxing authorities to which this property is allocated and the relatively small dollar amount of the distribution equipment being sold.

Furthermore, UE states that this sale will not be detrimental to the public interest and that neither UE nor its customers will be adversely affected as UE will be paid an amount exceeding the net book value of the stated equipment, the equipment will be retired and the net book value thereof removed from rate base in future rate proceedings. Furthermore, Mastercard will benefit from the lower rate to which it will be entitled under UE's rates. UE states the sale should be approved as it will not be detrimental to the public interest.

On May 1, 1992, the Staff of the Missouri Public Service Commission (Staff) filed a memorandum recommending that the Commission approve the sale of the distribution equipment subject to the following conditions: (1) that the applicable statutory provision and the Commission's rule on electric safety, Section 386.310, RSMo (Supp. 1991) and 4 CSR 240-18.010, are observed; (2) that the gain generated from the sale be given above-the-line treatment as an addition to the depreciation reserve thereby reducing UE's rate base to the benefit of its customers; and (3) that the Commission's order specifically state that approval of this sale does not constitute any determination of the ratemaking treatment to be accorded this transaction in any later proceeding.

In support of its recommendation, Staff states that once the sale is approved, the distribution equipment will be dedicated one hundred percent to Mastercard and that to ensure the safety of the operation and rearrangement of

the equipment the applicable statutory provision and the Commission's rule on electric safety, Section 386.310, RSMo (Supp. 1991) and 4 CSR 240-18.010, should be observed. Furthermore, Staff states that the distribution equipment that UE is selling has a net book value of \$24,900 and UE is asking a purchase price of \$41,000 which generates a gain of \$16,200. Staff contends that the ratepayers are entitled to this gain because since being placed in service the ratepayers have been responsible for all the costs of the distribution equipment, including depreciation, property taxes, maintenance and a return on the undepreciated investment. Staff states that UE has been reimbursed by the ratepayers through rates for all the costs of owning and operating the distribution equipment, and will receive a return on the undepreciated capital investment from a portion of the sale proceeds. Staff states that the undepreciated capital investment is the amount of capital investment which has not been written off as depreciation against the asset account balance. Staff contends that above-the-line treatment will mitigate the adverse impact of the proposed sale on the majority of UE's customers.

Additionally, Staff and UE state that over the next five (5) years approximately thirty (30) other customers may ask to purchase similar facilities to receive more favorable rates.

After reviewing the application and Staff's recommendation, the Commission, on June 26, 1992, issued an order giving notice and setting an intervention date of July 16, 1992. No applications for intervention have been filed nor has any request for hearings been made.

The Commission has jurisdiction of this case pursuant to Section 393.190, RSMo 1986, which provides, in pertinent part, that:

" . . . no electrical corporation . . . shall sell, transfer, or otherwise dispose of any part of its works or system necessary or useful in the performance of its duties to the public without having first secured from the Commission an order authorizing it to do so."

The Commission may not withhold approval of the dispositions of assets unless it can be shown that such disposition is detrimental to the public interest since to deny a property owner the opportunity to dispose of such assets, in the absence of a showing of detriment to the public, would deny the property owner an important aspect of property ownership. *State ex rel. City of St. Louis v. Public Service Commission of Missouri*, 335 Mo. 448, 73 S.W.2d 393, 400 (Mo. banc. 1934). *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466, 468 (Mo. App. 1980).

Upon review of the filings in this case, the Commission finds that UE should be granted authorization to sell the distribution equipment as described in this order as no showing of detriment to the public interest as a result of this sale has been demonstrated. The Commission determines to further protect UE's ratepayers in future rate cases that the gain from this sale should be given above-the-line treatment as recommended by Staff and as provided for in Case No. EM-92-118. Additionally, the Commission determines that the approval of this application does not constitute any determination of the value for ratemaking purposes of the properties herein involved or as an acquiescence in the value placed upon such properties by UE as a result of this sale in any later proceedings. Furthermore, the Commission is of the opinion that it is good practice for Mastercard to abide by the electrical safety requirements set forth in 4 CSR 240-18.010 and Section 386.310, RSMo (Supp. 1991). However, as

Mastercard is not a party to this proceeding, the Commission cannot order Mastercard to comply with these sections. If Staff is of the opinion that Mastercard is subject to these safety regulations and Staff wishes to pursue the requirement of Mastercard to abide by these regulations, Staff should so inform Mastercard and conduct inspections. Furthermore, the Commission finds it redundant to direct UE to comply with these sections as UE, being a public utility, must comply with the state regulations and statutory provisions applicable to public utilities.

IT IS THEREFORE ORDERED:

1. That the proposed sale by Union Electric Company to Mastercard International of the electric distribution equipment described in this order, located in St. Louis County, Missouri, be authorized hereby subject to the conditions set forth herein.

2. That any resulting gain occurring to Union Electric Company from this transaction be given above-the-live treatment as an addition to the depreciation reserve.

3. That nothing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of the properties herein involved or as a acquiescence in the value placed upon such properties by Union Electric Company as a result of this sale in any later proceedings.

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

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

McClure, Chm., Mueller,
Perkins and Kincheloe, CC., Concur
Rauch, C., Absent.