

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the matter of a Stipulation And Agreement respecting )  
Union Electric Company's effectuating a one-time credit, )  
a reduction in annual Missouri retail electric revenues, ) **Case No. ER-95-411**  
and a three-year experimental alternative regulation )  
plan. )  
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**REPORT AND ORDER**

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**Issue Date:** July 21, 1995

**Effective Date:** August 1, 1995

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a reduction in annual Missouri retail electric revenues,     ) Case No. ER-95-411  
and a three-year experimental alternative regulation     )  
plan.     )

**APPEARANCES**

James J. Cook, Associate General Counsel, Union Electric Company, 1901 Chouteau Avenue, Post Office Box 149 (M/C 1310), St. Louis, Missouri 63103, for Union Electric Company.

Robert C. Johnson, Peper, Martin, Jensen, Maichel & Hetlage, 720 Olive Street, 24th Floor, St. Louis, Missouri 63101, for Missouri Industrial Energy Consumers (which include: Monsanto Company, McDonnell Douglas Corporation, Anheuser-Busch, Inc., MEMC Electronic Materials, Barnes and Jewish Hospitals, Emerson Electric Company, Ford Motor Company, Holnam, Inc., Hussman Refrigeration Company, ISP Minerals, and RC Cement Company.)

Robin E. Fulton, Schnapp, Graham, Reed & Fulton, 135 East Main Street, Fredericktown, Missouri 63645, for Asarco, Inc., and The Doe Run Company.

Donald C. Otto, Jr., Hendren and Andrae, Post Office Box 1069, Jefferson City, Missouri 65102, for Cominco American.

Willard C. Reine, Attorney at Law, 314 East High Street, Jefferson City, Missouri 65101, for Missouri Retailers Association.

James C. Swearingen, Brydon, Swearingen & England P.C., Post Office Box 456, Jefferson City, Missouri, 65102, for UtiliCorp United Inc., d/b/a Missouri Public Service.

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

Steven Dottheim, Deputy General 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:**     Cecil I. Wright, Chief.

## **REPORT AND ORDER**

On June 12, 1995, a Stipulation And Agreement (Stipulation) was filed with the Commission which included, among other provisions, a one-time credit to Union Electric Company (UE) customers, a rate reduction for UE customers, and an alternative regulation plan. The signatories to the Stipulation And Agreement are: Union Electric Company, Missouri Industrial Energy Consumers (which include Monsanto Company, McDonnell Douglas Corporation, Anheuser-Busch, Inc., MEMC Electronic Materials, Barnes and Jewish Hospitals, Emerson Electric Company, Ford Motor Company, Holnam, Inc., Hussman Refrigeration Company, ISP Minerals, and RC Cement Company), Asarco Inc., The Doe Run Company, Cominco American, Missouri Retailers Association, Office of Public Counsel (OPC), and Staff of the Missouri Public Service Commission (Staff).

The Commission, by order issued June 16, 1995, gave notice of the Stipulation and established an intervention date. In the same order the Commission scheduled a hearing on July 19, 1995, for presentation of the Stipulation. Only UtiliCorp United Inc. (UtiliCorp), d/b/a Missouri Public Service, filed an application to intervene, which was granted by Commission order on July 12, 1995.

The hearing was held as scheduled and the Stipulation is before the Commission for consideration.

### **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.

Union Electric Company is the largest regulated electric utility in the state of Missouri. It provides service throughout most of eastern Missouri and into other areas of the state. By the Stipulation And Agreement filed in

this case, which is Attachment A to this Report And Order (minus its Attachment B) and incorporated herein by reference, UE has agreed to refund a one-time credit of \$30 million to its customers. This credit would be calculated utilizing UE's existing rate design. In addition, UE has agreed to reduce its rates for electric service by \$30 million on an annual basis. This reduction would be calculated for UE customers based upon the existing rate design with an equal percentage decrease within and among customer classes. UE proposes to provide notice to customers explaining the rate reduction and one-time credit.

In addition to the credit and rate reduction, the parties have agreed to an alternative regulation plan for UE which involves a sharing grid based upon which UE will share earnings with its customers at certain levels. The sharing grid is set out below.

<u>Earnings Level</u> (Missouri Retail Electric Operations)	<u>Sharing Level</u>	
	<u>UE</u>	<u>Customer</u>
Up to and including 12.61% return on equity (ROE)	100%	0%
That portion of earnings greater than 12.61% up to and including 14.00% ROE	50%	50%
That portion of earnings greater than 14.00% ROE	0%	100%

The UE Experimental Alternative Regulation Plan (UEEARP) will extend from July 1, 1995, until June 30, 1998, and calculations will be made each year to determine if sharing will occur. Sharing will be in the form of credits. Any unresolved issue concerning sharing will be brought to the Commission. At the end of the plan, reports will be filed which will include recommendations concerning the continuation or ending of the plan.

Other provisions of the Stipulation include the agreement to conduct a class cost of service study, procedures for addressing any changes in UE's

nuclear decommissioning funding, and a moratorium on rate increases or complaint cases concerning UE's revenue requirement until June 30, 1998, unless UE's ROE falls below the 10 percent, as shown in the sharing grid.

The Commission has considered the Stipulation And Agreement and the information provided at the hearing in response to the Commission's questions. Although the Commission has no evidentiary record against which to weigh the provisions of the Stipulation And Agreement, the parties addressed all Commission questions and stated their confidence in the sufficiency of the record to support the Commission's decision. Based upon those statements and the answers to Commission questions, the Commission finds that the Stipulation And Agreement is reasonable and will be adopted.

The Commission finds that a settlement of this magnitude is in the public interest when it allows for a reduction of rates as well as a one-time credit to UE customers and does so without the expense and delay of evidentiary proceedings. This Stipulation will reduce electric rates during the summer months when usage is at or near system peak. This settlement will provide UE with stable rates for a three-year period and based upon assertions of UE, it allows UE to continue to be a strong and financially healthy company.

The Commission has also given careful consideration to the adoption of a sharing grid type alternative regulation plan for an electric utility. This is the first of its kind in Missouri and, in fact, is only the second sharing grid approved by the Commission. The other sharing grid was the grid approved for Southwestern Bell Telephone Company (SWB).

The plan proposed by the signatories to the Stipulation is very similar to the one approved by the Commission for SWB and offered to SWB a second time in 1994. The grid has fewer levels of sharing than SWB's, but this reflects the difference between telephone utilities and electric utilities and is also a

recognition that a simpler grid is easier to monitor and will probably generate fewer disagreements.

The Commission has no evidentiary support for the percentages utilized in the grid but based upon its experience in recent rate cases, the parameters established appear reasonable. The 10 percent trigger which would allow UE to file a general rate case is low enough to require a major downturn in UE's operations to reach this ROE yet high enough to enable UE to maintain its financial viability during the pending rate case.

The 12.61 percent trigger for sharing should allow UE sufficient incentive to manage its operations in an efficient manner. The 12.61 percent ROE sharing trigger should also provide a sufficient cushion to allow for increases in interest rates. The Commission finds a 50-50 sharing at this level is also reasonable.

The 14 percent trigger for return of 100 percent of earnings to customers also appears reasonable. Under current conditions earnings above that level may be achieved, but since ratepayers will be foregoing any sharing at levels below 12.61 percent it is reasonable to allow full sharing above a certain level. Based upon the Commission's past experience, 14 percent appears to be a reasonable level for 100 percent sharing.

Another significant provision of the Stipulation is the agreement to conduct a class cost of service study. This study, which would result in a review of UE's allocation of revenues among customer classes and the design of rates within customer classes, is seen by UE's industrial and small business customers as a significant part of the Stipulation. UE's last cost of service study and rate design review was several years ago and a periodic review is necessary to ensure rates reflect the cost of providing service to each class.

The Commission, as expressed in the record, is not completely clear on how or when any change to UE's rate design may be proposed under the

Stipulation but is confident parties will bring these matters to the Commission for resolution if any cost allocation or rate design changes are proposed during the three-year moratorium.

The Commission finds further that the Stipulation is in the public interest and meets that public interest through several of its features. First, of course, is the establishment of just and reasonable rates for UE's customers. The second is the establishment of the alternative regulation plan which allows UE to retain its increased earnings to a certain level and also provides for sharing those earnings once they reach a certain level. Included in the alternative regulation plan is the moratorium, which will provide stability for UE's rates for three years. This plan should allow UE to remain a strong company.

As stated earlier, the Stipulation also allows for review of UE's class cost of service to ensure rates are as cost-based as possible and that those rates will remain competitive into the future when significant changes will likely occur in the electric utility industry.

The Commission will also adopt the Stipulation's recommendations for establishing a docket to monitor the alternative regulation plan and a docket to address UE's class cost of service.

### **Conclusions of Law**

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

The Commission has jurisdiction over UE and its operations under the provisions of Chapters 386 and 393, R.S.Mo. 1994. Pursuant to its statutory authority, the Commission must ensure that UE's rates are just and reasonable and that UE provides safe and adequate service. The Commission has reviewed the Stipulation And Agreement filed in this case in light of this responsibility in addition to its general responsibility to protect the public interest.

Based upon its review of the provisions of the Stipulation And Agreement the Commission concludes that the rates established are just and reasonable and that the establishment of an alternative regulation plan is in the public interest. Although the Commission could not under current statutes order UE to adopt a plan to share earnings with customers, where, as here, UE has voluntarily agreed to such a plan the Commission believes the public interest is served by such a plan under the parameters proposed. The Commission also concludes that it may accept an agreement of the parties for the resolution of the issues where, as here, the Commission finds the provisions of the Stipulation And Agreement are reasonable.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation And Agreement, Attachment A, is hereby adopted.
2. That Union Electric Company is hereby authorized to file tariffs consistent with the Stipulation And Agreement adopted in Ordered Paragraph 1 for service on and after August 1, 1995.
3. That an alternative regulation plan as described in the Stipulation And Agreement is hereby approved for Union Electric Company.
4. That Case No. EO-96-14 is hereby established to monitor and receive reports concerning the alternative regulation plan adopted in Ordered Paragraph 3. All parties to this case shall be parties to Case No. EO-96-14.
5. That Case No. EO-96-15 is hereby established for the purpose of conducting an investigation into the class cost of service for Union Electric Company and Union Electric Company's rate design. All parties to this case shall be parties to Case No. EO-96-15.



6. That this Report And Order shall become effective on the  
1st day of August, 1995.

BY THE COMMISSION

A handwritten signature in cursive script, reading "David L. Rauch".

David L. Rauch  
Executive Secretary

( S E A L )

Mueller, Chm., McClure, Kincheloe,  
Crumpton and Drainer, CC., concur.

Dated at Jefferson City, Missouri,  
on this 21st day of July, 1995.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of a Stipulation and )  
Agreement respecting Union Electric )  
Company effectuating a one-time credit, )  
a reduction in annual Missouri ) Docket No. ER-95-411  
retail electric revenues, and )  
a three year experimental alternative )  
regulation plan. )

STIPULATION AND AGREEMENT

As a result of discussions among the parties hereto, said parties hereby submit to the Missouri Public Service Commission ("Commission") for its consideration and approval the following, including actions to be taken by Union Electric Company ("UE") and the other parties in settlement of an earnings monitoring by the Staff of the Commission:

1. One-time Credit

- a. A one-time credit will be made to all current UE Missouri retail electric customers of \$30 million, exclusive of license, occupation, franchise, gross receipts, or other similar fees or taxes.
- b. The one-time credit to all current Missouri retail electric customers will be effectuated by applying credits to customers' bills commencing with the first billing cycle of the first billing period following the Report and Order of the Commission becoming final and nonappealable. The proposed commencement for implementation of the one-time

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credit is the July, 1995 billing period.<sup>1</sup> A notice to customers explaining the one-time credit will accompany the customers' bills on which the one-time credit appears. UE will submit the proposed language for such notice to the Staff and Office of the Public Counsel ("OPC") for their review.

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<sup>1</sup>The signatories to this Stipulation and Agreement, for illustrative purposes, have utilized a proposed effective date for a Commission Report and Order of June 28, 1995 which is the commencement date of UE's July, 1995 billing period. If the Commission were to approve this Stipulation and Agreement and issue a Report and Order with a ten (10) day effective date, the Commission would need to issue such a Report and Order no later than Friday, June 16, 1995. The signatories understand that the Commission needs an adequate amount of time in which to deliberate respecting whether to approve the instant document, particularly given its unique terms. Furthermore, the signatories are aware that the Commissioners have a very crowded June schedule. The signatories want to clearly indicate to the Commissioners that it is not intended that this Stipulation and Agreement will become void if the June 28, 1995 effective date, used for illustrative purposes, is not met.

If, for example, given all appropriate time frames, the first possible effective date for tariffs is July 15, 1995, then the rate reduction will become effective commencing with service rendered on and after July 15, 1995. Likewise, the one-time credit will be effectuated by applying the credit to customers' bills commencing with bills for service rendered on and after July 15, 1995. The provisions of Sections 1.b. and 2.b. of this Stipulation and Agreement are based on the one-time credit and the rate reduction being reflected on customers' bills commencing with the first billing cycle of a month<sup>1</sup> billing period. As indicated by this footnote, the one-time credit and the rate reduction may be commenced with a billing cycle other than the first billing cycle of a billing month. This footnote applies to the provisions of Attachment A to this Stipulation and Agreement, as well as to Sections 1.b. and 2.b.

Even if the effective date of the tariffs and one-time credit is subsequent to June 28, 1995, the Sharing Periods and the moratorium for electric rate increase and rate reduction cases, as set forth in Section 3.c., will remain unchanged.

- c. See Attachment A for details of the implementation of the one-time credit.

**2. Rate Reduction**

- a. A rate reduction applicable to all UE Missouri retail electric customers will be filed by UE. This rate reduction will equal \$30 million annually, exclusive of license, occupation, franchise, gross receipts, or other similar fees or taxes.
- b. Tariffs will be filed to effectuate this rate reduction consistent with Attachment B appended hereto. The reduction shall apply on an equal percentage basis within and among classes (excluding customer and miscellaneous charges) for all Missouri retail electric customers, and shall become effective commencing with the first billing cycle of the first billing period following the Report and Order of the Commission becoming final and nonappealable. The proposed effective date of the rate reduction is for service rendered on and after June 28, 1995. A notice to customers explaining the rate reduction will accompany customers' bills on which the rate reduction will first appear. UE will submit the proposed language for such notice to the Staff and OPC for their review.

3. **Experimental Alternative Regulation Plan**

- a. An Experimental Alternative Regulation Plan ("the Plan") will be instituted and the Commission will create a new docket to facilitate that Plan ("Plan Docket") in its Report and Order approving this Stipulation and Agreement. All signatories to this Stipulation and Agreement shall be made parties to the Plan Docket, as intervenors or as a matter of right, without the necessity of taking further action.
- b. The following "Sharing Grid" is to be utilized as part of the Plan:

<u>Earnings Level</u> (Missouri Retail Electric Operations)	<u>Sharing Level</u>	<u>Sharing Level</u>
	<u>UE</u>	<u>Customer</u>
Up to and including 12.61% Return on Equity (ROE)	100%	0%
That portion of earnings greater than 12.61% up to and including 14.00% ROE	50%	50%
That portion of earnings greater than 14.00% ROE	0%	100%

- c. The Plan will be in effect for a full three year period. For purposes of this Plan, there shall be three (3) "Sharing Periods." The first Sharing Period shall be from July 1, 1995 through June 30, 1996; the second, from July 1, 1996 through June 30, 1997; and the third, from July 1, 1997 through June 30, 1998. UE may not file an electric rate

increase case, and Staff, OPC and other signatories may not file, encourage or assist others to file a rate reduction case through June 30, 1998, unless:

- i. UE's return on common equity falls below 10.00% for a twelve month Sharing Period (calculated as indicated in Attachment C appended hereto); or
  - ii. An unusual event occurs which would have a significant adverse impact on electric operations, such as, an act of God, a significant change in the federal or state tax laws, or an extended outage or shutdown of a major generating unit(s).
  - iii. In the event UE files an electric rate increase case, any sharing credits due for the current or prior Sharing Period will remain the obligation of UE, and the Plan shall terminate at the conclusion of the then current Sharing Period.
- d. Except as set out immediately above in Section 3.c. and below in Section "4. Rate Design", and Section "5. Nuclear Decommissioning", UE's rates resulting from the \$30 million rate reduction in this Stipulation and Agreement will continue in effect throughout the three year Plan period, and thereafter, until changed as a result of a rate

increase case, a rate reduction case, or a customer class cost of service and comprehensive rate design case, as provided for in this Stipulation and Agreement. In addition, rates may change after June 30, 1998 pursuant to a Report and Order issued by the Commission consistent with an agreement submitted or not opposed by the parties to the Plan Docket.

- e. Monitoring of the Plan will be based on UE supplying to Staff and OPC, on a timely basis, the reports and data identified below. These reports and data must be provided as part of the Plan. Other signatories to this Stipulation and Agreement may also participate in the monitoring of the Plan, and receive the reports and data, after executing appropriate documents assuring the confidential treatment of the information provided. Staff, OPC and the other signatories participating in the monitoring of the Plan may follow up with data requests, meetings and interviews, as required, to which UE will respond on a timely basis. UE will not be required to develop any new reports, but information presently being recorded and maintained by UE may be requested. The reports and data that must be provided include the following:

- i. Annual operating and construction budgets and any updates/revisions with explanations/reasons for updates/revisions;
  - ii. Monthly operating budgets and any updates/revisions with explanations/reasons for updates/revisions;
  - iii. Annually - explanation of significant variances between budgets and actual;
  - iv. Monthly Financial & Statistical (F&S) reports;
  - v. Directors reports;
  - vi. Current chart of accounts (revised/updated in 1994 when new general ledger system installed - 29 digit account numbers adopted);
  - vii. Monthly surveillance reports;
  - viii. Quarterly reports/studies of rate of return on rate base including supporting workpapers;
  - ix. Annual summary of major accruals.
- f. The sharing of earnings in excess of 12.61%, as contemplated by the Sharing Grid set out above, is to be accomplished by the granting of a credit to UE's Missouri retail electric customers in the same manner as the one-time credit described in Section 1 above, and Attachment A. A notice to customers explaining the sharing credits will accompany customers' bills on which the sharing credits will



appear. UE will submit the proposed language for such notice to the Staff and OPC for their review.

- i. The return on common equity for determination of "sharing" will be calculated by using the methodology set out in Attachment C, Reconciliation Procedure, appended hereto.
- ii. Staff, OPC and UE have conferred and determined what items, based on prior Commission Orders, should be excluded from the calculation of UE's return on equity. These items are identified in Attachment C.
- iii. The twelve month period used to determine credits will be the immediately preceding Sharing Period.
- iv. Within 90 days after the conclusion of a Sharing Period, a preliminary earnings report, along with a proposed "Sharing Report" will be submitted by UE. A final earnings report and proposed Sharing Report will be filed in the Plan Docket within 105 days after the end of the Sharing Period. The final earnings report will provide the actual results of the Sharing Period to be examined.
- v. UE's earnings will be adjusted to normalize the effects of any sharing credits from the

Sharing Period which are reflected in the earnings for that period.

- vi. If Staff, OPC or other signatories find evidence that operating results have been manipulated to reduce amounts to be shared with customers or to misrepresent actual earnings or expenses, Staff, OPC or other signatories may file a complaint with the Commission requesting that a full investigation and hearing be conducted regarding said complaint. UE shall have the right to respond to such request and present facts and argument as to why an investigation is unwarranted.
- vii. UE, Staff, OPC and other signatories reserve the right to bring issues which cannot be resolved by them, and which are related to the operation or implementation of the Plan, to the Commission for resolution. Examples include disagreements as to the mechanics of calculating the monitoring report, alleged violations of the Stipulation and Agreement, alleged manipulations of earnings results, or requests for information not previously maintained by UE. An allegation of manipulation could include significant

variations in the level of expenses associated with any category of cost, where no reasonable explanation has been provided. The Commission will determine in the first instance whether a question of manipulation exists and whether that question should be heard by it.

- viii. Staff, OPC and other signatories have the right to present to the Commission concerns over any category of cost that has been included in UE's monitoring results and has not been included previously in any ratemaking proceeding.
- ix. Differences among UE, Staff, OPC and other signatories will be brought to the Commission's attention for guidance as early in the process as possible.
- x. A final report will be filed within 105 days after the Sharing Period (or the first business day thereafter). Signatory parties to this Stipulation and Agreement will have thirty (30) days after a final report is filed to provide notice that there may be areas of disagreement not previously brought to the attention of the Commission that need to be resolved.

g. In the final year of the Plan, UE, Staff, OPC and other signatories to this Stipulation and Agreement shall meet to review the monitoring reports and additional information required to be provided. By February 1, 1998, UE, Staff and OPC will file, and other signatories may file their recommendations with the Commission as to whether the Plan should be continued as is, continued with changes (including new rates, if recommended) or discontinued. Copies of the recommendations shall be served on all parties to UE's Plan Docket. As previously noted herein, the rates resulting from the \$30 million rate reduction in this Stipulation and Agreement will continue in effect after the three year Plan period until UE's rates are changed as a result of a rate increase case, a rate reduction case, or a customer class cost of service and comprehensive rate design case, as provided for in the other paragraphs of this Stipulation and Agreement. In addition, rates may change after June 30, 1998 pursuant to a Report and Order issued by the Commission consistent with an agreement submitted or not opposed by the parties to the Plan Docket.

#### 4. Rate Design

A customer class cost of service and comprehensive rate design docket respecting UE, and an intervention period, shall be established by the Commission concurrent with the Commission's approval of this Stipulation and Agreement. All signatories to this Stipulation and Agreement shall be made parties in said docket, as intervenors or as a matter of right, without the necessity of taking further action. A procedural schedule for said docket shall be established, at a time later to be determined, based on a test year of the 12 months ending September 30, 1996. The signatories to this Stipulation and Agreement agree to schedule and participate in technical conferences in said docket for the purpose of addressing questions relating to the data to be collected and the format in which the data will be provided to the Staff, the Office of the Public Counsel, and intervenors, if each so requests to be provided this data. It is understood that meeting the aforementioned test year is dependent upon the cooperation of UE.

There shall be no shift of revenues within or among customer classes as a result of the customer class cost of service and comprehensive rate design docket agreed to herein while the instant three year Plan is in effect. Nonetheless, any party may file with the Commission a request for consideration of changes in rate design and/or other tariff provisions which it would be appropriate for the Commission to

consider outside the context of the customer class cost of service and comprehensive rate design docket; provided, however, that no change will result in any shift of revenues within or among classes before July 1, 1998; and provided further that if a request for consideration of changes in rate design and/or other tariff provisions is filed, any party may oppose such request and shall not be deemed to have consented to the establishment of a new docket to consider such request or to the proposals of the party making such request.

A change in rate design and/or other tariff provisions is not considered by the signatories to this Stipulation and Agreement as constituting a shift of revenues within or among customer classes if it will result in a customer or customers being charged lower rates but will not result in either (1) a major decrease in revenues to UE (respecting which UE is precluded by this section from recovering from other customers at any time while the Plan is in effect) or (2) a significant reduction in the credits that would otherwise be available for distribution. It may be argued by a signatory to this Stipulation and Agreement that the cumulative effect of multiple changes in rate design and/or other tariff provisions which results in either (1) a major decrease in revenues to UE (respecting which UE is precluded from recovering from other customers at any time while the Plan is in effect), or (2) a significant reduction in credits that would otherwise be available for distribution, constitutes a shift of revenues

within or among customer classes and, therefore, the proposed change(s) is precluded.

How revenues foregone by UE as a result of a change in rate design and/or other tariff provisions will be treated for purposes of the Plan Reconciliation Procedure (Attachment C), which impacts the calculation of where UE falls on the Sharing Grid, will be determined on a case-by-case basis by agreement of the signatories to this Stipulation and Agreement, or by the Commission if agreement cannot be reached. Furthermore, such foregone revenues shall not be excluded from any calculation of UE's return on common equity for purposes of determining whether UE may file an electric rate increase under the terms of this Stipulation and Agreement or increase its Missouri retail electric service rates to reflect a Commission Order authorizing an increase in UE's annual nuclear decommissioning expense/funding from its current level of \$6.2 million.

This section is not intended to preclude presentation to the Commission and Commission resolution of disputes respecting the proper application of UE's tariffs; nor is this section intended to preclude presentation to the Commission and Commission resolution of a proposed major decrease in revenues to UE, and/or significant reduction in credits that would otherwise be available for distribution, requested as a result of a situation which will have a significant adverse impact on one or more of UE's customers and which, as a

consequence, will also have a significant adverse impact on UE and its customers; provided that any party may oppose such request and shall not be deemed to have consented to the establishment of a new docket to consider such request or to the proposals of the party making such request.

**5. Nuclear Decommissioning Cost and Funding Level**

UE will file its cost of nuclear decommissioning study with the Commission as required by September 1, 1996. If the Commission Order in that proceeding results in a decrease in annual nuclear decommissioning expense/funding from its current level of \$6.2 million, then UE's Missouri retail electric service rates will not be changed to reflect the decrease in expense/funding. Instead, nuclear decommissioning expense/funding will be decreased (effective as of the date provided in the nuclear decommissioning cost Order) with the total difference, i.e., 100% of the pro-rated difference, between the lower expense/funding level and the current level of \$6.2 million being treated as a credit to each Sharing Period of the Plan as provided for in Attachment C hereto. If no sharing occurs for a Sharing Period for which there is a decrease in the nuclear decommissioning expense/funding level, then the decrease in the nuclear decommissioning expense/funding for that Sharing Period will be carried over to the subsequent Sharing Period. Since the difference between the prospective lower expense/funding level and the current \$6.2 million level will be treated as a credit in each



Sharing Period and the difference will be carried over to the subsequent Sharing Period if no sharing occurs for the current Sharing Period, no decrease in the \$6.2 million expense level will be reflected in the calculation of UE's ROE in determining sharing under the Plan, pursuant to Attachment C.

If the Commission Order in the nuclear decommissioning proceeding results in an increase in expense/funding above its current level of \$6.2 million, for purposes of determining the implementation of a rate increase only, the increased expense will be annualized in calculating UE's return on equity for the earliest possible Sharing Period for which a preliminary earnings/proposed sharing report has not yet been filed at the time of the issuance of the Commission Order in the nuclear decommissioning docket. If UE's return on common equity (ROE) on this basis is less than 10.00% (calculated as indicated in Attachment C appended hereto), then the increased expense will result in an increase in UE's Missouri retail electric service rates as allowed by Section 393.292 RSMo 1994. If UE's ROE on the above basis exceeds 10.00%, then the increased expense will not result in any increase in UE's Missouri retail electric service rates; however, the actual amount of increased expense (unannualized) will be reflected in the calculation of UE's ROE in determining sharing under the Plan.

In any case, the Commission shall include language in its Callaway decommissioning case Report and Order substantially similar to that used in Case No. EO-94-81, specifically

finding that the Callaway decommissioning costs are included in UE's then current cost of service and are reflected in its then current electric service rates for ratemaking purposes.

All parties to this case will be notified of UE's filing of its 1996 nuclear decommissioning cost case.

#### **6. Commission Rights**

Nothing in this Stipulation and Agreement is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right of access to information, and any statutory obligation.

#### **7. Staff Rights**

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Stipulation and Agreement. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of the Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any

memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff also shall have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

#### **8. No Acquiescence**

None of the parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, accounting authority order principle, cost of capital methodology, capital structure, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence, that may underlie

this Stipulation and Agreement, or for which provision is made in this Stipulation and Agreement.

**9. Negotiated Settlement**

This Stipulation and Agreement represents a negotiated settlement. Except as specified herein, the signatories to this Stipulation and Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation and Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Stipulation and Agreement in the instant proceeding, or in any way condition its approval of same.

**10. Provisions Are Interdependent**

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

**11. Waive Rights to Cross Examination, etc.**

In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive their respective rights to cross-examine witnesses; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1994; their respective rights to the

reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994. This waiver applies only to a Commission Report and Order issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Stipulation and Agreement.

**12. Good Cause**

Pursuant to Section 393.140(11) RSMo 1994, the Commission for good cause shown may allow changes in UE's rates or charges without requiring thirty days' notice. Good cause exists for allowing changes in UE's retail electric rates or charges without requiring thirty days' notice in that the tariff sheets proposed by the signatories result in a reduction of UE's rates.

**13. Tariff Sheets to be Filed**

Upon Commission approval of this Stipulation and Agreement, UE shall file tariff sheets for Commission approval consistent with Attachment B appended hereto.

STAFF OF THE MISSOURI  
PUBLIC SERVICE COMMISSION

By Steven Dottheim  
Steven Dottheim  
Deputy General Counsel  
P.O. Box 360  
Jefferson City, Missouri 65102  
(314) 751-7489

OFFICE OF THE PUBLIC COUNSEL

By Lewis R. Mills, Jr.  
Lewis R. Mills, Jr.  
Deputy Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102  
(314) 751-4857

COMINCO AMERICAN

By Gerald E. Roark By SD  
Gerald E. Roark  
Attorney  
P.O. Box 1069  
Jefferson City, Missouri 65102  
(314) 636-8135

MISSOURI RETAILERS ASSOCIATION

By Willard C. Reine  
Willard C. Reine  
Sam Overfelt  
314 E. High St.  
Jefferson City, Missouri 65101  
(314) 634-3355

Respectfully submitted,

UNION ELECTRIC COMPANY

By James J. Cook  
James J. Cook  
Associate General Counsel  
1901 Chouteau Avenue  
P.O. Box 149 (M/C 1310)  
St. Louis, Missouri 63103  
(314) 554-2237

MISSOURI INDUSTRIAL ENERGY  
CONSUMERS\*

By Robert C. Johnson By SD  
Robert C. Johnson  
Attorney  
720 Olive Street, 24th Floor  
St. Louis, Missouri 63101  
(314) 421-3850

ASARCO INC. AND THE DOE RUN CO.

By Robin E. Fulton By SD  
Robin E. Fulton  
Attorney  
135 E. Main Street  
Fredericktown, Missouri 63645  
(314) 783-7212

Dated this 12th day of June, 1995.

\* Including: Monsanto Co., McDonnell Douglas Corp., Anheuser-Busch, Inc., MEMC Electronic Materials, Barnes and Jewish Hospitals, Emerson Electric Co., Ford Motor Co., Holnam, Inc., Hussman Refrigeration Co., ISP Minerals, and RC Cement Co.

PROCEDURES FOR IMPLEMENTING THE ONE-TIME CREDIT  
AND SHARING CREDITS FROM THE THREE-YEAR  
EXPERIMENTAL ALTERNATIVE REGULATION PLAN

A. Eligibility Requirements for One-time and Sharing Credits

Any Missouri retail electric customer whose account is active as of the date of billing during the "credit application period," as defined below in B., shall be eligible for a credit. Customer accounts which are inactive as of the date of billing during the "credit application period" are ineligible for any credit.

B. Determination of the Credit Application and Calculation Periods

The "credit application period" shall be the UE monthly billing period during which the credit will be applied to an eligible customer's bill for electric service. The "credit calculation period" will be the twelve UE billing months prior to the month before the credits first appear on customers' bills. For example, if the credit first appears on customers' bills in the July 1995 billing period, then the credit calculation period would be the twelve UE billing months of June 1994 - May 1995.

C. Determination of Applicable Credit Period Kilowatt-hours

The applicable credit calculation period kilowatt-hours for all eligible customers shall be the total sales billed by UE to each eligible customer's current premises during the entire 12-month credit calculation period, as defined above in B., without regard to each customer's occupancy date of such premises.

D. Determination of Per Kilowatt-hour Credit

The credit per kilowatt-hour will be calculated by dividing the total dollar amount to be credited by the total applicable credit calculation period kilowatt-hours, as defined in C. above, for all eligible Missouri retail accounts.

E. Determination of Individual Customer Credit

Each individual active customer's credit will be calculated by multiplying the per kilowatt-hour credit, as

defined in D. above, by the eligible customer's applicable credit calculation period kilowatt-hours as defined in C. above.

F. Treatment of Any Difference Between the Actual Amount Credited to Customers and the One-time Credit Amount or the Sharing Credits Amount

1. If the difference between the actual amount credited to eligible customers and the \$30 million one-time credit or the sharing credits amount is less than \$1 million, this credit amount will be carried over and be an adjustment to eligible customers' share of earnings in the subsequent sharing period.
2. If the difference between the actual amount credited to eligible customers and the \$30 million one-time credit or the sharing credits amount is \$1 million or greater, an additional credit will be made as soon as reasonably possible for an under-credit. If an over-credit of \$1 million or more is made, the over-credit will be treated as in the paragraph immediately above.

G. Treatment of Sharing Credits

1. If the calculation of UE's return on common equity indicates that sharing credits are to be granted and the amount for the sharing period is \$1 million or greater, or the amount for the sharing period plus any amount carried over from a prior sharing period is \$1 million or greater, then credits will be made to eligible customers for that sharing period.
2. If the calculation of UE's return on common equity indicates that sharing credits are to be granted, but the amount is less than \$1 million or the amount for the sharing period plus any amount carried over from a prior sharing period is less than \$1 million, said amount will be carried over and be an adjustment to eligible customers' share of earnings in the subsequent sharing period.
3. The signatories to this Stipulation and Agreement will determine the disposition of any accumulated balance of credits that is less than \$1 million at the end of the third year of the Plan.
4. Any accumulated balance of credits that is \$1 million or greater at the end of the third year of the Plan will result in credits to customers' bills.