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January 21, 2000

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JAN 24 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

RE: Case No. ~~EM-2000-369~~ - In the Matter of the Joint Application of UtiliCorp United, Inc. and The Empire District Electric Company for Authority to Merge The Empire District Electric Company with and into UtiliCorp United, Inc. and, in connection therewith, Certain other Related Transactions.

RE: Case No. EM-2000-292 - In the Matter of the Joint UtiliCorp United, Inc. and St. Joseph Light & Power Company for Authority to Merge St. Joseph Light & Power Company with and into UtiliCorp United, Inc. and, in connection therewith, Certain other Related Transactions.

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **STAFF RESPONSE TO COMMISSION NOTICES REGARDING MOTION TO ESTABLISH PROCEDURAL SCHEDULE AND MOTION TO CONSOLIDATE AND STAFF MOTION TO LATE FILE.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

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JAN 21 2000

Records  
Public Service Comm.

cc: Counsel of Record

Sincerely yours,

Steven Dottheim  
Chief Deputy General Counsel  
(573) 751-7489  
(573) 751-9285 (Fax)

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BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION JAN 24 2000  
OF THE STATE OF MISSOURI

Missouri Public  
Service Commission

In the matter of the Joint Application of )  
UtiliCorp United, Inc. and The Empire )  
District Electric Company for authority to )  
merge The Empire District Electric )  
Company with and into UtiliCorp United, )  
Inc. and, in connection therewith, certain )  
other related transactions.

Case No. EM-2000-369

In the matter of the Joint Application of )  
UtiliCorp United, Inc. and St. Joseph )  
Light & Power Company for authority to )  
merge St. Joseph Light & Power )  
Company with and into UtiliCorp United, )  
Inc. and, in connection therewith, certain )  
other related transactions.

Case No. EM-2000-292

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JAN 21 2000

**STAFF RESPONSE TO COMMISSION NOTICES REGARDING RECORDS  
MOTION TO ESTABLISH PROCEDURAL SCHEDULE Public Service Comm  
AND MOTION TO CONSOLIDATE**

Comes now the Staff of the Missouri Public Service Commission (Staff) in response to the December 17, 1999 Missouri Public Service Commission (Commission) Notice Regarding Motion To Establish Procedural Schedule, allowing responses to the Motion To Establish Procedural Schedule of UtiliCorp United, Inc. (UtiliCorp) and The Empire District Electric Company (EDE) (collectively referred to as EDE – UtiliCorp), and in response to the December 22, 1999 Commission Notice Regarding Motion To Consolidate, allowing responses to the Motion To Consolidate of the Office of the Public Counsel (Public Counsel). In response to the Commission Notices, the EDE – UtiliCorp Motion To Establish Procedural Schedule and the Public Counsel Motion To Consolidate, the Staff states that the two merger cases should be consolidated and the schedule proposed by the Staff below should be adopted. If the Commission decides not to consolidate the two merger cases, then the Commission should direct

SJLP – UtiliCorp and EDE – UtiliCorp to identify the issues which they believe are common to the two cases and need to be litigated only one time. In support thereof the Staff states as follows:

**Public Counsel's Motion To Consolidate: Commission Authority**

1. Section 386.410.1 RSMo 1986 states that “[a]ll hearings before the commission or a commissioner shall be governed by rules to be adopted and prescribed by the commission . . .” The Missouri Court of Appeals, Western District has held that “[t]he only purpose of Section 386.410-1 was to serve the convenience of the Commission and the parties before it and to expedite proceedings. . .” State ex rel. Southwestern Bell Telephone Co. v. Public Serv. Commn, 645 S.W.2d 44, 50-51 (Mo. App. 1982). Said Court has also stated that the rulemaking power of the Commission is not questioned. Id.; State ex rel. Dail v. Public Serv. Commn, 203 S.W.2d 491, 497 (Mo. App. 1947); State ex rel. Churchill Truck Lines, Inc. v. Public Serv. Commn, 734 S.W.2d 586, 594 (Mo. App. 1987).

2. Pursuant to the authority granted under §386.410.1, the Commission promulgated 4 CSR 240-2.110(5):

When actions pending before the commission involve related questions of law or fact, the commission may order a joint hearing of any or all the matters in issue, and may make other orders concerning proceedings before it to avoid unnecessary costs or delay.

4 CSR 240-2.110(5) first provides that it is within the discretion of the Commission to order a joint hearing of any or all matters in issue when actions involving related questions of law or fact are pending. The Staff maintains that the questions of law and fact concerning whether the merger of SJLP and UtiliCorp is not detrimental to the public interest are related to the questions of law and fact concerning whether the merger of EDE and UtiliCorp is not

detrimental to the public interest and ultimately the Commission must make the determination of whether the merger of UtiliCorp, SJLP and EDE is not detrimental to the public interest.

Furthermore, 4 CSR 240-2.110(5) provides that it is within the discretion of the Commission to issue orders concerning proceedings as may tend to avoid unnecessary costs or delay. The Staff maintains that separate joint proceedings for the SJLP-UtiliCorp merger and the EDE-UtiliCorp merger will result in large amounts of unnecessary costs and delay. The Staff believes that if it is not clear now that the common issues in the two merger cases should be heard and decided together, it will become clear later, unfortunately after great amounts of time and effort have been dissipated in two separate proceedings. SJLP-UtiliCorp recognizes that at minimum some consolidation should occur because SJLP-UtiliCorp stated at pages 3-4 in its December 3, 1999 response in Case No. EM-2000-292 that "[i]ssues common to the two transactions need only be litigated one time." The Staff has previously advised the Commission that it does not concur with SJLP's-UtiliCorp's position that these common issues should be heard in the context of SJLP's-UtiliCorp's proposed procedural schedule rather than in the context of the Staff's proposed procedural schedule for the two merger cases consolidated. To date have not identified what issues to the two merger transactions are common and need only be litigated one time. If SJLP – UtiliCorp and EDE – UtiliCorp do not identify these common issues in its filing this date, then the Commission should direct SJLP – UtiliCorp and EDE – UtiliCorp to identify these issues.

3. The Kansas City Court of Appeals has held that the power to make rules includes the power to determine any reasonable policy of interpretation and application of said rules. 203 S.W.2d at 497. The Court of Appeals, Western District also has stated that "[a]n agency has reasonable latitude concerning what methods and procedures to adopt in carrying out its statutory

obligation." Citizens For Rural Preservation, Inc. v. Robinett, 648 S.W.2d 117, 128 (Mo. App. 1982). In addition, the Court of Appeals, Western District has held that the "PSC's discretionary order of consolidation is clothed with a presumption of validity, and appellant carries a heavy burden of overcoming that presumption by showing unfairness in the procedure used." Churchill Truck Lines, 734 S.W.2d at 595; See also State ex rel. Ashcroft v. Public Serv. Commn., 674 S.W.2d 660, 662 (Mo. App. 1984).

4. The United States Supreme Court has recognized that docket management is a discretionary matter as to which courts virtually never substitute their judgment for that of the administrative agency:

Section 4(j) of the Communications Act of 1934, as amended, 48 Stat. 1068, 47 U.S.C. §154(j) (1958 ed.), empowers the Federal Communications Commission to "conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice." This Court has interpreted that provision as "explicitly and by implication" delegating to the Commission power to resolve "subordinate questions of procedure \* \* \* [such as] the scope of the inquiry, whether applications should be heard contemporaneously or successively, whether parties should be allowed to intervene in one another's proceedings, and similar questions." Federal Communications Comm'n v. Pottsville Broadcasting Co., 309 U.S. 134, 138, 60 S.Ct. 437, 439, 84 L.Ed. 656. . . .

FCC v. Schreiber, 381 U.S. 279, 289, 85 S.Ct. 1459, 1467 (1965).

5. The procedure proposed by the Staff provides both mergers, SJLP-UtiliCorp and EDE-UtiliCorp, "a full and fair hearing at a meaningful time and in a meaningful manner" and is otherwise "fair and consistent with rudimentary elements of fair play" as required by due process. State ex rel. Fischer v. Public Serv. Commn., 645 S.W.2d 39, 43 (Mo. App. 1983).

6. The procedures proposed by the Staff do not run a foul of Sections 393.130 or 393.150 regarding just and reasonable charges, compensation for electricity or service rendered in connection therewith for doing a like or contemporaneous service under the same or

substantially similar circumstances or conditions, undue or unreasonable preference or advantage, or undue or unreasonable prejudice or disadvantage.

**Public Counsel's Motion To Consolidate: Factual Basis For Consolidation**

7. The Staff believes that the following list of witnesses and the issues addressed by the particular witnesses in the two merger cases is instructive of the intimately related nature of the two cases and the very large duplication of time and effort that will occur if the two cases are not consolidated:

**SJLP – UtiliCorp  
Witnesses & Issues**

Terry F. Steinbeck  
SJLP Business Strategy

Robert K. Green  
Merger Transaction

John W. McKinney  
Regulatory Plan

Dan J. Streek  
Accounting

Vern J. Siemek  
Synergy Savings

Stephen L. Pella  
Distribution Operations

Vicki M. Heider  
Transition Process

Richard C. Kreul  
Transmission Operations

Robert W. Holzwarth  
Generation

Robert B. Browning  
Employee Benefits

**EDE – UtiliCorp  
Witnesses & Issues**

Myron W. McKinney  
EDE Business Strategy

Robert K. Green  
Merger Transactions

John W. McKinney  
Regulatory Plan

Robert B. Fancher  
Electric Rate Case

Vern J. Siemek  
Synergy Savings

Stephen L. Pella  
Distribution Operations

Vicki M. Heider  
Transition Process

Richard C. Kreul  
Transmission Operations

Robert W. Holzwarth  
Generation

Robert B. Browning  
Employee Benefits

James E. Karlin  
Taxes

James E. Karlin  
Taxes

Jerry D. Myers  
Synergy Tracking

Jerry D. Myers  
Synergy Tracking

There are even direct references in the testimony of certain witnesses in the merger cases to the other merger. Below are excerpts containing those references from (1) the direct testimony filed in the EDE – UtiliCorp merger case and (2) the direct testimony in the SJLP – UtiliCorp merger case:

**Myron W. McKinney, EDE – UtiliCorp Direct Testimony, p. 6, lines 19-23:**  
... We believe that UtiliCorp has exhibited these core values and that with the addition of St. Joseph Light & Power Company, a unique opportunity has presented itself to form an outstanding utility from three Missouri companies who share a common vision of how utility customers would like to be served. ...

**Robert K. Green, EDE – UtiliCorp Direct Testimony, p. 5, line 21 to p. 6, line 4 & p. 26, lines 4-7:**  
... In this regard, while the general pattern of acquisitions and mergers has tended to be multistate, the Commission has the unique opportunity in connection with the UtiliCorp/Empire proposal as well as UtiliCorp's proposal to merge with St. Joseph Light & Power Company ("SJLP") to create benefits that can be focused on Missouri residents.

... The merger of Empire and UtiliCorp and also the merger of UtiliCorp and SJLP, which is the subject of Commission Case No. EM-2000-292, provides this Commission with the opportunity to combine three low cost, privately owned electric utilities in the State of Missouri into an even stronger, more operationally efficient utility. The resulting synergies can only be created if these utilities are consolidated with the customers gaining the benefits. ...

**Robert K. Green, SJLP – UtiliCorp Direct Testimony, pp. 21, line 20 to p. 22, line 1:**  
... The merger of SJLP and UtiliCorp and eventually The Empire District Electric Company is an extremely unique opportunity. This Commission has the opportunity to combine three low cost, privately owned electric utilities in the State of Missouri into an even stronger, more operationally efficient utility. The resulting synergies can only be created if these utilities are consolidated with the customers gaining the benefits. ...

**Robert W. Holzwarth, EDE – UtiliCorp Direct Testimony, p. 21, lines 7-8, 15-17:**

... Inclusion of the SJLP merger will increase the total value of the power supply synergies available to MPS and Empire by approximately \$20.4 million. ...

... The increase in the value of the synergies available to Empire is due to the different allocation of both on system energy savings and off system sales margins.

**Robert W. Holzwarth, SJLP – UtiliCorp Direct Testimony, p.20, lines 5-6, & p. 20, line 14 to p. 21, line 3 & p. 21, lines 14-16:**

Inclusion of the effects of the EDE merger will reduce the total value of the power supply synergies available to MPS and SJLP by approximately \$55.2 million. ...

... The reduction in the value of the synergies available to SJLP is due to the different allocation of both on system energy savings and off system sales margins. In the MPS/SJLP merger all such synergies were allocated to SJLP. In the three-way merger, these synergies are allocated to both SJLP and EDE resulting in a reduction in the amount of synergies allocated to SJLP.

... the value of the merger benefits allocated to SJLP will be less under a three way merger of MPS, SJLP and EDE than would result from a two way merger of MPS and SJLP.

**Vern J. Siemek, EDE – UtiliCorp Direct Testimony, p. 11, lines 16-17:**

... Mr. Holzwarth's testimony develops the [generation] synergies as if the merger with St. Joseph Light and Power Company ("SJLP") is also completed.

**Vern J. Siemek, SJLP – UtiliCorp Direct Testimony, p. 10, lines 20-22:**

... I used the data developed in Mr. Holzwarth's testimony as if the merger with The Empire District Electric Company ("EDE") is also completed, since it is probably [sic] that both transactions will occur.

The Staff noted in its December 13, 1999 filing in the SJLP – UtiliCorp merger case that UtiliCorp, SJLP and EDE had made their merger filing with the FERC on November 23, 1999 and said FERC filing included both the proposed EDE – UtiliCorp merger and the proposed SJLP – UtiliCorp merger. Although the November 23, 1999, UtiliCorp, SJL and EDE joint



merger filing at the FERC provides for separate docket numbers for the two mergers, EC00-27-000 for the SJLP – UtiliCorp merger and EC00-28-000 for the EDE – UtiliCorp merger, the filing is for both mergers. The Joint Application of UtiliCorp, SJLP and EDE states, in part, as follows:

The transactions that are the subject of this Joint Application are distinct, but represent two essential pieces of a coordinated strategy to create a new, financially and operationally stronger electric utility entity based in the State of Missouri, which will be a more effective competitor in the larger regional market in which the existing companies are located.

UtiliCorp, SJLP and EDE jointly filed the testimony of eight witnesses, six of who are testifying to matters relating to both mergers. Three of these six witnesses specifically state that they are testifying on behalf of UtiliCorp, SJLP and EDE, and all six witnesses identify the purpose of their direct testimony as covering both mergers.

8. What was previously indicated in the Staff's pleadings filed in the SJLP – UtiliCorp merger proceeding, Case No. EM-2000-292, regarding the joint applicants' direct case is also true of the EDE - UtiliCorp joint applicants' direct case; the joint applicants have generally provided little detailed explanation of their positions in their direct testimony. The level of detail provided, however, does permit the conclusion to be reached that most of the positions advocated by the joint applicants in one merger proceeding are very similar or identical to the positions advocated by the joint applicants in the other merger proceeding. There is a large degree of overlap between the positions advocated in both proceedings, both in general conceptual terms and in the details of the proposals discussed within the direct testimony in both merger cases.

A particularly significant example of the extensive overlap in common issues in both merger cases lies in the respective "regulatory plans" proposed in the SJLP - UtiliCorp merger

case and the EDE - UtiliCorp merger case. The Staff expects that the various aspects of the regulatory plans may well constitute most of the potential contested issues between the parties in the merger proceedings, as the proposed regulatory plans involve the crucial issues of how merger savings and costs should be assigned or allocated between the utilities and their customers. The major components of the regulatory plans that in all likelihood will be issues in the forthcoming merger hearings in this jurisdiction involving both mergers are identified below:

- (a) Acquisition Adjustment/Merger Premium - both sets of merger applications / direct testimony propose reflection in rates of 50% of the acquisition adjustment resulting from the merger transactions. These proposals, which in actuality are rate requests, include both the amortization to expense of one-half of the acquisition adjustment and the reflection in rate base of one-half of the unamortized portion of the acquisition adjustment. There is no precedent in Missouri known to the Staff for the Commission allowing recovery of acquisition adjustments in rates. All issues raised in this area in the merger applications / direct testimonies will be common to both merger proceedings.
- (b) Guaranteed, Minimum Merger Benefit - both sets of merger applications / direct testimony purport to offer customers of the acquired utility a guaranteed, minimum merger benefit; i.e., a reduction in the SJLP and EDE revenue requirements in Years 6-10 following the consummation of the merger. These proposals raise questions as to the sufficiency of the share of merger savings to be given to customers, as well as the likelihood of the customers actually receiving the guaranteed, minimum revenue requirement reduction benefit in rates. All issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.
- (c) Merger Savings Tracking - both sets of merger applications / direct testimony claim that the joint applicants will be able to measure actual achieved merger savings once the merger is consummated to ensure that customers receive the guaranteed, minimum revenue requirement reduction benefit from the merger. The Staff is not aware of any realized precedent respecting a utility truly measuring actual merger savings after a transaction has closed and been implemented. The joint applicants' proposal to measure merger savings raises issues concerning the tracking of savings, but it does not answer the fundamental questions whether tracking savings is feasible at all, and whether the joint applicants' specific proposal for tracking purported merger savings is adequate to such a task. Any issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.

- (d) Frozen Capital Structures - both sets of merger applications / direct testimony propose that future rates of the acquired company, SJLP or EDE, be set using pre-merger capital structures for the acquired company. This position of the joint applicants may have the impact of increasing customer rates above the levels which would result from using the actual capital structures of the consolidated companies. All issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.
- (e) Frozen Corporate Allocations - both sets of merger applications / direct testimony propose that corporate costs allocated to UtiliCorp's Missouri Public Service division (MPS) not be reduced to reflect the allocation of UtiliCorp corporate costs to SJLP and EDE after the mergers. This common position of the joint applicants will result in MPS' customers paying higher rates than appropriate if MPS' corporate allocation factors were properly adjusted to reflect MPS' acquisition of SJLP and EDE. All issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.
- (f) Corporate Allocation Impacts - both merger applications show that substantial additional administrative and general costs (in the form of corporate allocations) are proposed to be allocated to St. Joseph and Empire customers after the merger. The Staff believes these additional corporate allocation costs may have the impact of negating a substantial portion of merger benefits otherwise available to customers. All issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.
- (g) MPS Merger Benefits - neither merger application addresses this subject directly, but it appears that UtiliCorp does not intend to assign anything other than an insignificant level of merger savings to MPS, as compared to what it proposes to assign to SJLP and EDE. The Staff is not aware of any previous merger proposal in Missouri that does not flow merger savings to an entity that is in part responsible for the purported economies of scale which allow savings to be created. All issues raised respecting this area in the merger applications / direct testimonies will be common to both merger proceedings.

In outlining the above, the Staff is not asserting that SJLP - UtiliCorp and EDE - UtiliCorp's applications to merge are identical in their proposed regulatory plans and elsewhere in their proposals. For example, both merger applications propose five-year rate moratoriums; in the SJLP application the moratorium is intended to begin once that merger closes, while the five-year moratorium in the EDE application is proposed to start once a rate increase proceeding to be

filed by EDE in 2000 is completed. Nonetheless, even this difference in the applications reveals the similarity in concept in the two moratorium proposals. Since the joint applicants in the EDE merger filing are proposing to not reflect any merger costs or savings in the Year 2000 EDE rate increase filing, the intent of the EDE moratorium is exactly the same as the SJLP moratorium: to allow the joint applicants in both cases to enjoy 100% retention of merger savings for at least five years after the mergers are closed. The major practical difference between the two moratorium proposals is that the joint applicants desire to implement a moratorium for the EDE transaction only after that company recovers certain planned cost increases, which are largely associated with certain new generating capacity becoming fully operational and used for service. Implementing a moratorium after a rate increase has been a very rarely used approach in this state.

While EDE's planned rate increase case in 2000 has caused the joint applicants to make some unique proposals in the EDE - UtiliCorp merger filing that are not present in the SJLP - UtiliCorp merger filing (see the direct testimony of Robert Fancher in Case No. EM-2000-369), these unique proposals are incremental in relation to the similar, even identical, components of the other proposals in the SJLP - UtiliCorp and EDE - UtiliCorp applications / direct testimonies. Any apparent lack of similarity in the proposals contained within the two merger filings does not argue against consolidation of the two proceedings. Rather, consolidation of the two cases is appropriate so that the Commission may have a complete record on the basis of which it may formulate fully-informed consistent, or dissimilar, regulatory treatment of the components of the SJLP - UtiliCorp and EDE - UtiliCorp mergers now before it.

The Staff noted in its prior pleadings, in Case No. EM-2000-292, the interrelationship between the estimated savings information which is contained in the SJLP - UtiliCorp, Case No.

EM-2000-292, merger filing and the estimated savings information which would be contained in the EDE – UtiliCorp, Case No. EM-2000-369, merger filing; i.e., the estimated savings produced by the proposed SJLP - UtiliCorp merger will change if the proposed EDE - UtiliCorp merger is considered in combination with it. The joint applicants in both filings recognize this point as well, at least in part, by presenting estimates of merger savings in the generation/joint dispatch area on the basis of all three companies, UtiliCorp, SJLP and EDE being combined. The Staff believes that consideration of the two mergers together rather than as completely separate and distinct transactions may reveal that cost estimates for other cost categories will be materially impacted by a combination of the three companies. The Staff reiterates this point as an additional reason why these two proceedings should be consolidated.

Therefore, based on the pervasive overlap in the identical, or at least very similar, regulatory and rate proposals made by the joint applicants' in both merger cases, it clearly would be an immense duplication of time and effort by the Commission and the parties to have separate testimony filings, hearings, briefs and orders in the SJLP - UtiliCorp and EDE - UtiliCorp merger cases.

#### **Procedural Schedule For EDE – UtiliCorp Merger Case**

9. The question of an appropriate procedural schedule is not separate and distinct from the question of consolidation. Just as the joint applicants are using the same core group as witnesses in the two merger cases, the Staff will use the same core group of Staff members to audit and provide testimony in both the EDE – UtiliCorp and the SJLP – UtiliCorp merger cases. If the merger cases must be processed separately, then the procedural schedule for a separate and distinct EDE – UtiliCorp merger case must be more protracted than the procedural schedule for consolidated EDE – UtiliCorp and SJLP – UtiliCorp proceedings.

10. The Staff has endeavored to show various scenarios below so as to show more clearly the problems which certain schedules present, in particular when the same group of Staff members are performing both audits. The Staff would note that to attempt address this problem by having different Staff members work the two merger cases would result in a loss of the Staff's ability to deal with two merger proposals which, as indicated above, are significantly similar and even identical in many facets. Also, there is a finite number of members of the Staff who are available to work on the merger cases.

11. The Staff also would note at the outset, without seeking to reargue the SJLP – UtiliCorp procedural schedule, an item of considerable concern that the schedule in the SJLP – UtiliCorp merger adds to and is relevant for the instant filing. The Staff has previously noted that the Staff believes that the joint applicants will file in their surrebuttal case the substance that should have been filed in their direct testimony and schedules. EDE – UtiliCorp seek, and SJLP – UtiliCorp sought, 28 days to file their surrebuttal testimony and schedules from the filing of the Staff's and other parties' rebuttal testimony and schedules. Respecting the SJLP – UtiliCorp schedule, the Commission provided SJLP – UtiliCorp 56 days to file their surrebuttal case from other parties' filing of their rebuttal testimony and schedules. The Commission provided the Staff and other parties 25 days from SJLP's – UtiliCorp's filing of their surrebuttal testimony and schedules to the commencement of the evidentiary hearings. The response time for data requests is 20 days and the Staff anticipates that SJLP's – UtiliCorp's surrebuttal testimony and schedules will cause the Staff and other parties to submit data requests to joint applicants in preparation for the evidentiary hearings. (The response time for data requests can be shortened by Commission order, but a shortening in the response time may result in a degradation of the quality of the response.) The Staff does not begrudge EDE – UtiliCorp or SJLP - UtiliCorp an

adequate amount of time to address the Staff's and other parties' rebuttal testimony and schedules. The Staff's concern is in obtaining an adequate amount of time to address the joint applicants' "surrebuttal" case. The Staff has attempted to address this matter below in its proposal for a consolidated schedule and in its schedule for a nonconsolidated EDE -UtiliCorp schedule. The Staff's proposal for schedules for consolidated and nonconsolidated proceedings follow:

| <b><u>Event</u></b>                                 | <b><u>UtiliCorp – EDE's<br/>PROPOSED<br/>SCHEDULE</u></b> | <b><u>UE – CIPSCO<br/>SCHEDULE</u></b> | <b><u>REVISED<br/>UE – CIPSCO<br/>SCHEDULE</u></b> |
|-----------------------------------------------------|-----------------------------------------------------------|----------------------------------------|----------------------------------------------------|
| Joint Application<br>& Direct Testimony             | December 15, 1999<br>121 Days                             | November 7, 1995<br>175 Days           | November 7, 1995<br>182 Days                       |
| Rebuttal Testimony                                  | April 14, 2000<br>28 Days                                 | April 30, 1996<br>31 Days              | May 7, 1996<br>27 Days                             |
| Surrebuttal & Cross -<br>Surrebuttal Testimony      | May 12, 2000<br>38 Days                                   | May 31, 1996<br>31 Days                | June 3, 1996<br>28 Days                            |
| Evidentiary Hearings                                | June 19-23, 2000                                          | July 1-3, 8-12, 1996                   | July 1-3, 8-12, 1996                               |
| Briefs                                              | July 2000                                                 |                                        |                                                    |
| Stipulation & Agreement<br>Filed                    |                                                           |                                        | July 12, 1996                                      |
| Hearing Regarding Stipulation & Agreement           |                                                           |                                        | September 5, 1996                                  |
| Order Directing Filing of<br>Market Power Testimony |                                                           |                                        | September 25, 1996                                 |
| Market Power Testimony<br>UE                        |                                                           |                                        | November 1, 1996                                   |
| Staff & Public Counsel                              |                                                           |                                        | November 26, 1996                                  |
| Order Approving Merger                              |                                                           |                                        | February 21, 1997                                  |

| <b><u>Event</u></b>                            | <b><u>UtiliCorp's – EDE's<br/>PROPOSED<br/>SCHEDULE</u></b> | <b><u>UtiliCorp – SJLP<br/>SCHEDULE AS<br/>SET BY MO PSC</u></b> | <b><u>UtiliCorp - EDE<br/>SCHEDULE<br/>BASED ON<br/>REVISED<br/>UE – CIPSCO<br/>SCHEDULE</u></b> |
|------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Joint Application<br>& Direct Testimony        | December 15, 1999<br>121 Days                               | October 19, 1999<br>184 Days                                     | December 15, 1999<br>182 Days                                                                    |
| Rebuttal Testimony                             | April 14, 2000<br>28 Days                                   | April 20, 2000<br>56 Days                                        | June 14, 2000<br>27 Days                                                                         |
| Surrebuttal & Cross -<br>Surrebuttal Testimony | May 12, 2000<br>38 Days                                     | June 15, 2000<br>25 Days                                         | July 11, 2000<br>27 Days                                                                         |
| Evidentiary Hearings                           | June 19-23, 2000                                            | July 10-14, 2000                                                 | August 7-11, 2000                                                                                |
| Briefs                                         | July 2000                                                   |                                                                  |                                                                                                  |

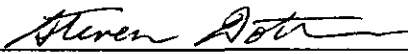
| <b><u>Event</u></b>                            | <b><u>UtiliCorp - EDE<br/>SCHEDULE<br/>BASED ON<br/>REVISED<br/>UE – CIPSCO<br/>SCHEDULE</u></b> | <b><u>STAFF &amp; OPC<br/>PROPOSED<br/>CONSOLIDATED<br/>PROCEDURAL<br/>SCHEDULE<br/>SJLP-EDE-UtiliCorp</u></b> | <b><u>STAFF &amp; OPC PROPOSED<br/>UtiliCorp - EDE<br/>NONCONSOLIDATED<br/>PROCEDURAL<br/>SCHEDULE</u></b> |
|------------------------------------------------|--------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Joint Application<br>& Direct Testimony        | December 15, 1999<br>182 Days                                                                    | Oct. 19 & Dec. 15, 1999<br>182 Days                                                                            | December 15, 1999<br>260 Days                                                                              |
| Rebuttal Testimony                             | June 14, 2000<br>27 Days                                                                         | June 14, 2000<br>56 Days                                                                                       | August 31, 2000<br>56 Days                                                                                 |
| Surrebuttal & Cross -<br>Surrebuttal Testimony | July 11, 2000<br>27 Days                                                                         | August 9, 2000<br>40 Days                                                                                      | October 26, 2000<br>39 Days                                                                                |
| Evidentiary Hearings                           | August 7-11, 2000                                                                                | September 18-29, 2000                                                                                          | December 4-8, 2000                                                                                         |
| Briefs                                         |                                                                                                  |                                                                                                                |                                                                                                            |

Wherefore the Staff requests that the Commission consolidate Case Nos. EM-2000-292 and EM-2000-369 and adopt the procedural schedule proposed by the Staff and the Office of the



Public Counsel for a consolidation of the SJLP – UtiliCorp and EDE – UtiliCorp merger cases. Should the Commission choose not to consolidate the two merger cases, the Staff and the Office of the Public Counsel request that the Commission adopt the procedural schedule proposed above for the EDE – UtiliCorp merger on a nonconsolidated basis. In any event, if the joint applicants in their filing do not identify what they consider to be the common issues to the SJLP – UtiliCorp and EDE – UtiliCorp merger cases, the Staff requests that the Commission direct the joint applicants to identify the issues that they believe can and should be heard as if on a consolidated basis.

Respectfully submitted,  
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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 21st day of January, 2000.



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