



Missouri Public Service Commission

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SHEILA LUMPE
Chair

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Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

March 19, 2001

BRIAN D. KINKADE
Executive Director
GORDON L. PERSINGER
Director, Research and Public Affairs
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Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. KOLILIS
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

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-96-149

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S SUGGESTIONS IN SUPPORT OF THE STIPULATION AND AGREEMENT RESPECTING THE SHARING CREDITS OF THE SECOND YEAR OF THE SECOND UE EXPERIMENTAL ALTERNATIVE REGULATION PLAN.**

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

Thank you for your attention to this matter.

Sincerely yours,

Steven Dottheim
Chief Deputy General Counsel
(573) 751-7489
(573) 751-9285 (Fax)
sdotthei@mail.state.mo.us

SD:ccl
Enclosure
cc: Counsel of Record

FILED²
MAR 19 2001
Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
MAR 19 2001

Missouri Public
Service Commission

In the Matter of the Application of Union Electric Company)
for an Order Authorizing: (1) Certain Merger Transactions)
Involving Union Electric Company; (2) The Transfer of)
Certain Assets, Real Estate, Leased Property, Easements)
and Contractual Agreements to Central Illinois Public)
Service Company; and (3) In Connection Therewith,)
Certain Other Related Transactions.)

Case No. EM-96-149

**STAFF'S SUGGESTIONS IN SUPPORT OF THE STIPULATION AND AGREEMENT
RESPECTING THE SHARING CREDITS OF THE SECOND YEAR OF THE SECOND
UE EXPERIMENTAL ALTERNATIVE REGULATION PLAN**

Comes now the Staff of the Missouri Public Service Commission (Staff) in support of the Stipulation And Agreement respecting the sharing credits of the second year of the second Union Electric Company (UE) experimental alternative regulation plan (EARP). On March 14, 2001, the Staff, the Office of the Public Counsel (Public Counsel) and UE filed a Stipulation And Agreement entered into by them respecting the sharing credits of the second year of the second EARP. In support of that Stipulation And Agreement, the Staff states as follows:

1. UE's October 11, 2000 "Final" Earnings Report Filing: Second Sharing Period – Second EARP showed a sharing credit of \$18.442 million and an achieved return on common equity (ROE) of 13.588%, which is in the 50% sharing level of the sharing grid. The Staff, UE and Public Counsel have agreed on a total dollar settlement amount of \$28.0 million, without the Staff, UE or Public Counsel specifying a settlement amount associated with any particular issue previously identified by the Staff or Public Counsel as an area of disagreement. The dollar amount of the terms of the Staff's and Public Counsel's settlement with UE causes UE's achieved ROE to be 14.084% for the period in question, which places UE at the 50% sharing

level of the Case No. EM-96-149 sharing grid for most all of the earnings UE achieved above the 0% sharing level of the sharing grid, which is an ROE at or below 12.61%. The UE sharing grid in Case No. EM-96-149 provides for (1) 0% of UE's earnings up to and including a 12.61% ROE going to ratepayers; (2) a 50% sharing between ratepayers and UE of that portion of UE's earnings greater than a 12.61% ROE up to and including a 14.00% ROE; (3) 90% of UE's earnings greater than a 14.00% ROE up to and including a 16.00% ROE going to ratepayers and 10% going to UE; and (4) 100% of UE's earnings greater than a 16.00% ROE going to ratepayers alone.

The sharing grid for the second EARP is as follows:

SECOND EARP – Case No. EM-96-149			
Earnings Level (Missouri Retail Electric Operations)		Sharing Level	
		UE	Ratepayer
1	Up to and including 12.61% ROE	100%	0%
2	That portion of earnings greater than 12.61% up to and including 14.00% ROE	50%	50%
3	That portion of earnings greater than 14.00% up to and including 16.00% ROE	10%	90%
4	That portion of earnings greater than 16.00% ROE	0%	100%

The Staff characterized the following as areas of disagreement between itself and the Company, as of the time of the Staff's filing of its areas of disagreement on December 1, 2000:

- Advertising
- Environmental Expenses
- Territorial Agreements
- Legal Expenses
- Coal Inventory
- Capital Structure
- Income Taxes

Other Specific Expense Categories

Had the Staff and UE not reached agreement on a total dollar settlement of the quantification of the sharing credit for the second credit sharing period of the second EARP, the Staff would have filed testimony on February 15, 2001 covering the following areas of disagreement:

- Advertising
- Environmental Expenses
- Territorial Agreements
- Legal Expenses
- Coal Inventory:
 - 13-Month Average
- Capital Structure:
 - UE add back of after-tax amounts of sharing credits to common equity balance
- Accrued Pension Liability (treated in the Staff's December 1, 2000 filing as an Income Taxes item)
- Income Taxes:
 - Unbilled Gross Receipts Taxes
 - Deferred income taxes: FAS 106
 - Deferred income taxes: Account 283
 - Deferred income taxes: Reserve and Clearing

Of these areas, Advertising, Environmental Expenses, Territorial Agreements, and Legal Expenses are areas that were addressed by the Staff in testimony for the first year sharing credit period of the second EARP. (Territorial Agreements also is an area that was contested by the Staff and UE respecting the third year of the first EARP.) The agreement on Income Taxes reached by the Staff and UE respecting the first year sharing credit of the second EARP, involved different Income Taxes issues than the Income Taxes issues that would have been addressed by the Staff in testimony respecting the second year of the second EARP, had testimony been required to be filed by the Staff on February 15, 2001. Coal Inventory, Capital Structure, Accrued Pension Liability and the Income Taxes items indicated above are areas not previously raised by the Staff in the monitoring process. The Staff rationale for the areas that

the Staff would have raised in testimony, had testimony been required to be filed by the Staff on February 15, 2001, are as follows:

Issue	Staff Rationale (EM-96-149 Stipulation & Agreement, ER-95-411 Stipulation & Agreement, EO-96-14 Report & Order)
Environmental Accrual	7.f.vi., 7.f.vii., 7.f.viii. in EM-96-149 Stipulation & Agreement
Advertising Expense	7.f.vi., 7.f.vii., Att.C-2.g.
Legal Expense	7.f.vi., 7.f.vii., 7.f.viii.
Territorial Agreements	12/23/99 Report & Order in EO-96-14 (3.f.vii., 3.f.viii. in ER-95-411 Stipulation & Agreement); 7.f.vii., 7.f.viii., 7.h. in EM-96-149 Stipulation & Agreement
Coal Inventory	7.f.vi., 7.f.vii., Att.C-2.g.
Capital Structure	7.f.vi., 7.f.vii., 7.f.viii., Att.C-2.g.
Accrued Pension Liability	7.f.vii., 7.f.viii., Att.C-2.g.
Income Taxes	7.f.vii., 7.f.viii., Att.C-2.g.

7.f.vi. (also 3.f.vi.): earnings manipulation

7.f.vii. (also 3.f.vii.): issues which cannot be resolved by the signatories, including significant variations in the level of expenses associated with any category of cost, where no reasonable explanation has been provided

7.f.viii. (also 3.f.viii.): 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

Att. C-2.g. (Attachment C, Section 2.g.): issues relating to the operation or implementation of the EARP

2. UE's final earnings report shows a sharing credit for the second period of the second EARP of \$18.442 million to go to ratepayers. The sharing credit filed by UE, the Staff and Public Counsel on March 14, 2001 for the second period of the second EARP amounted to \$28.0 million to go to ratepayers. Of the amount that remained at issue among the Staff, Public Counsel and UE after UE made its final earnings report, the Staff, Public Counsel and UE reached an agreement that results in the amount of the sharing credit to go to ratepayers being increased by \$9.558 million from UE's proposed \$18.442 million. In reaching a total dollar settlement with UE and Public Counsel in the amount of a \$28.0 million sharing credit to

go to ratepayers, the Staff considered (a) the Commission's decisions respecting the issues that went to hearing regarding the third sharing credit period of the first EARP, (b) the time value of money and the length of the time involved in going to hearing and possible judicial review versus settling and getting credits to ratepayers sooner than would otherwise be the case and (c) the amount of dollars and the significance of the principles at stake respecting the unresolved issues. Based on these considerations, the Staff believes that the settlement reached is reasonable.

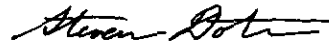
3. The Staff's rationale for entering into the Stipulation And Agreement filed on March 14, 2001 is solely its own and is being provided for the purpose of advising the Commission how the Staff arrived at the settlement number and why the Staff believes that the Commission should approve the Stipulation And Agreement. Given the fact that UE could litigate the outstanding issues, seek judicial review of any Commission decision with which it disagrees and seek a suspension or stay of such Commission decision, the Staff views the settlement as comprising an equitable resolution of the Staff's and UE's positions with neither party conceding anything respecting the position of the other. With Commission acceptance of the instant Stipulation And Agreement, only the third sharing period of the second EARP will remain for resolution and it will conclude on June 30, 2001.

4. The Staff would note that on March 8, 2001, the Commission issued an Order Authorizing Earnings Investigation Filing July 1, 2001. Although the Staff is performing an earnings audit of UE in preparation of the conclusion of the second EARP, the Staff does not view the Commission's March 8, 2001 Order as precluding discussions between the Staff and UE from continuing and including Public Counsel and the other parties respecting a new experimental alternative regulation plan that would commence after the second EARP.

Wherefore the Staff requests that the Commission approve the Stipulation And Agreement filed by the Staff, Public Counsel and UE on March 14, 2001 resolving all outstanding issues respecting the sharing credits for the second year of the second UE EARP.

Respectfully submitted,

DANA K. JOYCE
General Counsel




Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7489 (Telephone)
(573) 751-9285 (Fax)
sdotthei@state.mail.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered or sent by facsimile transmission to all counsel of record as shown on the attached service list this 19th day of March 2001.



**SERVICE LIST FOR
CASE NO. EM-96-149**

Verified: March 9, 2001 (ccl)

John B. Coffman
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

James J. Cook
Ameren Services
P.O. Box 66149 (M/C 1310)
St. Louis, MO 63166

Robin E. Fulton
Schnapp, Fulton, Fall, McNamara
& Silvey L.L.C.
135 E. Main Street, Box 151
Fredericktown, MO 63645-0151

Paul H. Gardner
Goller, Gardner & Feather
131 East High Street
Jefferson City, MO 65101

Diana M. Vulysteke
Bryan Cave LLP
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102-2750

Robert C. Johnson
720 Olive Street, 24th Floor
St. Louis, MO 63101

Robert J. Cynkar
Cooper, Carvin & Rosenthal
1500 K Street, N.W., Suite 200
Washington, DC 20005

Ronald Molteni
Office of the Attorney General
P. O. Box 899
Jefferson City, MO 65101