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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

In-Camera Proceedings

June 28, 2001
Jefferson City, Missouri
Volume 9

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) Case No. EM-96-149
Assets, Real Estate, Leased Property,)
Easements and Contractual Agreements)
to Central Illinois Public Service)
Company; and (3) In Connection)
therewith, Certain Other Related)
Transactions.)

SHELLY A. REGISTER, Presiding,
REGULATORY LAW JUDGE.

SHEILA LUMPE, Chair,
CONNIE MURRAY,
KELVIN SIMMONS,
STEVE GAW,
COMMISSIONERS.

REPORTED BY:
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FOR: Staff of the Missouri Public
8 Service Commission.

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1 I N - C A M E R A P R O C E E D I N G S

2 MR. DOTTHEIM: May it please the Commission?

3 JUDGE REGISTER: Please proceed.

4 MR. DOTTHEIM: I would like to start with the,
5 I think the only part of my comments at this stage that are
6 proprietary as requested or asserted by Union Electric
7 Company, and I'd like to address, as I just indicated, the
8 allegation that the company just a short while ago became
9 aware of the dollars associated with the Staff's filing.

10 Granted that on February 1 the Staff in its
11 filing in response to the Commission Order accepting the
12 Stipulation & Agreement in the merger case, EM-96-149,
13 provided for a February filing in which the Staff in an open
14 public record provided a conservative figure of \$100
15 million, the company was aware that that was a conservative
16 figure and the Staff's earnings audit was showing numbers in
17 excess of that.

18 The Staff subsequent to the February 1 filing
19 provided a cost of service run, sometimes referred to as an
20 EMS run, to the company, and I believe the copies were
21 provided each time to Mr. Gary Weis.

22 The Staff on February 9 provided a cost of
23 service run showing the Staff's earnings audit as indicating
24 excess revenues from 192,475,178 to excess revenues of
25 174,735,506. The Staff provided updated cost of service

1 runs to the company on three other dates. Now, I'll
2 identify those, the numbers associated with those cost of
3 service runs.

4 The next iteration which the Staff gave to the
5 company was on April 26th, and again the Staff showed a
6 range of a negative 197,000 -- excuse me -- 197,476,099 to a
7 negative \$176,669,956.

8 The Staff provided a third cost of service run
9 to the company on May 8th. The range of excess earnings
10 that the Staff was showing, and that's indicated by my
11 reference to the number as a negative number, the Staff was
12 showing a range of a negative \$240,091,264 to a negative
13 \$222,299,692.

14 And the last cost of service run that the
15 Staff provided to the company occurred on June 12, and the
16 range that was shown in that cost of service run range --
17 excuse me -- in that cost of service run was a negative
18 \$249,778,940 to a negative \$212,974,471.

19 So the company has known for some time that
20 the Staff's audit was showing excess earnings considerably
21 larger than the \$100 million negative figure that the Staff
22 had placed in its February 1 filing with the Commission.

23 Regarding the proceeding this morning, the
24 Staff is placed in a quandary as to how to respond from the
25 perspective of the Staff would always like to see that the

1 Commission get the best information available so long as
2 parties have a fair opportunity to review that information
3 and respond.

4 The Staff is not, from my perspective, to
5 exult form over substance. Others may feel differently. We
6 have been attempting ourselves to deal with the present
7 situation of the second EARP ending on June 30th and the
8 request that the company has made.

9 I have talked earlier this morning with Union
10 Electric Company about somehow at least taking off the time
11 pressure from the Commission if the Commission decides to
12 address the issues that are being brought to it this morning
13 in the pleading of the company on Monday.

14 We've been trying to find some way to take the
15 pressure off the Commission to issue a decision and give
16 parties more of an opportunity to respond. We haven't
17 gotten very far in our discussions. I hope I'm not
18 breaching any confidences by mentioning this, but we've
19 indicated to the Company that the Staff would be willing to
20 discuss not filing literally on July 2, maybe not filing
21 until, for example, on July 13.

22 Now, how that might address the Company's
23 concerns about the EARP ending and nothing being in the
24 interim, we haven't had discussions about extending the EARP
25 for two weeks. But again, the Staff is trying to facilitate

1 in any manner, within reason, permitting the Commission
2 additional information and make an informed decision.

3 JUDGE REGISTER: Mr. Dottheim, has the time
4 that you've been given since the filing on Monday been
5 sufficient time for response?

6 MR. DOTTHEIM: No, it hasn't. And I apologize
7 to the Commissioners because, because of the shortness of
8 time, I filed the Staff's response yesterday in entirety as
9 proprietary.

10 Again, the Staff over the years has been very
11 cautious in how it treats information that's asserted to be
12 proprietary or highly confidential, and I think we've always
13 erred on the side of overclassification than
14 underclassification.

15 I was hoping that the Company might be able to
16 give an indication to the Staff whether any of the
17 information in the nine pages of a pleading is deemed by the
18 Company to be of a proprietary nature.

19 And from my perspective, the ultimate goal in
20 making that filing yesterday was to get as much information
21 before the Commission as opposed to spending time on trying
22 to figure out whether the information from the Company's
23 perspective was proprietary or not proprietary.

24 JUDGE REGISTER: I don't want to cut you off,
25 Mr. Dottheim, but I do want to give the other parties an

1 opportunity to respond as well.

2 MR. DOTTHEIM: I would just say one other
3 thing. I think there was an indication that when the
4 Company puts Mr. Brant on the stand this morning, there'll
5 be an expansion of what the Company filed on Monday. So the
6 Staff would like an opportunity to respond, and live
7 testimony in many respects given the nature of the
8 information we're dealing with is not very conducive to
9 responding immediately if that's even possible.

10 I'd just like to mention one other thing, and
11 that is when the Commission is considering dollars, and I
12 don't think there's been any quantification, and I can
13 provide quantification, but just using dollars that are in
14 the public record, the Staff has indicated in its February 1
15 filing that the Company had excess earnings greater than
16 \$100 million.

17 The Company is proposing to extend the EARP
18 120 days. That's four months. So if it's extended for 120
19 days --

20 JUDGE REGISTER: Okay. I'm going to ask you
21 to wait for that part. That will be getting to the merits.
22 Okay? We'll come back to that.

23 MR. DOTTHEIM: The only reason I was broaching
24 that as to even the Staff indicating it would be willing to
25 file on July 13th as opposed to earlier, there are a

1 tradeoff in dollars.

2 JUDGE REGISTER: Mr. Coffman?

3 MR. COFFMAN: Thank you. May it please the
4 Commission?

5 JUDGE REGISTER: Please proceed.

6 MR. COFFMAN: You have my written motion.

7 I'll try not to repeat.

8 JUDGE REGISTER: I'm sorry. The --

9 MR. MOLTENI: I apologize for the
10 interruption. Can I just clarify, are we still in-camera
11 or, now that Mr. Dottheim has ceased to discuss some
12 numbers, are we out of camera now?

13 JUDGE REGISTER: We'll now go out of camera.

14 WHEREUPON, the in-camera session was
15 concluded.

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