



Martha S. Hogerty
Public Counsel

State of Missouri

Roger Wilson
Governor

Office of the Public Counsel
Governor Office Bldg. Suite 650
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

December 4, 2000

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

FILED³

DEC 04 2000

**Missouri Public
Service Commission**

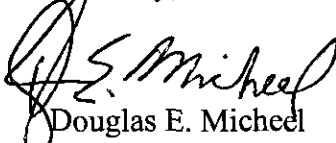
**RE: St. Joseph Light & Power Company,
Case No. EO-2000-845**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 8 copies of **Reply Brief of the Office of the Public Counsel**. Please "file stamp" the extra enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,


Douglas E. Micheel
Senior Public Counsel

DEM:kh

cc: Counsel of Record

Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED³
DEC 04 2000

Missouri Public
Service Commission

In the matter of the Application of St. Joseph)
Light & Power Company for the issuance of an)
accounting order relating to its electrical)
operations.)

Case No. EO-2000-845

REPLY BRIEF OF THE OFFICE OF THE PUBLIC COUNSEL

John B. Coffman (#36591)
Deputy Public Counsel

Douglas E. Micheel (#38371)
Senior Public Counsel

December 4, 2000

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I. INTRODUCTION

The Office of the Public Counsel ("Public Counsel") files this Reply Brief in response to the Initial Brief of St. Joseph Light & Power Company ("SJLP"). The facts and circumstances surrounding this case are largely undisputed. However, the application of the facts and circumstances related to the explosion and fire at Unit 4/6 and the propriety of granting SJLP extraordinary accounting treatment via an AAO are hotly contested.

II. ARGUMENT

SJLP argues in its Initial Brief that the costs related to the explosion and fire at Unit 4/6 are both extraordinary and nonrecurring. SJLP reaches this conclusion apparently focusing only on the magnitude of the incremental costs related to the explosion and fire. (SJLP Brief at p. 6-7). By focusing solely on the incremental costs related to the explosion and fire at Unit 4/6 SJLP requests this Commission wholly ignore the basic facts and circumstances that led to the June 7, 2000 fires, explosions and related damages to Turbine-Generator No. 4. Rather than limiting its consideration solely to the incremental costs related to the fire and explosion at Unit 4/6, it is incumbent upon this Commission to consider the nature and causes of the explosion and fire prior to allowing SJLP extraordinary accounting treatment for these costs.

This Commission should not give any utility extraordinary accounting treatment for costs that were caused by the acts or omissions of the utility company. In this case, the facts demonstrate that the explosion and fire at Unit 4/6 on June 7, 2000 occurred because of SJLP's failure to take action within its control and to operate using good utility practices. (Ex. 9, p. 4, l. 6-11).

The record evidence demonstrates that the explosion and fire at Unit 4/6 was not caused by an act of God; a natural disaster; unforeseen mechanical failure; compliance with federal/state law or Commission rules. Despite its attempts to shift blame to its contractor General Electric ("GE"), the record evidence shows the errors and omissions which led to the explosion and fire at Unit 4/6 were the responsibility of SJLP, not GE. (Tr. p. 371, l. 5-11). These facts distinguish this particular request for an AAO from any other AAO request that this Commission has dealt with in the past.

SJLP attempts to obfuscate the issue in this proceeding by asserting that the causes of and responsibility for the explosion and fire at Unit 4/6 are "not a question the Commission has to decide in this case." (SJLP Brief at p. 8). Wrong. This Commission ought not give SJLP extraordinary accounting treatment for costs that were caused by the Company's own actions. In Public Counsel's view, it is not reasonable nor would it be good regulatory policy to allow SJLP to defer costs caused by SJLP's own acts or omissions.

SJLP's claims that the issue of "operator error" or "acts or omissions" should be addressed in a general rate case when (and if) SJLP seeks recovery of the deferred costs in rates. (SJLP Brief at p. 11-12). This argument misses the point. Public Counsel believes SJLP should not be allowed to defer these costs pursuant to an AAO for possible recovery in rates where the record evidence demonstrates that SJLP's actions or inactions resulted in causing the costs sought to be deferred as extraordinary and nonrecurring. SJLP would be free to file a rate case at any time it so chose in an attempt to recover the incremental costs related to the explosion and fire.

Denying SJLP authority to defer the incremental costs via an AAO does not prevent SJLP from seeking recovery of the costs in a rate case proceeding. At any juncture following the June 7, 2000 fire and explosion, SJLP could have chosen to file for interim or permanent rate relief encompassing the period or anticipated period of the Unit 4/6 outage. However, SJLP chose not to

file a rate case because it did not wish to "muddy the water" surrounding its pending merger with UtiliCorp United Inc. (Tr. p. 330, l. 2-5). SJLP's failure to file a rate case should not necessitate this Commission granting SJLP authority to defer the costs related to the fire and explosion via an AAO.

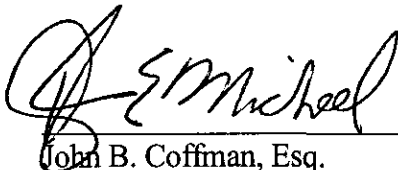
III. CONCLUSION

The explosion and fire that caused SJLP to incur the incremental costs it seeks to defer in this proceeding were wholly created by SJLP's failure to adequately understand the systems upon which it relies to operate its plant and provide safe and adequate service to its customers. The Commission should deny SJLP's request for an accounting authority order relating to the explosion and fire at Unit 4/6.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY:



John B. Coffman, Esq. (Bar No. 36591)
Deputy Public Counsel

Douglas E. Micheel, Esq. (Bar No. 38371)
Senior Public Counsel

P. O. Box 7800, Suite 650

Jefferson City, MO 65102

Telephone : (573) 751-5560

Fax: (573) 751-5562

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been faxed, mailed or hand-delivered to the following counsel of record on this 4th day of December, 2000:

Nathan Williams
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Gary W. Duffy
Brydon, Swearengen & England P.C.
P. O. Box 456
Jefferson City, MO 65102-0456

Stuart W. Conrad
Finnegan, Conrad & Peterson, L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, MO 64111

