

LAW OFFICES  
**BRYDON, SWEARENGEN & ENGLAND**

PROFESSIONAL CORPORATION

312 EAST CAPITOL AVENUE

P. O. BOX 456

JEFFERSON CITY, MISSOURI 65102-0456

TELEPHONE (573) 635-7166

FACSIMILE (573) 635-3847

E-MAIL: DUFFY@BRYDONLAW.COM

DAVID V.G. BRYDON  
JAMES C. SWEARENGEN  
WILLIAM R. ENGLAND, III  
JOHNNY K. RICHARDSON  
GARY W. DUFFY  
PAUL A. BOUDREAU  
SONDRA B. MORGAN  
CHARLES E. SMARR

DEAN L. COOPER  
MARK G. ANDERSON  
TIMOTHY T. STEWART  
GREGORY C. MITCHELL  
BRIAN T. MCCARTNEY  
DALE T. SMITH

OF COUNSEL  
RICHARD T. CIOTTONI

November 21, 2000

Mr. Dale Hardy Roberts  
Executive Secretary  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**  
NOV 21 2000 *nh*  
Missouri Public  
Service Commission

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

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of the Initial Brief of St. Joseph Light & Power Company.

If you have any questions, please give me a call.

Sincerely yours,

*Gary W. Duffy*  
Gary W. Duffy

Enclosures  
cc w/encl:

Doug Micheel, Office of Public Counsel  
Nathan Williams, Office of General Counsel  
Stuart Conrad  
Tim Rush

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>3</sup>  
NOV 21 2000  
Missouri Public  
Service Commission

In the matter of the Application of St. Joseph )  
Light & Power Company for the Issuance of )  
an Accounting Authority Order Relating to its )  
Electrical Operations. )

Case No. EO-2000-845

INITIAL BRIEF OF  
  
ST. JOSEPH LIGHT & POWER COMPANY

Gary W. Duffy MBE #24905  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456  
(573) 635-7166  
(573) 635-3847 (facsimile)

Attorneys for  
St. Joseph Light & Power Company

November 21, 2000

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INITIAL BRIEF OF  
ST. JOSEPH LIGHT & POWER COMPANY  
Case No. EO-2000-845

I. Introduction

All that is being requested by St. Joseph Light & Power Company ("SJLP" or "the Company") in this case is authority to defer some costs on its books until the Commission can have the opportunity to examine them in a future general rate case. That is all that is being requested and that is all the Commission has to decide.

The test the Commission has utilized in the past to determine whether to authorize such a deferral on a case by case basis is whether the costs are "extraordinary and nonrecurring." *Re Missouri Public Service Company*, 1 MoPSC 3<sup>rd</sup> 200, 205 (MoPSC 1991). Extraordinary means "not typical or customary business activities of the company" and "events and transactions of significant effect which would not be considered as recurring factors in any evaluation of the ordinary operating process of business." *Id.* at 203. The Commission has said that to be considered as extraordinary, an item should be more than approximately five percent of income, computed before extraordinary items. *Id.* at 203.

The evidence in this case clearly demonstrates that the unexpected forced outage and fire experienced at SJLP's Lake Road power plant from June 7 through August 8, 2000 was an extraordinary event. The amount SJLP seeks permission to defer, \$3,332,931, is almost five times the five percent of income threshold. The net incremental cost of the incident, after deducting insurance proceeds, is approximately 24 percent of SJLP's 1999 earnings, exclusive of merger-related expenses. (Ex. 2, p. 20)

The evidence clearly demonstrates that SJLP has met the Commission's test for the granting of a deferral. The Commission's granting of this accounting authority order does not mean that the Commission is approving those costs for inclusion in future rates. It also does not mean that the Commission is making any finding with regard to whether the costs were prudently incurred. Simply put, the approval of the accounting authority order does not bind the Commission to any future ratemaking treatment of the deferred costs. The Commission should issue the accounting authority order to preserve the issue for future disposition in a rate case.

## II. Background

SJLP's Lake Road power plant is located in south St. Joseph, Missouri on the east bank of the Missouri River. (Ex. 5, p. 3) The plant consists of four steam turbine-generators, three combustion turbines, and six fuel-fired steam boilers. The net electric generating capacity of the entire plant is 257 megawatts (MW). (Ex. 5, p. 3) The plant can be considered as three separate systems: one that produces steam at 900 psi<sup>1</sup>, one that produces steam at 1800 psi, and a combustion turbine system. (Ex. 5, p. 3)

The 1800 psi system generally consists of turbine-generator no. 4 and boiler no. 6 (referred to as Unit 4/6). The turbine-generator was manufactured by General Electric Company ("GE") and installed in 1966. (Ex. 5, p. 9) Unit 4/6 is primarily fueled by coal. (Ex. 5, p. 3) Unit 4/6, by itself, has a nominal generating capacity of 97 MW. (Ex. 3NP, p. 6)

In the spring of this year (2000) Unit 4/6 was out of service for its annual spring outage, which started on May 2 and concluded on June 2. During this outage, routine boiler and plant

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<sup>1</sup>Pounds per square inch

maintenance was carried out. In addition, a new turbine-generator control system and a new static generator excitation system, both GE products, were installed. (Ex. 5, p. 6)

Unit 4/6 was running at near full capacity when it "tripped off" at 2:06 p.m. on June 7, 2000. (Ex. 5, p. 4) The turbine and generator were spinning at 3,600 revolutions per minute. (Tr. 256) When there is a trip, there are valves which immediately interrupt the flow of steam from the boiler to the turbine. (Tr. 257) When the turbine trips, the boiler also immediately trips, shuts down all fuel flow and the fires go out immediately. There is a tremendous amount of thermal energy still in the boiler, though, so the result is that the boiler over-pressurizes almost instantaneously. The safety valves on the boiler open up and "you have 2,000 or 2,400 psi steam blowing through the safety valves to the atmosphere. It is very loud and it rattles the whole plant." (Tr. 252)

Immediately after the trip, the supply of lubricating oil to the unit's bearings and the generator's hydrogen seals was interrupted. (Ex. 5, p. 4) Without this oil supply, the five bearings quickly overheated and suffered mechanical damage. The loss of seal oil allowed hydrogen gas to escape from the generator, resulting in explosions and fires. The high temperature and high vibrations caused by the bearing damage resulted in further fires and equipment damage to the unit. (Ex. 5, p. 4)

SJLP's investigation indicates at this point that GE's new control system (the Mark V system) caused Unit 4/6 to trip because it sensed high vibrations. (Ex. 5, p. 6) Mr. Svuba testified that subsequent examination indicates that there were no such high vibrations. He believes that troubleshooting work on the vibration sensors being performed by GE and SJLP personnel caused false indications of high vibrations, which caused the Mark V system to shut the system down. (Ex. 5, p. 6) The Mark V system is designed to trip the turbine to prevent it

from being damaged by high vibrations. (Id.)

Immediately following a turbine trip, a generator lock-out relay operates to disconnect the generator from the electrical system. When this relay operates, one of its functions is to open the main auxiliary power breaker that supplies AC<sup>2</sup> power to the unit's auxiliary electrical equipment, including two AC-powered bearing and seal oil pumps. (Ex. 5, p. 6) In other words, in normal operation, the generator is generating the electric power necessary to run the equipment associated with the turbine and generator, including the oil pumps. In a trip, when the generator quits generating electric power, the electric power source for all of this auxiliary equipment is interrupted until it is switched to another power source.

The loss of AC power to the bearing and seal oil pumps results in low oil pressure. The unit has a DC<sup>3</sup> oil pump, which is designed to start pumping automatically in response to a reading of low oil pressure. (Ex. 5, p. 6) On this occasion, however, the DC oil pump did not start as expected. SJLP's investigation indicates at this point, that as a result of modifications made by GE to install the Mark V system, a "trap" was created. The trap led SJLP's operators – and everyone else involved, including the GE engineers – to believe that the control of the DC oil pump in another system (the Bailey DCS system) was set to make the DC oil pump function automatically when, in reality, it was not. The pump control did not return to the "automatic" position as everyone believed. (Ex. 5, p. 8) This trap was not discovered until after the June 7 incident. (Id.)

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<sup>2</sup> Alternating current

<sup>3</sup> Direct current (or in this instance, battery-powered)

### III. Financial Impact of the Incident

As a result of the incident, Unit 4/6 was forced out of service and was not capable of generating electricity for two months during the summer when electrical demand can be at its highest. It came back on line after repairs on August 8, 2000. (Ex. 3NP, p 3)

During the forced outage, SJLP was forced to look elsewhere to replace the kilowatt hours of energy Unit 4/6 would have produced, but which were not available due to the incident. This involved a search both for the electricity itself and a transmission system path to transport it to the SJLP system. Mr. Ferry of SJLP described this task in his prepared direct testimony. (Ex. 3NP) He testified that the loss of Unit 4/6 was a "significant blow to the Company and severely impacted its ability to provide its customers' energy requirements." (Ex. 3NP, p. 7) Unit 4/6 accounts for more than 20 percent of the Company's accredited generating capacity. It had been budgeted to provide more than 25 percent of the system energy requirements for the months of June, July and August 2000. (Id.)

SJLP prepared a spread-sheet analysis to identify the incremental cost of fuel and purchased power associated with the incident. It compared the actual hourly cost of energy associated with each energy resource available to the Company to the hourly cost of each resource had Unit 4/6 been available. (Ex. 3NP, p. 10) A calculation was made for each hour beginning when the unit tripped off-line on June 7 to when it returned to service on August 8, 2000. Added to the incremental energy costs were the costs associated with transmission service that would not have been purchased had Unit 4/6 been in service. Copies of the spreadsheet were provided to Staff and Public Counsel. (Ex. 3NP, p. 11) The total incremental expense was approximately \$3,700,000. (Id.)

As noted, SJLP did have insurance to cover all of the repair costs related to the incident, except for the insurance deductible, and had some coverage for the extra expense of replacement power. (Ex. 1, p. 6) The total cost of repair (approximately \$2 million, less the \$150,000 deductible) was covered by insurance. (Id.) Insurance also covered \$552,000 for business interruption for a portion of the extra expense of replacement power. The approximate amount and categories of expenses and insurance coverage are shown on Schedule LJS-1 to Exhibit 1. Mr. Stoll clarified at the hearing that the actual net cost as of the end of September 2000 which is being requested to be deferred was \$3,332,931. (Tr. 28)

SJLP has not yet made a decision regarding whether any legal actions will be pursued as a result of the incident. Mr. Rush testified that "the Company is being as aggressive as it can." (Ex. 7, p. 10)

#### IV. Argument

Pursuant to the directive in the Commission's Order Adopting Procedural Schedule that the briefs follow the filed "List of Issues," SJLP presents its argument in that format.

**1. Should the Commission grant to SJLP an Accounting Authority Order (AAO) to defer recognition of the costs it incurred as the result of the incident at Unit 4/6 at SJLP's Lake Road Power Plant on June 7, 2000?**

Yes. As explained in more detail herein, the Commission should grant an AAO because SJLP meets all the tests the Commission has used in conjunction with the Uniform System of Accounts. This was an extraordinary event and the costs were significant and material. The amount of the cost was more than five percent of SJLP's most recent annual net income,



exclusive of extraordinary items. These costs incurred by SJLP are not currently included in SJLP's rates. (Ex. 3NP, pp. 9-10; Ex. 4, pp. 6-7))

**2. Was the cause of the costs SJLP seeks to defer in this case due to SJLP operator error?**

No. There was no evidence produced that any operator committed an "error" in the sense of doing something he was not supposed to do. The evidence is that equipment that was expected to operate, and had operated without problems since the plant was built more than 30 years ago, did not operate as expected. In any event, this is not an issue that is relevant to the issue in this case. The issue is whether the costs should be deferred on the Company's books so that the Commission can have an opportunity to deal with them in the next rate case. Although SJLP firmly believes the evidence shows there was no operator error, that *would* be a relevant question/issue in a general rate case where recovery of the dollars are sought from ratepayers. Recovery of the dollars in rates is not before the Commission in this case because an order in this case does not affect rates. *State ex rel. Office of Public Counsel v. PSC*, 858 S.W.2d 806, 813 (Mo.App.W.D. 1993). Therefore, this topic is not something the Commission is required to decide in this proceeding. An order granting an AAO does not change the company's rates charged to customers. *Office of Public Counsel*, supra.

**3. If the answer to (2) is "yes," was the SJLP operator error that caused the costs SJLP seeks to defer in this case the result of circumstances created by SJLP?**

The answer to this question is essentially the same as to No. 2 above. This is not a question the Commission has to decide in this case. Nor should it decide these questions so soon after the incident. Investigations are still on-going.

**4. If the answer to (3) is "yes," should the Commission grant to SJLP an**

**Accounting Authority Order to defer recognition of the costs it incurred as the result of the incident at Unit 4/6 at SJLP's Lake Road Power Plant on June 7, 2000?**

The answer to this question is the same as to No. 1 and No. 2 above.

**5. Was the cause of the incident at Unit 4/6 at the Lake Road Power Plant on June 7, 2000, the result of SJLP's acts and/or omissions?**

The answer to this question is essentially the same as to No. 2 above. This is not a question the Commission has to decide in this case. Nor should it decide these questions so soon after the incident. Investigations are still on-going.

**6. Was the event involving Unit 4/6 at the Lake Road Power Plant on June 7, 2000, an "extraordinary event" as that term has been used by the Commission in the approval of past Accounting Authority Orders?**

Of course it was an extraordinary event. The Statement of Position filed by the Staff agrees it was an extraordinary event. Public Counsel and AG Processing contend it was not.

As the Commission has previously noted, the Uniform System of Accounts defines what is considered extraordinary: "Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business." *Re Missouri Public Service Company*, 1 MoPSC 3<sup>rd</sup> 200, 203 (MoPSC 1991). The Commission has also said that "Extraordinary means unusual and nonrecurring." *Id.* at 207.

No rational person would argue that explosions and fires at a power plant that knock it off

line for two months and cause millions of dollars in damage are "typical or customary business activities" of any power company, or that they are "usual" or "recurring" events. Mr. Stoll, SJLP's Vice President-Finance, Treasurer and Assistant Secretary, testified that the failure of a major generating unit which results in an extended outage is "certainly not ordinary." (Ex. 1, p. 8) Mr. Svuba, SJLP's Vice President of Energy Supply, testified that, although forced outages of generating units occur from time to time due to equipment failures, "this was particularly significant in terms of damage incurred, the amount of time it took to make the repairs, and the financial impact on SJLP." (Ex. 5, p. 12) He also testified that an event of this particular nature had never occurred at any SJLP power plant, or any other power plant of which he was aware. (Id.) He testified that an incident such as the one that occurred on June 7, 2000 is not something that would be expected to recur frequently. (Ex. 5, p. 13)

There was no evidence presented that two month long forced outages of major power plants resulting in millions of dollars in repairs is a common event in this state.

Under the reasoning of the Commission in *Re Missouri Public Service*, 1 MoPSC 3d 200, since the amount is significantly more than the five percent that is considered extraordinary under the Uniform System of Accounts, the Commission has said that SJLP does not need the Commission's authority to defer the amount on its books. However, the Commission has also said that

if an item thought to be extraordinary did not meet the five percent requirement or a company felt there remained too much uncertainty of deferring these costs without Commission approval, a utility could file an application ... for a Commission decision on whether the deferral should be made. By seeking a Commission decision the utility would be removing the issue of whether the item is extraordinary from the next rate case. All other issues would still remain, including, but not limited to, the prudence (sic) of any expenditures, the amount of recovery, if any, whether carrying costs should be recovered, and if there are any offsets to recovery.

*Id.* at 203-204. Public Counsel and AG Processing both are contesting whether the incident at Unit 4/6 was extraordinary. The Commission can therefore resolve that issue through the issuance of the accounting authority order. As the Commission has said, “all other issues would still remain, including, but not limited to, the prudence (sic) of any expenditures, the amount of recovery, if any, whether carrying costs should be recovered, and if there are any offsets to recovery.” *Id.*

**7. Was the event involving Unit 4/6 at the Lake Road Power Plant on June 7, 2000, a “nonrecurring event” as that term has been used by the Commission in the approval of past Accounting Authority Orders?**

Yes. This is essentially the same issue as No. 6, so the argument there will not be repeated.

**8. Do the costs identified by SJLP resulting from the June 7, 2000 event qualify as “material” under the definition of that word in the Uniform System of Accounts?**

Yes, they do. Mr. Stoll testified that the Uniform System of Accounts considers five percent or more of net income as an extraordinary amount. SJLP notes that, according to the Position Statements filed by Staff and Public Counsel, they both agree that the costs qualify as “material.” AG Processing disputed that point, but presented no evidence to the contrary. SJLP contends that it has more than met the materiality test.

Mr. Stoll testified that the incremental costs of the incident were approximately 24 percent of SJLP’s 1999 earnings exclusive of merger-related expenses. This greatly exceeds the five percent criteria established by the USOA and followed by the Commission. (Ex. 2, p. 20)

**9. Should the Commission adopt the new criteria for the issuance of an AAO advocated by Staff in the prepared rebuttal testimony of Mr. Harris?**

No. The Commission was presented with new criteria by the Staff in an AAO request nine years ago and declined to adopt them then. In rejecting the Staff's approach then, the Commission said:

The decision to defer costs associated with an event turns on whether the event is in fact extraordinary and nonrecurring. The Commission finds that these are decisions that are best performed on a case by case basis. Factors such as those proposed by Staff as criteria can influence that decision but the primary focus is on the uniqueness of the event, either through its occurrence or its size. Staff's criteria would have the Commission address issues in a deferral case which are not particularly relevant to the issue of deferral or which should be considered in a rate case.

*Re Missouri Public Service*, 1 MoPSC 3d 200, 205 (1991).

If the Commission believes that it should establish new criteria for the issuance of accounting authority orders, it should formally propose the new guidelines and allow all utilities in the state to comment on them. This is not only appropriate, it is the law. Implementing or prescribing a new policy of general applicability meets the definition of "rule" in §536.010(4) RSMo 1994. Establishing new rules outside of the rulemaking process is unlawful and the result would be void. *NME Hospitals, Inc. v. Dept. of Social Services*, 850 S.W.2d 71 (Mo. banc 1993).

**10. Should the Commission authorize the deferral of \$3,332,931 as requested by SJLP, or some other amount?**

The appropriate amount, as testified to by Mr. Stoll, is \$3,332,931. Arguments about whether the amount should be reduced, such as those made by Public Counsel, are more appropriately addressed in a subsequent rate case.

**11. Should the Commission address the issue of prudence in this case?**

No. Questions involving prudence, or "operator error" or "acts or omissions" should be

addressed in the general rate case when (and if) the Company seeks recovery of the deferred costs in rates. The Commission recognized in *Re Missouri Public Service*, 1 MoPSC 3d 200, 205 (1991) that questions of this nature “are not particularly relevant to the issue of deferral” and “should be considered in a rate case.”

**12. If the Commission allows SJLP to defer costs pursuant to an AAO, when should the Commission require the amortization to begin?**

Amortization should begin at the time that rates become effective in the next SJLP general electric rate case in order to match revenues and expenses, as the instructions in the USOA indicate. Mr. Stoll testified that for the Commission to order amortization to begin without an opportunity for revenue recovery “would not be consistent with the USOA matching guidelines.” (Ex. 2, p. 11) Immediate recognition of the extraordinary costs associated with the incident would improperly match those costs with revenue based on a cost of service that does not include the costs of the extraordinary incident. It would create a distortion. (Ex. 2, p. 18) To prevent that distortion, Mr. Stoll testified that “the incremental costs of the incident should be matched with incremental revenues. That is, the incremental incident costs should be deferred and amortized to match incremental revenues as authorized in a future rate proceeding.” (Ex. 2, p. 16)

**13. If the Commission allows SJLP to defer costs pursuant to an AAO, when should SJLP be required to file a rate case to recover the deferred costs?**

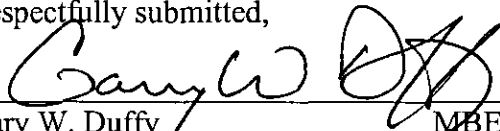
SJLP acknowledges that the Commission does not wish deferrals to be indefinite, and that it has said that a rate case should be filed within a reasonable time after the deferral period for recovery of the deferral to be considered. *Re Missouri Public Service*, 1 MoPSC 3d 200, 206 (1991).

In this situation, SJLP should not be required to file a rate case until the later of (a) the conclusion of a moratorium that may be established in the merger case or (b) 12 months following the effective date of the order in this case. Mr. Stoll explained that the possibility of a moratorium coming into existence as a result of the planned SJLP and UtiliCorp United Inc. merger would be a factor to be considered. (Tr. 90) Mr. Stoll also testified that if the merger is consummated with the regulatory plan requested by the joint applicants, that being a five year rate moratorium, it is his understanding that the amount requested to be deferred in this case would be written off. (Tr. 95-96) He said he understood that if a five year moratorium was put in place, that UtiliCorp would not attempt to recover those costs and would "go ahead and write it off." (Tr. 102)

## V. Conclusion

In summary, all the Commission is required to decide in this case is whether the costs resulting from the June 7 incident are material and whether the event was extraordinary. There really can not be any dispute about either question.. All the other issues can be dealt with in a future rate case.

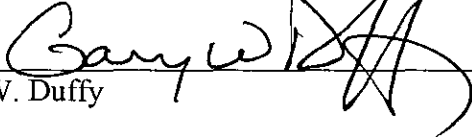
Respectfully submitted,

  
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Gary W. Duffy MBE #24905  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456  
(573) 635-7166  
(573) 635-3847 (facsimile)  
Email: [Duffy@Brydonlaw.com](mailto:Duffy@Brydonlaw.com)

Attorneys for  
St. Joseph Light & Power Company

**Certificate of Service**

The undersigned certifies that a true and correct copy of the foregoing was served this 21<sup>st</sup> day of November, 2000, by either hand delivery or placement of same with the United States Postal Service in Jefferson City, Missouri, first class postage prepaid, to the counsel listed below.

  
\_\_\_\_\_  
Gary W. Duffy

Doug Micheel  
Office of the Public Counsel  
Governor State Office Building  
Jefferson City, Missouri

Nathan Williams  
Office of the General Counsel  
Public Service Commission  
Governor State Office Building  
Jefferson City, Missouri

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

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