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November 21, 2000

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

**FILED<sup>3</sup>**

NOV 21 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 **Initial 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**

**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 order relating to its electrical )  
operations. )

Case No. EO-2000-845

**INITIAL BRIEF OF THE OFFICE OF THE PUBLIC COUNSEL**

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November 21, 2000

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## I. INTRODUCTION

St. Joseph Light & Power Company ("SJLP") filed its Application For Accounting Authority Order ("AAO") on June 23, 2000. In its Application SJLP requests this Commission authorize SJLP "to defer and record in Uniform System of Accounts ("USOA"), account 182.3 the incremental costs (net of any insurance proceeds) incurred by SJLP as a result of and in connection with the June 7, 2000 incident at the Lake Road Plant . . . through the effective date of its rates to be established in SJLP's next general electric rate case." (Application ¶9). SJLP also requested the deferred amounts to be amortized in rates over a five-year period. (Application ¶9).

On July 3, 2000 the Office of the Public Counsel ("Public Counsel") filed its Motion to Dismiss Application For Accounting Authority Order, or in the Alternative Request for Hearing. On August 1, 2000 the Commission denied Public Counsel's request.

On September 14, 2000 this Commission issued its Order Adopting Procedural Schedule. A hearing was held regarding SJLP's request on October 26 and 27, 2000.

## II. ACCOUNTING AUTHORITY ORDER GUIDELINES

SJLP's request to defer costs from one accounting period to another accounting period has been characterized as a request for an accounting authority order ("AAO"). This characterization occurs because what is authorized by the Commission is the booking of certain costs to Account No. 186 or Account No. 182.3 under the USOA<sup>1</sup> rather than the booking of the cost in a traditional account for the type of cost incurred by the utility. In the Matter of Missouri Public Service, 1 MPSC 3d 200, 202 (1991).

Generally, the deferral of costs from one accounting period to another accounting period for the development of a revenue requirement violates the traditional method of setting utility rates. Id. at 205. Rates are usually established based upon (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses. Id. citing State ex rel. Union Electric Company v. Public Service Commission, 765 S.W.2d 618, 622 (Mo. App. 1988).

The seminal Commission decision regarding accounting authority orders is In the Matter of Missouri Public Service, 1 MPSC 3d 200 (1991).<sup>2</sup> In that proceeding the Commission established the broad criteria for allowing deferral of costs from one accounting period to another accounting period. The Commission stated:

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.

Id. at 205.

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<sup>1</sup> Pursuant to 393.140(4) the Commission promulgated 4 CSR 240-20.030, that prescribes the use of the USOA adopted by the Federal Energy Regulatory Commission ("FERC"), for use by electric utilities subject to its jurisdiction.

<sup>2</sup> The Commission decision in Missouri Public Service was upheld in State ex rel. Office of the Public Counsel v. Public Service Commission, 858 S.W.2d 806 (Mo. App. 1993).

The Commission's decision to grant AAO's only on a case-by-case basis appropriately recognizes that granting an AAO is a discretionary act on behalf of the Commission. Granting an AAO is not a mandatory statutory requirement nor a requirement of Commission rule. Second, this Commission has recognized that the particular facts and circumstances of each AAO request are important in determining whether or not a company deserves the extraordinary accounting treatment provided by granting an AAO.

Public Counsel and SJLP agree that the broad criteria for granting an AAO revolves around whether the event at issue is extraordinary and nonrecurring. (Exhibit 1, p. 7, l. 23-24; p. 8, l. 1-4; Ex. 8, p. 26, l. 13-20).<sup>3</sup> However, Public Counsel and SJLP disagree with respect to the application and meaning of the Commission's criteria.

SJLP contends the only criteria for use in determining whether an event is extraordinary is the financial impact the event has on SJLP's operations. (Ex. 1, p. 9, l. 12-16; Tr. p. 63, l. 7-10). To bolster its claim, SJLP points to the USOA definition of "Extraordinary." (Ex. 1, p. 8, l. 18-23). The USOA defines "extraordinary items" as:

[t]hose 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 . . . . 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 . . . . To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent as extraordinary.

State ex rel. Office of the Public Counsel v. Public Service Commission, 858 S.W.2d 806, 810 (Mo. App. 1993). However, the Commission has already rejected SJLP's rigid and mechanistic

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<sup>3</sup> Citations to the record will be abbreviated as follows: "Ex." for Exhibit and "Tr." for transcript.

mathematical limitation on determining whether an item is to be considered extraordinary. The Commission in Missouri Public Service stated “[t]his five percent standard is thus relevant to materiality and whether the event is extraordinary but is not case-dispositive.” 1 MSPC 3d at 206.

Public Counsel believes that the Commission should look at the nature of the event along with the costs related to the event to determine whether or not an event is extraordinary. Public Counsel’s view is wholly consistent with the Commission’s case-by-case analysis of facts and circumstances to determine whether to grant a company an AAO. This view is also consistent with the Commission’s view expressed in Missouri Public Service, that the Commission looks at other factors beside just the financial impact on the company to determine whether the event itself is extraordinary. In fact, this Commission has indicated the nature of the event must be addressed in a SJLP AAO case stating “[t]he principal inquiry is whether the costs and expense to be deferred result from an extraordinary event.” (Ex. 16, p. 3 St. Joseph Light & Power Company, EO-95-193).

Furthermore, this Commission has determined that company management acts or omissions are relevant in determining whether to grant a company an AAO. In the Matter of the Application of United Water Missouri, Inc. for an Accounting Authority Order Relating to FAS 106, Case No. WA-98-187 April 30, 1999, this Commission rejected an AAO request because of management acts or omissions regarding FAS 106. In rejecting the AAO request the Commission stated:

Certainly the management of UWM, whether or not it was going through a difficult merger, could have seen these accounting changes coming and taken appropriate steps to ensure that the company’s appropriate costs were considered by the Commission when establishing its rates. UWM, or its premerger predecessor Capital City Water, chose not to request consideration of FAS 106 accrual accounting in its 1994 rate case. It now appears that its decision was unwise. However, UWM’s lack of foresight, even if understandable given the confusing circumstances of the merger, does not justify the issuance of an Accounting Authority Order.

(Case No. WA-98-187 Slip opin. p. 9).

Public Counsel believes that the record evidence presented in this proceeding demonstrates that the costs related to the explosion and fire at Turbine-Generator #4 at the Lake Road Plant on June 7, 2000 do not warrant the granting of an AAO to SJLP.

### **III. THE JUNE 7, 2000 EXPLOSION AND FIRE**

#### **A. The Lake Road Plant**

SJLP owns and operates a generating plant known as the Lake Road Plant. This plant has a total net generating capability of 257MW and the plant also supplies steam to six industrial customers. The plant consists of two separate systems – an 1800-pound system and a 900-pound system (Ex. 9, p. 4, l. 16-19).

The 1800-pound system consists of a single generating unit known as Turbine-Generator No. 4 (“TG#4”) manufactured by General Electric (“GE”). This unit also has a boiler known as Boiler #6. Turbine-Generator No. 4 and Boiler No. 6 are jointly referred to as “Unit 4/6.” (Ex. 9, p. 4, l. 20-21, p. 5, l. 1-2). TG#4 was originally installed in 1966 and has a capacity of about 100MW. (Ex. 9, p. 5, l. 8).

During the spring of 2000 TG#4 was taken out of service for scheduled maintenance work. During this time a number of major modifications were made to TG#4. The two most prominent modifications were the replacement of the old turbine boiler control system with a new GE Mark V control system and the addition of a new generator exciting system, the GE EX2000. (Ex. 5, p. 4, l. 11-13). Unit 4/6 was returned to operation on June 2, 2000 and the explosion and fire which resulted in requiring extensive repair work at TG#4 occurred on June 7, 2000. (Ex. 9, p. 5, l. 11-13).



## **B. Causes Of and Responsibility For the June 7 Explosion and Fire**

On the afternoon of June 7, 2000 TG#4 was operating at near full capacity when it tripped off at 2:06 p.m. Immediately after the trip, the supply of oil to the unit's bearings and the generator hydrogen seals was interrupted. Without this oil supply, the five bearings quickly overheated and suffered mechanical damage. The loss of seal oil allowed hydrogen 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, l. 16-22).

At the time of the explosion and fire at TG#4 it was equipped with three lube oil pumps – two AC lube oil pumps and a DC lube oil pump. Typically, one AC lube oil pump receives power from the turbine/generator to which it provides the oil supplies. The second pump is an AC driven auxiliary lube oil pump which receives power from another source of AC power and not from the source for the first pump. The third pump is a DC motor driven lube oil pump which will start automatically in case of abnormally low oil pressure. This pump is driven by power supplied by batteries and is to be used when AC power has been lost. (Ex. 9, p. 6, l. 13-20). However, at the time of the June 7 incident the lube oil pumps at Unit 4/6 were not configured in this manner.<sup>4</sup>

Contrary to general practice, both the AC lube oil pumps at TG#4 received their power from TG#4. Therefore, the second line of defense was eliminated as both AC lube oil pumps could not operate when TG#4 tripped. (Ex. 9, p. 7, l. 5-8). Thus, the DC lube oil pump was the only emergency back up available to provide lubrication to the bearings and the hydrogen seal at TG#4 in the event that the AC lube oil pumps did not operate or were stopped due to the generator

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<sup>4</sup> Subsequent to the explosion and fire, SJLP has reconfigured the AC oil pumps at Unit 4/6 to conform with the general practice. (Ex. 5 p. 12, l. 21-22; p. 13, l. 1-3).

tripping. In other words, at the time of the June 7 incident TG#4 had only two instead of three lines of defense. (Ex. 9, p. 7, l. 7-8).

On June 7 the DC lube oil pump failed to operate when power was lost to the AC lube oil pumps. (Ex. 5, p. 6, l. 21-22; p. 7, l. 1; Ex. 9, p. 7, l. 9-13). The failure of the DC lube oil pump to operate when the power was lost to the AC lube oil pumps resulted in the explosions and fire that occurred on June 7, 2000 causing extensive damage to TG#4. The failure of the DC lube oil pump to begin operating on June 7, 2000 was caused by acts or omissions on the part of SJLP. The failure of the DC lube oil pump to begin operating on June 7, 2000 did not result from an act of God or unforeseen mechanical failure of the DC lube oil pump. (Ex. 9, p. 25, l. 9-11). Witness Svuba admitted the DC lube oil pump failed to start because it had been placed in the "local" or "off" position and SJLP employees were unaware the DC lube oil pump was off when the June 7 incident occurred. (Tr. p. 201, l. 21-25; p. 202, l. 1-23). In order to understand why the failure of the DC lube oil pump to begin operating on June 7, 2000 was caused by acts or omissions on the part of SJLP it is important to understand the control and operation of the DC lube oil pump prior to the installation of the GE Mark V control system and the control and operation of the DC lube oil pump after the installation of the GE Mark V control system.

From 1966 until 1995, the only control interface for the DC lube oil pump was a manual pistol grip control switch with indicating lights located on the north wall of the control room. (Ex. 9, p. 10, l. 14-17). The position of the pistol grip switch and the status of the lights provided a clear indication of the DC lube oil pump's status to the operator. (Ex. 5, p. 7, l. 17-18). In 1995, computer controlled logic relays were installed (Distributed Control System "DCS") which provided redundancy to the pistol grip switches. (Ex. 9, p. 10, l. 17-19). This electronic control station was only visible to the operator when that particular screen was displayed on one of the

operating consoles. (Ex. 5, p. 7, l. 19-21). Prior to the installation of the GE Mark V control system witness Svuba testified that the operators of TG#4 almost exclusively relied upon the pistol grip control switch and indicating lights located on the north wall of the control room to determine the operating status of the DC lube oil pump. (Tr. p. 169, l. 10-15).

Prior to the installation of the Mark V turbine control system cabinet the DC lube oil pump had three meaningful operating modes: 1) start, 2) automatic, and 3) local. The operator had to put the pump in the "start" position to start the pump. In the "automatic" or "auto" position the DC lube oil pump would start automatically in the event of the failure of both AC lube oil pumps. (Ex. 9, p. 9, l. 1-5). Witness Svuba recognized that the DC lube oil pump must be in the automatic mode to start automatically on the loss of oil pressure due to the failure of the two AC lube oil pumps. (Ex. 5, p. 7, l. 4-5). The third mode was the "local" mode. When the DC lube oil pump was placed in the "local" mode that denoted that the operation of the DC lube oil pump was to be manually controlled by the manual pistol grip switches. (Tr. p. 260, l. 7-9).

In January or February of 2000 in preparation for the spring 2000 scheduled maintenance work SJLP and GE jointly decided to locate the Mark V turbine control system cabinet where the pistol grip control switch was located. (Tr. p. 216, l. 3-25; p. 217, l. 1-11; Ex. 9 Sch. JK-11, p. 45). During the spring 2000 maintenance work at Unit 4/6 the pistol grip control switch and light were removed and replaced with the Mark V turbine control system cabinet. (Ex. 9, p. 11, l. 3-4). After the pistol grip control switch and light were removed, the operators had to rely solely on the DCS control display to control the DC lube oil pump and to determine its operational status. (Ex. 5, p. 8, l. 1-2).

When the manual pistol grip switches were removed to make room for the Mark V turbine control system cabinet, there was no local switch remaining to operate the DC lube oil pump. (Tr.

p. 201, l. 2-6; Ex. 22). Witness Svuba admitted at the time of the June 7 fire and explosion the DC lube oil pump had been placed in the "local" mode and thus was basically turned off. (Tr. p. 201, l. 25; p. 202, l. 1-2). As recognized in SJLP's own internal documents, the "local" mode was no longer meaningful after the removal of the "local" (i.e. manual pistol grip) control switches. (Ex. 9 Schedule JK-9). Moreover, at the time of the explosion and fire SJLP's operators failed to understand what "local" meant within the DCS Bailey logic. (Tr. p. 228, l. 1-6). With the removal of the manual pistol grip control switch and light the following things happened:

1. There was no redundant control system left and the DCS was the sole control system.
2. DCS logic was not changed to a fail-safe system.
3. Since 1966, operators were used to interface with a manual pistol grip switch system and light on the wall. This interface was removed and the operators were left with one single interface via the DCS screens.
4. The light indicating the off position of the switches was removed.

(Ex. 9, p. 11, l. 6-14).

The evidence in this proceeding demonstrates that SJLP was or should have been responsible for the scheduled maintenance work that occurred during the scheduled outage in the spring of 2000. Specifically J.T. Modlin, Director of Projects and Fuels, testified at his deposition that in the area of projects he was responsible for "directing contractors, working with consultants, procuring materials and labor for plant projects." (Ex. 8, Schedule JK-11, p. 3 Depo. p. 6, l. 10-16). Modlin was responsible for the replacement of the old turbine boiler control system with a new GE Mark V control system. (Ex. 8, Schedule JK-11, p. 3 Depo. p. 7, l. 15-22; Tr. p. 219, l. 13-19). Mr. Modlin reported to Mike Ceglinski, the Superintendent, Maintenance/Construction – Lake Road. (Ex. 8, Schedule JK-11, p. 3, Depo. p. 6, l. 18-22).

According to Mr. Ceglinski's position description one of his primary functions is to "control and monitor construction activities at the Lake Road Plant." (Ex. 21, p. 25). Mr. Ceglinski's principal responsibilities include:

7. Oversees all construction projects at the Lake Road Plant, assuring adherence to specifications, costs, and schedules. Directs and is personally responsible for the larger, more complex construction projects in the power plant complex.
8. Develops full understanding of the technical and maintenance aspects of new equipment and assures that all employees involved are adequately trained in safe and efficient maintenance practices.

(Ex. 21, p. 26). Mr. Ceglinski's direct supervisor, Mr. Svuba, the Vice President – Energy Supply, confirmed during cross-examination that Mr. Ceglinski had these responsibilities. (Tr. p. 187, p. 16-25; p. 188; p. 189, l. 1-5).

The work to replace the old turbine boiler control system with a new GE Mark V control system was done on behalf of SJLP by GE. (Tr. p. 218, l. 21-25; p. 219, l. 1-2). SJLP, consistent with Mr. Modlin's and Mr. Ceglinski's job positions, controlled the work of GE. (Tr. p. 220, l. 14-20). SJLP was aware of GE's design configuration and placement of the Mark V control cabinet and reviewed GE's design. (Tr. p. 220, l. 5-9; l. 21-23). Public Counsel witness Kumar testified in response to questions from Judge Woodruff that SJLP has the ultimate responsibility for the project:

Q. Okay. Would that be the responsibility of St. Joseph Light & Power or would that be the responsibility of GE that was installing this new control system?

A. I think it would be – the buck doesn't stop, in my opinion, with the contractor no matter what kind of contractor you have. The utility has overall responsibility of overseeing. That's why the contractor sent them – GE sent them drawings, so they'd review them and make sure what they're doing is proper.

(Tr. p. 371, l. 5-11). SJLP can attempt to run from its responsibility regarding the safe operation of its Unit 4/6 but this Commission should not let SJLP hide behind claims that some other party bears ultimate responsibility for the explosion and fire that occurred on June 7, 2000.

In fact, witness Svuba admitted that the operators of Unit 4/6 and the Superintendent of Maintenance/Construction, Mr. Ceglinski and the Superintendent of Operations, Mr. Parker were aware that the manual pistol grip switch had been removed. (Tr. p. 221, l. 10-21). The operators also recognized that the only way to control the DC lube oil pump was the DCS control system. (Tr. p. 222, l. 14-25; p. 223, l. 1-8). As recognized by SJLP in its own internal documents the "local" mode was no longer meaningful after removal of the manual pistol grip control switches. (Ex. 9, Schedule JK-9). SJLP knew or should have known that because there was no longer a manual pistol grip switch to locally control the operation of the DC lube oil pump the "local" mode essentially meant the DC lube oil pump was off.

The record evidence demonstrates that Mr. Modlin, the individual in charge of the project to install the new GE Mark V control system was aware or at least should have been aware of this fact. In his deposition Mr. Modlin testified as follows:

Q. Sorry if you (sic) cut you off. Your second question there is, was functional testing done on pump before startup? Answer: Yes, it – yes, I performed it and it operated as designed. Could you explain that to me?<sup>5</sup>

A. What I'm saying there is that I was present, along with GE startup engineers, when we checked the operation of that pump in automatic. Basically, the operator put that pump [DC lube oil pump] in automatic and we stopped the AC oil pumps, pulled the breaker on the second one and the DC pump started, which was how it should have operated.

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<sup>5</sup> This question relates to information contained in Exhibit 9 Schedule JK-8, p. 3 of 8 contained in the fourth bullet point under 6/21/00. Q. Was functional testing done on pump before startup? A. Yes, I [Mr. Modlin] performed it and it operated as designed.

So basically what I'm saying there is the way GE designed it to work, we, we being the startup engineer and myself and St. Joe Light & Power personnel, tested it and it did work the way GE designed it.

Q. It did work the way GE designed it?

A. Right.

Q. And that's when it was in the automatic position; is that correct?

A. Right.

Q. And I think you've testified earlier that when it [the DC lube oil pump] was in the local position, the pump was off; is that correct?

A. That's true.

(Ex. 9, Schedule JK-11, p. 27-28 Depo. p. 105, l. 25; p. 106). As noted by Mr. Modlin, successful operation of this test required the operator to set the DCS system to "automatic" mode for the DC lube oil pump to operate. Thus, at least Mr. Modlin was aware prior to the June 2, 2000 start-up of Unit 4/6 that for the DC lube oil pump to operate using the DCS control system the pump must be placed in automatic mode.

SJLP had further opportunities to test the operation of the DC lube oil pump prior to the explosion and fire on June 7, 2000 but SJLP failed to test the DC lube oil pump. SJLP had scheduled the DC lube oil pump to be checked every Monday. (Ex. 9, Schedule JK-11, p. 22 Depo. p. 84, l. 7-24). The evidence shows the DC lube oil pump availability and operation was not checked during the start-up of Unit 4/6 on June 2, 2000 and that the weekly DC lube oil test was not performed on June 5, 2000. (Ex. 9, Schedule JK-9).

SJLP failed to provide its operators with proper training regarding the control positions for the DC lube oil pump within the DCS control system. In response to Staff data request 14 (Ex. 22) SJLP acknowledged that its operators failed to understand what "local" meant on the DCS control

screen. (Tr. p. 227, l. 17-25; p. 228, l. 1-6). SJLP admitted that “[i]t was generally believed by plant personnel (not only operators, but also engineers and supervisors) that the DC oil pump control in the DCS returned to the automatic mode after the pump was stopped by the operator” and that “[i]t was not discovered that the pump did not ‘return-to-auto’ until the investigation after the June 7<sup>th</sup> incident.” (Ex. 5, p. 8, l. 9-12). SJLP failed to check the logic to determine whether the control position for the DC lube oil pump would return to “automatic.” (Ex. 9, Schedule JK-11, p.27 Depo. p. 104, l. 19-22). SJLP merely “assumed” the DCS control worked the same for the DC lube oil pump and the AC lube oil pump. (Tr. p. 165, l. 14-25). SJLP’s assumption was wrong.

SJLP admitted it is good utility practice to test and verify operation of equipment that you have not previously relied upon before it goes into service. (Tr. p. 172, l. 22-25; p. 173, l. 1). Yet in this case SJLP did not test and verify the operation of the DCS controls now that the manual pistol grip switches had been removed. SJLP merely “assumed” the manner in which the DCS control operated. In fact, SJLP failed to inquire of GE what the ramifications were regarding the removal of the manual pistol grip switch. (Tr. p. 379, l. 6-10). SJLP witness Svuba admitted SJLP did not provide any training to its operators on the operation of the DCS system that controlled the DC lube oil pump after June of 1999, nor did SJLP make inquiry of the manufacturer or SEGA of how the DCS controlled the operation of the DC lube oil pump before removal of the manual pistol grip control switch. (Tr. p. 170, l. 22-25, p. 171, l. 1-7).

Training is an essential part of operating any machine because a lack of training can result in the improper operation of the machine. (Ex. 9, p. 13, l. 16-17). It is highly unreasonable to operate a 100 MW power plant without proper training or without insuring that the plant operators are completely familiar with the operations of the plant and control system. (Ex. 9, p. 14, l. 1-3). In his deposition, SJLP witness Modlin realized the importance of training for the safe operation of



Unit 4/6. (Ex. Sch. JK-11, p. 34 Depo. p. 154, l. 13-15). However, there is no record evidence that demonstrates the SJLP's operators for Unit 4/6 were informed what "local" meant with the removal of the manual pistol grip switches. (Tr. p. 381, l. 21-25; p. 382, l. 1-2). Public Counsel expert witness Kumar testified the first thing the operators of Unit 4/6 should have been told upon the removal of the manual pistol grip switch was what "local" meant in operating the DC lube oil pump using the DCS control. (Tr. p. 382, l. 10-14).

The evidence demonstrates that SJLP restarted TG#4 on June 2, 2000 without proper training and without a full understanding of the design changes made when the Mark V control cabinet was installed. (Ex. 9, p. 24, l. 10-11). SJLP failed to realize the impact of the removal of the pistol grip switch and it also failed to make sure that its operators clearly understood the impact of such removal. (Ex. 9, p. 24, l. 11-13). SJLP also failed to properly oversee GE's performance and to control the project schedule. (Ex. 9, p. 24, l. 13-14). SJLP admitted that:

- GE was several weeks behind in project engineering.
- Multiple lead engineers involved in construction design, giving little continuity.
- Manual pistol grip switch removed in design without sufficient review.
- Installation drawing was delivered to SJLP after the outage was underway.
- Limited time for SJLP to review design drawings.

(Ex. 9, Sch. JK-9; Sch. JK-11, p. 29 Depo. pages 111-113).

Even though SJLP had not properly reviewed and considered GE's design changes and the impact on the operations of Unit 4/6, SJLP had an economic incentive to return Unit 4/6 back to service as soon as possible. As pointed out by SJLP witness Ferry electrical loads in the summer are much higher and more costly to serve than those occurring during the rest of the year. (Ex. 4, p. 5, l. 19-20). Witness Ferry testified that SJLP has a strong financial incentive to place its power

plants on line during the summer. (Tr. p. 118, l. 7-10). SJLP employee Modlin indicated at his deposition that economically SJLP had to get Unit 4/6 on line. (Ex. 9, Schedule JK-11, p. 36 Depo. p. 163). Moreover, Witness Svuba testified that GE would have waited to start Unit 4/6 if SJLP had requested such a delay. (Tr. p. 249, l. 1-5). This economic incentive apparently prevented SJLP from ensuring that it fully understood how to operate Unit 4/6 in light of the removal of the manual pistol grip switch.

#### **IV. APPLICATION OF AAO GUIDELINES TO SPECIFIC FACTS OF THIS CASE.**

##### **A. The Explosion and Fire at Unit 4/6 Should Not Be Considered an Extraordinary Event Because It Was Caused by Acts or Omissions of St. Joseph Light and Power.**

Public Counsel is unaware of any AAO being granted to a Missouri jurisdictional utility for costs related to an incident that was caused by the company's own acts or omissions. Ample record evidence in this proceeding demonstrates 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. SJLP's failure to understand the operation of its Unit 4/6 should not create an event that is allowed special regulatory accounting treatment by this Commission granting SJLP an AAO. (Ex. 8, p. 4, l. 1-8).

SJLP discusses two prior AAO's granted the Company that relate to the "extraordinary" nature of the event. (See: Ex. 15 and 16).<sup>6</sup> The two events referenced by SJLP were a major flood (of the 500-year variety) and a major ice storm. Public Counsel believes the cause of or nature of these events could not in any way be under the control of SJLP management nor could management take action to prevent or alter the outcome of these events. (Ex. 8, p. 27, l. 22-24; p. 28, l. 1). In contrast, an explosion at a generating station has a specific cause. The evidence presented in this

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<sup>6</sup> Both of these AAO's were granted as a result of a settlement.

proceeding demonstrates that the explosion and fire at Unit 4/6 could have and should have been avoided if SJLP had utilized good utility practices.

This Commission should not determine an event to be an extraordinary event for granting an AAO when the acts or omissions of the company caused the event. To do so would merely relegate captive ratepayers to the role of insurers for the company's negligent acts. Indeed, witness Rush testified that it would be appropriate for ratepayers to pay for costs that result from the Company's acts or omissions. (Tr. p. 310, l. 15-25; p. 311, l. 1-19). It is not reasonable nor would it be good regulatory policy to allow SJLP to defer costs caused by the Company's own acts or omissions.

The evidence demonstrates that the explosion and fire and resulting repair costs at Unit 4/6 were not the result of a natural disaster or act of God such as a 500-year flood or an ice storm. (Tr. p. 203, l. 10-13). The evidence shows that the explosion and fire and resulting repair costs at Unit 4/6 were not the result of compliance with federal or state law or Commission rules. The evidence also demonstrates that the explosion and fire and resulting repair costs at Unit 4/6 were not the result of unforeseen mechanical failure. (Ex. 8 p. 4, l. 16-18). The evidence demonstrates that the explosion and fire at Unit 4/6 and the resulting costs were caused by acts or omissions of SJLP. (Ex. 9, p. 24, l. 11-13). In light of the specific facts of this proceeding Public Counsel does not believe the explosion and fire at Unit 4/6 should be considered an extraordinary event.

**B. Forced Outages of Generation Units Are Normal Recurring Events**

The second prong of the broad criteria for granting an AAO is whether or not the event for which the AAO is being sought is nonrecurring. The record evidence in this proceeding demonstrates that forced outages occur on a regular basis with respect to SJLP's generating units. SJLP witnesses Stull and Ferry admitted forced outages are recurring events. (Tr. p. 58, l. 13-16; p. 58, l. 22-25; Tr. p. 59, l. 1; Tr. p. 119, l. 9-11). The record evidence indicates that from 1995 to 1999 Lake Road Unit 4/6 experienced the following annual hours of forced outages:

	<u>Hours of Outages</u>
1995	1,145.62
1996	206.54
1997	109.99
1998	200.04
1999	154.59

(Ex. 8, p. 29, l. 14-20). Excluding the forced outage hours associated with the June 7 explosion and fire, Unit 4/6 had experienced 148.22 forced outage hours in the year 2000. (Ex. 8, p. 29, l. 21-22). Forced outages caused by system failures (whatever the cause) occur on a frequent basis and are part of the normal course of business for electric utilities, and are recognized in the ratemaking process. (Ex. 8, p. 28, l. 8-10). Simply put, forced outages are not unique but are part of the normal operations of an electric utility.

SJLP witness Rush asserted in cross-examination that this Commission granted Missouri Public Service and AAO relating to the failure of the Sibley No. 3 generating unit. (Tr. p. 302, l. 21-25; p. 303, l. 1-7). Witness Rush's claim is incorrect. Both cases cited by witness Rush were rate cases, ER-81-154 and ER-81-85. (Tr. p. 303, l. 14-25; p. 304, l. 1-17). (Copies of the Report and Orders in ER-81-154 and ER-81-85 are attached.)

In fact, the Commission's Report and Order in ER-81-85 supports Public Counsel's view that unforced outages are recurring in nature and thus not appropriate for AAO treatment. In ER-81-85, the Commission stated, "[o]utages of a magnitude of the Sibley failure, although dissimilar in nature, are likely to materialize in the future." (ER-81-85 June 1, 1981 Slip opin p. 4).

SJLP alleges that because the forced outage hours related to the explosion and fire at Unit 4/6 are larger than the "normal" forced outage hours it is appropriate to grant SJLP an AAO. (Tr. p. 58, l. 16-18; p. 120, l. 23-25; p. 121, l. 1-2). This argument misses the point. The fact remains that during the ratemaking process a normalized level for outages is built into SJLP's rates. (Ex. 8, p. 29, l. 1-5; Tr. p. 122, l. 24-25; p. 123, l. 1-4). SJLP does not seek an AAO to return profits to ratepayers when its actual outage levels are less than the normalized levels built into its rates. By the same token, the Commission should not allow SJLP to seek an AAO for this type of recurring event when the actual outage levels are more than the normalized levels built into its rates.

Denying SJLP an AAO to defer these costs to account 182.3 does not deny SJLP an opportunity to recover these costs. SJLP still has an opportunity to file an interim or permanent rate case with a test year that would include the costs it seeks to defer in this proceeding. (Tr. p. 294, l. 19-22; p. 300, l. 20-22; p. 335, l. 11-22). SJLP witness Rush admitted SJLP could seek recovery of the costs related to the June 7 explosion and fire via the fuel normalization process even if the costs were outside the test year. (Tr. p. 339, l. 3-23). However, SJLP has made a business decision not to file a rate case. (Tr. p. 294, l. 1-3). This Commission ought not grant SJLP an AAO because it chose not to file a rate case to recover the costs related to the forced outage that occurred on June 7, 2000.

## V. CONCLUSION


The Company made the decision to place Lake Road Unit 4/6 back on line without adequate review of the operational changes resulting from the installation of the new Mark V turbine control system cabinet and the removal of the manual pistol grip control switch. The Company failed to adequately review the modifications and failed to follow the operating procedures for testing system components. The evidence demonstrates SJLP had an economic incentive to return Unit 4/6 back to service as soon as possible.

The responsibility for the results (i.e. the explosion and fire Unit 4/6) of the poorly executed modification and operation of Unit 4/6 should rest with those responsible, the Company and its employees and agents. The June 7 explosion and fire resulted from the acts and omissions of the Company and not from an event that was beyond the control of management. 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:



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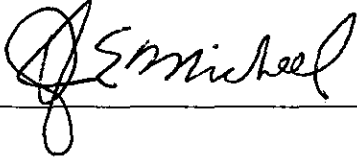
## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been faxed, mailed or hand-delivered to the following counsel of record on this 21st day of November, 2000:

Steven Dottheim  
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



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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. ER-81-85

In the matter of the MISSOURI PUBLIC SERVICE COMPANY, of Kansas City, Missouri, for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the Company.

APPEARANCES: Robert L. Hawkins, Jr., James C. Swearengen,  
and W. R. England, III, Attorneys at Law,  
Hawkins, Brydon & Swearengen P. C., P. O.  
Box 456, Jefferson City, Missouri 65102,  
for the Missouri Public Service Company.

William C. Harrelson and Mary A. Garr, Assistant  
General Counsels, P. O. Box 360, Jefferson City,  
Missouri 65102, for the Staff of the Missouri  
Public Service Commission.

Richard W. French, Assistant Public Counsel, 1014  
Northeast Drive, Jefferson City, Missouri 65101,  
for the Office of Public Counsel and the Public.

REPORT AND ORDER

This case is before the Commission as a result of the filing, on September 5, 1980, by the Missouri Public Service Company ("Company") of revised tariffs designed to increase rates to its Missouri customers by approximately \$29,250,000 annually.

The tariffs were suspended, and after due notice to interested parties, the matter was set for hearing in the Commission's Hearing Room in Jefferson City, Missouri.

As a result of the prehearing conference, Company and the Staff of the Missouri Public Service Commission ("Staff") announced that a stipulation and settlement of all issues in the case had been reached between them, and tendered the agreement to the Commission for its consideration.

The Stipulation and Agreement entered into between the Company and Staff and offered in this matter as Joint Exhibit 1, sets forth the pertinent facts and procedural background of this case. A copy of the Stipulation and Agreement is attached hereto and incorporated herein by reference as Appendix A.

MAY 28 1981



The Office of Public Counsel ("Public Counsel") not participate in the aforementioned Stipulation and Agreement and specifically objected to certain matters of agreement between the Company and Staff. Those issues to which Public Counsel took exception were rate design and the amortization of the extraordinary expenses associated with the generator failure of Company's Sibley No. 3 generating unit. In light of Public Counsel's objections to these matters, a hearing was had on May 18, 1981, at which time Company and Staff witnesses were presented for cross-examination with respect to their prefiled testimony and exhibits as they related to the issues of rate design and the Sibley outage.

#### Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

The Commission finds consistent with the stipulation and the evidence of record that the rate design shall be as agreed to between the Company and Staff, and as set forth in paragraph 5 of the Stipulation and Agreement, and shall be applied to any increase in existing rates. The Commission notes that this issue was fully litigated in Company's last rate case, No. ER-80-118 (decided August 25, 1980), and the rate design authorized in the instant case is consistent with the Commission's determination in the last case. No new facts or matters of policy have been presented to the Commission since its decision in Case No. ER-80-118 which would cause it to change its determination on this issue.

The Commission notes that the Public Counsel's objection to the amortization of the extraordinary expenses related to the Sibley generator failure as unlawful retroactive ratemaking is untimely. The Commission, on February 3, 1981, issued its Report and Order in Company's interim rate case, No. ER-81-154, with respect to this issue, and ordered as follows:

ORDERED: 1. That the Company shall be allowed to recover in its rates for electric service all costs including purchased power costs associated with the generator failure in August, 1980, of its Sibley generating station, Unit No. 3, in the amount of \$6,824,801.

ORDERED: 2. That these costs are to be recovered through the Company's cost of service, for purposes of ratemaking, over a reasonable period of time, said reasonable period of time to be determined by the Commission's Report and Order to be issued in Company's permanent rate proceeding, Case No. ER-81-85.

The Commission stated in that February 3, 1981, Report and Order that it was important to finally and conclusively resolve the matter of the Sibley outage in a timely manner so that the Company and its independent auditors would be provided with a basis for the accounting and ratemaking treatment in the Company's financial statements of the costs associated with the Sibley generator failure. Therefore, the Commission found and concluded that its February 3, 1981, Report and Order was final and binding on the Commission and the parties thereto with respect to the accounting and ratemaking treatment to be accorded the costs associated with the Sibley outage. The contention of Public Counsel in the instant proceeding is nothing more than a collateral attack of a final and unappealable order of the Commission and is prohibited by §386.550, RSMo 1978. The only issue before the Commission in the instant proceeding with respect to the Sibley outage is the proper amortization period over which the extraordinary costs associated with that outage are to be recovered.

The Public Counsel also contended that the amortization period agreed to by the Staff and Company is too short. While it is unclear what specific amortization period or program the Public Counsel is recommending, suffice it to say that the record evidence is devoid of any testimony or exhibits supporting an amortization period of longer than two or three years. The Commission finds, consistent with the stipulation between Company and Staff, and consistent with the evidence developed by cross-examination, that the amortization period over which these costs are to be recovered shall be as follows: That the extraordinary purchased power costs

(i.e. \$5,118,447) associated with the outage of the Sibley No. 3 generating unit be amortized over a period of two years and that the extraordinary maintenance costs (i.e. \$1,706,354) associated with said outage be amortized over a period of 18 years.

The Commission, therefore, finds that the Stipulation and Agreement entered into between Company and Staff is reasonable and proper and should be accepted as an equitable disposition of the issues presented in this matter.

Outages of a magnitude of the Sibley failure, although dissimilar in nature, are likely to materialize in the future. The Commission is of the opinion that its Staff should investigate the most practical or feasible method of minimizing the effect, on the Company and its ratepayers, of similar accidents or incidents. The Staff's investigation should include the purchase of total coverage insurance, the establishment of self-insurance funds or other alternatives.

#### Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The tariffs which are the subject matter of this proceeding, were suspended pursuant to authority vested in this Commission by virtue of §393.150, RSMo 1978, and the burden of proof to show that the proposed increased rates are just and reasonable shall be upon the Company.

The Commission, after notice and hearing, may order a change in any rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting such rate, charge or rental thereafter to be observed.

For ratemaking purposes, the Commission may accept a Stipulation and Agreement of any contested matter submitted by parties. The Commission is of the opinion that when the matters of agreement between parties appear to be reasonable and proper and supported by the record evidence, they should be accepted.

Since the Stipulation is supported by the record evidence and is reasonable and proper, it is hereby received as disposition of all matters herein presented.

It is, therefore,

ORDERED: 1. That the revised tariffs herein suspended be, and they are, hereby disallowed and the Missouri Public Service Company is authorized to file in lieu thereof, for approval by the Commission, revised tariffs designed to increase rates for electric service, in the Company's Missouri service area, in the amount of \$19,740,264, on an annual basis, exclusive of applicable gross receipts and franchise taxes.

ORDERED: 2. That the amount of increased gross annual revenues authorized by the Commission herein, which is associated with fuel costs based on Staff's annualized level of jurisdictional fuel and purchased power expense, should be applied within each rate schedule on a per-kwh basis, and the remaining portion of the increase should be applied to all rate schedules and to all rates and charges within each schedule on a uniform, across-the-board percentage increase.

ORDERED: 3. That the Company be allowed to amortize the extraordinary purchased power costs associated with the outage of the Sibley No. 3 generating unit, occurring on or about August 18, 1980, over a period of two years, and that the Company be allowed to amortize the extraordinary maintenance costs associated with the aforementioned outage over a period of 18 years.

ORDERED: 4. That the Company be allowed to set depreciation rates for sub accounts 370.50 and 391.70, to reflect an eight-year amortization of the load research equipment purchased by the Company to satisfy the requirements of the Public Utilities Regulatory Policies Act (PURPA).

ORDERED: 5. That the Commission's Staff shall initiate an investigation, and report to the Commission the most practical and feasible method of minimizing the economic effect, on the Company and its ratepayers, of accidents or occurrences similar to the Sibley failure. The investigation shall include the purchase of total coverage insurance, the establishment of a self-insurance fund or other alternatives.

ORDERED: 6. That this Report and Order shall become effective  
on the 6th day of June, 1981.

BY THE COMMISSION

*Harvey G. Hubbs*  
HGH

Harvey G. Hubbs  
Secretary

(S E A L)

Fraas, Chm., McCartney, and  
Bryant, CC., Concur.  
Shapleigh, C., Dissents with  
separate opinion to be filed  
later and certify compliance  
with the provisions of Section  
536.080, RSMo 1978.  
Dority, C., Absent.

Dated at Jefferson City, Missouri,  
this 27th day of May, 1981.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of MISSOURI PUBLIC )	
SERVICE COMPANY of Kansas City, )	
Missouri, for authority to file )	
tariffs increasing rates for )	Case No. ER-81-85
electric service provided to cus- )	
tomers in the Missouri service )	
area of the Company. )	

STIPULATION AND AGREEMENT

Missouri Public Service Company (hereinafter "Company"), on September 5, 1980, submitted to the Missouri Public Service Commission (hereinafter "Commission") revised electric rate schedules designed to increase the Company's billed jurisdictional electric revenues by approximately \$29,250,000 annually, exclusive of franchise and occupational taxes, or an approximate 26.1% over existing revenues. Company gave these revised electric rate schedules an effective date of October 6, 1980.

On September 16, 1980, the Commission suspended the revised rate schedules for 120 days beyond October 6, 1980, to February 3, 1981, and ordered Company to file its minimum filing requirements, prepared testimony, and exhibits within 60 days of September 16, 1980. On October 14, 1980, the Commission further suspended the revised rate schedules for six months from February 3, 1981, to August 3, 1981.

On October 14, 1980, the Commission also set November 13, 1980, as the date for intervention; April 10, 1981, as the date by which the Commission Staff (hereinafter "Staff") was to file and serve its prepared testimony and exhibits; April 17, 1981, as the date by which the Office of Public Counsel (hereinafter "Public Counsel") and any intervenors were to file and serve their prepared testimony and exhibits; May 4, 1981, as the date for prehearing conference to begin; and May 18, 1981, as the date for evidentiary hearings to begin.

On November 13, 1980, in response to a request from Company, the Commission extended the date within which the Company was to file its minimum filing requirements, prepared testimony, and exhibits, from November 17, 1980, to December 15, 1980.

On December 15, 1980, Company timely filed and served upon all parties of record its minimum filing requirements, prepared testimony, and exhibits, as required by the Commission.

On March 19, 1981, the Commission approved the form of notice which Company proposed to send to its customers informing them of the proposed increase and the scheduled hearing dates. Notice pursuant to 4 CSR 240-2.110(12) was thereafter sent to Company's customers at least 15 days, but not more than 45 days, before the hearings set in this matter.

On March 25, 1981, in response to a request from Staff, the Commission extended the date within which Staff was to file its prepared testimony and exhibits from April 10, 1981, to April 24, 1981.

On April 13, 1981, Company filed with the Commission and served upon all parties of record the supplemental direct testimony of John C. Dunn.

On April 24, 1981, Staff timely filed with the Commission and served upon all parties of record its prepared testimony and exhibits as required by the Commission.

On April 27, 1981, Company filed with the Commission and served upon all parties of record the direct testimonies of James R. Fako and Mr. Raymond E. Noonan.

No interventions were filed in the above-captioned matter, and no prepared testimony and exhibits were filed by the Public Counsel in the above-captioned matter.

Pursuant to Commission order, a prehearing conference was commenced on May 4, 1981. Representatives of Company, Staff, and Public Counsel attended this prehearing conference. No other parties participated in this prehearing conference.

As a result of the prehearing conference, the undersigned parties stipulate and agree as follows:

1.

That Company be authorized to file revised tariffs designed to increase Missouri jurisdictional gross annual electric revenues by \$19,740,264, exclusive of applicable local taxes.

2.

That the revised tariffs mentioned in Clause (1) herein, shall become effective not later than June 4, 1981, for service rendered on and after such effective date.

3.

That the Company be allowed to amortize the extraordinary purchased power costs (\$5,118,447) associated with the outage of the Sibley #3 Generating Unit occurring on or about August 18, 1980, over a period of two years and that the Company be allowed to amortize the extraordinary maintenance costs (\$1,706,354) associated with the aforementioned outage over a period of 18 years. *see W.C.F.*

4.

That the Commission shall issue a depreciation order allowing the Company to set depreciation rates for subaccounts 370.50 and 391.70 to reflect an 8-year amortization of load research equipment purchased by the Company to satisfy PURPA requirements.

5.

That the amount of increased gross annual revenues authorized by the Commission's approval of this Stipulation and Agreement, which is associated with fuel costs based on the Staff's annualized level of jurisdictional fuel and purchased power expense, should be applied within each rate schedule on a per Kwh basis. The remaining portion of the increase should be applied to all rate schedules and to all rates and charges within each schedule on a uniform, across-the-board percentage increase.

6.

That this Stipulation and Agreement represents a negotiated dollar settlement for the sole purpose of disposing of Case No. ER-81-85, and none of the parties to this Stipulation and Agreement shall be prejudiced or bound by the terms of this Stipulation and Agreement, with the exception of Clauses (3) and (4) herein: (a) in any future proceeding; or (b) in this proceeding in the event that the Commission does



not approve this Stipulation and Agreement.

7.

That none of the parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost of service determination, or cost allocation underlying any of the rates and tariffs provided for in this Stipulation and Agreement, with the exception of Clauses (3) and (4) herein.

8.

That the prefiled testimony and exhibits of Company witnesses J. R. Baker, D. J. Wolf, J. C. Dunn, W. E. Van Dyke, J. W. McKinney, J. A. Samayoa, C. C. Campbell, J. S. Allen, W. I. Owen, J. E. Barry, R. E. Noonan, and J. R. Fako, shall be received into evidence without the necessity of said witnesses taking the witness stand.

9.

That the prefiled testimony and exhibits of Staff witnesses Steven C. Carver, Steve M. Traxler, Russell W. Trippensee, Marilyn K. Smart, Rebecca J. Bax, Ronald L. Shackelford, Michael W. Straub, Ronald M. Fluegge, Bill M. Nickle and Melvin T. Love be received into evidence without the necessity of said witnesses taking the witness stand.

10.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the Company and Staff waive their rights to cross-examine witnesses with respect to prefiled testimony and exhibits sponsored by such witnesses.

11.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the Company and Staff waive their respective rights to present oral argument or written briefs, pursuant to §536.080(1), RSMo 1978.

12.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the Company and Staff waive their respective rights pertaining to the reading of the transcript by the Commission, pursuant to §536.080(3), RSMo 1978.

13.

That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the Company and Staff waive their respective rights to judicial review, pursuant to §386.510, RSMo 1978.

14.

That the agreements in this Stipulation and Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation and Agreement in total, and in the event the tariffs agreed to herein do not become effective for service rendered in accordance with the provisions contained herein, this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof.

Respectfully submitted,

William C. Harrelson

William C. Harrelson

Mary A. Garr

P. O. Box 360

Jefferson City, Missouri 65102

Attorneys for the MISSOURI PUBLIC  
SERVICE COMMISSION STAFF

W. R. England, III

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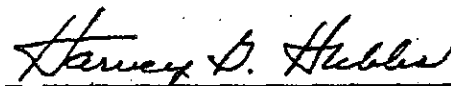
Jefferson City, Missouri 65102

Attorneys for the MISSOURI PUBLIC  
SERVICE COMPANY

STATE OF MISSOURI  
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission,  
at Jefferson City, this 27th day of May 1981



Harvey G. Hubbs  
Secretary

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. ER-81-154

In the matter of Missouri Public Service Company of Kansas City, Missouri, for authority to file interim electric tariffs increasing rates for electric service provided to customers in the Missouri service area of the Company.

---

APPEARANCES: James C. Swearengen, Attorney at Law, and W. R. England, III,  
Attorney at Law, Hawkins, Brydon & Swearengen, P.C.,  
P. O. Box 456, Jefferson City, Missouri 65102, for  
Missouri Public Service Company.

William C. Harrelson, Assistant General Counsel, Missouri  
Public Service Commission, P. O. Box 360, Jefferson City,  
Missouri 65102, for the Staff of the Commission.

REPORT AND ORDER

On November 5, 1980, the Missouri Public Service Company of Kansas City, Missouri (Company) submitted to this Commission revised interim tariffs reflecting increased rates for electric service provided to customers in the Missouri service area of the Company. The proposed interim electric tariffs had a requested effective date of December 5, 1980, and were designed to increase annual electric revenues by approximately \$15 million (exclusive of franchise taxes).

By Order dated November 24, 1980, the Commission suspended the effective date of the proposed interim tariffs until April 4, 1981. By further Order dated December 4, 1980, other procedural dates were set including a hearing for purposes of presenting testimony, exhibits and witnesses for examination and cross-examination to commence on February 23, 1981.

Also pending before the Commission at this time is the Company's request for permanent rate relief, Case No. ER-81-85. There are no intervenors in this proceeding, or in the Company's permanent rate proceeding, Case No. ER-81-85, and the time for intervention in the permanent proceeding expired on November 13, 1980.

At the request of the Commission Staff and after due notice, a prehearing conference was scheduled and convened in the instant matter on the 26th day of January, 1981. As a result of the aforementioned prehearing conference, a Stipulation and Agreement was entered into between the participating parties in which one of several issues was finally resolved and presented to the Commission

at a hearing held February 3, 1981 for its approval. (A copy of said Stipulation and Agreement is attached hereto and incorporated herein by reference as Appendix "A").

#### Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

The Stipulation and Agreement partially resolves the accounting treatment, for ratemaking purposes, to be accorded Company's costs associated with the generator failure in August, 1980, of its Sibley Generating Station Unit No. 3. These costs shall be included in the Company's cost of service and recovered through the Company's electric rates over a reasonable period of time. The period of time over which these costs are to be recovered is to be determined by the Commission by Report and Order in Company's permanent rate proceeding, Case No. ER-81-85. Thus, the amortization of these costs and the associated increase in electric rates necessitated by the amortization will commence with the effective date of revised tariffs to be filed pursuant to the Commission's Report and Order issued in Case No. ER-81-85.

The Company has further agreed to reduce its request for an interim rate increase from \$15 million to \$6,087,600 (exclusive of franchise taxes).

On January 29, 1981, Company delivered to the Secretary of this Commission a letter requesting that a hearing be held on February 3, 1981, in order to submit the Stipulation and Agreement. Copies of that letter were delivered to all parties in this matter. The letter recited that an order was necessary from this Commission effective on or before February 13, 1981, in order to provide the Company and its independent auditors with a basis for accounting and ratemaking treatment of the costs associated with the Sibley generator failure for purposes of the Company's 1980 and future financial statements.

#### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions:

That the public necessity required that a prompt hearing be held in this matter.

That it may accept a Stipulation in settlement of any or all contested matters.

That the instant Stipulation and Agreement is fair and reasonable in all respects, and supported by competent and substantial evidence upon the whole record and further that the Commission adopts the accounting treatment for recovery of the Sibley generator expense as set out in Paragraph One therein.

That it is important to finally and conclusively resolve this matter in a timely manner so that the Company and its independent auditors will be provided with a basis for the accounting and ratemaking treatment in the Company's financial statements of the costs associated with the Sibley generator failure.

Therefore, the Commission finds and concludes that this Report and Order should be final and binding on the Commission and the parties hereto with respect to the accounting and ratemaking treatment to be accorded these costs in this proceeding (Case No. ER-81-154), the Company's permanent rate case (Case No. ER-81-85), and all subsequent proceedings before any regulatory body or Court involving this Company.

It is, therefore,

ORDERED: 1. That the Company shall be allowed to recover in its rates for electric service all costs including purchased power costs associated with the generator failure in August, 1980, of its Sibley Generating Station, Unit No. 3, in the amount of \$6,824,801.

ORDERED: 2. That these costs are to be recovered through the Company's cost of service, for purposes of ratemaking, over a reasonable period of time, said reasonable period of time to be determined by the Commission's Report and Order to be issued in Company's permanent rate proceeding, Case No. ER-81-85.

ORDERED: 3. That a hearing be held in connection with the Company's request for interim rate relief in Case No. ER-81-154 as previously scheduled in the Commission's hearing room commencing at 9:00 a.m., on February 23, 1981.

ORDERED: 4. That this Report and Order shall become effective on the 13th day of February, 1981.

(S E A L)

Fraas, Chm., McCartney and  
Dority, CC., Concur.  
Slavin and Bryant, CC.,  
Not Participating.

Dated at Jefferson City, Missouri,  
this 3rd day of February, 1981.

BY THE COMMISSION

*D. Michael Hearst*  
D. Michael Hearst  
Secretary

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of Missouri Public	)	
Service Company of Kansas City,	)	
Missouri, for authority to file	)	Case No. ER-81-154
interim electric tariffs increasing	)	
rates for electric service provided	)	
to customers in the Missouri service	)	
area of the Company.	)	

STIPULATION AND AGREEMENT

Pursuant to an Order of the Missouri Public Service Commission (Commission) issued in the above-captioned matter, a prehearing conference was commenced January 26, 1981, in the Commission's offices in Jefferson City, Missouri.

Representatives of the Missouri Public Service Company (Company) and the Missouri Public Service Commission Staff (Staff) attended and participated in the prehearing conference. Although notified of the conference, no representative of the Office of Public Counsel appeared at or otherwise participated in the prehearing conference. There are no intervenors in this proceeding, or in the Company's permanent rate proceeding, Case No. ER-81-85, and the time for said intervention in the permanent proceeding has expired.

As a result of said prehearing conference, the undersigned stipulate and agree as follows:

1. That Company be allowed to recover in its rates for electric service all costs including purchased power costs associated with the generator failure in August, 1980, of its Sibley Generating Station, Unit No. 3. These costs are \$6,824,801. <sup>1</sup> These costs are to be recovered through the Company's cost of service, for purposes of ratemaking, over a reasonable period of time, said reasonable period of time to be determined by the Commission's

Report and Order to be issued in Company's permanent rate proceeding.

<sup>1</sup>These costs are to be mutually agreed upon on or before February 3, 1981.

Case No. ER-81-85. Nothing contained herein shall prohibit the Company or the Staff from presenting additional evidence in said permanent rate proceeding (ER-81-85) respecting a reasonable period for recovery of the Sibley generator expense, including any related costs associated with any unamortized portion of said expense. The amortization of these costs and the associated increase in electric rates authorized by that amortization will commence on the effective date of tariffs filed pursuant to the Commission's Report and Order issued in said Case No. ER-81-85.

2. That a hearing be held in connection with the Company's request for interim rate relief in Case No. ER-81-154 as previously scheduled in the Commission's hearing room commencing at 9:00 a.m. on February 23, 1981.

3. That the Company will reduce its request for interim rate relief in this docket, exclusive of the amortization and recovery of the costs associated with the Sibley generator failure, from fifteen million dollars (\$15,000,000), exclusive of franchise taxes, to nine million, five hundred thousand dollars (\$9,500,000), exclusive of franchise taxes, less one-half of the amount of the Sibley generator expense to be amortized and recovered as reflected in Paragraph One above.

4. That the agreements contained herein be approved by the Commission by its Report and Order to be issued in this docket no later than February 3, 1981, and to be effective no later than February 13, 1981; said Report and Order to be a final Report and Order on the issue of the amount of Sibley generator expense to be recovered as reflected in Paragraph One herein. Said Report and Order shall be binding upon the parties and the Commission in this proceeding (Case No. ER-81-154), the Company's permanent rate case, (No. ER-81-85), and all subsequent proceedings before any regulatory body or court involving this Company. Timely approval of this



Stipulation is necessary to provide the Company and its independent auditors with a basis for accounting and ratemaking treatment in the Company's financial statements of the costs associated with the Sibley generator failure. Without timely approval by this Commission of this accounting and ratemaking treatment as set forth herein, the Company's ability to finance may be severely constrained.

5. That this Stipulation and Agreement shall be presented to the Commission at a hearing in this docket on or before February 3, 1981.

6. That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties waive their right to present oral argument and written briefs pursuant to §536.010(1) and 4 CSR 240-2.140; their right pertaining to the reading of the transcript by the Commission pursuant to §536.080(3); and their right to judicial review pursuant to §386.510 RSMo 1978.

7. That the agreements in this Stipulation and Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation and Agreement in total this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof.

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