

EXHIBIT

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

203
Regulatory Plan
Trippensee/Rebuttal
Public Counsel
EM-2000-369

REBUTTAL TESTIMONY OF RUSSELL W. TRIPPENSEE

Submitted on Behalf of
the Office of the Public Counsel

UTILICORP UNITED INC.
AND
THE EMPIRE DISTRICT ELECTRIC COMPANY

Case No. EM-2000-369

June 21, 2000

Exhibit No. 203
Date 9-15-00 Case No. EM-2000-369
Reporter xf

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

In The Matter Of The Joint Application Of)
UtiliCorp United Inc. and The Empire)
District Electric Company for Authority to)
Merge The Empire District Electric)
Company with and into UtiliCorp United)
Inc., and, in Connection Therewith, Certain)
Other Related Transactions.)

Case No. EM-2000-369

AFFIDAVIT OF RUSSELL W. TRIPPENSEE

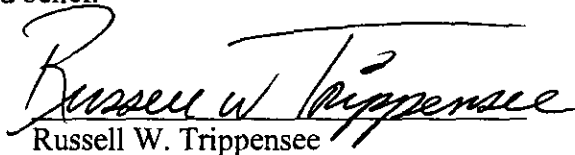
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Russell Trippensee, of lawful age and being first duly sworn, deposes and states:

1. My name is Russell W. Trippensee. I am Chief Public Utility Accountant for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony consisting of pages 1 through 18 and Schedule RWT-1.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Russell W. Trippensee

Subscribed and sworn to me this 21st day of June, 2000.


Bonnie S. Howard
Notary Public

My commission expires May 3, 2001.

REBUTTAL TESTIMONY

OF

RUSSELL W. TRIPPENSEE

UTILICORP UNITED INC.

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. EM-2000-369

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. Russell W. Trippensee. I reside at 1020 Satinwood Court, Jefferson City, Missouri 65109, and my
3 business address is P.O. Box 7800, Jefferson City, Missouri 65102.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am the Chief Utility Accountant for the Missouri Office of the Public Counsel (OPC or Public
6 Counsel).

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

8 A. I attended the University of Missouri at Columbia, from which I received a BSBA degree, major in
9 Accounting, in December 1977. I attended the 1981 NARUC Annual Regulatory Studies Program
10 at Michigan State University.

11 **Q. HAVE YOU PASSED THE UNIFORM CPA EXAM?**

12 A. Yes, I hold certificate number 14255 in the State of Missouri. I have not met the two-year
13 experience requirement necessary to hold a license to practice as a CPA.

14 **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

15 A. From May through August, 1977, I was employed as an Accounting Intern by the Missouri Public
16 Service Commission (MPSC or Commission). In January 1978 I was employed by the MPSC as a

Public Utility Accountant I. I left the MPSC staff in June 1984 as a Public Utility Accountant III and assumed my present position.

Q. PLEASE DESCRIBE YOUR PROFESSIONAL AFFILIATIONS.

A. I served as the chairman of the Accounting and Tax Committee for the National Association of State Utility Consumer Advocates from 1990-1992 and am currently a member of the committee. I am a member of the Missouri Society of Certified Public Accountants.

Q. PLEASE DESCRIBE YOUR WORK WHILE YOU WERE EMPLOYED BY THE MPSC STAFF.

A. Under the direction of the Chief Accountant, I supervised and assisted with audits and examinations of the books and records of public utility companies operating within the State of Missouri with regard to proposed rate increases.

Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WITH THE OFFICE OF THE PUBLIC COUNSEL?

A. I am responsible for the Accounting and Financial Analysis sections of the Office of the Public Counsel and for coordinating their activities with the rest of our office and other parties in rate proceedings. I am also responsible for performing audits and examinations of public utilities and presenting the findings to the MPSC on behalf of the public of the State of Missouri.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY BEFORE THE MPSC?

A. Yes. I filed testimony in the cases listed on Schedule RWT-1 of my testimony on behalf of the Missouri Office of the Public Counsel or MPSC Staff.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. I will present the Office of Public Counsel's position on the appropriate regulatory model to apply to UtiliCorp United Inc. (UCU or Company) in the event the Commission approves UCU's acquisition of Empire District Electric (EDE) despite Public Counsel's recommendation to the contrary. I will also summarize Public Counsel's recommendation regarding the merger application that is the subject matter of this case.

Q. HAVE YOU READ THE COMPANY'S APPLICATION AND TESTIMONY FILED IN THIS CASE?

A. Yes, I have.

Q. WHAT IS PUBLIC COUNSEL'S POSITION OR RECOMMENDATION REGARDING THE MERGER APPLICATION?

A. Public Counsel believes the MPSC should not approve the proposed merger in its current structure and under the regulatory conditions requested by the UCU and EDE. Public Counsel witnesses Mark Burdette, Ted Robertson, and Ryan Kind have filed rebuttal testimony addressing various topics that specifically address aspects of the proposed application which are detrimental to the public. My testimony addresses certain detrimental aspects of the Company's proposed regulatory plan.

Q. IS PUBLIC COUNSEL PROPOSING SPECIFIC CHANGES THAT WOULD ELIMINATE THE DETRIMENTAL ASPECTS OF THE PROPOSED MERGER?

1 A. No. Public Counsel does not believe it is our responsibility to develop a merger proposal for the
2 joint applicants. OPC's rebuttal testimony highlights certain conditions inherent in the proposal
3 that would be detrimental to the general public and Missouri. Public Counsel asserts that it is the
4 merger applicants' responsibility to present a proposal that is not detrimental to the public interest.

5 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF COMPANY WITNESS JOHN**
6 **MCKINNEY?**

7 A. Yes.

8 **Q. IS PUBLIC COUNSEL IN AGREEMENT WITH THE COMPANY'S REGULATORY**
9 **PLAN AS OUTLINED BY MR. MCKINNEY?**

10 A. No.

11 **Q. PLEASE EXPLAIN PUBLIC COUNSEL'S POSITION AS TO THE**
12 **APPROPRIATE REGULATORY PLAN THAT THIS COMMISSION SHOULD**
13 **IMPLEMENT WITH RESPECT TO THE MERGER OF UTILICORP UNITED INC.**
14 **AND EMPIRE DISTRICT ELECTRIC.**

15 A. Public Counsel recommends that the Commission reject the proposed merger that is the subject of
16 this case. Public Counsel believes the merger as structured by the Company is detrimental to the
17 public interest in Missouri, and as such, should not be approved by the Commission. The testimony
18 supporting this recommendation can be found in the rebuttal testimony of OPC witnesses, Ted
19 Robertson, Mark Burdette, and Ryan Kind.

1 The regulatory plan that I will outline should be viewed as OPC's recommendation only in the
2 event that the Commission rejects all of the evidence of public detriment and approves this merger.
3 This recommendation for a regulatory plan is not contingent on any changes or non-regulatory plan
4 conditions the Commission finds necessary in order for the merger to be approved.

5 **Q. PLEASE PROCEED WITH A SUMMARY OF PUBLIC COUNSEL'S POSITION**
6 **REGARDING A REGULATORY PLAN.**

7 A. Public Counsel proposes that the Commission require UCU, as a condition of the merger, to initiate
8 a general rate proceeding for total Missouri UCU electric operations with filed tariffs that include
9 rate design recommendations on service area specific pricing. This general rate proceeding shall be
10 initiated on or before the one-year anniversary of the "final determination" regarding the merger of
11 UCU and EDE and the merger of UCU and St. Joseph Light & Power Company (StJLP), whichever
12 is later. The Commission would also need to require that UCU not unilaterally withdrawn its
13 request. Additionally, the Commission should make it clear that it will consider any request or
14 recommendation for a reduction in the revenue requirement for total Missouri UCU electric
15 operations within the context and time frame of the required general rate proceeding.

16 **Q. DO UCU, EDE, AND STJLP HAVE OPERATIONS OTHER THAN ELECTRIC?**

17 A. Yes. StJLP and UCU have gas operations. StJLP has a steam operation in the city of St. Joseph
18 while EDE operates a water system.

1 **Q. PLEASE EXPLAIN WHY PUBLIC COUNSEL IS NOT CURRENTLY**
2 **RECOMMENDING THAT THE GENERAL RATE PROCEEDING INCLUDE UTILITY**
3 **OPERATIONS OTHER THAN ELECTRIC OPERATIONS.**

4 A. Public Counsel does not believe the other utility operations will be as significantly impacted by the
5 proposed mergers, as the electric operations will be. The electric operations of the respective
6 utilities are also the dominant operation of each utility. The electric revenue represent
7 approximately 90% of Missouri utility revenues for UCU and EDE and over 98% of utility
8 revenues for EDE.

9 **Q. PLEASE EXPLAIN WHAT YOU MEAN BY THE PHRASE "FINAL**
10 **DETERMINATION" AS USED IN YOUR REGULATORY PLAN**
11 **RECOMMENDATION.**

12 A. There are multiple possible results when a regulated utility merger is filed with the Commission.
13 The "final determination" as I am using the phrase refers to when the merger is either ultimately
14 consummated or when the parties formally agree or announce abandonment of efforts to merge.

15 **Q. HAS NOT THE COMMISSION PREVIOUSLY REJECTED A RECOMMENDATION**
16 **TO CONSOLIDATE THE INSTANT CASE WITH CASE NUMBER EM-2000-292**
17 **INVOLVING ST. JOSEPH LIGHT & POWER COMPANY?**

18 A. Yes. Public Counsel is not renewing that request for consolidation of Case Numbers EM-2000-292
19 and EM-2000-369 as a part of this recommendation. OPC is recommending that in the post-merger
20 environment that electric rates be determined on a Missouri jurisdictional basis.

1 **Q. WHY DOES PUBLIC COUNSEL PROPOSE THAT THE REGULATORY PLAN TO**
2 **BE USED IN A POST-MERGER ENVIRONMENT FOR UCU AND EDE BE**
3 **LINKED TO THE PROPOSED MERGER OF UCU AND ST. JOSEPH LIGHT &**
4 **POWER COMPANY?**

5 A. The Commission is currently faced with two separate merger cases involving UCU. In addition to
6 the instant case, UCU has on file and scheduled for hearing in July 2000 an application to merge
7 with St. Joseph Light & Power Company, Case No. EM-2000-292. The outcome of the individual
8 merger applications may be different. However, if both mergers are ultimately consummated, the
9 end result will be the transformation of three utilities currently serving three segregated Missouri
10 services areas into one unified company, UtiliCorp United, Inc., serving an integrated service area
11 within the boundaries of our State. The regulatory plans as proposed by UCU envision three
12 service territories (using the pre-merger boundaries) examined independently and with separate rate
13 cases.

14 This separation creates opportunities for rates to be set such that the total revenues received from
15 the three service areas would be in excess of the total revenue requirement for UCU's Missouri
16 operations. OPC witness Robertson provides some examples of this possibility in his rebuttal
17 testimony with respect to the exclusion of EDE from the allocation factor determination for UCU
18 costs. Other issues, which if looked at on a service area specific basis, that could cause an over-
19 collection of revenues on a total company basis would include the use of different test years, fuel
20 modeling, payroll annualization including overtime, cost of capital, as well as different corporate
21 allocation study periods, periods or factors.

1 **Q. IS THERE AN ADDITIONAL CONCERN REGARDING SERVICE AREA**
2 **SPECIFIC TARIFFS THAT CAN BE ADDRESSED BY LOOKING AT UCU'S**
3 **ELECTRIC OPERATIONS ON A MISSOURI JURISDICTIONAL BASIS WITH**
4 **RESPECT TO REVENUE REQUIREMENT?**

5 A. Yes, most definitely. Allowing UCU to file separate and distinct rate cases on a non-synchronized
6 time line would allow UCU to raise rates in one service area that was not earning an adequate rate
7 of return without any consideration of the earnings of the other service areas. The total revenues
8 paid to UCU by Missourians could be in excess of the necessary levels if the other service areas
9 were earning excess revenues. The Commission may determine (after consideration of all relevant
10 factors) that the current service territories should remain independent for rate design purposes.
11 However the Commission should not approve a regulatory plan that would allow the Company to
12 "game the system" and collect more revenues than is required on a total Missouri jurisdictional
13 basis. Neither should the Commission approve a regulatory plan that shifts the burden to it's Staff,
14 the OPC, or other intervenor to file a complaint case on a service area specific basis in order to
15 avoid overearnings on a Missouri jurisdictional basis.

16 **Q. ARE THERE OTHER REASONS THE PUBLIC COUNSEL OPPOSES THE**
17 **COMPANY'S PROPOSED REGULATORY PLAN?**

18 A. Yes. A review of the testimony filed by the applicants in the respective merger cases, review of
19 responses to data requests, and other documentation in the case clearly indicate UCU anticipates
20 approval of both mergers. The cost synergies outlined in the instant case are dependent on both
21 mergers being approved. More importantly, the cost synergy estimates change for the EDE

1 acquisition if the EDE acquisition is not completed also. The Commission should not approve a
2 regulatory plan based on cost synergy estimates that are dependent on approval of a related merger
3 that is not at issue in the instant case.

4 **Q. PLEASE PROVIDE AN EXAMPLE OF SYNERGY ESTIMATES BEING**
5 **DEPENDENT ON WHETHER OR NOT BOTH MERGERS ARE CONSUMATED.**

6 A. The direct testimony of Company witness Robert Holzwarth specifically identifies changes in the
7 estimated synergies associated with power supply costs depending on whether or not both mergers
8 occur. Specifically, beginning on page 20, line 2 of his direct testimony in Case No. EM-2000-369,
9 Mr. Holzwarth indicates that if the merger of EDE also occurs, the value of the synergies assigned
10 to St. Joseph Light & Power Company associated with power supply will be reduced by
11 \$55,242,000. Mr. Holzwarth has similarly styled direct testimony in this case (Case No. EM-2000-
12 392) which identifies additional power supply synergies of \$20,449,000 for EDE if the EDE merger
13 occurs.

14 **Q. ARE THE COST SYNERGY ESTIMATES INCLUDED IN THE COMPANY'S**
15 **TESTIMONY AND SUPPORTING WORKPAPERS KNOWN FACTS AS OF THIS**
16 **POINT IN TIME OR ANY POINT IN TIME PRIOR TO THE ACTUAL**
17 **MERGER?**

18 A. No. The cost synergy estimates are, in fact, simply estimates based on multiple assumptions.
19 These assumptions, along with the ability of the Company to actually implement procedures,
20 policies, employee levels and generation integration, will only be tested after the merger or mergers
21 have been consummated and UCU takes over the day to day management of the operations of the

1 EDE and EDE service areas. Public Counsel's proposal to require a general rate proceeding to be
2 initiated one-year after the final determination regarding both mergers will allow time for UCU get
3 in and "kick the tires" of the newly merged entities and actually identify and implement UCU
4 management strategies. The one-year delay will allow the parties to the general rate proceeding to
5 better determine the actual on-going cost of service for UCU's total Missouri operations and the
6 specific service areas if necessary.

7 **Q. PLEASE ELABORATE ON YOUR REFERENCE TO TOTAL MISSOURI**
8 **OPERATIONS AND SPECIFIC SERVICE AREAS.**

9 A. The post-merger operating characteristics of the UCU Missouri operations are anticipated to be
10 integrated from several perspectives including power generation, deliverability of electricity and
11 administration. A question the Commission should address is whether to continue service area
12 specific pricing or to move toward implementation of an UCU Missouri single tariff pricing
13 structure. The Company's proposed regulatory plan requires service area specific pricing for a
14 period of up to ten years. The Commission should not lock itself into a regulatory pricing scheme
15 without being able to look at the complete picture of how UCU intends to operate it's Missouri
16 properties in a post-merger(s) environment. Public Counsel would point out that all other electric
17 utilities operating integrated systems within Missouri borders utilize a single tariff pricing structure.

18 An additional factor the MPSC may wish to address is the reality that the existing regulatory
19 environment structure is currently a topic being discussed within Missouri and on a national basis.
20 Requiring a general rate proceeding a year after "final determination" would allow the Commission
21 time to analyze how an integrated UCU Missouri operations function. Public Counsel believes the

Commission should consider these factors along with others before approving a regulatory plan that locks in a pricing methodology for 10 years.

Q. WITH RESPECT TO PROVIDING A PARTY THE OPPORTUNITY TO ADDRESS SERVICE AREA SPECIFIC PRICING STRUCTURE IN THE GENERAL RATE PROCEEDING RECOMMENDED BY PUBLIC COUNSEL, DO YOU HAVE ANY RECOMMENDATIONS REGARDING HOW TO ENSURE THE NECESSARY DATA IS AVAILABLE FOR THAT PARTY?

A. Yes I do. The Commission should require the Company to maintain its financial records in a manner that allows a party to identify and quantify all direct revenues, expenses, and investments on a service area specific basis. Power flow metering between service areas will also need to be in place to allow parties to develop rational allocation factors. Public Counsel recognizes that certain administrative and general expenses and investments along with corporate costs will need to be assigned to each service area on a rational allocation basis.

Q. DOES THE COMPANY'S PROPOSAL ALSO REQUIRE SERVICE AREA SPECIFIC FINANCIAL AND OPERATIONAL INFORMATION BE MAINTAINED?

A. Yes.

Q. WILL PUBLIC COUNSEL'S PROPOSAL INCREASE THE REGULATORY COST ASSOCIATED WITH RATE CASES OVER THE NEXT TEN YEARS FOLLOWING THE FINAL DETERMINATION WITH RESPECT TO THE MERGERS.

1 A. No. In fact our proposal should reduce not only the rate case expense incurred by UCU (which is
2 paid for by ratepayers) but also the expense and time incurred by other parties that participate in the
3 proceeding. The Company proposal would require separate and distinct rate cases (or complaint
4 case) for each of the three service territories in the post-merger time period to address either over or
5 under earnings. OPC's proposal would require only one rate case (or complaint case) to address the
6 same situations.

7 **Q. WILL PUBLIC COUNSEL'S PROPOSAL INCREASE THE COST TO THE**
8 **COMPANY IN THE SHORT-RUN, (I.E. THE NEXT TWO YEARS FOLLOWING**
9 **THE FINAL DETERMINATION) WITH RESPECT TO REGULATORY EXPENSE?**

10 A. No. The Company is currently planning to file rate cases for EDE and the Missouri Public Service
11 division of UCU during that time frame (Response to MPSC Staff Data Request No. SJLP-171).
12 The applicant's testimony in Case No. EM-200-369 regarding the proposed regulatory plan also
13 addresses the need to have a rate adjustment prior to the implementation of a regulatory plan for
14 EDE.

15 **Q. DOES UTILICORP UNITED PROPOSE A RATE CASE PRIOR TO INITIATION**
16 **OF THE REGULATORY PLAN WITH RESPECT TO THE EMPIRE DISTRICT**
17 **ELECTRIC COMPANY SERVICE TERRITORY?**

18 A. Yes.

1 **Q. DOES PUBLIC COUNSEL HAVE ANY CONCERNS WITH REGARD TO**
2 **COMPANY'S REQUEST AS STRUCTURED AND OUTLINED IN UCU'S DIRECT**
3 **TESTIMONY IN SUPPORT OF THIS MERGER?**

4 **A.** Yes. The standard that this Commission must follow in determining whether or not to approve a
5 merger is different than the standard the Commission must use in determining rates. A merger
6 approval by this Commission must find that the merger is not detrimental to the public interest as
7 discussed in OPC witness Ted Robertson's rebuttal testimony. In contrast, a rate determination
8 must find that the rates approved are just and reasonable. Public Counsel does not believe the
9 Commission should or can make determinations in the context of a merger case binding parties to
10 positions on specific issues in a future rate case, unless all parties to the merger case agree to such
11 specific treatment pursuant to a stipulation and agreement in the merger case. To do otherwise
12 would create a situation where this Commission would pre-judge rate case issue(s) before opposing
13 parties are provided their opportunity to present evidence in the appropriate proceeding where the
14 Commission is governed by the appropriate statutory authority regarding the setting of just and
15 reasonable rate.

16 **Q. YOU MENTIONED THE SITUATION WHERE PARTIES MAY AGREE AS TO THE**
17 **APPROPRIATE TREATMENT OF A COST-OF-SERVICE ISSUE IN**
18 **SUBSEQUENT RATE PROCEEDINGS AS PART OF STIPULATION AND**
19 **AGREEMENT IN A MERGER PROCEEDING. PLEASE DISTINGUISH THAT**
20 **SITUATION FROM A COMMISSION ORDER IN A CONTESTED MERGER CASE**
21 **PRE-JUDGING AN ISSUE IN A FUTURE RATE CASE.**

1 A. It is my understanding, based on discussions with counsel, that a party as part of a negotiation may
2 obligate itself to future actions. It is also my understanding, however, that the Commission cannot
3 obligate a party with respect to what position or positions that party must take in a future rate
4 proceeding or other proceeding for that matter.

5 Q. **BASED ON DISCUSSIONS WITH COUNSEL AND EXPERIENCE, IS IT YOUR**
6 **UNDERSTANDING THAT THE COMMISSION CANNOT OBLIGATE FUTURE**
7 **COMMISSIONS REGARDING SPECIFIC TREATMENT OF ISSUES IN A**
8 **FUTURE RATE CASE PROCEEDING?**

9 A. Yes.

10 Q. **CAN YOU PROVIDE AN ANALAGOUS SITUATION WHICH ILLUSTRATES THIS**
11 **POINT?**

12 A. Yes. The Commission has approved what are called Accounting Authority Orders (AAOs) in the
13 past. These AAOs allow a utility to defer recording an expenditure (or imputed cost such as
14 unrealized earnings) on its financial records until a future rate case. The determination as whether
15 or not the deferral is included in the cost-of-service is made at the time of the future rate case, **not**
16 **at the time of the deferral.**

17 In this case, the Company is asking this Commission to make the determination as to the
18 appropriate treatment of certain cost-of-service components at the time of the merger and not in a
19 general rate case proceeding in which the Commission is obligated to consider all relevant factors
20 in determining the cost-of-service used to set rates. An action by this Commission to provide such

1 approval would not be appropriate. In approving AAOs, the Commission has consistently
2 recognized that it does not have the authority to set rates in an AAO proceeding. Likewise, in the
3 context of a merger proceeding, the MPSC should not determine the treatment of certain cost-of-
4 service components that are appropriately treated within the context of a general rate case
5 proceeding. To do so would be tantamount to setting rates in the merger proceeding without
6 considering all relevant factors.

7 **Q. PLEASE EXPLAIN WHY IT WOULD STILL BE INAPPROPRIATE TO PRE-SET**
8 **RATE CASE ISSUES NOT WITHSTANDING THE COMMISSION'S INABILITY**
9 **TO BIND FUTURE COMMISSIONS.**

10 A. This Commission does not have a crystal ball that can determine what factors it should review
11 when setting just and reasonable rates at some point in the future. The Company's proposal would
12 provide for these factors to be known for a period of up to ten years under its regulatory proposal.
13 This Commission's obligation is to set just and reasonable rates and in doing so the Commission
14 should look at all known and measurable conditions that exist at the time the rates are set. In
15 addition, the Commission should look at all relevant components of the overall cost-of-service and
16 not isolate single issues as requested by the Company in this merger proceeding. Acceptance of
17 UCU's proposal appears to prevent the Commission and other parties, from reviewing certain
18 issues in the context of a general rate proceeding.

19 **Q. CAN YOU PROVIDE SPECIFIC EXAMPLES OF ISSUES THAT UCU WANTS**
20 **THIS COMMISSION TO PREJUDGE?**

1 A. Yes. Mr. McKinney's direct testimony outlines two specific issues that would be fixed with respect
2 to the determination of rates for ratepayers in the current EDE service territory. The capital
3 structure (page 28 – 29) and the exclusion of EDE statistics from the UCU corporate cost allocation
4 procedure (page 29 – 30) would be determined as part of this merger proceeding. The Company
5 also proposes to recognize that the acquisition premium shall be recovered from the ratepayers up
6 to certain limits (McKinney direct page 14 – 15).

7 Q. ARE THESE SPECIFIC COST-OF-SERVICE ISSUES YOU IDENTIFIED THAT
8 THE COMPANY WOULD HAVE THE COMMISSION ADDRESS IN THIS MERGER
9 PROCEEDING, ISSUES THAT ARE OFTEN CONTESTED ISSUES IN GENERAL
10 RATE PROCEEDINGS?

11 A. Yes, most definitely. Each issue has had testimony filed by various opposing parties in rate case
12 proceedings involving several different utilities operating in this state. A point that must be made
13 regarding the acquisition premium is that this Commission has never approved the inclusion of an
14 acquisition premium as a component of the cost-of-service. UCU has the audacity to request this
15 Commission abandon prior rate case policy with respect to how acquisition adjustments are treated
16 for the purposes of setting rates and UCU requests the Commission to do so in a merger case
17 proceeding that does not have the same statutory requirements of a rate case proceeding.

18 Q. UTILICORP UNITED PROPOSES A RATE MORATORIUM AS PART OF ITS
19 REGULATORY PLAN. DOES PUBLIC COUNSEL HAVE ANY CONCERNS
20 REGARDING THIS PROPOSAL AS IT APPLIES TO PUBLIC COUNSEL OR

**OTHER PARTIES WHO MAY WISH TO INTERVENE IN FUTURE PROCEEDING
INVOLVING UCU?**

A. Yes. While the Company does not address the applicability of a moratorium to Public Counsel directly, the Company does cite the language in Case No. EM-97-515 to which Public Counsel was a party in which a moratorium was recommended to the Commission. Public Counsel is concerned that the Company may attempt to convince this Commission to issue a report and order that would identify Public Counsel or other affected parties as being restricted by the moratorium and thereby precluded OPC or other parties from filing a complaint or other action during the term of the regulatory plan.

**Q. HAS THE COMMISSION PREVIOUSLY RECOGNIZED THAT IT CANNOT ORDER
A PARTY TO TAKE A POSTION WITH REGARD TO RATE MATTERS?**

A. Yes the Commission has made a ruling on an issue that is analogous to the Company's request. In Case No. ER-95-411, the Commission recognized that it could not force Union Electric to share excess earnings absent their agreement. The Commission's Report and Order approving the Stipulation and Agreement stated on page 7:

Although the Commission could not under current statutes order UE to adopt a plan to share earnings with customers, where, as here, UE has voluntarily agreed to such a plan the Commission believes the public interest is served by such a plan under the parameters proposed. The Commission also concludes that it may accept an agreement of the parties for the resolution of the issues where, as here, the Commission finds the provisions of the Stipulation And Agreement are reasonable.

**Q. PLEASE SUMMARIZE PUBLIC COUNSEL'S POSITION REGARDING THE
COMPANY'S REQUEST TO ENACT A REGULATORY PLAN THAT WOULD**

1 **REQUIRE THE COMMISSION TO PREJUDGE ISSUES IN THE SUBSEQUENT**
2 **RATE CASE AND PRECLUDE PARTIES (AT A MINIMUM THE STAFF) FROM**
3 **PRESENTING MATTERS TO THIS COMMISSION FOR CONSIDERATION.**

4 A. The Commission should not commit itself to a position in a merger proceeding that, because of
5 varying conditions and occurrences overtime (up to ten years) may require adjustments to protect
6 the ratepayers. The Commission requires flexibility in exercising its ratemaking function to deal
7 with changing and unforeseen circumstances. To make certain decisions in a merger proceeding
8 regarding cost-of-service issues in a rate case proceeding would be wholly inappropriate.

9 **Q. RECOGNIZING THAT CASE NO. EM-2000-292 HAS NOT BEEN**
10 **CONSOLIDATED WITH THIS CASE; CAN YOU PROVIDE ANY RELEVANT**
11 **INFORMATION REGARDING YOUR TESTIMONY FILED IN THAT CASE?**

12 A. Yes. OPC made the same regulatory plan recommendation in the UCU/StJLP merger case. The
13 Company plans to operate the respective service areas of the merged firms in an integrated manner,
14 and thus Public Counsel believes the MPSC should look at the rates Missourians will pay in the
15 same manner. To do otherwise would set up a regulatory system that provides UCU the
16 opportunity to reap excessive profits and expose Missourians to paying excessive rates.

17 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

18 A. Yes.

Rebuttal Testimony
Russell W. Trippensee
Case No. EM-2000-369

Missouri Power & Light Company, Steam Dept., Case No. HR-82-179
Missouri Power & Light Company, Electric Dept., Case No. ER-82-180
Missouri Edison Company, Electric Dept., Case No. ER-79-120
Southwestern Bell Telephone Company, Case No. TR-79-213
Doniphan Telephone Company, Case No. TR-80-15
Empire District Electric Company, Case No. ER-83-43
Missouri Power & Light Company, Gas Dept., Case No. GR-82-181
Missouri Public Service Company, Electric Dept., Case No. ER-81-85
Missouri Water Company, Case No. WR-81-363
Osage Natural Gas Company, Case No. GR-82-127
Missouri Utilities Company, Electric Dept., Case No. ER-82-246
Missouri Utilities Company, Gas Dept., Case No. GR-82-247
Missouri Utilitites Company, Water Dept., Case No. WR-82-248
Laclede Gas Company, Case No. GR-83-233
Great River Gas Company, Case No. GR-85-136 (OPC)
Northeast Missouri Rural Telephone Company, Case No. TR-85-23 (OPC)
United Telephone Company, Case No. TR-85-179 (OPC)
Kansas City Power & Light Company, Case No. ER-85-128 (OPC)
Arkansas Power & Light Company, Case No. ER-85-265 (OPC)
KPL/Gas Service Company, GR-86-76 (OPC)
Missouri Cities Water Company, Case Nos. WR-86-111, SR-86-112 (OPC)
Union Electric Company, Case No. EC-87-115 (OPC)
Union Electric Company, Case No. GR-87-62 (OPC)
St. Joseph Light and Power Company, Case Nos. GR-88-115, HR-88-116 (OPC)
St. Louis County Water Company, Case No. WR-88-5 (OPC)
West Elm Place Corporation, Case No. SO-88-140 (OPC)
United Telephone Long Distance Company, Case No. TA-88-260 (OPC)
Southwestern Bell Telephone Company, Case No. TC-89-14, et al. (OPC)
Osage Utilities, Inc., Case No. WM-89-93 (OPC)
GTE North Incorporated, Case Nos. TR-89-182, TR-89-238, TC-90-75 (OPC)
Contel of Missouri, Inc., Case No. TR-89-196 (OPC)
The Kansas Power and Light Company, Case No. GR-90-50 (OPC)
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