

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City)
Power & Light Company for Authority to Sell)
to Aquila, Inc., Certain Electric Transmission)
Facilities Subject to the Jurisdiction of the)
Commission and Located in Buchanan County,)
Missouri.)

Case No. EO-2005-0270

CONCURRING OPINION OF COMMISSIONER ROBERT M. CLAYTON III

The undersigned Commissioner concurs in the result of the order that the parties may proceed to complete their agreement regarding the sale of this asset. This case involves the transfer of a transmission line at an agreed to price, \$200,000, although the price was not based upon standard rate base analysis, which is investment less accumulated depreciation. Without additional information providing the rate base value of the asset, the parties cannot agree, and the Commission cannot determine, whether or not the transfer is being made with an acquisition premium.

The Order defers the decision of whether to allow the purchaser the opportunity to recover from ratepayers the entire cost for the asset, including the acquisition premium, until the next rate case. While this Commissioner believes that it is in the public interest to move this case promptly and without delay to conclusion, the treatment of the acquisition premium requires particular attention and additional explanation.

This Commissioner believes that the previous rulings by the Commission disallowing the recovery of acquisition premiums from ratepayers should continue in this case. No extraordinary circumstances have been presented which require a reversal of Commission precedent declining the recovery of an acquisition premium.

In addition, this case does not violate Missouri Supreme Court precedent and direction. The purchase price of \$200,000 is a fraction compared to the most recent decision of the Commission declining to entertain such a premium. In Case No. EM-2000-292,¹ the Commission declined to decide the issue of acquisition premium recovery and deferred the amount, valued at \$92 million, until the next Aquila rate case. The Supreme Court reversed the decision of the Commission claiming that such a deferment of decision was contrary to applicable law in that the Commission could not assess the impact on the public in determining whether the transfer was in the public interest. The Commission eventually denied any type of premium adjustment.

This case is different due to the smaller amount in question and the insignificant impact on the consumer. Regardless of the eventual decision in the next rate case whether to allow recovery or not, the ratepayer will not be harmed. For that reason, this Commissioner will not hold up this case, but agrees that the transfer can occur and the decision of premium recovery can be deferred. When the Commission is faced with the decision of whether to permit premium recovery, this Commissioner will cast his vote in accordance with this opinion.

For these reasons I voted in favor of this order.

Respectfully submitted,



Robert M. Clayton III
Commissioner

Dated at Jefferson City, Missouri,
on this 1st day of July, 2005.

¹ In the Matter of the Joint Application of Utilicorp United Inc. and St. Joseph Light & Power Company with and into Utilicorp United Inc., and, in Connection Therewith, Certain Other Related Transactions.