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June 15, 2001

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

FILED²
JUN 15 2001
Missouri Public
Service Commission


RE: Missouri Public Service, a division of UtiliCorp
Case No. ER-2001-672

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies **Motion to Reject Tariff Filing**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,


John B. Coffman
Deputy Public Counsel

JBC:jb

cc: Counsel of Record

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

FILED

JUN 15 2001

Missouri Public
Service Commission

In the Matter of the tariff filing of Missouri)
Public Service ("MPS") a division of)
UtiliCorp United Inc., ("UtiliCorp") to)
implement a general rate increase for)
retail electric service provided to customers)
in the Missouri service area of MPS)

Case No. ER-2001-672

MOTION TO REJECT TARIFF FILING

COMES NOW the Office of the Public Counsel (Public Counsel), pursuant to Sections 386.020(15), 393.140(11), 393.150, and 393.270 RSMo. 2000 and Commission Rules 4 CSR 240-2.065(1) and 4 CSR 240-2-10.070, and for its Motion to Reject Tariff Filing states as follows:

1. On December 14, 2000, UtiliCorp United, Inc. (UtiliCorp) was granted permission by the Commission to merge with St. Joseph Light & Power Company (SJLP) despite recommendations of Public Counsel, Staff, and other intervenors that the transaction should be denied because it was detrimental to the public interest. Report and Order, Case No. EM-2000-292. In its Report and Order, the Commission authorized SJLP "to merge with and into UtiliCorp United, Inc. with UtiliCorp United, Inc. being the surviving corporation." Id., Ordered Paragraph 1. The approved merger included the assumption of SJLP's certificate of public convenience and necessity, its works, systems and franchises, and all securities, evidences of indebtedness and guarantees into UtiliCorp. Id., Ordered Paragraph 2.

On January 4, 2001, UtiliCorp informed the Commission that the merger was completed effective December 31, 2000.

2. On June 4, 2001, the Federal Energy Regulatory Commission (FERC) granted final approval for UtiliCorp to commence integrated operations between its SJLP and MPS service territories. Order Accepting Compliance Filing And Authorizing Integrated Operations, Docket No. EC00-27-003.

3. On June 8, 2001, UtiliCorp filed revised tariffs requesting an increase in rates, but only for that geographic region where it does business under the fictitious name "Missouri Public Service Company." The cover letter for this filing recognizes that the applicant in this case is UtiliCorp "d/b/a Missouri Public Service Company;" however, UtiliCorp's name is not included in the style that is suggested for this matter on the accompanying prepared direct testimony, where the "Sponsoring Party" is listed as "Missouri Public Service Company."

4. Neither SJLP nor Missouri Public Service Company (MPS) exist as separate corporations, but rather these now are merely divisions of the same regulated company and are fictitious "d/b/a" names under which UtiliCorp does business. Chapters 386 and 393 of the Missouri Code do not recognize subdivisions of an electrical corporation as separate entities for the purpose of official filings before the Commission. All of the statutes in these two chapters which govern the manner in which the Commission may regulate rates use the word "electrical corporation" as defined in Section 386.020(15) RSMo. 2000. Most notably, for the purposes of a general rate case, these statutes include Sections 393.140(11), 393.150 and 393.270 RSMo. 2000.

5. UtiliCorp's June 8, 2001 tariff filing is unprecedented in that no Chapter 393 utility (electric, natural gas, water, or sewer corporation) has ever been permitted by the Commission to initiate a general rate case by filing revised tariffs for only selective regions within their certificated electric service areas. Public Counsel recalls Missouri-American Water Company and Missouri Cities Water Company inquiring about filing rate cases that would only involve the tariffs of certain geographic service territories ("districts"), but these water companies have not ever been permitted to do so.

6. The prepared direct testimony of Gary L. Clemens, which accompanied UtiliCorp's June 8, 2001 tariff filing, illustrates how consumers could be impacted by ignoring the merger and only reviewing the tariffs that apply to one portion of this electrical corporation's service territory:

Q. What about the allocation of costs?

A. UtiliCorp utilizes a central office administrative process whereby common administrative functions are allocated to each of its various jurisdictions. As UtiliCorp grows, normally these corporate costs are allocated over a larger pool thereby lowering the cost to each division. But for purposes of this case we do not intend to allocated any costs to the SJLP division. Ultimately, however, we will do this. In addition the transition and transaction costs from the SJLP merger will need to be allocated to those divisions receiving the benefit of lower corporate cost, along with a portion of any premium that may have been paid for stock in connection with the merger. Again, however, since the SJLP merger has only been in place for a very short time, our preference for this case is to treat MPS as though the merger did not take place with no merger impacts.

Ibid., p. 4, lines 5-16.

7. The Commission's rules do not permit a partial filing of tariffs in a general rate case for an electrical corporation. Commission Rules 4 CSR240-2.065(1) and 4 CSR240-

2.070(2) require that a general rate increase request be made "company-wide." The June 8, 2001 filing is not a company-wide request on behalf of UtiliCorp in that it only addresses the service territory where it does business under the fictitious name "Missouri Public Service Company." No waiver of these Commission Rules has been requested by UtiliCorp.

8. Permitting a regulated utility to file for a general rate case that only covers the tariffs of selected service territories of that utility violates the "all relevant factors" requirement (also known as the prohibition against single-issue ratemaking) as upheld by the Missouri Supreme Court in State ex rel. Utility Consumers Council of Missouri v. PSC, 585 S.W.2d 41 (Mo. banc 1979). The Commission must consider all relevant factors company-wide to ensure that the ultimate decision of the Commission is just and reasonable.

9. Permitting a utility to file a general rate case for only one of its certificated territories would also be bad public policy in that it limits the rate design options available to the Commission. The Commission may not ultimately decide to change rates in the SJLP area, but it should not accept a limited scope for its potential decisions on these matters.

10. Permitting a utility to file a general rate case for only one of its certificated territories would also be bad public policy in that it would establish a precedent that would likely encourage other multi-district utilities to manipulate earnings by filing separate cases at different times for selective portions of their certificated areas. These practices would make it more difficult to ensure that overhead expenses are not being overcollected from consumers, that allocations are being determined fairly, and that

certain costs are not being shifted from one area to another to take advantage of separate filings. It is a more sound policy to require all revenues, expenses and financial information to be reviewed company-wide in one case when the goal is setting just and reasonable rates.

11. In Case No. ET-2001-482, UtiliCorp filed a case to "synchronize" various fees and charges between its SJLP and MPS divisions. Public Counsel moved to dismiss on the grounds that it would violate the prohibition against single-issue ratemaking and because a rate case would be the most appropriate place for any such synchronization to be considered. The Commission rejected UtiliCorp's filing, stating:

The law is quite clear that when the Commission determines the appropriateness of a rate of charge that a utility seeks to impose on its customers, it is obligated to review and consider *all* relevant factors, rather than just a single factor. To consider some costs in isolation might cause the Commission to allow a company to raise rates to cover increased costs in one area without recognizing counterbalancing savings in another area. Such a practice is justly considered to be single-issue ratemaking.

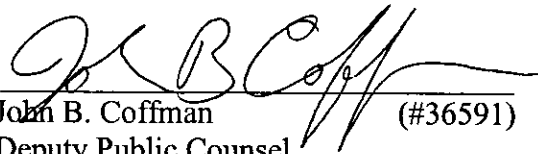
Ibid., Order Rejecting Tariff, p. 4, issued on April 4, 2001.

Now if UtiliCorp is permitted to file a general rate case for only its MPS area, then synchronization of the various fees and charges will not be an appropriate issue in this case.

WHEREFORE, Public Counsel respectfully requests that the Commission reject the June 8, 2001 tariff filing as unlawful and deficient as described herein.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

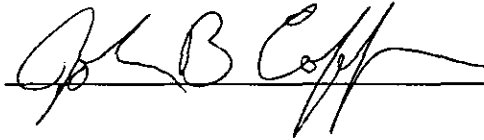
By: 
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 15th day of June 2001:

General Counsel
Missouri Public Service Commission
P O Box 360
Jefferson City, MO 65102

James C. Swearengen
Brydon, Swearengen & England P.C.
P O Box 456
Jefferson City, MO 65102

A handwritten signature in black ink, appearing to read "JCS", is written over a horizontal line.