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July 10, 2001

FILED³

JUL 10 2001

Missouri Public
Service Commission

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

Re: Case No. ER-2001-672

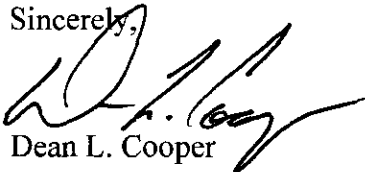
Dear Mr. Roberts:

Enclosed for filing on behalf of UtiliCorp United Inc. d/b/a Missouri Public Service, please find an original and eight (8) copies of the following documents:

1. UtiliCorp's Objection to Application for Intervention of Missouri Joint Electric Utility Commission;
2. Test Year Recommendation; and
3. Request for True-Up and Motion to Reschedule True-Up Hearing.

Please see that these filings are brought to the attention of the appropriate Commission personnel. A copy of the enclosed documents are being provided to parties of record. I thank you in advance for your cooperation in this matter.

Sincerely,


Dean L. Cooper

DLC/da
Enclosure
cc: Parties of Record

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

FILED³
JUL 10 2001

In the Matter of the tariff filing of Missouri)
Public Service, a division of UtiliCorp)
United Inc., 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

Missouri Public
Service Commission

**UTILICORP'S OBJECTION TO APPLICATION FOR INTERVENTION
OF MISSOURI JOINT ELECTRIC UTILITY COMMISSION**

Comes now UtiliCorp United Inc. ("UtiliCorp") d/b/a Missouri Public Service ("MPS"), by counsel, and, as its objection to the Application for Intervention of the Missouri Joint Electric Utility Commission ("MJMEUC"), respectfully states as follows to the Missouri Public Service Commission ("Commission"):

1. On or about July 6, 2001, the MJMEUC filed its Application for Intervention with the Commission (the "Application").

2. Commission Rule 4 CSR 240-2.075 states, in part, that:

The commission may on application permit any person to intervene on a showing that –

(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

Neither condition is satisfied in this instance. The Application must be denied.

3. In paragraph 3 of the Application, MJMEUC describes its interest as follows: "As a wholesale customer of UtiliCorp, directly and on behalf of its contracting municipalities, the MJMEUC and its municipalities are affected by MPS fuel and purchased power costs, and thus may be adversely affected by a final order in this matter."

4. Based on this alleged interest, it is clear that the Commission's final Report and Order in this case cannot possibly adversely affect MJMEUC in any fashion. MJMEUC states that its relationship which gives rise to its interest in this case is as a direct and indirect *wholesale customer* of UtiliCorp. The Commission's resulting Report and Order in this case *cannot* as a matter of law change UtiliCorp's wholesale rates.

5. The Federal Energy Regulatory Commission ("FERC") has exclusive jurisdiction over wholesale power prices as a result of the Federal Power Act. 16 U.S.C. §§ 824. In 1996 the FERC issued Order No. 888, which interprets the Federal Power Act as leaving regulation of only bundled retail transmissions to the various states. The FERC's interpretation of the Federal Power Act was recently upheld by the United States Court of Appeals for the District of Columbia Circuit in *Transmission Access Policy Study Group v. F.E.R.C.*, 225 F.3d 667 (D.C. Cir. 2000). See *In the Matter of the Joint Application of UtiliCorp United Inc. and The Empire District Electric Company*, Mo PSC Case No. EM-2000-369 (December 28, 2000).

6. Likewise, the Commission's Report and Order cannot possibly affect the second item in which the MJMEUC claims interest in this case, namely MPS's "fuel and purchased power costs." These costs are set by contracts between UtiliCorp and third parties. While the Commission may determine how these items are treated for retail rate making purposes, nothing in the Commission's Report and Order will affect the amounts that UtiliCorp must pay to those third parties.

7. The only "public interest" identified by MJMEUC in the Application is its allegation that "as a joint municipal utility commission with distinctive interests in this case, the public interest would be served by its proposed intervention." As discussed

above, the MJMEUC not only lacks "distinctive interest" in this case, it lacks any interest whatsoever. In fact, based on the Application, its only interest is in UtiliCorp's wholesale rates, rates which are not set by this Commission and which cannot be affected by any Commission order in this case.

8. Allowing MJMEUC's intervention, or the intervention of any other party without a legitimate interest in these proceedings, will only serve to harm the public interest. Allowing a party to intervene when that party cannot be either positively or negatively affected by the Commission's order destroys the balance that otherwise would assist and further the resolution and negotiation process of a case. Because of the Commission's current view of non-unanimous stipulations, this imbalance will seriously cripple any chance of reaching consensus among the parties. Additionally, depending upon the non-interested intervenor's approach to the case, that party can also damage the efficiency of the discovery process by requiring UtiliCorp resources be expended to answer multiple requests for information from the non-interested intervenor.

9. The proposed intervention of MJMEUC should be denied by the Commission. MJMEUC does not have an interest in the proceeding, nor would its intervention serve the public interest.

WHEREFORE, UtiliCorp respectfully requests that the Commission:

(a) deny the MJMEUC's Application for Intervention; and,

(b) grant such further relief as the Commission deems appropriate.

Respectfully submitted,


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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 10th day of July, 2001, to:

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