



Missouri Public Utility Alliance

Missouri Association of Municipal Utilities
Municipal Gas Commission of Missouri
Missouri Joint Municipal Electric Utility Commission

2407 W. Ash
Columbia, MO 65203-0045

July 20, 2001

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

FILED²
JUL 20 2001
Missouri Public
Service Commission

RE: Case No. ER-2001-672
Missouri Public Service, Division of Utilicorp United

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of the Response to Utilicorp's Objection to the Application for Intervention of the Missouri Joint Municipal Electric Utility Commission. A copy of the foregoing Response has been mailed today to Utilicorp United.

Thank you for your attention to this matter.

Sincerely,


Duncan E. Kincheloe

Enclosures

xc: PSC Staff
Office of the Public Counsel
Brydon Swearenegn & England, P.C.

FILED²

JUL 20 2001

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Tariff Filing of)
Missouri Public Service (MPS), 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

Tariff No. 200101173

MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSION'S
RESPONSE TO UTILICORP'S OBJECTION TO APPLICATION FOR
INTERVENTION

COMES NOW the Missouri Joint Municipal Electric Utility Commission ("MJMEUC") and, as its response to UtiliCorp's Objection to the Application for Intervention of the Missouri Joint Electric Utility Commission, respectfully states as follows to the Missouri Public Service Commission ("Commission"):

1. On July 6, 2001, MJMEUC filed Application for Intervention in this proceeding and stated:

"As a **wholesale** energy 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." (emphasis added)

2. On July 10, 2001, UtiliCorp d/b/a/ Missouri Public Service ("MPS") filed its objection to MJMEUC's intervention on the basis that:

- a. "The Commission's resulting Report and Order in this case *cannot* as a matter of law change UtiliCorp's wholesale rates" (paragraph 4).
- b. "The Federal Energy Regulatory Commission ("FERC") has exclusive jurisdiction over wholesale power prices as a result of the Federal Power Act." (paragraph 5)
- c. "These [fuel and purchased power] costs are set by contracts between UtiliCorp and third parties. Nothing in the Commission's Report and Order will affect the amounts that UtiliCorp must pay to those third parties. (paragraph 6)

3. Although UtiliCorp objects to the MJMEUC Application for Intervention on the basis that MJMEUC's only interest is in UtiliCorp's wholesale rates which are not set by the Commission and cannot be affected by the Commission's order, MJMEUC disagrees with UtiliCorp's arguments.
4. UtiliCorp's wholesale requirements customers, although subject to wholesale rates under the FERC jurisdiction, are subject to FERC's Fuel Adjustment Clause¹ ("FAC") which allows for certain fuel and purchased power costs to be directly passed on to wholesale customers.
5. UtiliCorp's supply resources consist of both owned generation and capacity purchases sized for "the provision of economical and reliable bulk power to serve MPS's Missouri retail and wholesale requirements customers." (emphasis added) (Direct Testimony of Stephen L. Ferry, page 22, lines 16 through 18). UtiliCorp makes no distinction between owned generation and capacity purchases used to serve retail (comprising greater than ninety five percent (95%) of MPS load) versus wholesale customers (less than five percent (5%) of MPS load). Thus, fuel and purchased power costs authorized by the Commission will affect the costs passed through to UtiliCorp's wholesale requirements customers.
6. UtiliCorp, itself, recognizes that there is a link between fuel and purchased power costs for its retail and wholesale customers. In a pleading before the FERC², UtiliCorp states:

"MPS has explained in both of these dockets that it has a tremendous incentive to minimize its fuel and purchased energy expenses at all times because it does not have a fuel adjustment provision for its retail load (which represents over 95 percent of its total load). In other words, for every dollar in increased fuel adjustment charges passed on to MPS wholesale customers, MPS incurred \$19 in costs that cannot be collected through current rates."

¹ Fuel Adjustment Clause for Electric Utilities, FERC Stats and Regs Par. 30,525 (1983) reh'g denied 26 FERC Par. 61,266 (1984).

² Answer of UtiliCorp United Inc. to Request for Clarification, Docket No. EL00-43-001: UtiliCorp United Inc. v. City of Harrisonville, Missouri and Docket No. EL00-68-001: Missouri Joint Municipal Electric Utility Commission and the City of Harrisonville, Missouri v. UtiliCorp United, Inc.

7. Although UtiliCorp states that its fuel and purchased power contracts are set between UtiliCorp and third parties, and that nothing in the Commission order will affect the amounts that UtiliCorp must pay to those third parties, MJMEUC believes that these contracts will come under review in this case. In addition, costs paid by UtiliCorp for fuel and purchased power will be passed through to the wholesale requirements customers through the FERC FAC.

8. In the past year ending December 31, 2000, UtiliCorp purchased a large portion, more than twenty percent (20%), of its energy, 1,208,895 MWH (Direct Testimony of Stephen L. Ferry, page 5, line 10), from the regional spot market, which can be subject to extreme volatility in pricing. UtiliCorp's purchase power practices in the spot market affect both Missouri retail and wholesale requirements customers.

9. In his Direct Testimony, UtiliCorp Witness Stephen L. Ferry states that:

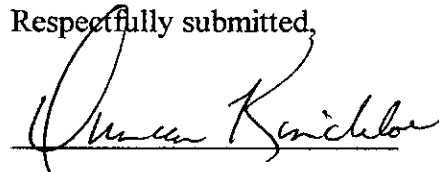
"... MPS retail and wholesale requirements customers will generally benefit from off-system sales and therefore should also share in the risk." (page 24, lines 3 through 4).

The benefits received by wholesale requirements customers from UtiliCorp's ability to make off-system sales is questionable and thus needs to be explored in the context of this case. Although MPS' wholesale customers bear much of the risk associated with UtiliCorp's fuel and purchased power costs through the FAC, these customers currently share no portion of the profits from off-system sales.

10. For the reasons stated, UtiliCorp's objection to the MJMEUC Application for Intervention should be denied and MJMEUC be allowed to intervene in this proceeding.

WHEREFORE, having stated its grounds for intervention, the MJMEUC requests the Commission to enter its Order granting leave to intervene as a full party in this case, and for such other and further relief as the Commission may deem appropriate.

Respectfully submitted,

A handwritten signature in cursive script, reading "Duncan Kincheloe", written over a horizontal line.

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