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July 24, 2001

Mr. Dale Hardy Roberts  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>2</sup>**  
JUL 24 2001  
Missouri Public  
Service Commission

**RE: Missouri Public Service - Case No. ER-2001-672**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of UtiliCorp's Reply to MJMEUC Response to UtiliCorp's Objection. Please stamp the enclosed extra copy "filed" and return same to me.

If you have any questions concerning this matter, then please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

*Dean Cooper*  
Dean L. Cooper *ly Rg*

DLC/rhg  
Enclosures

cc: Office of the Public Counsel  
Office of the General Counsel  
Mr. Stuart Conrad  
Mr. Duncan Kinchloe  
Mr. Mark Comley

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>2</sup>  
JUL 24 2001

Missouri Public  
Service Commission

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

**UTILICORP'S REPLY TO  
MJMEUC RESPONSE TO UTILICORP'S OBJECTION**

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

**PURPOSE**

1. MJMEUC's response contains no new information or identification of a public interest upon which its intervention can be based. MJMEUC alleges that it is exclusively a wholesale customer of UtiliCorp.<sup>1</sup> While its FERC wholesale rates will be set based upon factors similar to those examined in this case, MJMEUC's wholesale rates will not be affected by the Commission's order in this matter. Allowing the intervention of uninterested parties will serve only to create an imbalance in this proceeding that will make resolution of the issues extremely difficult, if not impossible. The Application for Intervention should be denied.

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<sup>1</sup> MJMEUC has alleges in its Application to Intervene that it is "a wholesale customer of UtiliCorp, directly and on behalf of its contracting municipalities." UtiliCorp is unaware of any situation where MJMEUC has taken service from UtiliCorp.

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## DISCUSSION

2. On or about July 6, 2001, the MJMEUC filed its Application for Intervention with the Commission (the "Application"). UtiliCorp filed its objection to this proposed intervention on July 10, 2001. MJMEUC responded to UtiliCorp's objection on or about July 20, 2001. UtiliCorp hereby replies.

3. MJMEUC alleges that it is a wholesale customer of UtiliCorp and admits that wholesale rates are not set by the Commission. MJMEUC observes that UtiliCorp's wholesale rates which are *under the FERC jurisdiction* are subject to *FERC's Fuel Adjustment Clause*. MJMEUC claims that the bases for some aspects of the Missouri retail rates will be similar to the bases of its FERC fuel adjustment clause rate, that is, similar owned generation and capacity purchases and similar underlying fuel and purchased power costs. It further suggests that these matters may come under review in this case.

4. MJMEUC then attempts to tie itself to the potential issues in this case through the extremely inaccurate statement that "fuel and purchased power costs authorized by the Commission will affect the costs passed through to UtiliCorp's wholesale requirements customers."

5. In this rate case, as in all retail electric rate cases, MPS's fuel and purchase power costs will be reviewed, annualized, normalized and possibly indexed. The ultimate rates for retail service that will be authorized by the Commission will include a component to recover a level of fuel and purchase power expense. This component of MPS's retail rates will have no impact on the level of fuel and purchase power expense MPS recovers through its FERC approved wholesale fuel adjustment

clause.

6. The FERC process differs significantly from the Commission process. The FERC has established its own definitions and calculations that must be followed in establishing the fuel adjustment. Only the actual costs incurred by the utility, not annualized, indexed, or normalized levels, may be recovered. In fact, the FERC currently has an open docket, in which MJMEUC is a party, to consider this very process in regard to UtiliCorp's fuel adjustment clause recovery. (Docket No. EL00-68-001). Also a subject of this FERC docket is UtiliCorp's purchases of a portion of its load requirements from other sources and these costs impact the amount that is passed through the FERC fuel adjustment clause. The prudence of the amount for MJMEUC's purposes will be determined in the FERC docket, not in this case.

7. The Commission's decision in Case No. ER-2001-672 will no more bind the FERC in its Docket No. EL00-68-001 than would a decision by the Kansas Corporation Commission in a UtiliCorp Kansas rate case bind the Missouri Commission. These matters cannot justify the requested intervention.

8. Lastly, MJMEUC makes an incorrect statement in regard to the impact of off-system sales on wholesale rates. MJMEUC states that "Although MPS' wholesale customers bear much of the risk associated with UtiliCorp's fuel and purchased power costs through the [fuel adjustment clause], these customers currently share no portion of the profits from off-system sales." This statement is completely contrary to the fact that in UtiliCorp's last wholesale rate case (FERC Docket No. ER-91-124), the FERC did, in fact, take into account off-system sales revenues in the setting of wholesale rates. MJMEUC is simply wrong.

9. The Commission's decision in MPS's rate case will not change or have any impact on MJMEUC's FERC rates. The FERC has exclusive jurisdiction over wholesale power prices as a result of the Federal Power Act. 16 U.S.C. §§ 824. 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).

10 In light of the standard for intervention established by Commission Rule 4 CSR 240-2.075, it is apparent that MJMEUC has no interest "which may be adversely affected by a final order arising from the case." The only other basis for its intervention is the possibility that the "proposed intervention would serve the public interest." On this point, MJMEUC failed to identify any such public interest in its initial application and has made no further attempt to identify a public interest in its response. Therefore, the proposed intervention of MJMEUC should be denied by the Commission.

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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Attorneys for UtiliCorp United Inc.

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 24th day of July, 2001, to:

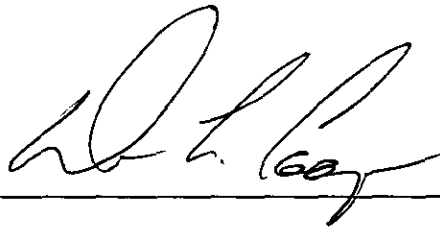
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