STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
August 14, 2001

CASE NO: ER-2001-672

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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 14th day of August, 2001.

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

ORDER CONCERNING TEST YEAR AND TRUE-UP, RESETTING EVIDENTIARY AND TRUE-UP HEARINGS, ADOPTING PROCEDURAL SCHEDULE, AND CONCERNING LOCAL PUBLIC HEARINGS

On June 8, 2001, Missouri Public Service, a division of UtiliCorp United, Inc., submitted to the Commission proposed tariff sheets intended to implement a general rate increase for electric service provided to retail customers in its Missouri service area. The proposed tariff sheets bear a requested effective date of July 9, 2001. The proposed electric service tariff sheets are designed to produce an annual increase of $49,352,769 in the Company's revenues, exclusive of franchise and occupational taxes, a 16.86 percent increase. On June 21, the Commission suspended Company's proposed tariff sheets for 120 days plus six months, until May 6, 2002.

On June 27, the Commission granted the unopposed application to intervene of the Sedalia Industrial Energy Users Association.[1] On August 6, the Commission granted the unopposed applications to intervene of the City of Kansas City and of the County of

[1] An unincorporated, voluntary association consisting of Pittsburgh Corning Corporation, Waterloo Industries, Hayes Lemmerz International, Hawker Industries, Inc., Alcan Cable Co., Gardner Denver Corporation, American Compressed Steel Corporation, and Stahl Specialty Company. Each of these entities is an industrial energy user located in or near Sedalia, Missouri, and a major electric customer of MPS. Together, they employ some 3,815 persons.

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Jackson, and the contested application of the Missouri Joint Municipal Electric Utility Commission.[2]

Test Year:

UtiliCorp filed its Test Year Recommendation on July 10, 2001, and proposed as the test year the 12 months ended December 31, 2000, updated through June 30, 2001, but not including those items for which a true-up is requested. On July 25, the Staff of the Missouri Public Service Commission indicated that it concurred with UtiliCorp's proposed test year, updated "for known and measurable changes through June 30, 2001, that maintain a proper matching of revenues, expenses and rate base."

On July 25, 2001, the Office of the Public Counsel proposed an alternative test year, being the 12 months ended June 30, 2001. Public Counsel suggests that this test year eliminates the need for updating. Public Counsel also asserts that the year ending December 31, 2000, is not appropriate as a test year because it is not representative of UtiliCorp's current financial condition because "during this time period, Missouri Public Service Company was itself a separate 'electrical corporation' . . . and had not been merged into the new regulated entity that is Company."[3]

The test year is a central component in the ratemaking process. Rates are usually established based upon a historical test year which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return

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[2] A political subdivision of the state of Missouri, organized pursuant to Section 393.700, RSMo 2000, *et seq.*, with 55 member municipalities.

[3] Public Counsel is presumably referring to the merger of St. Joseph Light & Power Company into UtiliCorp in December, 2000. *See In the Matter of the Joint Application of UtiliCorp United, Inc., and St. Joseph Light & Power Company for Authority to Merge St. Joseph Light & Power Company into UtiliCorp United, Inc.*, Case No. EM-2000-292 (*Report & Order*, issued December 14, 2000).

may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses.[4] From these four factors is calculated the "revenue requirement," which, in the context of rate setting, is the amount of revenue ratepayers must generate to pay the costs of producing the utility service they receive while yielding a reasonable rate of return to the investors.[5] A historical test year is used because the past expenses of a utility can be used as basis for determining what rate is reasonable to be charged in future.[6]

Either of the proposed test years would be suitable. Having considered all of the circumstances and the arguments of the parties, the Commission will adopt the test year proposed by UtiliCorp and Staff.

True-Up:

On July 10, 2001, UtiliCorp filed its Request for True-up and Motion to Reschedule True-up Hearing.[7] UtiliCorp requests for a true-up because the test year as updated "will likely not include all of the appropriate costs of the Power Sales Agreement for electric power generated for [UtiliCorp] by the MEP Pleasant Hill, L.L.C. power unit." UtiliCorp proposes that a true-up hearing be conducted on March 26 and 27, 2002, to examine the costs of the Power Sales Agreement and certain other items.[8] UtiliCorp

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[4] *State ex. rel. Union Electric Company v. Public Service Commission,* 765 S.W.2d 618, 622 (Mo. App., W.D. 1988).

[5] *State ex rel. Capital City Water Co. v. Missouri Public Service Commission,* 850 S.W.2d 903, 916 n. 1 (Mo. App., W.D. 1993).

[6] *See State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission,* 585 S.W.2d 41, 59 (Mo. banc 1979).

[7] In its *Suspension Order and Notice,* issued on June 21, 2001, the Commission reserved the week of February 4, 2002, for a true-up hearing in this case in the event that such was authorized.

[8] Plant in service, accumulated depreciation, associated deferred taxes, prices for fuel inventories, cash working capital, cost of capital, capital structure components, customer growth revenues, payroll, fuel and purchased power expense associated with customer growth, increased purchased power demand charges, depreciation expense, rate case expense, and related income tax effects.

asserts that the true-up hearing must be set back to March because the books will not be available for audit until February 15, 2002.

Staff responded on July 25 and stated that it had "reason to believe that there is no disagreement between [UtiliCorp] and Staff on test year and true-up matters[.]" Staff concurred in UtiliCorp's proposal that the true-up hearing be reset to March 26 and 27, 2002. Staff stated that the true-up audit "should be performed for the purpose of updating the capital structure and associated embedded costs." Staff further stated that it agreed with a true-up cutoff date of January 31, 2002, because the MEP Pleasant Hill, L.L.C., power unit is expected to become operational on January 1, 2002. Staff proposed a list of true-up items that differed somewhat from that proposed by UtiliCorp.[9] Also on July 25, Public Counsel stated that it did not object to a true-up audit and hearing in this case and that it had no preference as to hearing date. Public Counsel proposed a third list of true-up items, stating that, while it was in general agreement with the Company's list, it had "a few additions and one notable exception."[10]

Public Counsel's "notable exception" is Return on Equity. Public Counsel states that Return on Equity has traditionally been excluded from the true-up. Public Counsel states, "[w]hile capital structure and other cost of capital components should be trued-up, a

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[9] Plant in service, including the MEP Pleasant Hill, L.L.C., power unit, depreciation reserve, deferred taxes, prices for fuel inventories, related cash working capital, rate of return—embedded cost of short term debt, long term debt and preferred stock, capital structure, revenues and kWh sales to account for customer growth, payroll and payroll benefits, system loads, fuel and purchased power expense (i.e., re-run production cost model), rate case expense, property insurance, depreciation expense, property taxes, and income tax effects.

[10] Cost of capital components excluding return on equity, plant-in-service, accumulated depreciation reserve, cash working capital, prices for fuel storage inventories, materials and supplies, prepayments, advances and contributions, customer deposits, income tax offsets, interest expense offset, deferred income taxes, customer growth, payroll wage rates and associated items, employee benefits, fuel and purchased power expense, depreciation and amortization expense, rate case expense, lease costs, PSC assessment, uncollectibles expense, property taxes, and income taxes.

true-up of the return on equity would be impractical. It would result in a completely new analysis, involving more than a confirmation of data or the occurrence of an event as is the case with items normally included in a true-up proceeding." Public Counsel asserts that including Return on Equity "would invariably result in a re-litigation of the issue."

On July 31, UtiliCorp replied to Staff's response. UtiliCorp objected to one item contained in Staff's list of true-up items, "[p]lant in service, including the MEP Pleasant Hill, L.L.C. power unit (the Aries Combined Cycle unit)" because that facility is not the property of UtiliCorp. UtiliCorp stated that it purchases the power produced by the plant in question under the terms of a Purchase Power Agreement approved by the Commission in Case No. EM-99-369. UtiliCorp then requested that the Commission reserve its ruling on this point until after the evidentiary hearing. UtiliCorp raised no objections as to any other item contained in Staff's list of true-up items.

The use of a true-up audit and hearing in ratemaking is a compromise between the use of a historical test year and the use of a projected or future test year.[11] It involves adjustment of the historical test year figures for known and measurable subsequent or future changes.[12] However, while the "test year as updated" involves all accounts, the true-up is limited to only those accounts necessarily affected by some significant known and measurable change, such as a new labor contract, a new tax rate, or the completion of a new capital asset. Both the "test year as updated" and the true-up are devices employed

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[11] *St. ex rel. Missouri Public Service Commission v. Fraas*, 627 S.W.2d 882, 887-888 (Mo. App., W.D. 1981).

[12] *Id.* at 888.

to reduce regulatory lag, which is "the lapse of time between a change in revenue requirement and the reflection of that change in rates."[13]

The parties have agreed that there will be a true-up audit and hearing. The true-up shall be limited to those accounts necessarily concerned with the MEP Pleasant Hill, L.L.C., power unit and UtiliCorp's Power Sales Agreement for electric power generated by that unit; the true-up cutoff date shall be January 31, 2002. The Commission agrees with the Public Counsel that Return on Equity is not an appropriate issue for the true-up. The parties shall jointly file a list of accounts to be trued-up.

Hearing Dates:

The parties seek to reschedule the evidentiary and true-up hearings originally set by the Commission in its Suspension Order and Notice, issued on June 21, 2001. The Commission will reset the true-up hearing to March 26 and 27, 2002, as proposed by the parties. As to the evidentiary hearing, one of the dates requested by the parties—January 31, 2002—is not available. The Commission will adopt the hearing dates proposed by the parties, so far as possible, and will add two days at the end of the final week of hearing.

Procedural Schedule:

The parties have submitted a proposed procedural schedule. The Commission has reviewed the proposed procedural schedule and finds it to be appropriate for this matter. Therefore, the Commission adopts the proposed schedule and finds that the following conditions should be applied to the schedule:

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[13] *In the Matter of St. Louis County Water Company*, Case No. WR-96-263 (*Report & Order*, issued December 31, 1996), at p. 8.

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) The parties shall agree on and file a list of issues to be determined herein by the Commission. Staff shall be responsible for actually drafting and filing the list of issues and the other parties shall cooperate with Staff in the development thereof. Any issue not included in the issues list will be presumed to not require determination by the Commission.

(C) Each party shall file a list of the witnesses to appear on each day of the hearing and the order in which they shall be called. The parties shall establish the order of cross examination and file a joint pleading indicating the same.

(D) Each party shall file a statement of its position on each disputed issue, including a summary of the factual and legal points relied on by the party. Such statement shall be simple and concise, shall follow the issues set out in the issues list, and shall not contain argument about why the party believes its position to be the correct one. The position statement shall be filed in both paper form and electronically, either on computer disk or by e-mail. Electronically-submitted documents shall be in Word, WordPerfect, or ASCII format. The Regulatory Law Judge's e-mail address is: ktomp099 @mail.state.mo.us.

(E) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the Regulatory Law Judge at least five days prior to the date of the hearing.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same list of issues as filed in the case. The briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission. The presiding officer will establish a briefing schedule at the close of the hearing.

(G) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge, and all counsel.

Local Public Hearings:

The parties have proposed that the Commission hold two local public hearings on November 7, 2001, one in the afternoon and one in the evening. This proposal is appropriate and will be adopted by the Commission. However, the parties have not indicated where these local public hearings should be held. Therefore, the Commission shall direct the parties to file their joint pleading suggesting locations for the two local public hearings.

IT IS THEREFORE ORDERED:

1. That the test year in this matter shall be the 12 months ending December 31, 2000, updated for known and measurable changes through June 30, 2001,

but not including those items for which a true-up is requested. UtiliCorp United, Inc., shall update its accounting information consistent with the test year herein selected.

2. That a true-up audit shall be conducted as discussed herein as of January 31, 2002. The true-up shall be limited to those accounts necessarily concerned with the MEP Pleasant Hill, L.L.C., power unit and UtiliCorp's Power Sales Agreement for electric power generated by that unit.

3. That the parties shall jointly file a list of accounts to be trued-up on or before August 31, 2001.

4. That the true-up hearing shall be held on March 26 and 27, 2002.

5. That the evidentiary hearing shall be held on January 22, 23, 24, 25, 28, 29, 30, February 1, 4, 5, 6, 7, and 8, 2002.

6. The evidentiary and true-up hearings will be held at the Commission's offices at the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, Room 310. This building meets accessibility standards required by the Americans With Disabilities Act. If a person needs additional accommodations to participate in these hearings, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

7. That the following procedural schedule is adopted, subject to the conditions set out above:

Local Public Hearings	November 7, 2001
Direct Testimony Excluding class cost-of-service and rate design	November 15, 2001 4:00 p.m.
Direct Testimony Class cost-of-service and rate design	November 29, 2001 4:00 p.m.

Prehearing Conference	December 3-7, 2001 10:00 a.m.
Rebuttal Testimony	December 20, 2001 4:00 p.m.
Surrebuttal Testimony	January 10, 2002 4:00 p.m.
Statement of Issues	January 11, 2002 4:00 p.m.
Position Statements	January 15, 2002 4:00 p.m.
Reconciliation	January 15, 2002 4:00 p.m.
Evidentiary Hearing	January 22-25, 28-30, February 1, 4-8, 2002 8:00 a.m.
True-up Direct	March 12, 2002 4:00 p.m.
True-up Rebuttal	March 18, 2002 4:00 p.m.
True-up Surrebuttal	March 22, 2002 Noon
True-up Hearing	March 26 & 27, 2002 8:00 a.m.
Initial True-up Brief	April 3, 2002 4:00 p.m.
Reply True-up Brief	April 8, 2002 4:00 p.m.

8. That the Commission will schedule and hold Local Public Hearings on November 7, 2001. The Commission will issue an Order Setting Local Public Hearings when the preparations are complete.

9. That the parties shall jointly file a list of suggested locations for the two Local Public Hearings no later than August 31, 2001.

10. That this order shall become effective on August 24, 2001.

BY THE COMMISSION

Dale Hardy Roberts

(S E A L)

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Simmons, Ch., and Lumpe, C., Concur.
Gaw, C., dissents.
Murray, C., absent.

Thompson, Deputy Chief Regulatory Law Judge

ALJ/Secretary: Thompson, Pope

8-13
Date Circulated

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KS
Simmons, Chair

dissent
Murray, Commissioner p. 3 n.6

Lumpe, Commissioner p. 6 n.13

Gaw, Commissioner (No) p.6

Commissioner p.10

8-14
Agenda Date

Action taken: 2-1 AS

Must Vote Not Later Than ______

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 14th day of August 2001.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge