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## Missouri Public Service Commission

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December 20, 2001

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Director, Utility Operations  
ROBERT SCHALLENBERG  
Director, Utility Services  
DONNA M. PRENGER  
Director, Administration  
DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA K. JOYCE  
General Counsel

FILED<sup>2</sup>

DEC 21 2001

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

Missouri Public  
Service Commission

**RE: Case No. ER-2001-672-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; and**

**Case No. EC-2002-265-Staff of the Missouri Public Service Commission v. UtiliCorp United Inc. d/b/a Missouri Public Service.**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and nine (9) conformed copies of **STAFF'S MOTION TO CONSOLIDATE CASES**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Nathan Williams  
Associate General Counsel  
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[nwilliams@mail.state.mo.us](mailto:nwilliams@mail.state.mo.us)

Enclosure  
cc: Counsel of Record

**FILED<sup>2</sup>**

DEC 21 2001

Missouri Public  
Service Commission

Case No. EC-2002-265

Case No. ER-2001-672

2. During its audit of UtiliCorp United Inc. for purposes of Case No. ER-2001-672, the Staff of the Commission determined that, at the time it filed its direct testimony in Case No. ER-2001-672—December 6, 2001—the Missouri Public Service division of UtiliCorp United Inc. was in an excess earnings/revenues position of \$39.8 million at the midpoint of the Staff’s

rate of return range recommendation. During and after the prehearing conference held in Case No. ER-2001-672 the Staff has made corrections to its case. Presently the Staff has determined that the Missouri Public Service division of UtiliCorp United Inc. is in an excess earnings/revenues position of \$37.2 million at the midpoint of the Staff's rate of return range recommendation; thus, the Staff has submitted its Complaint for filing in Case No. EC-2002-265. Although the Staff's current position is that there are excess earnings/revenues of approximately \$37.2 million, the Staff anticipates that there will be significant changes resulting from the true-up scheduled in Case No. ER-2001-672. The Staff anticipates that after the true-up it will ultimately reduce its present position of \$37.2 million in excess earnings/revenues by approximately \$17 million.

3. As indicated in its Complaint, the Staff has requested the Commission to take notice of the direct testimony it has prefiled and the supplemental direct testimony it has submitted for prefiling in Case No. ER-2001-672 as its prefiled direct testimony in Case No. EC-2002-265, with the exception of the cost of service and rate design direct testimony of Staff Witness Michael S. Proctor that is being submitted with the Staff's Complaint. Because of the commonality of the facts and issues in both Case No. EC-2002-265 and Case No. ER-2001-672, economies of time and other resources would result if these two cases were consolidated, both for hearing and for decision.

4. Although Commission Rule 4 CSR 240-2.110(5) provides that unless otherwise agreed to by the parties or ordered by the presiding officer, the order of procedure in hearings in complaint cases is that the complainant shall open and close. Should the Commission consolidate these cases for hearing and decision as requested by the Staff, the Staff proposes that

the Commission adopt in the consolidated cases the remainder of the procedural schedule it has established in Case No. ER-2001-672:

<u>Event</u>	<u>Date</u>
Staff Submits for Filing in Case No. ER-2001-672 Supplemental Direct Testimony Of Staff Witness Steve M. Traxler	12/20/01
Staff Submits for Filing Complaint That Incorporates the Direct Testimony & Schedules Filed in Case No. ER-2001-672 On December 6, 2001, Supplemental Direct Testimony submitted for filing in Case No. ER-2001-672 and Direct Testimony of Staff Witness Michael S. Proctor submitted for filing in this case, Case No. EC-2002-265	12/20/01
Commission Sets Intervention Period	
UtiliCorp United Inc. Answers Complaint In Case No. EC-2002-265	
Intervention Period Closes	
UtiliCorp United Inc. & Intervenors File Rebuttal Testimony & Schedules in Case Nos. ER-2001-672 & EC-2002-265	01/08/02
Filing of Joint List Of Issues For Evidentiary Hearing in Case Nos. ER-2001-672 & EC-2002-265	01/17/02
All parties file Surrebuttal and Cross-surrebuttal Testimony & Schedules In Case Nos. ER-2001-672 & EC-2002-265	01/22/02
Parties Submit Statements Of Position In Case Nos. ER-2001-672 & EC-2002-265	01/23/02
Evidentiary Hearing in Case Nos. ER-2001-672 & EC-2002-265	01/25, 28-31/02; 02/1, 4-8/02

Additionally, because the Staff is proposing to consolidate Case No. EC-2002-265 with Case No. ER-2001-672 both for hearing and decision, to avoid any potential delay in the existing rate case—Case No. ER-2001-672—that such consolidation might cause, the Staff proposes that the Commission, as it did in Case No. ER-2001-672, order UtiliCorp United Inc. to answer or object to all Data Requests issued to it before January 9, 2002 within ten days of receipt thereof and that it answer or object to all data requests issued to it after January 8, 2001 within seven days of receipt thereof.

18. Although in the consolidated cases ER-97-394 and ET-98-103, the Staff filed its excess earnings/revenues complaint (docketed as Case No. EC-98-126) contemporaneously with the filing of its direct testimony, whereas here the complaint is being filed two weeks later, the Staff recommends that the Commission take actions similar to those the Commission took in its September 23, 1997 *Order Opening Docket, Consolidating Cases, and Providing for Additional Notice and Intervention* entered in Case Nos. ER-97-394, ET-98-103 and EC-98-126, wherein it consolidated Case No. EC-98-126 with Case Nos. ER-97-394 and ET-98-103. The actions the Staff proposes that the Commission take here are the following:

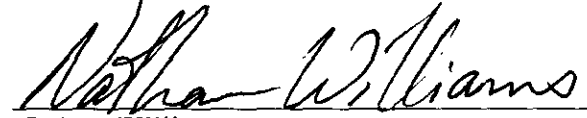
- a. Receive the Staff's complaint in Case No. EC-2002-265;
- b. Consolidate Case No. EC-2002-265 with Case No. ER-2001-672;
- c. Make the parties to Case No. ER-2001-672 parties to Case No. EC-2002-265;
- d. Establish an intervention period for consolidated Case Nos. ER-2001-672 and EC-2002-265;
- e. Provide notice to the general public of Case No. EC-2002-265 and the date by which intervention should be sought in consolidated Case Nos. ER-2001-672 and EC-2002-265; and

- f. Adopt for consolidated Case Nos. ER-2001-672 and EC-2002-265 the procedural schedule, as last amended, the shortened times for UtiliCorp United Inc. to respond to data requests, and the procedures for disclosure of confidential and proprietary information that the Commission has ordered in Case No. ER-2001-672.

WHEREFORE, the Staff moves the Commission to consolidate Case No. EC-2002-265 with Case No. ER-2001-672; make all the parties to Case No. ER-2001-672 parties in the consolidated cases; establish an intervention period for the consolidated cases, provide public notice of the consolidated cases and the date by which intervention should be sought; and adopt for the consolidated cases from Case No. ER-2001-672 the procedural schedule, as last amended, the shortened times for UtiliCorp United Inc. to respond to data requests, and the procedures for disclosure of confidential and proprietary information that the Commission has ordered in Case No. ER-2001-672.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

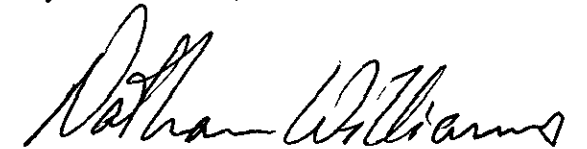
A handwritten signature in black ink, appearing to read "Nathan Williams", written over a horizontal line.

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 20<sup>th</sup> day of December, 2001.

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

**Service List for**  
**Case No. EC-2002-265**  
**Verified: December 20, 2001, (cgo)**

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