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December 31, 2001

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

FILED³

DEC 31 2001

**Missouri Public
Service Commission**

Re: Case No. ER-2001-672

Dear Mr. Roberts:

Enclosed for filing in the referenced case on behalf of UtiliCorp United Inc. d/b/a Missouri Public Service, please find an original and eight (8) copies of UtiliCorp's Response to Staff's Motion to Consolidate.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

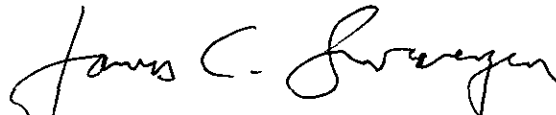
A copy of this filing is being provided to all parties of record.

I thank you in advance for your cooperation in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:


James C. Swearengen

JCS/lar

Enclosure

cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

DEC 31 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)	Case No. ER-2001-672
increase for retail electric service provided)	
to customers in the Missouri service)	
area of MPS.)	

**UTILICORP'S RESPONSE TO STAFF'S
MOTION TO CONSOLIDATE**

COMES NOW UtiliCorp United Inc. ("UtiliCorp"), d/b/a Missouri Public Service ("MPS"), by counsel, and for its response to the Motion to Consolidate Cases ("Motion") filed with the Missouri Public Service Commission ("Commission") in the captioned-matter by the Staff of the Missouri Public Service Commission ("Staff") on December 20, 2001, and respectfully states as follows:

1. UtiliCorp admits that Case No. ER-2001-672 is a pending proceeding before the Commission involving a tariff filing by UtiliCorp's MPS operating division. UtiliCorp denies each and every other allegation contained in paragraphs 1-18 of the Staff's Motion.

2. UtiliCorp submits that the Staff's Motion is premature in that the Commission has not granted the Staff authority to file an excess earnings complaint against MPS. The Staff requested such authority by a separate motion filed with the Commission on December 6, 2001 which separate motion was docketed as Case No. EC-2002-265. By its Notice of Complaint issued December 11, 2001, the Commission granted UtiliCorp thirty (30) days to satisfy or answer said motion.

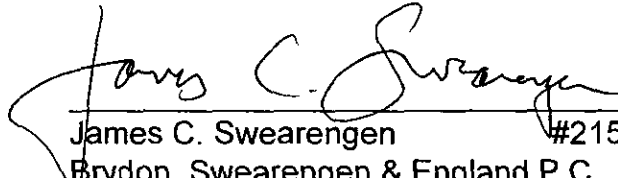
3. On December 21, 2001, the Staff, without Commission authorization, filed its Excess Earnings Complaint against UtiliCorp United Inc. d/b/a Missouri Public Service in

said Case No. EC-2002-265. By its Notice of Complaint issued December 26, 2001, the Commission granted UtiliCorp thirty (30) days to satisfy or answer said complaint.

4. As will be explained in UtiliCorp's answers to be filed in accordance with the Commission's notices in Case No. EC-2002-265, "the Staff" has no standing to bring a complaint as it is not one of the enumerated parties listed in Section 386.390.1, RSMo, which is authorized to file a complaint nor is it one of the enumerated parties listed in Section 386.240, RSMo which can be authorized by the Commission to undertake certain acts. Alternatively, assuming that "the Staff" can be authorized by the Commission to file a complaint, as indicated the Commission has not expressly authorized the filing of the Excess Earnings Complaint by the Staff in Case No. EC-2002-265 pursuant to Section 386.240, RSMo, and in accordance with Op. Gen. Counsel Mo.P.S.C. No. 76-2, Pierce, 12-6-76.

WHEREFORE, in view of the foregoing, until UtiliCorp has filed its answers in response to the Commission's notices and the Commission has ruled as to whether or not any complaint may be brought or maintained by the Staff, the subject motion is premature and accordingly UtiliCorp requests that the Commission deny the relief sought by said Motion.

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 31st day of December, 2001, to all parties of record.

