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January 23, 2002

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

FILED³

JAN 23 2002

Missouri Public
Service Commission

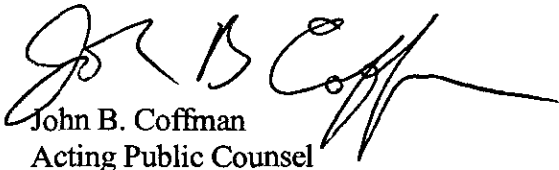
RE: UtiliCorp United Inc.
Case No. ER-2001-672

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of the **PUBLIC COUNSEL'S POSITION STATEMENTS**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,


John B. Coffman
Acting Public Counsel

M. Ruth O'Neill
Assistant Public Counsel

JBC:MRO:jb

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JAN 23 2002

Missouri Public
Service Commission

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 et al.

PUBLIC COUNSEL'S POSITION STATEMENTS

COMES NOW the Office of the Public Counsel (Public Counsel) and hereby provides
its Position Statements on the following issues:

1. Revenue requirement: What is the proper scope of the revenue requirement to be determined in this case?

Public Counsel's Position: The prohibition against single-issue rate-making (Section 393.270.4 RSMo. 2000) does not allow the Commission to determine a revenue requirement (and thus the corresponding rate of return) on less than a total Missouri jurisdictional basis. The Commission then has the flexibility in the subsequent rate design phase of this case to adjust rates to recognize any revenue requirement excess or deficiency by adjusting rates in the appropriate territory or territories.

It is the revenue requirement phase in which the Commission determines the appropriate rate of return for the operations of a Missouri electrical corporation. The determination of rates (rate design) is a separate process that is influenced by several factors including the physical and operational integration the electrical corporation's operations. The rate design process is dependent on the revenue requirement process **but** the revenue requirement determination is **not dependent** on the rate design process.

2. Are the Missouri operations of UtiliCorp's Missouri Public Service and St. Joseph Light & Power Divisions so integrated that a separate rate proceeding, tariff filing and/or complaint proceeding for the Missouri Public Service Division cannot be maintained?

Public Counsel's Position: Public Counsel believes that the unification of UtiliCorp's operations is now readily discernible as well as substantially integrated, and thus requires that this consolidated rate case encompass all of UtiliCorp's Missouri jurisdictional operations. If however, the Commission allows this case to proceed as filed, then it should at least recognize that this case constitutes a limited exception to the rule in that the approved test year reflects a pre-merger time period.

3. Cost of Service – Aries Purchase Power Contract:

- A. Do any criteria still need to be met before the Aries Purchase Power Contract costs are included in cost of service, i.e., before they should be recoverable in rates?

Public Counsel's Position: Public Counsel supports the position of Staff.

- B. If the Aries Purchase Power Contract is to be included in the cost of service, should any adjustment be made to that cost?

Public Counsel's Position: Public Counsel supports the position of Staff.

4. Cost of Service – Depreciation:

- A. Should the test year depreciation expense be adjusted?

- (1) Should the future cost of removing retired plant be included in depreciation rates or treated as a current expense?

Public Counsel's Position: Public Counsel supports the position of Staff.

- (2) What is the cost of removal that is included in current depreciation rates?

Public Counsel's Position: Public Counsel supports the position of Staff.

5. Cost of Service - Income tax expense:

- A. What is the proper depreciation level to be used in calculating current and deferred income tax expense?

Public Counsel's Position: Public Counsel supports the position of Staff.

6. Capital Structure/Rate of Return:

- A. What is the appropriate capital structure for UtiliCorp's Missouri Public Service Division?

Public Counsel's Position: The appropriate capital structure to use for UtiliCorp's Missouri Public Service Division is UtiliCorp's consolidated capital structure. A capital structure allocated by UtiliCorp's management that is different from the actual capital structure does not accurately reflect the cost of capital, which leads to an inaccurate cost-of-service calculation.

- B. What is the appropriate return on common equity for UtiliCorp's Missouri Public Service Division?

Public Counsel's Position: The appropriate return on common equity for UtiliCorp's Missouri Public Service Division is 10.0% to 10.25%. Public Counsel bases this recommendation primarily on a Discounted Cash Flow analysis of UtiliCorp United and a group of five electric utilities comparable to UCU's regulated electric operations.

7. Cost-of-Service - Off-system Sales:

- A. Should any part of interchange sales margins be excluded from cost-of-service?

Public Counsel's Position: Public Counsel supports the position of Staff.

8. Cost-of-Service - Jeffrey Shares:

- A. Do Jeffrey Shares (energy sales and purchases between UtiliCorp's Missouri Public Service Division and WestPlains Energy—Kansas) yield interchange sales margins?

Public Counsel's Position: Public Counsel supports the position of Staff.

9. Cost of Service - Energy costs:

A. What are the appropriate costs of fuel (natural gas prices)?

Public Counsel's Position: The appropriate natural gas price that should be built into the fuel run for rate-making purposes should be determined in a manner that analyzes both historical prices and future prices. Based on this methodology, Public Counsel recommends that the price for natural gas in this case should be \$2.78 per MMBtu.

10. Cost of Service - Allocation of corporate overhead costs:

A. What impact, if any, should UtiliCorp's international operations have on corporate overhead allocated to the Missouri Public Service Division?

Public Counsel's Position: Public Counsel supports the position of Staff. In fact, Staff's allocation recommendation is extremely conservative in its allocation of corporate overhead costs.

B. What impact, if any, should Aquila, Inc. have on corporate overhead allocated to the Missouri Public Service Division?

Public Counsel's Position: Aquila, Inc. should be recognized in the common cost allocation process at 100%.

C. Should UtiliCorp's St. Joseph Light & Power Division be included when determining Missouri Public Service Division's share of corporate allocated costs?

Public Counsel's Position: The operations of the SJLP area of UtiliCorp should be recognized in total common cost allocation process.

D. TransUCU

- (1) What level of TransUCU expenses should be included in the cost of service?

Public Counsel's Position: The residual aircraft costs (\$864, 065) for two corporate aircraft should be allocated away from UtiliCorp's regulated electric operations.

E. Legislative-related activities

- (1) What level of expenses for legislative-related activities should be included in the cost of service?

Public Counsel's Position: Public Counsel recommends that 100% of costs from Department 4050 – Governmental Affairs allocated to the MPS electric service territory be disallowed for rate recovery and that 50% of costs from Department 6376 – Legislative Services – Missouri be, similarly, disallowed for rate recovery.

11. Cost of Service – Payroll:

A. Incentive Compensation

- (1) Shall discretionary, performance-based, incentive pay for employees be allowed?

Public Counsel's Position: Public Counsel supports the position of Staff.

- (2) Shall long-term performance-based incentive pay for employees be allowed?

Public Counsel's Position: Public Counsel supports the position of Staff.

12. Cost of Service – Lease of Greenwood Units 1&2:

A. Should any adjustment be made to the cost of this lease?

Public Counsel's Position: Public Counsel supports the position of Staff.

13. Cost of Service - Bad Debt:

- A. Should Missouri Public Service Division's bad debt expense be based on the three-year average that it proposes or the five-year average that the Staff proposes?

Public Counsel's Position: Public Counsel supports the position of Staff.

14. St. Joseph Light & Power Company – UtiliCorp Merger Savings and Costs:

- A. Should Missouri Public Service Division's fuel expense reflect the joint dispatch of Missouri Public Service Division and St. Joseph Light & Power Division generating resources?

Public Counsel's Position: Public Counsel supports the position of Staff.

- B. If Missouri Public Service Division's fuel expense reflects joint dispatch of Missouri Public Service Division and St. Joseph Light & Power Division generating resources, and/or the St. Joseph Light & Power Division is included when determining Missouri Public Service Division's share of corporate allocated costs, should the Missouri Public Service Division be allowed to recover in rates all or a portion of the merger premium and transaction costs (acquisition adjustment) related to UtiliCorp's acquisition of St. Joseph Light & Power Company?

Public Counsel's Position: The purchase premium and transaction costs were incurred to benefit only the shareholders of SJLP and UtiliCorp and should be afforded below-the-line treatment for rate-making.

- C. If Missouri Public Service Division's fuel expense reflects joint dispatch of Missouri Public Service Division and St. Joseph Light & Power Division generating resources, and/or the St. Joseph Light & Power Division is included when determining Missouri Public Service Division's share of corporate allocated costs, should the Missouri Public Service Division be allowed to recover in rates the transition costs ("cost to achieve") that UtiliCorp has incurred, and will incur, in acquiring St. Joseph Light & Power Company?

Public Counsel's Position: It is not appropriate for these costs to be included in rates in this case.

15. Customer Annualization:

- A. Should the customer growth adjustments made for rate classes 710 and 711 be further adjusted to reflect reclassification of customers between these rate classes made in the year 2001?

Public Counsel's Position: Public Counsel supports the position of Staff.

16. Maintenance Expense:

- A. Should the Missouri Public Service Division's non-labor maintenance expense be based on the three-year¹ average that the Staff proposes or the actual level of maintenance expense that the Missouri Public Service Division incurred during the test year—calendar year 2000—as it proposes?

Public Counsel's Position: Public Counsel supports the position of Staff.

17. Remaining Accounting Authority Order Deferred Balances:

- A. Should the Missouri Public Service Division be allowed to recover as a rate base item the unamortized balances of existing accounting authority orders?

Public Counsel's Position: UtiliCorp should be allowed a return of the AAO deferred balances, but not a return on these balances.

18. Recordkeeping:

- A. In the future, should detailed reports be available to the Staff and the Office of the Public Counsel at the beginning of the Staff's field audit?

Public Counsel's Position: At a minimum, the Commission should require UtiliCorp to make available to Staff and Public Counsel, for rate case purposes, a detailed general ledger or comparable records.

- B. On an ongoing basis, should the Staff and the Office of the Public Counsel be permitted access to certain accounting, financial and operational records that permit independent auditing?

Public Counsel's Position: Yes. UtiliCorp has implemented a new, complex accounting system which inhibits independent auditing for the Office of the Public Counsel. The Commission should require UtiliCorp to make available, for ongoing audit purposes, a detailed general ledger or comparable records.

19. Miscellaneous Tariff Issues:

¹ Staff will file surrebuttal testimony revising its three-year average in direct to a four-year average.

- A. Should the Missouri Public Service Division be required to file a description of its service territory in the congressional township format?

Public Counsel's Position: Public Counsel takes no position on this issue.

- B. What is the appropriate level of reconnection charges?

Public Counsel's Position: Public Counsel is agreeable to a settlement of this issue where the reconnection charge during normal hours is agreed to be \$17.00 per hour and the reconnection charge during after hours is agreed to be \$31.00 per hour. If the Commission rejects the settlement of this issue Public Counsel believes that the most appropriate reconnection charges during and after hours are \$15.00 and \$30.00, respectively.

- C. What is the appropriate level of charges for meter reading by special appointment?

Public Counsel's Position: Public Counsel is agreeable to a settlement of this issue where the meter reading charge during normal hours is agreed to be \$12.00 per hour and the meter reading charge during after hours is agreed to be \$16.00 per hour. If the Commission rejects the settlement of this issue Public Counsel believes that the most appropriate meter reading charges during and after hours are \$10.00 and \$15.00, respectively.

- D. What is the appropriate level of charge for a temporary, self-contained meter set used in residential construction?

Public Counsel's Position: Public Counsel take no position on this issue.

- E. What is the appropriate level of charge per foot for excess service line length?

Public Counsel's Position: Public Counsel takes no position on this issue.

20. Revenues---Annualization of Economic Development Rider Credits:

- A. Is it appropriate to adjust the level of Economic Development Rider Credits to account for the annually declining percentage discount?

Public Counsel's Position: Public Counsel supports the position of Staff.

- B. Is it appropriate to adjust the level of Economic Development Rider Credits to account for anticipated future participation by new customers?

Public Counsel's Position: Public Counsel supports the position of Staff.

21. Class Cost of Service/Rate Design:

- A. What is the appropriate allocation of any increase in revenues to customer classes?

Public Counsel's Position: Due to the lack of a current and reliable cost of service study, OPC believes that the appropriate allocation of any increase in revenues to customer classes in this current case should be an equal percentage increase to class rate revenues for all customer classes.

- B. What is the appropriate allocation of any decrease in revenues to customer classes?

Public Counsel's Position: Due to the lack of a current and reliable cost of service study, OPC believes that the appropriate allocation of any decrease in revenues to customer classes in this current case should be an equal percentage decrease to class rate revenues for all customer classes.

- C. What are the appropriate adjustments to rates for the various customer classes in the event of (1) a rate increase or (2) a rate decrease?

Public Counsel's Position: OPC agrees an appropriate adjustments to rates in the event of a rate increase or a rate decrease is an equal percentage increase or decrease to all relevant rate elements. OPC does not oppose UtiliCorp's proposal to exclude rate levels on the frozen rate schedules from rate decrease.

- D. Should the Commission establish a new case to fully examine class cost of service and rate design?

Public Counsel's Position: OPC recommends that the Commission establish a new case to fully examine Utilicorp's class cost of service and rate design. Interclass revenue responsibility shift is not recommended until such a shift is determined to be appropriate in a separate cost of service/rate design case where class cost of service is fully investigated.

21. What is the appropriate scope of the true-up proceeding in this case?

Public Counsel's Position: The parties should be allowed to address each true-up item agreed upon jointly by the parties.

Public Counsel reserves the right to change the position it has taken on any issue based upon cross-examination at the hearing or other subsequent revelations.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 

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(#36591)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 23rd day of January 2002:

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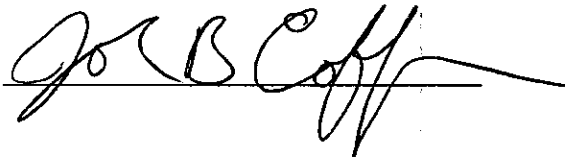
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A handwritten signature in dark ink, appearing to read "J. B. Coffey", is written over a horizontal line.