Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW
BRYAN FORBIS

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
http://www.psc.state.mo.us

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
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

January 23, 2002

FILED[2]
JAN 2 3 2002
Missouri Public Service Commission

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

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.

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **STAFF'S STATEMENTS OF POSITION.**

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

Nathan Williams
Associate General Counsel
(573) 751-7489
(573) 751-9285 (Fax)
nwilliam@mail.state.mo.us

Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

FILED[2]
JAN 2 3 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
Staff of the Missouri Public Service Commission, Petitioner, v. Missouri Public Service, a Division of UtiliCorp United, Inc., Respondent.	)	Case No. EC-2002-265

STAFF'S STATEMENTS OF POSITION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and respectfully states:

1. On January 18, 2002, after obtaining agreement of the parties, the Staff filed a list of the issues in this case. The Staff's position on each of these issues follows:

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

   Staff's Position: As indicated in the Commission's *Order Regarding Motion to Reject Tariff and Motion to Dismiss* entered by the Commission on October 2, 2001 in this case, it is the Staff's position that, where the operations of a recently acquired company with a Missouri service area are not fully integrated into the existing Missouri operations of the acquiring company which has a different Missouri service area, the Commission has discretion to base rates for the Missouri service area of the acquiring company on a revenue requirement that is developed on a treatment of the

114

operations of the acquired company as being distinct from those of the acquiring company, with appropriate allocations being made. In *State ex rel. McKittrick v. Public Serv. Comm'n*, 175 S.W.2d 857, 866 (Mo.banc 1943), the Missouri Supreme Court held that the Commission had the reasonable discretion in a merger proceeding to treat the two merging public utility systems as separate units for rate purposes where the unification of the two systems had not been accomplished. The Staff's position is further set out in Staff's Response To Commission Order Directing Filing, submitted on July 27, 2001 in Case No. ER-2001-672, and Additional Staff Response, submitted on August 24, 2001 in Case No. ER-2001-672.

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?

   Staff's Position: No. See Staff Position to Issue 1 above.

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?

   Staff's Position: Yes. Missouri statute requires that before inclusion in rates of the cost of construction of plant, the plant must be "fully operational and used for service." Section 393.135, RSMo 2000.

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

   Staff's Position: Yes, as a transaction between affiliates, the cost of power from the Aries Purchase Power Contract should be valued at the lower of (1) the cost of the power or (2) market value. The Staff asserts that the 2002 payments for power from the Aries unit to be made by Merchant Energy Partners - Pleasant Hill (MEPPH) to Cass County, Missouri under the agreement between them, are the best available valuation of the cost of power from the Aries unit. As this cost is lower than the contract price to be paid by Missouri Public Service in 2002 for Aries unit power, in lieu of the contract price for power found in the Aries Purchase Power Contract, for rate purposes the cost of power to Missouri Public Service from the Aries unit should be based on the total of the 2002 payments to be made by MEPPH to Cass County for power from the Aries unit, appropriately allocated to Missouri Public Service.

4. Cost of Service – Depreciation:

   A. Should the test year depreciation expense be adjusted?

Staff's Position: Yes, the cost of removing plant should not be included in depreciation expense.

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

Staff's Position: The future cost of removing retired plant should be treated as a current expense. Treating the cost of removing retired plant as a current expense will best temporally match the costs UtililCorp's Missouri Public Service division incurs to remove plant with recovery of that cost from its ratepayers.

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

Staff's Position: The Missouri Public Service division's current depreciation rates include the cost of removal that the Staff proposed in Case No. ER-97-394.

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?

Staff's Position: Book depreciation expense recovered in rates should have a corresponding straight-line tax depreciation deduction reflected in the calculation of income tax expense, with the exception of book depreciation deducted in years prior to the 1986 Tax Reform Act.

6. Capital Structure/Rate of Return:

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

Staff's Position: The appropriate capital structure for UtiliCorp's Missouri Public Service Division is the actual capital structure of UtiliCorp United, Inc. as of June 30, 2001, with the exclusion of short-term debt.

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

Staff's Position: The appropriate return on equity for UtiliCorp's Missouri Public Service Division is 9.43 to 10.43 percent.

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

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

Staff's Position: No. Off-system sales should be fully reflected in revenue requirement, which is the way this item has consistently been treated in the past. It is not appropriate to make any downward adjustment to off-system sales for the purpose of sharing between the ratepayers and the shareholders.

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?

Staff's Position: Regardless of whether Jeffrey Shares yield interchange sales margins, sales transactions between Missouri Public Service and West Plains Energy should be treated, for regulatory purposes, like any other interchange sale; i.e., they should include a margin.

9. Cost of Service - Energy costs:

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

Staff's Position: Natural gas prices should be based on the monthly historical averages of the actual natural gas prices that the Company has incurred over the most recent 4-year period.

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?

Staff's Position: Approximately 18 percent of the costs of certain UtiliCorp corporate overhead departments should be allocated to UtiliCorp's international business units.

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

Staff's Position: Corporate overhead costs allocated to Aquila, Inc. should not be reduced due to the fact that UtiliCorp may own less than 100 percent of Aquila's outstanding common stock.

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

Staff's Position: Yes. UtiliCorp should allocate corporate overhead costs to all of its operating divisions and subsidiaries, including its St. Joseph Light & Power Division. Not to allocate costs to the St. Joseph Light & Power Division for the purposes of this rate case would effectively permit recovery of the St. Joseph Light & Power Company merger premium from MPS customers.

D. TransUCU

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

Staff's Position: UtiliCorp's TransUCU corporate overhead department should be allocated to international operations using the international operating companies' pro rata share of UtiliCorp's consolidated earnings before interest and taxes (EBIT), sales and assets.

E. Legislative-related activities

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

Staff's Position: The Staff has taken no position on this issue.

11. Cost of Service – Payroll:

A. Incentive Compensation

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

Staff's Position: Staff is opposed to incentive compensation payments that are based on (a) financial results such as achieving or improving earnings / rate of return levels or (b) the performance of non-Missouri, non-regulated and international operations which benefit shareholders, but not Missouri ratepayers. Staff is not opposed in principle to incentive compensation that is based on the attainment of individual and/or team goals such as achieving or improving employee performance, efficiency and economy which benefit Missouri ratepayers.

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

Staff's Position: Staff is opposed to incentive compensation payments that are based on (a) financial results such as achieving or improving earnings / rate of return levels or (b) the performance of non-Missouri, non-regulated and international operations which benefit shareholders, but not Missouri ratepayers. Staff is not opposed in principle to incentive compensation that is based on the attainment of individual and/or team goals such as achieving or improving employee performance, efficiency and economy which benefit Missouri ratepayers.

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

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

Staff's Position: Yes. The Commission should consider the ownership of Greenwood Units 1&2 and determine that, from the perspective of ratepayers in the Missouri Public Service Division's service area, the Commission should treat these units for ratemaking purposes as if UtiliCorp's Missouri Public Service Division owns them, since it is more advantageous for the ratepayers of UtiliCorp's Missouri Public Service division if the appropriate acquisition cost is included in rate base than if the lease cost is included in rate base.

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?

Staff's Position: Bad debt expense should be based on the five-year average that the Staff proposes since a longer averaging period better accounts for short-term fluctuations.

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?

Staff's Position: Yes. The fuel and purchased power costs for the Missouri Public Service Division revenue requirement should reflect the savings resulting from the joint dispatch of Missouri Public Service Division and St. Joseph Light & Power Division generation units and purchased power contracts. These savings should be allocated between the two divisions based on each division's share of total stand-alone costs for fuel and purchased power, where the stand-alone costs are the fuel and purchased power costs resulting when each division is dispatched individually rather than jointly.

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?

Staff's Position: No. In the UtiliCorp/St. Joseph Light & Power merger case, EM-2000-292, the Staff took the position that any direct recovery of a merger premium / acquisition adjustment, including transaction costs, from ratepayers is detrimental to the public interest and should not be allowed in customer rates. The Commission in EM-2000-292 indicated that all rate questions concerning merger premium / acquisition adjustment, transaction costs and transition costs were to be reserved for future rate proceedings. Merger and acquisition savings, to the extent that they are reflected in a utility's actual test year, update period or true-up period financial results should be reflected in customer rates. A utility can retain the benefit of merger savings through regulatory lag.

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?

Staff's Position: Yes, for all transition costs incurred through June 30, 2001, with the exception of costs associated with executive severance/retention, the St. Joseph Light & Power division paid advisory board and the supplemental executive retirement plan. These costs should be amortized over a ten-year period.

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?

Staff's Position: Yes. Company has agreed to provide data on the customers that Company switched from rate class 710 to rate class 711 after the test year through the end of the true-up period. If such data is provided and found suitable, the Staff will annualize test-year sales and revenues on the basis of each customer's test-year rate class. Otherwise, the Staff will combine rate class 710 and rate class 711 into a single rate class for the purposes of annualizing test-year sales and revenues for customer growth. The Staff understands that this approach is not opposed by any party.

16. Maintenance Expense:

A. Should the Missouri Public Service Division's non-labor maintenance expense be based on the three-year[1] 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?

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

Staff's Position: Non-labor maintenance expense should be based on the multi-year average that the Staff proposes rather than the actual test year maintenance expense, because the maintenance expense incurred by UtiliCorp's Missouri Public Service Division has fluctuated greatly from year-to-year and the use of an average based on a multi-year sample better reflects the appropriate annual level of future maintenance expense.

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?

Staff's Position: They should be treated the same as the Commission has treated them since it first addressed these costs in Case No. ER-90-101.

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?

Staff's Position: Yes. Such detailed reports will immeasurably assist the Staff in preparing meaningful testimony to present to the Commission to aid it in its deliberations in making rate decisions regarding UtiliCorp's Missouri Public Service Division and, thus, will improve the quality of all the evidence before the Commission in such cases. Further, having such reports available will greatly reduce the time and resources expended by the Staff, and others, in obtaining information from the Company necessary to the development of the Staff's case.

    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?

Staff's Position: Yes. The Staff should always have access to such materials.

19. Miscellaneous Tariff Issues:

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

Staff's Position: Yes. The Staff understands that all the parties may have reached an agreement on this issue.

    B. What is the appropriate level of reconnection charges?

Staff's Position: The Staff has recommended in testimony reconnection charges of $30.00 and $57.00, during normal working hours and after hours, respectively. Current charges are $10.00 and $25.00, respectively. The Staff understands that all the parties may have agreed to charges of $17.00 and $31.00, respectively, on these issues.

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

Staff's Position: The Staff has recommended in testimony meter reading by special appointment charges of $22.00 and $29.00, during normal working hours and after hours, respectively. Current charges are $5.00 and $10.00, respectively. The Staff understands that all the parties may have agreed to charges of $12.00 and $16.00, respectively, on these issues.

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

Staff's Position: The Staff has recommended in testimony a charge of $100.00. The current charge is $100.00. The Staff understands that all the parties may have agreed to a charge of $100.00.

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

Staff's Position: The Staff has recommended in testimony a charge of $2.52. The current charge is $2.52. The Staff understands that the parties may have agreed to a charge of $2.52.

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?

Staff's Position: The level of Economic Development Rider Credits should be adjusted to account for the "known and measurable" annual reduction in the applicable credit percentage.

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

Staff's Position: No, not unless the participation by a new customer is known and, at least reasonably, measurable, i.e., the customer has signed the form contract and provided the information required for participation in the Economic Development program. If the level of credits is adjusted for a new customer, the sales and revenues of the new customer should also be included.

21. Class Cost of Service/Rate Design:

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

Staff's Position: Any increase should be allocated in equal proportion to each rate class as a percentage of current rate revenues. The Staff understands that all the parties have agreed on this position.

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

Staff's Position: Any decrease should be allocated as an equal percentage decrease to all non-residential classes with the residential class receiving 50% of the percentage decrease going to the non-residential 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?

Staff's Position: In the event of either a rate increase or decrease, each rate component should be adjusted by the same percentage as the percentage adjustment to that rate class's revenues. The rate components on "frozen" rates should not be reduced. The cogeneration rates and the $5.00 discount on lights when installed on existing poles should not be adjusted.

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

Staff's Position: Yes. The Commission should establish an "EO" docket for the purpose of investigating the class cost of service and rate design for Missouri Public Service and St. Joseph Light & Power. The "EO" docket also should make a determination of costs included in rates by functional categories (production, transmission, distribution and customer).

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

Staff's Position: The Staff is unclear of the scope of this issue that was proposed by the Company and, therefore, reserves taking a position on this issue at this time.

While the foregoing statements reflect the Staff's positions now, the Staff reserves the right to modify its positions, or take positions, after all evidence is adduced in this case.

Respectfully submitted,
DANA K. JOYCE
General Counsel

Nathan Williams

Nathan Williams
Associate General Counsel
Missouri Bar No. 35512

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8702 (Telephone)
(573) 751-9285 (Fax)
e-mail: nwilliam@mail.state.mo.us

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 23rd day of January 2002.

Nathan Williams

Service List for
Case No. ER-2001-672 and EC-2002-265
Verified: January 22, 2002, (cgo)

Office of the Public Counsel
P. O. Box 7800
Jefferson City, MO 65102

Stuart W. Conrad
Finnegan, Conrad & Peterson, L.C.
3100 Broadway, Suite 1209
1209 Penntower Office Bldg.
Kansas City, MO 64111

James C. Swearengen
Brydon, Swearengen & England, P.C.
P. O. Box 456
Jefferson City, MO 65102-0456

Capt. Sloan M. Pye
509 BW/JA
509 Sprit Blvd., Suite 203
Whiteman AFB, MO 65305-5058

Duncan E. Kincheloe, Attorney
2407 West Ash Street
Columbia, MO 65203

Mark W. Comley
Newman, Comley & Ruth, P.C.
601 Monroe Street, Suite 301
Jefferson City, MO 65102-0537

Capt. Robert C. Cottrell, Jr.
AFLSA/ULT
Utility Litigation Team
139 Barnes Drive, Suite 1
Tyndall AFB, FL 32403-5319

Jeremiah D. Finnegan
Finnegan, Conrad & Peterson, L.C.
3100 Broadway, Suite 1209
1209 Penntower Office Bldg.
Kansas City, MO 64111

Dean L. Cooper
Brydon, Swearengen & England, P.C.
P. O. Box 456
Jefferson City, MO 65102-0456