

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 31, 2002**

CASE NO: ER-2001-672

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

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

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

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

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

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

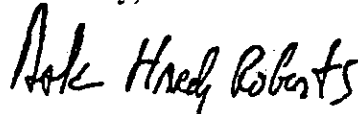
Mark W. Comley
Newman, Comley & Ruth P.C.
601 Monroe Street, Suite 301
Jefferson City, MO 65102-0537

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

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

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

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Tariff Filing of Missouri Public)	
Service (MPS), a Division of UtiliCorp United Inc.,)	<u>Case No. ER-2001-672</u>
to Implement a General Rate Increase for Retail)	Tariff No. 200101173
Electric Service Provided to Customers in the)	
Missouri Service Area of MPS.)	

ORDER SUSPENDING PROCEDURAL SCHEDULE
AND DIRECTING FILING

Upon notification on January 28, 2002, by the parties that a settlement had been reached in principle, the Commission canceled the hearing set in this matter. The Commission will now suspend the procedural schedule previously adopted herein.

Further, the Commission will advise the parties that they must support any Stipulation and Agreement or Settlement Agreement that they may file in this case with adequate and appropriate citations of fact. Unlike a purely private dispute brought to a court for resolution, which the parties may compromise as they see fit, a rate case is a matter of great public interest. Any proposed settlement of all or any part of a rate case must be supported by facts sufficient to permit the Commission to determine that the applicable statutory standards have been met. The parties' settlement does not relieve the Commission of its duty under the law to prepare written findings of fact and conclusions of law.

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Charges made by an electrical corporation must be just and reasonable.¹ While this is a question of law, its resolution necessarily is based upon factual predicates. The charges made by an electrical corporation cannot be based on the costs of construction in progress or upon the costs of any asset not used for service.² This is a factual question. Under certain circumstances, the Commission may phase-in an increase in electric rates over a period of years.³ Whether or not such circumstances exist is a matter of fact. As part of its ratemaking authority, the Commission is empowered to "ascertain the value of the property of every . . . electrical corporation," including new construction and other improvements.⁴ The Commission is expressly required to make written findings of fact in this regard.⁵ Indeed, the Commission's findings are conclusive as to the matters stated therein in any court of this state.⁶

The Commission is authorized to fix depreciation rates for utility property; such rates are a matter of fact.⁷ Upon proper complaint and after due investigation and hearing, the Commission may fix the maximum price of electricity service.⁸ In doing so, the Commission must "consider all facts which in its judgment have any bearing upon a proper determination of the question"⁹ This latter provision is the source of the prohibition on Single Issue Ratemaking; that is, ratemaking where less than all significant issues are considered. In setting rates, the Commission must pay "due regard . . . to a reasonable

¹ Section 393.130, RSMo 2000.

² Section 393.135, RSMo 2000.

³ Section 393.155, RSMo 2000.

⁴ Section 393.230.1, RSMo 2000.

⁵ Section 393.230.2, RSMo 2000.

⁶ Section 393.230.3, RSMo 2000.

⁷ Section 393.240, RSMo 2000.

⁸ Section 393.270.2, RSMo 2000.

⁹ Section 393.270.4, RSMo 2000.

average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies."¹⁰ Finally, in the case of an electric utility, the Commission is authorized to set rates in order to fund an appropriate nuclear decommissioning trust fund.¹¹ All of these are factual questions and any resolution of these matters by the agreement of the parties must be supported by facts adequate to permit the Commission to make the findings and conclusions required by statute.

The parties may provide the necessary factual support in a variety of ways. One approach would be a stipulation of facts. Another, as is evidently contemplated here, would be to stipulate to the admission of all of the exhibits prepared for hearing. However, in the latter case, the parties must also prepare and file proposed findings of fact and conclusions of law with adequate citations to the record to permit the Commission to readily find and evaluate the testimony relied on to establish each necessary fact.

IT IS THEREFORE ORDERED:

1. That the procedural schedule previously adopted in this matter is suspended pending the further order of the Commission.
2. That any Stipulation and Agreement or Settlement Agreement filed in this matter shall be accompanied with proposed findings of fact and conclusions of law containing citations to the record adequate to permit the Commission to make such findings of fact and conclusions of law as are required by law in the premises.

¹⁰ *Id.*

¹¹ Section 393.292, RSMo 2000.

3. That this order shall become effective on January 31, 2002.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant Section 386.240,
RSMo 2000.

Dated at Jefferson City, Missouri,
on this 31st day of January, 2002.

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 31st day of Jan. 2002 .

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

