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February 8, 2002

**FILED<sup>2</sup>**  
FEB 08 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: UtiliCorp United Inc., d/b/a Missouri Public Service  
Case No. ER-2001-672 and Case No. EC-2002-265**

Dear Mr. Roberts:

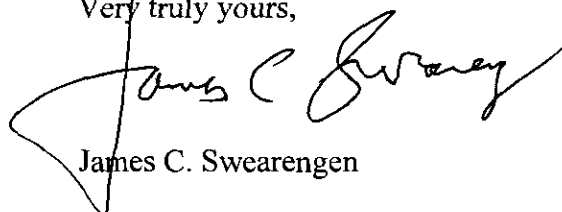
On behalf of UtiliCorp United Inc. d/b/a Missouri Public Service ("MPS"), I deliver herewith for filing with the Missouri Public Service Commission an original and eight (8) copies of UtiliCorp's Proposed Findings of Fact and Conclusions of Law in Support of Unanimous Stipulation and Agreement.

Copies of this pleading will be provided to all parties of record.

Would you please bring this filing to the attention of the appropriate Commission personnel.

Thank you very much for your assistance.

Very truly yours,



James C. Swearngen

JCS/lar  
Enclosures  
cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

FILED<sup>2</sup>

FEB 08 2002

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 )  
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. )

Case No. EC-2002-265

Missouri Public Service, )  
a Division of UtiliCorp United, Inc., )  
Respondent. )

**UTILICORP'S PROPOSED FINDINGS OF FACT AND**  
**CONCLUSIONS OF LAW IN SUPPORT OF**  
**UNANIMOUS STIPULATION AND AGREEMENT**

COMES NOW UtiliCorp United Inc., ("UtiliCorp") d/b/a Missouri Public Service ("MPS"), and, in support of its Unanimous Stipulation and Agreement ("the Stipulation") in this case, states as follows to the Missouri Public Service Commission ("Commission"):

1. On January 31, 2002, the Commission issued its Order Suspending Procedural Schedule and Directing Filing. This order was premised on representations to the Commission that a settlement of these cases had been reached in principle. The Commission, by its order, among other things, directed 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."

2. On February 5, 2002, the parties to these cases filed with the Commission the Stipulation which resolves all contested issues in this case. The instant document contains UtiliCorp's Proposed Findings of Fact and Conclusions of Law.

### **PROPOSED PROCEDURAL BACKGROUND**

1. On June 8, 2001 UtiliCorp filed with the Commission revised electric tariff sheets thereby initiating a general electric rate case for its MPS operating division. The proposed tariff sheets bore a requested effective date of July 9, 2001. The revised tariff sheets were designed to produce an annual increase of \$49,352,769 in the electric revenues of UtiliCorp's MPS division, exclusive of franchise and occupational taxes. On June 21, 2001, the Commission issued an order that suspended the effective date of the proposed tariff sheets to May 6, 2002, set an intervention deadline, and addressed other procedural matters.

2. On August 14, 2001, the Commission issued an Order Concerning Test Year and True Up, Resetting Evidentiary and True-Up Hearings, Adopting Procedural Schedule, and Concerning Local Public Hearings.

3. On January 18, 2002, a List of Issues, List of Witnesses and Order of Cross-Examination was filed with the Commission by the Commission Staff ("Staff"). This document listed almost two dozen identified issues and showed a hearing schedule encompassing two weeks.

4. At the commencement of the hearing on January 25, 2002, UtiliCorp announced that settlement discussions were underway and the parties requested postponement of the hearing for further negotiations.

5. On February 5, 2002, the parties filed with the Commission a the Stipulation which is Schedule 1 hereto.

6. The Stipulation resolves disputed issues between the parties, compromises or defers some issues without prejudice to litigate said issues in the future, provides for continued exchange of information and provides an agreed framework between the parties to resolve or raise issues that are not ripe for determination at this time.

7. The Stipulation provides that the parties agree that the pre-filed testimony of all witnesses in this proceeding may be included in the record of this proceeding without the necessity of such witnesses taking the stand.

8. In reviewing the Stipulation, the Commission has considered all of the evidence upon the whole record in order to make the following findings of fact. Failure to specifically address a particular issue previously identified or a position or argument made by a party does not indicate that the Commission has not considered it. Rather, the omitted material was not dispositive of the issues before the Commission.

#### **PROPOSED FINDINGS OF FACT**

1. The pleadings and evidence reflect a revenue requirement for UtiliCorp's MPS electric operations ranging from an increase of \$31,075,634 to a decrease of \$22,224,341. (Staff Reconciliation, filed January 23, 2002; Attachment A to Staff's Statements of Position).

2. Pursuant to the Stipulation, the parties recommend that just and reasonable rates for UtiliCorp's MPS electric operations should be based upon a revenue requirement that reflects an annual revenue decrease of \$4,250,000, exclusive of gross receipts and occupation taxes, from present annual rate revenues of \$296,891,406. This represents a decrease in rates of approximately 1.43%.

3. There is no allegation by any party and no record evidence that this recommended revenue requirement is based upon the costs of construction in progress

upon any existing or new facility of UtiliCorp, or any other cost associated with owning, operating or maintaining, or financing any property before it is fully operational and used for service. Thus, the proposal does not violate Section 393.135, RSMo 2000. The proposal, however, does include consideration of all facts raised in the testimony which have a bearing upon a proper determination of the rates to be charged by UtiliCorp for its MPS electric operations, with due regard, among other things, to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. Section 393.240.2, RSMo 2000.

4. Because the proposed change in the revenue requirement represents a decrease of approximately 1.43%, there is no increase in revenue and Section 393.155, RSMo 2000 is inapplicable and there shall be no "phase-in" of any increase.

5. No party has requested that the Commission ascertain the value of UtiliCorp property. Thus, a revaluation has not been performed as permitted by Section 393.230, RSMo 2000. For purposes of reaching the above revenue requirement, the rate base has been derived by utilizing the plant-in-service accounts. (Staff witness Phillip K. Williams, Direct Testimony.)

6. The revised tariff sheets agreed to by the parties and attached to the Stipulation as Exhibit A reflect the Staff's rate design for the revenue decrease. This rate design is supported by testimony and found to result in rates that are just and reasonable. (Staff witness Michael S. Proctor, Direct Testimony.)

7. The parties have agreed that the Commission should establish in its order approving the Stipulation a separate case for the purpose of examining customer class cost of service and rate design for UtiliCorp's MPS and St. Joseph Light & Power ("SJLP") electric operations and by said order to make the parties to these proceedings

parties to that case. The parties contemplate that said case will utilize agreed-to load data and test year and ask that the Commission to set an early prehearing conference for the purpose of discussing a procedural schedule and related matters. Examination of such matters are within the jurisdiction of the Commission and, therefore, creation of such case is deemed to be a lawful exercise of the Commission's powers. (Section 393.130, RSMo 2000.)

8. The parties have proposed in the Stipulation certain changes to tariff rates for Meter Reading by Special Appointment, Reconnection Charges, Temporary Meter Set, Excess Service Line Length, Green Power - Rates. The revised tariff sheets attached as Exhibit A to the Stipulation include these changes. The rates which are proposed by the Parties for these items are within the range of rates established by the evidence and do not exceed UtiliCorp's cost of service for those functions.

9. Additionally, the parties have agreed that UtiliCorp shall work towards a December 2002 filing with the Commission of revised electric service tariff sheets that contain a description of the Missouri service territory of its MPS division in congressional township format. The Commission finds that such a territorial description is consistent with regulatory requirements and ease of use.

10. UtiliCorp has additionally agreed that commencing with the month of May 2002, forty-five (45) days after it closes its monthly books for each of its MPS and SJLP divisions, it will make available certain reports. The Commission finds that it has the power to examine books and records pursuant to Section 393.140(8), RSMo 2000. Therefore, this requirement is lawful.

11. UtiliCorp has additionally agreed to provide certain reliability and call center statistics. The Commission has the jurisdiction to address whether public utility service is safe and adequate. Section 393.130, RSMo 2000. The requirements agreed

to by the parties relating to reliability and call center statistics further this goal and are therefore found to be lawful.

12. The Stipulation reflects the agreement of the parties that UtiliCorp should implement, for its MPS electric operations, the depreciation rates contained in Exhibit B attached to the Stipulation, effective on the same date as the tariff sheets implementing the rate reduction. These agreed-to depreciation rates are the same depreciation rates that the Staff filed in its direct case in these proceedings. The depreciation rates are based on average service lives ("ASL's"), and shall only recover the original cost of plant. These depreciation rates, and the suggested revenue requirement, contemplate that UtiliCorp shall treat net salvage costs for its MPS electric operations, allocated to Missouri, as an expense for ratemaking purposes.

13. The depreciation rates, contained in Exhibit B to the Stipulation, will require UtiliCorp to carry and maintain proper and adequate depreciation accounts.

14. UtiliCorp's MPS division has no nuclear power plant costs which form the basis for its rates. Thus, the Commission need not address any issues related a nuclear power plant decommissioning fund. (Section 393.292, RSMo 2000.)

15. Lastly, the Stipulation provides for a moratorium in place until January 1, 2003, pursuant to which the parties shall not file any tariff or pleading with the Commission, or encourage or assist in the filing of any tariff or pleading with the Commission, which tariff or pleading seeks a general increase or decrease in the retail electric rates of UtiliCorp's MPS operating division or its SJLP operating division, unless there is the occurrence of a significant, unusual event, such as an act of God, a significant change in federal or state tax law, a significant change in federal or state utility law or regulation, or an extended outage or shutdown of a major generating unit(s) which has a major effect on either or both of said divisions. This provision

further provides that it does not require the Commission, or the Office of the Public Counsel ("Public Counsel"), to forgo or limit the use of any discovery, investigative or other power that the Commission and the Public Counsel have available by statute. This provision is therefore deemed to be lawful.

### **PROPOSED CONCLUSIONS OF LAW**

The Missouri Public Service Commission has arrived at the following  
Conclusions of Law:

UtiliCorp United Inc., d/b/a Missouri Public Service is an investor-owned public utility engaged in the provision of electric service in the State of Missouri and, therefore, is an "electrical corporation" and "public utility" as defined under section 386.020(15) and (42), RSMo 2000, subject to the jurisdiction of the Missouri Public Service Commission under Chapters 386 and 393, RSMo.

Orders of the Commission must be based upon competent and substantial evidence on the record. Section 536.140, RSMo 2000. However, the Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case. Section 536.060, RSMo 2000; *In the Matter of Tariff Revisions of Missouri Gas Energy*, Order Approving Second Revised Stipulation and Agreement, Case No. GR-2001-292 (July 5, 2001)

All relevant factors must be considered in establishing rates for a public utility. Section 393.270.4, RSMo 2000. *State ex rel. Missouri Water Co. v. Public Service Commission*, 308 S.W.2d 704, 718-719.

The Commission has the power to require any or all gas corporations, electrical corporations, water corporations and sewer corporations to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the Commission may prescribe. Section 393. 240, RSMo 2000.



Based upon its findings of fact and conclusions of law, the Commission concludes that the Stipulation is permitted by law. Therefore, the Commission concludes that in order to set just and reasonable rates, UtiliCorp is authorized and required to file revised electric tariff sheets, in conformance with the illustrative tariff sheets attached as Exhibit A to the Stipulation, for UtiliCorp's MPS electric operations. These tariff sheets reflect a revenue decrease of \$4,250,000 on an annual basis, exclusive of gross receipts and occupation taxes, from present annual rate revenues of \$296,891,406. For the same reason, the Commission concludes that the tariff sheets as submitted by UtiliCorp on June 8, 2001, shall be rejected.

#### **PROPOSED "ORDERED" SECTION**

##### **IT IS THEREFORE ORDERED:**

1. That the Unanimous Stipulation and Agreement filed on February 5, 2002, shall be incorporated in this order and is hereby approved and accepted in resolution of the issues presented in Case Nos. ER-2001-672 and EC-2002-265.
2. That the prefiled testimony of the parties in this case shall be received into evidence.
3. That the revised electric tariff sheets filed with the Commission by UtiliCorp on June 8, 2001 (Tariff No. 200101173) are rejected.
4. That UtiliCorp shall file revised electric tariff sheets in conformance with the illustrative tariff sheets attached to the Stipulation as Exhibit A, which revised electric tariff sheets reflect a revenue decrease of \$4,250,000 on an annual basis, exclusive of gross receipts and occupation taxes, from present annual rate revenues of \$296,891,406. Said revised electric tariff sheets shall be effective for service rendered on February \_\_, 2002, a date fifteen (15) working days after the effective date of this Report and Order.

5. That the above ordered decrease in revenue requirement will be applied as specified in this Report and Order and in the above referenced tariff sheets.

6. UtiliCorp shall maintain the Raytown Call Center indicators of Abandoned Call Rate and Average Speed of Answer on a monthly basis, and report these to the Staff on a quarterly basis for the calendar years 2002 and 2003.

7. UtiliCorp shall maintain the SAIFI, SAIDI, and CAIDI for its MPS and SJLP divisions on a monthly basis, and to report these indices to the Staff on a quarterly basis, for the calendar years 2002 and 2003.

8. UtiliCorp shall maintain MAIFI for its MPS and SJLP divisions, and report these indices to the Staff on a quarterly basis, for the calendar years 2002 and 2003.

9. UtiliCorp shall submit the above-referenced quarterly reports in an electronic format within 45 days of the end of each quarter.

10. After the above-referenced reliability and call center reports have been submitted for the calendar years 2002 and 2003, as specified above, the Staff or UtiliCorp or Public Counsel or any other interested party may petition the Commission to continue or modify any of the reporting requirements.

11. The depreciation rates contained in Exhibit B to the Stipulation and Agreement are adopted for UtiliCorp's MPS electric operations. UtiliCorp shall conform its depreciation accounts for its MPS electric operations to the rates adopted by this Report and Order. These depreciation rates shall be applied to the accounts of UtiliCorp's MPS electric operation as of the effective date of the tariff sheets approved herein and shall continue to apply until such time as the Commission prescribes new depreciation rates.

12. On or before August 1, 2002, UtiliCorp shall file with the Commission its next depreciation study for its MPS electric operations, provide to the Staff its workpapers for

that study, and supply the underlying data for that study to the Staff in Gannett Fleming format.

13. Commission Case No. EO-2002-\_\_\_\_ is hereby established for the purpose of examining customer class cost of service and rate design for UtiliCorp's MPS and SJLP electric operations. All parties to this case are hereby made parties to Case No. EO-2002-\_\_\_\_. This case will utilize agreed-to load data and test year. An early prehearing is set for \_\_\_\_\_, 2002 for the purpose of discussing a procedural schedule and related matters.

14. That the following tariff sheets, Tariff File No. \_\_\_\_\_, filed with the Commission by UtiliCorp on February \_\_, 2002, in Case Nos. ER-2001-672 and EC-2002-265, which are identical in content to the illustrative tariff sheets contained in Exhibit A to the Stipulation, are hereby approved to become effective on February \_\_, 2002.

P.S.C. MO. No. \_ Consolidated, \_\_\_\_\_ Revised Sheet No. \_\_, Canceling

P.S.C. MO. No. \_ Consolidated, \_\_\_\_\_ Revised Sheet No. \_\_

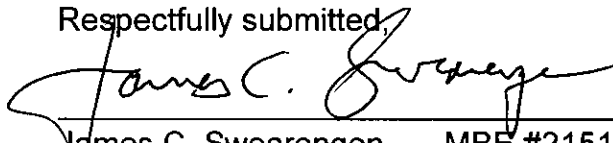
15. That any objection not ruled on is overruled, any motion not ruled on is denied, and any exhibit not admitted is excluded.

16. That this Report and Order shall become effective on February \_\_, 2002.

17. That Case Nos. ER-2001-672 and EC-2002-265 shall be closed.

WHEREFORE, UtiliCorp prays the Commission to adopt these Proposed Findings of Fact and Conclusions of Law.

Respectfully submitted,



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Attorneys for UtiliCorp United Inc.  
d/b/a Missouri Public Service

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 8<sup>TH</sup> day of February, 2002, to:

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