

Exhibit No.:

Issues: Aries

Witness: Frank A. DeBacker

Sponsoring Party: Aquila Networks-MPS  
& L&P

Case No.: ER-2004-0034 &  
HR-2004-0024  
(Consolidated)

Before the Public Service Commission  
of the State of Missouri

Rebuttal Testimony

of

Frank A. DeBacker

**FILED<sup>3</sup>**  
APR 28 2004  
Missouri Public  
Service Commission

Exhibit No. 62  
Case No(s) ER-2004-0034  
Date 2/23/07 Rptr XF

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FRANK A. DEBACKER  
AQUILA, INC. D/B/A AQUILA NETWORKS-MPS  
AND AQUILA NETWORKS-L&P  
CASE NOS. ER-2004-0034 AND HR-2004-0024  
(CONSOLIDATED)**

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**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI  
REBUTTAL TESTIMONY OF FRANK A. DEBACKER  
ON BEHALF OF AQUILA, INC.  
D/B/A AQUILA NETWORKS-MPS AND AQUILA NETWORKS-L&P  
CASE NOS. ER-2004-0034 AND HR-2004-0024 (CONSOLIDATED)**

1 Q. Please state your name and business address.

2 A. My name is Frank A. DeBacker and my business address is 7308 N. Richmond Avenue,  
3 Kansas City, Missouri 64158.

4 Q. What is your current relationship with Aquila, Inc?

5 A. I am a retired employee of Aquila, Inc. ("the Company"). I retired on June 30, 2001. I  
6 am currently providing services to the Company as an independent contractor.

7 Q. Why did the Company retain you as an independent contractor?

8 A. The Company has retained me to provide expert testimony to support its position  
9 concerning the Power Sales Agreement ("PSA") between Aquila Networks-MPS  
10 ("MPS") and MEP – Pleasant Hill, LLC ("MEPPH"), based upon my role in negotiating  
11 the PSA on behalf of MPS.

12 Q. What was your involvement in the PSA?

13 A. As the PSA was being developed, negotiated and signed between 1998 and 1999, I was  
14 Vice-President, Fuel and Purchased Power. All of my positions at Aquila, including this  
15 one, have always been on the "regulated" side of the Company. In that capacity, one of  
16 my responsibilities was for the solicitation and evaluation of proposals for the provision  
17 of supply side resources to the Company's regulated electric operations. I also was  
18 responsible for the negotiation of any resulting contracts.

1 Q. What is your experience in the utility industry?

2 A. I was employed in the utility industry from June 1972 until my retirement from Aquila in  
3 June 2001. My experience in the industry covers almost all aspects of the planning,  
4 design, construction, operation, and maintenance of electric power systems including fuel  
5 supply and supply side resource procurement. However, I do not have any experience in  
6 the design and construction of electric generation facilities. A copy of my resume is  
7 attached as Schedule FAD-1.

8 Q. Before proceeding, please define each of the abbreviations used in your testimony.

9 A. The abbreviations and the entities they represent are as follows:

10	Company	Aquila, Inc., formerly UtiliCorp United Inc.
11	MPS	Aquila, Inc.'s regulated electric operations formerly
12		known as Missouri Public Service, a division of the
13		Company
14	MEPPH	MEP – Pleasant Hill, LLC, the entity formed by
15		Aquila Merchant to own and operate its generation
16		facility at Pleasant Hill, Missouri. It is now co-
17		owned by subsidiaries of Aquila and Calpine Corp.
18	Aquila	
19	Merchant	Aquila Merchant Services, Inc., a wholly owned
20		subsidiary of the Company. Aquila Merchant
21		operations include Aquila Power Corp., Aquila
22		Energy Marketing Corp., Merchant Energy Partners
23		and MEPPH
24	FERC	Federal Energy Regulatory Commission
25	MoPSC	Missouri Public Service Commission (also referred
26		to as "Commission")
27	Houston	Houston Industries, Inc. (now known as Reliant
28		Energy, Inc.)
29	PPA	Purchased Power Agreement
30	PSA	Power Supply Agreement between MEPPH and
31		MPS (Feb. 22, 1999)

1 Staff Staff of the Missouri Public Service Commission

2 OPC Missouri Office of the Public Counsel

3

4 Q. What is the purpose of your rebuttal testimony in this proceeding?

5 A. The purpose of my rebuttal testimony is to rebut the direct testimony of Staff witnesses  
6 Mr. Mark L. Oligschlaeger and Mr. Cary G. Featherstone as their testimony relates to the  
7 disallowance of capacity costs being incurred by MPS as a result of the PSA.

8 Q. How is your testimony organized?

9 A. My testimony is organized as follows:

- 10 1. A brief discussion of the MoPSC rules and regulations which  
11 govern the process by which supply side resources are acquired  
12 by jurisdictional electric utilities in Missouri.
- 13 2. An extensive discussion of the process that MPS followed  
14 during the solicitation, negotiation and execution of the PSA.
- 15 3. A brief discussion of the regulatory approval process for the  
16 PSA.
- 17 4. A brief summary of my testimony and conclusions.

18 **Commission Affiliate Transaction Rules**

19 Q. Are you aware Staff witness Mark L. Oligschlaeger states in his Direct Testimony at page  
20 15, line 22, through page 16, line 1, that the MPS-MEPPH PSA is an example of affiliate  
21 abuse and that the MoPSC should disallow the capacity payment included in the PSA and  
22 instead allow a value for the capacity that represents the lower of fully distributed cost or  
23 market price, as provided in the Commission's current affiliate rules, 4 CSR 240-20.015?

24 A. Yes. As explained later, I disagree with this assertion.

25 Q. Were the current MoPSC's affiliate rules in effect when the MPS-MEPPH PSA was  
26 negotiated and executed?

1 A. No.

2 Q. What Commission rules and regulations governed the process through which  
3 jurisdictional utilities acquired supply side resources at the time MPS was acquiring the  
4 capacity and energy provided by the PSA?

5 A. Commission rules and regulations governing the acquisition of supply side resources  
6 came into being in the early 1990s.

7 On March 29, 1993, the MoPSC issued regulations governing "Electric Utility  
8 Resource Planning" which were codified at 4 CSR 240-22. These rules, known as  
9 Integrated Resource Planning ("IRP"), laid out requirements for: (a) Load analysis and  
10 forecasting, (b) Supply-side resource analysis, (c) Demand-side resource analysis,  
11 (d) Integrated resource analysis, (e) Risk analysis and strategy selection, and (f) Filing  
12 schedules and requirements. These rules placed additional requirements upon Missouri  
13 regulated electric utilities, which were required to expend additional monetary and human  
14 resources necessary to develop additional methods of analysis, as well as to meet and  
15 confer with Staff and OPC.

16 In 1997, in response to the continued move to deregulation of various segments of  
17 the electric utility industry and the rise of merchant or non-regulated generation, Staff and  
18 OPC, in concert with the utilities, explored a more streamlined approach to resource  
19 planning that would reflect these changes in the industry and still provide reliable,  
20 reasonably priced electric energy to Missouri citizens. These efforts led to five  
21 Commission orders that shifted the emphasis from the filing requirements of Chapter 22  
22 of 4 CSR 240 to joint agreements that would allow the parties to go forward with issues

1 jointly related to electric resource planning and retail competition in an efficient and  
2 effective manner.

3 Q. Please explain what led to these five orders.

4 A. Staff and OPC negotiated with each of the five Missouri jurisdictional electric utilities  
5 then in existence and reached separate agreements with each utility. These agreements  
6 considered the particular situation that each utility faced in meeting the power supply  
7 needs of its customers. The case number and effective date for each agreement are shown  
8 in Table 1. Copies of the orders are attached as Schedules FAD-2 through FAD-6.

9  
10 **Table 1 – Integrated Resource Plans & Joint Agreements**

<u>Utility</u>	<u>Case Number</u>	<u>Effective Date</u>	<u>Schedule</u>
St. Joseph Light & Power Co.	EO-96-5	January 7, 1997	FAD-2
Kansas City Power & Light Co.	EO-97-522	July 29, 1997	FAD-3
Union Electric Co.	EO-94-178	November 14, 1997	FAD-4
Empire District Electric Company	EO-96-56	January 21, 1998	FAD-5
UtiliCorp United Inc. (Aquila)	EO-98-316	July 7, 1998	FAD-6

11  
12  
13 Q. When was the Company's Case No. EO-98-316 opened?

14 A. January 28, 1998.

15 Q. Why is this date important?

16 A. As will be discussed later, the date of January 28, 1998 is important because it shows that  
17 the provisions contained in Case No. EO-98-316 were being negotiated at the time MPS  
18 began the process to acquire new power supply resources in the spring of 1998.

19 Q. Are there any common themes found in the five agreements?

1 A. Yes. While each agreement has elements that are tailored to the subject utility, the  
2 following themes are consistent in each agreement:

- 3 • The electric utility industry is an industry in transition
- 4 • This transition results in shorter planning horizons
- 5 • Shorter planning horizons result in shorter-term supply-side resource  
6 commitments acquired through competitive bidding
- 7 • The utilities will provide Staff and OPC with periodic reports and briefings on  
8 such supply matters

9  
10 Q. What conclusions can be drawn from the common themes that are found in each of the  
11 five agreements?

12 A. The jurisdictional utilities (including MPS), Staff and OPC were aware of and concerned  
13 about the potential impact of the fundamental changes occurring in the electric utility  
14 industry. As a result, they convinced the Commission to issue orders that made  
15 significant changes in the planning and acquisition of supply-side resources.

16 Q. What are these significant changes?

17 A. The traditional planning horizon of 20 to 30 years was replaced with a much shorter  
18 horizon of 3 to 5 years. Additionally, any new supply-side resource needs would be met  
19 through a competitive bidding process that would result in contracts with shorter terms  
20 that would be consistent with shorter planning horizons.

21 Q. What are the main elements of the supply-side resource acquisition process that Aquila  
22 was ordered to follow by the Commission in Case EO-98-316?

23 A. A complete list of the requirements for acquiring new supply-side resources is found on  
24 pages 9 and 10 of Attachment A of the Order. See Schedule FAD-6, pages 13 & 14. The  
25 main elements are:



- 1           1. MPS should use short-term capacity markets to acquire new supply-side  
2           resources through a competitive bidding process.
- 3           2. Staff and OPC would be given the opportunity to comment on any Request  
4           for Proposal ("RFP") that MPS would issue to acquire additional supply-  
5           side resources.
- 6           3. MPS would provide Staff and OPC the results of its evaluation of the  
7           proposals received in response to RFP's.
- 8
- 9    Q.     What is the significance of the Commission's Order directing the Company to use short-  
10           term capacity markets to acquire new supply-side resources?
- 11   A.     It eliminated the option of building regulated rate-based generation from consideration as  
12           a potential supply-side resource because rate-based generation represented an expensive  
13           long-term commitment roughly equal to the projected useful life of the asset.
- 14   Q.     Did the Company agree with the Commission Order in EO-98-316 and its implicit  
15           decision regarding the construction of rate-based generation?
- 16   A.     Yes. As discussed in the testimonies of Mr. Stamm and Mr. Empson, the Commission  
17           Order was consistent with the Company's position.
- 18   Q.     Did MPS comply with the requirements for acquiring new supply-side resources?
- 19   A.     Yes. I believe that MPS complied with the resource acquisition requirements of the final  
20           order in Case No. EO-98-316.
- 21   Q.     Does this complete your review of the history of the Commission rules governing the  
22           acquisition of supply-side resources?
- 23   A.     Yes, it does.

1           MPS's Acquisition of Supply-Side Resources

2   Q.    Do you agree with Staff's position in the Direct Testimony (Oligschlaeger at 10, l. 8-12)  
3           that Aquila's decision to enter into the PSA violated MoPSC policy governing pricing  
4           between affiliated interests?

5   A.    No, I do not agree. I believe Staff's position is based upon a serious misunderstanding of  
6           how the PSA was negotiated and what it actually provides in terms of the pricing of  
7           energy and capacity. To understand that pricing you must first understand the process  
8           that led to the final bid that was selected.

9   Q.    Would you please review that process?

10  A.    Yes. This section of my testimony recounts the process followed by MPS that led to the  
11           PSA.

12  Q.    When did MPS begin this process?

13  A.    The process began in the spring of 1998. In my letter of April 7, 1998 to Dr. Michael S.  
14           Proctor, Staff Chief Energy Economist, with copies to Mr. Ryan Kind, OPC Chief Utility  
15           Economist, I outlined the capacity needs of MPS for the years 2000 and 2001 and  
16           presented a draft RFP for supply-side resources designed to meet those needs. I requested  
17           that they review the draft RFP and provide any comments or suggestions. A copy of the  
18           letter and the attached draft RFP is attached as Schedule FAD-7.

19  Q.    Why is the letter of April 11, 1998 with its draft RFP significant?

20  A.    The letter and draft RFP are significant for two reasons.

21           First, although the Company was still negotiating the terms of the joint agreement  
22           in Docket No. EO-98-316 that would replace the IRP rules, MPS conducted itself in

1 accord with the provisions it expected to be contained in such an agreement. MPS  
2 believed those provisions would be substantially similar to the directives contained in the  
3 Commission's orders issued in the dockets relating to the other Missouri investor-owned  
4 utilities. See Table 1, above. Consequently, through the referenced letter, MPS notified  
5 both Staff and OPC of MPS's projected near term supply-side requirements and its  
6 intention to issue an RFP to meet those requirements.

7 Second, the draft RFP submitted by MPS contained a section in which it reserved  
8 the right to submit a "self-build" proposal in the form of an unregulated Exempt  
9 Wholesale Generator ("EWG"). The draft RFP did not contain an option for MPS to  
10 build a rate-based generating plant. Thus, Staff and OPC were both aware at a very early  
11 stage that MPS had no plans to construct a rate-based generating plant at that time.

12 Q. Did Staff make any comments on the content of the proposed RFP?

13 A. Yes. In a letter dated May 1, 1998 from Dr. Proctor and Mr. Roger W. Steiner,  
14 Assistant General Counsel, Staff raised concerns regarding Section I of the draft RFP. A  
15 copy of their letter is attached as Schedule FAD-8.

16 Q. What were main concerns raised by Staff?

17 A. Staff's main concern related to creating and maintaining a separation between MPS  
18 personnel involved in the RFP and the evaluation of responsive bids received and any  
19 MPS personnel estimating the cost of a potential EWG.

20 Q. Did the OPC make any comments on the content of the proposed RFP?

1 A. Yes. On May 11, 1998, OPC's Ryan Kind stated that he shared the concerns expressed  
2 by Staff regarding Section I of the draft RFP. See Schedule FAD-9. In addition, OPC  
3 stated that:

4 "Given the current uncertainties about what regulations and market  
5 structure are likely to arise in the electric utility industry, OPC does not  
6 believe that UtiliCorp should be acquiring an ownership interest in  
7 additional generating facilities that are located in the same market where  
8 it owns and operates electric distribution and transmission facilities."  
9

10  
11 Q. What is your interpretation of OPC's concern?

12 A. OPC did not believe that MPS or any affiliate of MPS should construct electric  
13 generation facilities in the MPS market area.

14 Q. Did either Staff or OPC raise any objections at this time to MPS submitting a bid as an  
15 EWG and not a bid based on a rate-based generation asset?

16 A. No, they did not.

17 Q. What conclusions did you draw from the comments of Staff and OPC?

18 A. I drew four conclusions from their comments:

- 19 1. Both Staff and OPC were aware April 1998 that if MPS were to submit a  
20 response to the RFP, it would be in the form of an EWG. It would not be  
21 a generating plant constructed by MPS and placed in rate base.
- 22 2. Neither Staff nor OPC raised a concern or an objection to the fact that the  
23 RFP clearly indicated that MPS did not plan to build a rate-based  
24 generating asset.
- 25 3. OPC was opposed to the Company owning any additional generating  
26 facilities in its market area.
- 27 4. Both Staff and OPC were concerned about how MPS would ensure an  
28 unbiased evaluation of proposals in the event MPS decided to submit a  
29 proposal in response to the RFP.

30  
31 Q. Did MPS make any changes in the RFP in response to the comments of Staff and OPC?

1 A. Yes. MPS removed the contents of Section I in which MPS retained the option to submit  
2 an EWG proposal.

3 Q. Did MPS abandon the EWG concept?

4 A. No. MPS did not abandon the concept of an EWG and continued to develop cost  
5 estimates to construct and operate a 500-MW combined-cycle generating plant as an  
6 EWG. MPS continued this effort because it believed that this option could still offer the  
7 lowest cost to MPS customers.

8 Q. Did MPS make any other changes to the RFP?

9 A. Yes. The time period for which proposals were requested was extended to May 31, 2004  
10 from May 31, 2001.

11 Q. Why was the time period extended?

12 A. The capacity market was becoming tighter. We assumed that most proposals submitted  
13 in response to MPS's RFP would come from new generation facilities, rather than from  
14 an entity that had excess generating capacity. We believed that a longer-term  
15 commitment would be required to support new construction.

16 Q. Did this turn out to be the case?

17 A. Yes. As discussed below, the majority of proposals came from entities that planned to  
18 build merchant generating facilities if they were the successful bidder.

19 Q. Did MPS provide Staff and OPC with a copy of the revised RFP?

20 A. Yes. On May 21, 1998, MPS notified both Staff and OPC of the changes made in  
21 response to their comments and provided them with a copy of the revised RFP. A copy of

1 MPS's response to the comments of Staff and OPC, as well as a copy of the revised RFP  
2 is attached as Schedule FAD-10.

3 Q. Did MPS issue the revised RFP for new supply-side resources?

4 A. Yes. MPS issued the revised RFP on May 22, 1998. Proposals were due on July 3, 1998.

5 Q. How many potential providers of supply-side resources were requested to submit  
6 proposals in response to the RFP?

7 A. Over 40 different entities were requested to submit responses to the RFP. A partial list of  
8 recipients of the RFP is attached as Schedule FAD-11.

9 Q. How many responses to the RFP were received?

10 A. As shown in Table 2 below, eight different potential power suppliers submitted  
11 proposals. Of the original proposals, only that of LS Power, LLC provided sufficient  
12 capacity to meet the MPS projected need of 500MW. All other proposals were for  
13 smaller amounts.

14

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1 **Table 2 – Proposals Received in Response to RFP**

Entity Name	MW Capacity	Contract Term	Resource Type/ New or Existing
Aquila Power Corporation	100	6/2000 – 5/2004	Combined Cycle – New Construction
Basin Electric Cooperative	100	6/2000 – 5/2004	System Resources – Existing
Carolina Power & Light Co.	150	6/2000 – 5/2004	Simple Cycle – New Construction
LS Power, LLC	540	June 2001 – May 2011	Combined Cycle – New Construction
NorAm Energy Services, Inc.	100	6/2001 – 5/2004	Simple Cycle – New Construction
NP Energy, Inc.	100	6/2001 – 5/2004	Simple Cycle – New Construction
Southern Energy Marketing	100	6/2001 – 5/2004	Combined Cycle – New Construction
Southwestern Public Service Co.	100	6/2000 – 5/2004	System Resources – Existing

2  
3  
4 Four proposals offered capacity for the period June 2000 to May 2001. The other  
5 four proposals offered capacity beginning in June 2001. The LS Power, LLC proposal  
6 was for a term of ten years, which is six years longer than requested in the RFP. In a  
7 letter dated August 21, 1998, Southwestern Public Service Co. subsequently reduced the  
8 term of its proposal to the period June 2000 to May 2001.

9 Q. What is the significance of the fact that most of the proposals were for less than the 500  
10 megawatts that MPS required?

11 A. It meant that for evaluation purposes, several proposals would have to be combined into a  
12 portfolio of resources in order to meet MPS resource requirements.

13 Q. How were the proposals evaluated?

1 A. Bidders were instructed to submit their proposals to Burns & McDonnell, a national  
2 engineering and consulting company retained by MPS to evaluate the proposals.

3 Q. Did MPS itself submit its estimate of the cost to supply power from an EWG that would  
4 potentially be constructed by MPS?

5 A. Yes, it did.

6 Q. What was the cost estimate for this EWG option?

7 A. MPS estimated that if the EWG option were structured in the customary fashion, MPS  
8 would pay: (1) a Fixed Capacity Payment of \$33 million; and (2) a Variable Operation &  
9 Maintenance ("O&M") Charge to cover the variable cost of converting the fuel provided  
10 by MPS into the electric energy delivered to MPS. The EWG would convert the fuel  
11 provided by MPS into electric energy for delivery to MPS at a guaranteed rate.

12 Q. Is that cost structure consistent with what is found in the PSA in this case?

13 A. Yes. It is consistent with standard resource-specific contracts in which the purchaser (in  
14 this case MPS) would supply the fuel.

15 Q. How did Burns & McDonnell evaluate the proposals?

16 A. Burns & McDonnell created seven different portfolios, the elements of which are  
17 discussed in their report. See Schedule FAD-13, pages 21 to 29. It used the RealTime®  
18 production costing software from the Emelar Group to evaluate the each portfolio.

19 Q. Please explain how the Realtime® production costing software works.

20 A. RealTime® is a standard tool used to analyze production costs that is well recognized and  
21 accepted in the electric utility industry. For each potential resource (or portfolio of  
22 resources) under consideration, a RealTime® database was created which contained the



1 operating characteristics of the potential resource together with those of existing supply-  
2 side resources (both generation and existing PPAs), fuel costs, market energy costs and  
3 system hourly load projections. Using the database thus created, the RealTime® software  
4 was used to determine the hourly, variable cost incurred to serve the projected system  
5 load. These hourly costs are then summed for each year in the study period to create a  
6 projected total annual variable cost.

7 RealTime® operates in a chronological fashion in that it analyzes and solves each  
8 hour of a system's energy demands before moving to the next hour. Thus, it closely  
9 simulates the way a utility operates its power supply portfolio by scheduling power from  
10 generating units and PPAs on a lowest-cost basis. Its analysis is driven by the projection  
11 of generating unit availability and fuel, start-up, and O&M costs, as well as the  
12 availability and cost of purchased electric energy. RealTime® provides data on many  
13 subjects (such as power production amounts, fuel costs, O&M costs, marginal costs, and  
14 average system costs) for each power supply resource included in the model.

15 The annual variable costs projected by RealTime® are then combined with the  
16 annual fixed costs associated with the resource(s) under consideration to arrive at a total  
17 annual system cost that would result if the resource under consideration were selected.  
18 This analysis method does not include the fixed costs associated with existing supply side  
19 resources since these costs would be the same for all cases. Finally, for each resource  
20 under consideration, the annual power supply costs were summed to create a projected  
21 total cost figure. The resource that results in the lowest total cost is the one that is judged  
22 to provide the lowest projected cost to MPS customers.

1 Q. What were the results of Burns & McDonnell's evaluation of the proposals?

2 A. The evaluation indicated that the estimate of power supply costs from an EWG  
3 constructed by the Company was one of the lowest cost power supply options.

4 Q. Did MPS provide Staff and OPC with the results of the evaluation of the competitive  
5 bidding process?

6 A. Yes. At the time Burns & McDonnell completed its preliminary evaluation of the  
7 proposals, MPS had scheduled a meeting with Staff and OPC personnel to present its  
8 semi-annual resource planning update. The meeting was scheduled for August 24, 1998,  
9 and MPS planned to discuss the results of the bid evaluation at that time. However, when  
10 preliminary results became available indicating that the MPS EWG option would be one  
11 of the lowest cost options, I conveyed this information to Dr. Proctor of Staff and  
12 Mr. Kind of OPC through a letter that I wrote to them on August 4, 1998. In that letter I  
13 explained that the preliminary analysis indicated the construction of a 500MW power  
14 plant by MPS was one of the lowest cost alternatives. In light of this development, I  
15 informed Staff and OPC that since MPS had not submitted a formal proposal, it was  
16 prepared to reissue the RFP and conduct another round of bidding if Staff and OPC  
17 desired. I also provided a draft RFP for review by Staff and OPC. A copy of my letter to  
18 Staff and OPC is attached as Schedule FAD-12. The RFP stated that:

19 "UCU's proposal will take the form of an **Exempt Wholesale Generator**  
20 and will be responsive to the requirements of the RFP."  
21

22 See Schedule FAD-12, page 4, 3<sup>rd</sup> paragraph (emphasis added).

23 Q. Why did you offer to re-bid MPS' power supply needs?

1 A. In light of the initial comments made by Staff and OPC, MPS had removed the option of  
2 its bidding through an EWG from the original RFP. To avoid any suspicion that MPS had  
3 'rigged' the process, I thought it prudent to offer the re-bid option to Staff and OPC. I  
4 also wanted to once again bring to the attention of Staff and OPC that MPS did not plan  
5 to construct a rate-based generating facility.

6 Q. Did Staff or OPC express any concern with the fact that the Company did not propose to  
7 construct a rate-based generating facility?

8 A. No, they did not.

9 Q. Was the re-bid option pursued?

10 A. No. Neither Staff nor OPC indicated that reissuing the RFP was necessary.

11 Q. Was the resource planning update meeting held as scheduled on August 24, 1998.

12 A. Yes, it was.

13 Q. Were the results of the evaluation of the RFPs discussed at that meeting?

14 A. Yes, they were. MPS provided Staff and OPC with copies of the proposals and the  
15 results of the evaluation conducted by Burns & McDonnell. A copy of the supply side  
16 planning update, including the Burns & McDonnell Report and the proposals received,  
17 were given to Staff and OPC. See Schedule FAD-13.

18 Q. Was the offer to re-bid the MPS supply side resource requirement discussed at the  
19 meeting?

20 A. Yes, it was.

21 Q. What were the results of that discussion?

1 A. Staff and OPC advised MPS that it was not necessary to not reissue the RFP. In lieu of  
2 reissuing the RFP, Staff and OPC recommended that MPS contact all of the original  
3 bidders to:

- 4 1. Determine if each bidder continued to have an interest in providing power supply  
5 resources to MPS, and
- 6 2. Provide each bidder with an opportunity to update or otherwise modify its original  
7 proposal.  
8

9 Q. Was this done?

10 A. Yes. On August 25, 1998, I wrote a letter to each of the original bidders requesting that  
11 they confirm their continued interest in providing power supply resources to MPS and  
12 update their proposals if necessary. All firms stated that they continued to have an  
13 interest. Since Southwestern Public Service Co. had previously reduced the term of its  
14 proposal from 2000-2004 to 2000-2001; its proposal was removed from consideration.

15 Q. Did you supply this information to Staff and OPC?

16 A. Yes. I wrote a letter to Staff and OPC, dated September 14, 1998, which so advised  
17 them. On September 18, 1998, at the request of Mr. Kind of OPC, I provided Staff and  
18 OPC with a copy of my letter of August 25, 1998 letter to the original bidders and the  
19 responses received. Copies of the letters (including attachments) are attached as  
20 Schedules FAD-14 and FAD-15, respectively.

21 Q. Your discussion has taken us to mid-September of 1998. What happened in the fall of  
22 1998?

23 A. Two events occurred which affected the evaluation process.

1 First, in September 1998, the Company decided to form Merchant Energy Partners within  
2 Aquila Merchant to develop and own all EWG and Independent Power Producer facilities  
3 of the Company. This meant that the EWG project, which up to this time had been  
4 developed by MPS, was transferred to Aquila Merchant. As discussed by Company witness  
5 Max Sherman, Aquila Merchant proceeded to develop a business case to build and own the  
6 generation facility.

7 Second, the Company began to pursue potential mergers with two different utilities  
8 that increased the workload in the power supply group. This increase in workload extended  
9 the analysis period for the power supply proposals. Due to the fact that the bidding process  
10 for new power supply resources was taking longer than anticipated, MPS decided to meet  
11 its June 2000 to May 2001 supply-side resource needs through one-year PPAs.

12 Q. What impact did these decisions have on the final evaluation of the proposals?

13 A. MPS delayed the evaluation of final bids until December 1998. Additionally, since the  
14 June 2000 to May 2001 supply-side resource needs had been met, the evaluation period  
15 began in June 2001 instead of June 2000.

16 Q. How did you communicate the delay in the bid evaluation process to the prospective  
17 bidders?

18 A. On November 6, 1998, I wrote a letter to the original bidders explaining that there had  
19 been a delay and again requesting that they confirm their interest and update their  
20 proposals. Best and final offers were to be received no later than November 30, 1998.

21 Q. Did all of the original bidders continue to have an interest in supplying power to MPS?

1 A. No, they did not. Several of the original bidders had either been removed from  
2 consideration or did not continue to have an interest. Those proposals that were no longer  
3 under consideration are shown below:

- 4 • Basin Electric – Did not respond to letter of November 6, 1998
- 5 • Carolina Power & Light – Did not respond to letter of November 6, 1998
- 6 • LS Power, LLC – Withdrew proposal due to increased equipment cost and  
7 unwillingness to accept shorter term contract
- 8 • NP Energy, Inc. – Assigned its proposal to Houston Industries
- 9 • Southern Company Energy – Did not respond to letter of November 6, 1998
- 10 • New Century Energy (successor to Southwestern Public Service) – previously  
11 reduced term of proposal to June 2000 – May 2001 and consequently was  
12 removed from consideration.

13  
14 Q. As of December 1, 1998, how many of the original bidders continued to be interested in  
15 providing supply side resources to MPS?

16 A. Two entities continued to have great interest: Aquila Merchant and Houston. Both of  
17 these proposals offered lower supply-side resource costs than the original proposals  
18 submitted in July-August 1998.

19 Q. Please describe the Houston proposal.

20 A. An introductory meeting between Houston and MPS was held on November 9, 1998  
21 where Houston presented its corporate structure and aspirations in the developing  
22 unregulated electric marketplace. MPS discussed its needs and the potential  
23 interconnection point with its system at its Pleasant Hill substation in Cass County. A  
24 copy of the Houston presentation is attached as Schedule FAD-16.

25 On December 1, 1998, Houston submitted a proposal for the supply of 326MW of  
26 peaking capacity (summer rating of 300MW) for the period June 1, 2001 through May 31,

1 2006. The delivery point was to be the MPS substation at Pleasant Hill. During  
2 negotiations Houston subsequently revised its proposal on January 6, 1999. The January  
3 6<sup>th</sup> proposal was for the provision of 500MW of summer capacity (June 1 – September  
4 30, 2001-2005) with a capacity cost of \$8,420 per MW-month and 200MW of winter  
5 capacity (October 1 – May 31, 2001-2006) at a cost of \$4,210 per megawatt-month. The  
6 proposed total annual capacity cost of the January 6, 1999 proposal was \$23,576,000.  
7 Copies of the Houston proposals of December 1, 1998 and January 6, 1999 together with  
8 all proposal modifications and known correspondence between MPS and Houston  
9 through the execution of the PSA are attached as Schedule FAD-17.

10 Q. Please describe the Aquila Merchant proposal.

11 A. The Aquila Merchant proposal was received on November 30, 1998. It offered three  
12 options for consideration by MPS:

13	Option 1:	June 1 – Sept 30, 2001	320MW
14		Jan 1, 2002 – May 31, 2005	200MW
15		April 1 – Sept 30, 2002-2005	300MW
16	Option 2:	One year extension of Option 1	
17	Option 3:	June 1, 2001 – Sept 30, 2001	180MW
18		Oct 1, 2001 – Dec 31, 2001	200MW
19			

20 As proposed on November 30, 1998, the capacity cost of Option 1 beginning June 1,  
21 2002 was 300MW at \$8,000 per MW-month for six months plus 200MW at \$6,400 per  
22 MW-month for twelve months for a total annual capacity cost of \$29,560,000. As  
23 discussed below, Aquila Merchant subsequently reduced the capacity charge during contract  
24 negotiations from \$8,000 per MW-month to \$7,500 per MW-month for the 300MW and  
25 from \$6,400 per MW-month to \$5,900 per MW-month for the 200MW. The final proposed

1 annual capacity cost was thus reduced to \$27,660,000. A copy of the November 30, 1998  
2 Aquila Merchant proposal, together with all proposal modifications and known  
3 correspondence between MPS and Aquila Merchant through the execution of the PSA, is  
4 attached as Schedule FAD-18.

5 Q. Did either proposal contain provisions for adjustment of their pricing structure?

6 A. Yes. Aquila Merchant proposed that the capacity payment by MPS be adjusted to  
7 account for increases in the purchase cost of the combustion turbines that would be a part  
8 of its proposed facility, as well as the cost to interconnect the facility to the MPS system.

9 Q. Were the proposed capacity payment adjustment provisions included in the final contract?

10 A. Yes, with a cap on any increase in combustion turbine purchase price that would be the  
11 basis of a capacity payment adjustment paid by MPS. The specific language of the  
12 adjustment provisions can be found in Article 5(a) and 5(b) of the PSA. See Schedule  
13 FAD-19, page 19.

14 Q. What was the net effect of these adjustment provisions on the final capacity payment of  
15 the PSA?

16 A. The adjustment provision for the cost of the combustion turbines resulted in an increase  
17 in the capacity payment of \$55.00 per MW-month, while the adjustment provision for the  
18 interconnection cost resulted in a decrease in the capacity payment of \$29.70 per MW-  
19 month. Thus the net effect of the adjustments was to increase the capacity payment by  
20 \$25.30 per MW-month or \$106,260 per year for a total annual capacity payment of  
21 \$27,766,260.



1 Q. How does the total annual capacity payment of the Houston and Aquila Merchant  
2 proposals compare to the capacity payment of the EWG option of MPS that was  
3 discussed with Staff in the August 24, 1998 meeting?

4 A. They were significantly lower. The estimated annual capacity payment of the EWG  
5 option as discussed at the August 24, 1998 meeting was \$33,000,000. Comparable  
6 annual capacity payments for the Houston and Aquila Merchant proposals were  
7 \$23,576,000 (proposed) and \$27,666,260 (final contract annual capacity payment),  
8 respectively.

9 Q. The annual capacity payment of the Houston proposal is lower than that of the Aquila  
10 Merchant proposal. Why was the Aquila Merchant proposal selected?

11 A. The Aquila Merchant proposal was selected because it presented the lowest cost to MPS  
12 when all relevant factors were considered. Annual capacity costs are not the only  
13 consideration in the evaluation of power supply resources. One must also consider:  
14 (1) how efficiently the resource converts fuel to electric energy (heat rate) and (2) the  
15 amount of the fixed gas transportation costs.

16 Q. How did the two proposals compare considering these factors?

17 A. The Houston proposal was for peaking capacity with a proposed heat rate of 10,600  
18 Btu/kwh, while the Aquila Merchant proposal was for intermediate combined-cycle  
19 capacity with a heat rate of 7,300 Btu/kwh. Thus, the Aquila Merchant proposal required  
20 approximately 31% less fuel than the Houston proposal to produce the same amount of  
21 energy. The efficiency of the Aquila Merchant proposal resulted in fixed gas  
22 transportation costs and variable system energy costs that were lower than the equivalent

1 costs associated with the Houston proposal. The lower gas transportation and variable  
2 system energy costs associated with the Aquila proposal more than offset the higher  
3 annual capacity payment of the Aquila Merchant proposal. This resulted in the total  
4 system power supply cost associated with the Aquila Merchant proposal being lower than  
5 the Houston proposal.

6 Q. What common elements were contained in each proposal?

7 A. While different for each proposal, there were four significant common elements in both  
8 proposals.

- 9 1) The annual capacity payment was fixed.
- 10 2) The variable O&M was known
- 11 3) The efficiency of the conversion of fuel to electrical energy was guaranteed
- 12 4) The reliability of the operation of the plant was guaranteed.

13  
14 Q. Why are these contract elements significant?

15 A. They are significant because they eliminate the risk to MPS for the operation of the  
16 facility. *Operating risk is borne by the supplier*

17 Q. How did the evaluation of these two proposals proceed from this point in December  
18 1998?

19 A. MPS required the two bidders to compete against each other to determine which proposal  
20 would be the ultimate winner, that is, provide the lowest power supply cost to MPS. The  
21 significant events of the final bid evaluation are shown in the chronology in Table 3  
22 below. The table shows the significant events in this process from the receipt of the  
23 proposals from Aquila Merchant and Houston to the execution of the PSA with MEPPH.

24

1

**Table 3 – Chronology of Final Bid Evaluation**

<b>Date</b>	<b>Activity/Event</b>
November 30, 1998	MPS received proposal from Aquila Merchant. See Schedule FAD-18, pages 1 to 9.
December 1, 1998	MPS received proposal from Houston. See Schedule FAD-17, pages 1 to 3.
December 1, 1998 – January 15, 1999	MPS conducted ongoing analysis of both proposals and any revisions.
December 9, 1998	MPS sent letter to Aquila Merchant requesting clarification of contract terms. See Schedule FAD-18, page 10.
December 17, 1998	Aquila Merchant sent unsolicited letter to MPS with clarification of contract terms. See Schedule FAD-18, page 11.
December 22, 1998	Aquila Merchant sent letter to MPS in response to MPS letter of December 9 which included revision of contract pricing. See Schedule FAD-18, pages 12 to 15.
Mid-December, 1998	MPS verbally notified Houston that its proposal is not the low bid. See Schedule FAD-17, page 4.
December 24, 1998	Aquila Merchant provided draft PSA for consideration by MPS.
December 29, 1998	MPS met with representatives of Houston to discuss proposal and offer opportunity to revise proposal. See Schedule FAD-17, page 5.
January 4, 1999	MPS met with Aquila Merchant to discuss proposal and ask clarification of contract terms.
January 6, 1999	Aquila Merchant sent letter to MPS identifying the legal entity that will develop the generation resource as Merchant Energy Partners. See Schedule FAD-18, page 16.
January 6, 1999	In response to December 29, 1998 meeting, Houston provided a revised proposal to MPS. See Schedule FAD-17, pages 6 to 15.
January 7, 1999	Aquila Merchant sent letter to MPS in response to meeting of January 4, 1999 clarifying contract terms. See Schedule FAD-18, pages 17 to 20.

2  
3

1

**Table 3 (continued)**

January 8, 1999	MPS met with Aquila Merchant to discuss their proposal and to notify them that their proposal was not the low bid.
January 11, 1999	MPS presented report to Company management that indicated that the Houston proposal was low bid at that time. See Schedule FAD-20.
January 12, 1999	Aquila Merchant sent letter to MPS clarifying contract terms and lowering the capacity cost portion of its proposal. See Schedule FAD-18, pages 21 to 24.
January 12, 1999	MPS verbally notified Houston that its proposal is much improved but is not low bid. See Schedule FAD-17, page 16.
January 13, 1999	MPS held conference call with Houston to discuss proposal and to give them until 1200 on January 14, 1999 to revise their offer. See Schedule FAD-17, page 17.
January 14, 1999	MPS held conference call with Houston, which did not improve its offer. Houston offered to keep its proposal open for a short time. See Schedule FAD-17, page 18.
January 15, 1999	MPS formally notified Houston that its proposal has not been selected. See Schedule FAD-17, page 19.
January 15, 1999	MPS formally notified Aquila Merchant that its proposal had been selected and advised it that any contract resulting from negotiations would be subject to approval by MoPSC and FERC. See Schedule FAD-18, page 25 & 26.
Mid-January, 1999	MPS retained Burns & McDonnell to verify the analysis performed by MPS in the evaluation of the Aquila Merchant and Houston proposals.
January 20, 1999	Aquila Merchant sent letter to MPS acknowledging receipt of January 15, 1998 letter. It provided a revised draft of PSA and requested that negotiations begin on January 25, 1999. See Schedule FAD-18, page 27 & 28.
January 25, 1999 – February 15, 1999	MPS and Aquila Merchant negotiated PSA terms and conditions.
January 29, 1999	MPS verbally requested and received clarification of contract terms from Houston. See Schedule FAD-17, page 20.
February 1, 1999	Burns & McDonnell verified the accuracy of the analysis of the Aquila Merchant and Houston proposals performed by MPS. See Schedule FAD-21.
February 8, 1999	Aquila Merchant sent letter to MPS outlining proposed changes to draft PSA. See Schedule FAD-18, pages 29 & 30.
February 22, 1999	MPS and Aquila Merchant executed PSA.

2

3

1 Q. Table 3 above contains an entry for January 11, 1998 that shows that a progress report  
2 was presented to Company management and that the Houston proposal was the lowest  
3 cost proposal at that time. Is a copy of the report included with your testimony?

4 A. Yes. A copy of the report is attached as Schedule FAD-20.

5 Q. What is the significance of the report?

6 A. It shows that the bidding process conducted by MPS achieved its goal of obtaining low  
7 cost power for its customers because the cost to MPS continued to decrease as the process  
8 progressed from December 1, 1998 through the end of the bidding process. It also  
9 indicates that, at that point in time, MPS was prepared to negotiate a contract with  
10 Houston.

11 Q. Please discuss the evaluation process and results.

12 A. MPS evaluated the two proposals using its own staff and retained Burns & McDonnell to  
13 verify independently the results of the MPS internal analysis. This analysis was  
14 conducted both with and without consideration of off-system sales revenues for five  
15 different scenarios of natural gas prices as well as electricity prices in the wholesale  
16 market. The results of the analysis of the final bids are contained in the Burns &  
17 McDonnell Report of February 1, 1999, which is attached as Schedule FAD-21.

18 Table 4 below summarizes the results contained in that Report for the period June  
19 2001 to May 2005. See Schedule FAD-21, page 3 to 5. The Burns & McDonnell Report  
20 shows that for all but one extremely unlikely scenario (no off-system sales revenue, base  
21 gas price escalation and low energy prices in the wholesale market) the Aquila Merchant

1 Energy proposal offered lower system power supply costs than the Houston best and final  
2 offer.

3  
4 **Table 4 – Burns & McDonnell Evaluation of Final Bids**

MPS Power Supply Bid Comparison						
Final Bid Comparison						
6/1/2001 - 5/31/2005						
\$x1,000						
	From>	Jun-01	Jun-02	Jun-03	Jun-04	NPV
	To>	May-02	May-03	May-04	May-05	May-05
<b>Without Off System Sales</b>						
<b>Base Gas &amp; Mkt</b>						
	MEPPH	130,053	135,381	143,952	154,103	464,031
	Houston	129,074	136,181	145,432	156,081	466,440
<b>Low Gas &amp; Mkt</b>						
	MEPPH	128,131	133,679	141,514	150,536	456,235
	Houston	127,071	133,707	142,439	152,179	457,219
<b>High Gas &amp; Mkt</b>						
	MEPPH	131,741	136,817	145,969	157,239	470,732
	Houston	130,352	138,055	147,781	159,531	473,630
<b>Base Gas &amp; High Mkt</b>						
	MEPPH	131,611	136,202	144,902	155,416	467,896
	Houston	130,372	137,863	147,227	158,542	472,317
<b>Base Gas &amp; Low Mkt</b>						
	MEPPH	128,216	134,081	142,533	152,026	458,562
	Houston	127,093	133,884	142,788	152,650	458,015
<b>With Off System Sales</b>						
<b>Base Gas &amp; Mkt</b>						
	MEPPH	124,280	125,783	135,176	145,695	437,311
	Houston	123,971	132,218	141,965	152,742	453,109
<b>Low Gas &amp; Mkt</b>						
	MEPPH	124,198	127,032	135,426	144,548	437,661
	Houston	123,833	131,134	140,080	149,887	448,457
<b>High Gas &amp; Mkt</b>						
	MEPPH	123,486	123,798	134,399	146,379	434,759
	Houston	122,870	132,193	143,092	155,022	454,639
<b>Base Gas &amp; High Mkt</b>						
	MEPPH	123,245	122,774	132,659	143,683	430,295
	Houston	122,768	131,681	142,090	153,522	452,209
<b>Base Gas &amp; Low Mkt</b>						
	MEPPH	124,319	127,710	136,885	146,458	440,916
	Houston	123,918	131,452	140,701	150,685	449,888

1 Q. Earlier in your testimony you discussed the difference in the variable system energy cost  
2 between the two proposals. The above table shows only the total cost. Did the Burns &  
3 McDonnell report provide a breakdown between fixed cost and variable system energy  
4 cost for each proposal?

5 A. Yes. A breakdown between fixed and variable system energy cost is shown in Schedule  
6 FAD-21, pages 4 & 5 for the MEPPH and Houston proposals, respectively. As can be  
7 seen, the variable system energy cost associated with the Houston proposal is greater than  
8 that for the MEPPH proposal for the last three years of the analysis period.

9 Q. Was the above referenced analysis performed by Burns & McDonnell provided to Staff?

10 A. Yes. It was contained in the final report on the resource acquisition process entitled the  
11 "June 2001 – May 2005 Supply Side Resource Acquisition Process." The report was  
12 presented to Staff on February 8, 1999. A copy of that report is attached as Schedule  
13 FAD-22. In addition, the database that MPS provided to Burns & McDonnell in January  
14 1999 for verification of the MPS analysis of the proposals was provided to Staff in  
15 response to Data Request MPSC- 511 in this proceeding.

16 Q. At this time was a semi-annual resource planning update meeting conducted per the  
17 Commission order in Case No. EO-98-316, which was discussed at the beginning of your  
18 testimony?

19 A. Yes, it was held on March 19, 1999.

20 Q. What power supply issues were discussed at that meeting?

21 A. MPS presented its current energy supply plan including the PSA. A copy of the plan is  
22 attached as Schedule FAD-23.

1 Q. Did the solicitation, evaluation and negotiations that led to the PSA comply with the  
2 Commission's policies on affiliated transactions?

3 A. Yes. The process that led to the final pricing contained in the PSA was open to all  
4 competitors. Both Staff and OPC were involved as it proceeded from start to finish.  
5 They were kept informed throughout the entire process and given the opportunity to  
6 comment and criticize. The process was conducted so as to comply with the  
7 Commission's policy to assure appropriate the pricing between MPS and any of its  
8 affiliates.

9 **Regulatory Approval of the MPS/MEPPH Power Supply Agreement**

10 Q. What regulatory approval provisions were contained in the PSA?

11 A. Since the PSA was an affiliate transaction, its terms and conditions required the approval  
12 of the MoPSC and its acceptance for filing by the FERC.

13 Q. Did MPS seek approval of the PSA from the MoPSC?

14 A. Yes. On March 1, 1999, MPS filed an application seeking approval of the PSA. The  
15 application was assigned Case No. EM-99-369. A copy of the application is attached as  
16 Schedule FAD-24.

17 Q. Did the MoPSC approve the PSA?

18 A. Yes. The Commission found that the PSA would benefit customers, did not violate  
19 Missouri law, would not provide MEPPH an unfair advantage and was in the public  
20 interest. The Commission issued its Order approving the PSA on May 4, 1999. See  
21 Schedule FAD-25.

22 Q. Did Staff provide advice to the Commission in Case EM-99-369?



1 A. Yes. On April 5, 1999, Staff wrote two memoranda to the case file. The first  
2 memorandum by Dr. Michael S. Proctor is attached as Schedule FAD-26. In his  
3 memorandum, he references the report provided to Staff on February 8, 1999 (Schedule  
4 FAD-22). Through Dr. Proctor's memorandum, Staff supported the application with the  
5 following observations:

- 6       ▪ The PSA benefits consumers
- 7       ▪ The PSA does not violate any applicable state law
- 8       ▪ The PSA does not provide MEPPH any unfair competitive advantage by virtue of  
9       its affiliation with MPS
- 10      ▪ The PSA is in the public interest

11  
12               The second memorandum was from Mr. Mark L. Oligschlaeger, Regulatory  
13 Auditor V, and Mr. Steven Dottheim, Chief Deputy General Counsel. A copy of this  
14 memorandum is attached as Schedule FAD-27. Through this memorandum, Staff  
15 proposed four conditions for approval of the application:

- 16       • Commission and Staff shall have access to all books, records, employees, officers,  
17       affiliates and/or subsidiaries of MEPPH.
- 18       • MEPPH shall employ such accounting procedures and controls as necessary to  
19       enable review of same by Commission and Staff
- 20       • Approval of the application shall not bind Commission regarding rate treatment of  
21       the PSA
- 22       • Approval of current application shall not mean approval of any future contracts  
23       with any affiliate

24  
25 Q. Did any other party make any recommendations to the MoPSC concerning the  
26 application?

1 A. Yes. The OPC filed a recommendation on March 1, 1999, which is attached as Schedule  
2 FAD-28. The OPC recommendation included most of the items contained in the Staff  
3 memoranda.

4 Q. Did the Commission include any of the above recommendations in its Order of May 4,  
5 1999?

6 A. Yes. The Commission included all of the conditions proposed by Staff.

7 Q. Did MPS apply for approval of the PSA from the FERC?

8 A. Yes. On May 6, 1999, MPS requested that the FERC accept the PSA for filing. See  
9 Schedule FAD-29.

10 Q. Did the FERC accept the PSA for filing?

11 A. Yes. The FERC accepted the filing without suspension or hearing on July 2, 1999. See  
12 Schedule FAD-30.

13 **Summary and Conclusions**

14 Q. Please summarize your testimony.

15 A. Based on personal knowledge, I have testified that:

16  
17 1) The Commission changed the rules and regulations applicable to the  
18 acquisition of power supply resources by MPS through its order  
19 issued on July 7, 1998 in Case No. EO-98-316. This Order directed  
20 that:

21 a) MPS use short-term capacity markets to acquire new supply-side  
22 resources through a competitive bidding process

23 b) Commission Staff and the OPC were given the opportunity to  
24 comment on the RFP that MPS would issue to acquire  
25 additional supply-side resources.

- 1 c) MPS would provide Staff and OPC the results of its evaluation  
2 of the proposals received in response to the RFP  
3 2) MPS followed these rules and regulations in the process that led to  
4 the PSA with MEPPH  
5 3) Staff and OPC were made aware early in the RFP process that the  
6 Company did not plan to construct a rate-based generating facility.  
7 Neither Staff nor OPC objected to this plan.  
8 4) Negotiations with Aquila Merchant were conducted at arms length  
9 with no favoritism given to Aquila Merchant  
10 5) The PSA represented the lowest cost power supply option available  
11 to MPS at the time  
12 6) Required regulatory approvals were sought and received

13  
14 Q. Did the Company enter into the PSA in order to enhance corporate profits at the  
15 expense of its customers?

16 A. No. Based upon my personal involvement in the RFP process and the  
17 negotiations that led to the bid being awarded to MEPPH through the PSA, I  
18 conclude that:

- 19 1. The Company did not require MPS to acquire capacity from an affiliate  
20 "...to increase Aquila/UtiliCorp's overall profits," as alleged on page 3,  
21 lines 3 & 4, of Mr. Oligschlaeger's Direct Testimony. Rather, MPS  
22 entered into the PSA with MEPPH because it represented the lowest cost  
23 option available to MPS at that time.  
24 2. MPS entered into the PSA based upon its own independent analysis,  
25 whose conclusions were confirmed and verified by Burns & McDonnell,  
26 an independent third party. Contrary to Mr. Oligschlaeger's Direct  
27 Testimony at page 6, where he states that "MPS did not make an  
28 independent decision..." and that the Company "...made the decision on  
29 behalf of its MPS division," I can state unequivocally that MPS signed the  
30 PSA without interference from its corporate owners after an independent  
31 analysis demonstrated that the PSA was in the best interest of its  
32 customers.  
33

1 Q. Does this conclude your testimony at this time?

2 A. Yes it does.

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FAD-2	MoPSC Final Order in Case No. EO-96-5
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FAD-4	MoPSC Final Order in Case No. EO-94-178
FAD-5	MoPSC Final Order in Case No. EO-96-56
FAD-6	MoPSC Final Order in Case No. EO-98-316
FAD-7	April 7 1998 Letter from Frank A. DeBacker to Staff with draft RFP
FAD-8	May 1, 1998 Letter from Staff to Frank A. DeBacker
FAD-9	May 11, 1998 Letter from OPC to Frank A. DeBacker
FAD-10	May 21, 1998 Letter from Frank A. DeBacker to Staff and OPC with Final Version of RFP
FAD-11	Partial List of RFP Recipients
FAD-12	August 4, 1998 Letter from Frank A. DeBacker to Staff and OPC with draft RFP
FAD-13	August 21, 1998 MPS Preliminary Energy Supply Plan
FAD-14	September 14, 1998 Letter from Frank A. DeBacker to Staff and OPC
FAD-15	September 18, 1998 Letter from Frank A. DeBacker to Staff and OPC
FAD-16	November 9, 1998 Houston Industries Presentation
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FAD-24	Application to MoPSC for PSA approval, Case No. EM-99-369
FAD-25	MoPSC Order Approving PSA, Case No. EM-99-369
FAD-26	April 5, 1999 Memorandum from Dr. Proctor to MoPSC Case File, Case No. EM-99-369
FAD-27	April 5, 1999 Memorandum from Mark Oligschlaeger to MoPSC Case File, Case No. EM-99-369
FAD-28	April 5, 1999 Letter from OPC to MoPSC, Case No. EM-99-369
FAD-29	Joint Filing with FERC for Acceptance of PSA for Filing
FAD-30	FERC Order Accepting PSA for Filing, Docket No. ER99-2833-000

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of Aquila, Inc. d/b/a Aquila )  
Networks-MPS and Aquila Networks-L&P, )  
for authority to file tariffs increasing electric )  
rates for the service provided to customers in )  
the Aquila Networks-MPS and Aquila )  
Networks-L&P area )

Case No. ER-2004-0034

In the matter of Aquila, Inc. d/b/a Aquila )  
Networks-L&P, for authority to file tariffs )  
Increasing steam rates for the service provided )  
To customers in the Aquila Networks-L&P area )

Case No. HR-2004-0024

County of Jackson )  
) ss  
State of Missouri )

AFFIDAVIT OF FRANK A. DEBACKER

Frank A. DeBacker, being first duly sworn, deposes and says that he is the witness who sponsors the accompanying testimony entitled "Rebuttal Testimony of Frank A. DeBacker;" that said testimony was prepared by him and under his direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his knowledge, information, and belief.

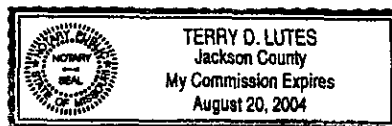
*Frank A. DeBacker*  
Frank A. DeBacker

Subscribed and sworn to before me this 26th day of January 2004.

*Terry D. Lutes*  
Notary Public  
Terry D. Lutes

My Commission expires:

8-20-2004



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<u>SCHEDULE</u>	<u>DESCRIPTION</u>
FAD-1	Frank A. DeBacker Resume
FAD-2	MoPSC Final Order in Case No. EO-96-5
FAD-3	MoPSC Final Order in Case No. EO-97-522
FAD-4	MoPSC Final Order in Case No. EO-94-178
FAD-5	MoPSC Final Order in Case No. EO-96-56
FAD-6	MoPSC Final Order in Case No. EO-98-316
FAD-7	April 7 1998 Letter from Frank A. DeBacker to Staff with draft RFP
FAD-8	May 1, 1998 Letter from Staff to Frank A. DeBacker
FAD-9	May 11, 1998 Letter from OPC to Frank A. DeBacker
FAD-10	May 21, 1998 Letter from Frank A. DeBacker to Staff and OPC with Final Version of RFP
FAD-11	Partial List of RFP Recipients
FAD-12	August 4, 1998 Letter from Frank A. DeBacker to Staff and OPC with draft RFP
FAD-13	August 21, 1998 MPS Preliminary Energy Supply Plan
FAD-14	September 14, 1998 Letter from Frank A. DeBacker to Staff and OPC
FAD-15	September 18, 1998 Letter from Frank A. DeBacker to Staff and OPC
FAD-16	November 9, 1998 Houston Industries Presentation
FAD-17	Houston Industries Proposals and Correspondence
FAD-18	Aquila Merchant Proposals and Correspondence
FAD-19	PPA between MEPPH and MPS
FAD-20	January 11, 1998 MPS Power Supply Progress Report
FAD-21	February 1, 1999 Burns & McDonnell report
FAD-22	February 8, 1999 MPS June 2000 – May 2005 Supply Side Resource Acquisition Process Final Report
FAD-23	March 19, 1999 MPS 1999-2004 Energy Supply Plan Update
FAD-24	Application to MoPSC for PSA approval, Case No. EM-99-369
FAD-25	MoPSC Order Approving PSA, Case No. EM-99-369
FAD-26	April 5, 1999 Memorandum from Dr. Proctor to MoPSC Case File, Case No. EM-99-369
FAD-27	April 5, 1999 Memorandum from Mark Oligschlaeger to MoPSC Case File, Case No. EM-99-369
FAD-28	April 5, 1999 Letter from OPC to MoPSC, Case No. EM-99-369
FAD-29	Joint Filing with FERC for Acceptance of PSA for Filing
FAD-30	FERC Order Accepting PSA for Filing, Docket No. ER99-2833-000

**FRANK A. DEBACKER**  
7308 N. Richmond  
Kansas City, MO 64158  
816-781-0495

**PROFESSIONAL OBJECTIVE**

Part-time consulting position utilizing my management, leadership, communication and engineering skills.

**EDUCATION**

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- **Supervision** - direct supervision of personnel in the areas of substation construction and maintenance, power plant maintenance, revenue metering, drafting, system operations, and system analysis.

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**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service Commission held at its office in Jefferson City on the 7th day of January, 1997.

In the Matter of St. Joseph Light and Power Company's Electric Resource Plan Pursuant to 4 CSR 240-22. )  
Case No. EO-96-5 )

**ORDER REGARDING ST. JOSEPH LIGHT AND POWER COMPANY'S  
ELECTRIC RESOURCE PLAN FILING, AND JOINT AGREEMENT**

This docket was opened on July 10, 1995, for the purpose of allowing St. Joseph Light and Power Company (SJLP) to file its integrated resource plan pursuant to 4 CSR 240-22 of the Commission's rules. In accordance with Chapter 22, the Commission published notice and allowed intervention by proper parties. After substantial review of the SJLP filing, reports on the filing were made by both the Staff of the Commission (Staff) and the Office of the Public Counsel (OPC).

In those reports alleged deficiencies were outlined and discussed, and resolution of those deficiencies was suggested. As a result, on December 23, 1996, a joint agreement between the parties was filed, (appended hereto as Attachment A) setting out a detailed plan to address the alleged deficiencies noted by the Staff and the OPC. The joint agreement purports to represent a complete resolution of all issues regarding this filing.

The Commission must determine whether SJLP has demonstrated, through its filing and the execution of the joint agreement, substantial compliance with the rules contained in Chapter 22 and, more specifically, whether SJLP's resource planning meets the requirements set out in 4 CSR 240-22.010(2)(A)-(C), which states:

(2) The fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that adequately serves the public interest. This objective requires that the utility shall--

(A) Consider and analyze demand-side efficiency and energy management measures on an equivalent basis with supply-side alternatives in the resource planning process;

(B) Use minimization of the present worth of long-run utility costs as the primary selection criterion in choosing the preferred resource plan; and

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall document the process and rationale used by decision makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing contingency options. These considerations shall include, but are not necessarily limited to, mitigation of --

1. Risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

2. Risks associated with new or more stringent environmental laws or regulations that may be imposed at some point within the planning horizon; and

3. Rate increases associated with alternative resource plans.

The parties characterize the agreement as being a proposal by which the Commission would allow SJLP to submit a resource planning analysis that is focused on those areas the parties believe to be relevant to SJLP's resource needs over the next 6 years. The parties are of the opinion that

the agreed-upon analysis and periodic filings required in the joint agreement are in keeping with the Commission's resource planning rules.

Generally, the areas specified in the joint agreement in which alleged deficiencies exist and in which various solutions were agreed to are in the areas of load analysis and forecasting, demand-side and supply-side analysis, and the creation of a contingency plan. As set out in the joint agreement, SJLP has agreed to perform various analyses, plans and other determinations in the above-stated areas, and make periodic filings and reports in this docket.

After review of the integrated resource plan filing and joint agreement, the Commission finds that SJLP has made substantial effort to achieve compliance with 4 CSR 240-22. The Commission regards the integrated resource plan process as an ongoing one and will allow this docket to remain open for the filing and review of the various matters as set out in the joint agreement of December 23, 1996. The Commission will order SJLP to take the actions specified in the joint agreement of December 23, 1996, and will allow the parties to submit reports to the Commission on any subsequent filing and to continue necessary discovery.

**IT IS THEREFORE ORDERED:**

1. That St. Joseph Light and Power Company is hereby ordered to do and perform all those matters agreed to in the joint agreement in this case, filed December 23, 1996.

2. That the integrated resource plan filed by St. Joseph Light and Power Company has met the requirements of Chapter 22 of the Commission's rules, pending continued compliance as set out in the joint agreement of December 23, 1996.

3. That this docket will remain open for periodic filings by St. Joseph Light and Power Company and periodic reports by the remainder of the parties regarding those filings.

4. That this order shall become effective on the date hereof.

BY THE COMMISSION



Cecil L. Wright  
Executive Secretary

(S E A L)

Zobrist, Chm., McClure,  
Crompton, and Drainer, CC., Concur.  
Kincheloe, C., Absent.

ALJ: Derque

**FILED**

**DEC 23 1996**

**MISSOURI  
PUBLIC SERVICE COMMISSION**

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of St. Joseph Light & Power )  
Company's Electric Resource Plan ) Case No. EO-96-5  
Pursuant to 4 CSR 240-22. )

**JOINT AGREEMENT AND FILING**

Comes now St. Joseph Light & Power Company (SJLP or Company); Commission Staff (Staff); and the Office of the Public Counsel (OPC), pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, and submit this Unanimous Agreement regarding the recommendations parties have made regarding SJLP's Electric Resource Plan.

To the extent that all of the parties agree, this document constitutes a unanimous agreement between SJLP and such parties as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments and there will be no need for a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this unanimous agreement.

This Joint Agreement and Filing has resulted from extensive negotiation among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement and Filing in total, then this Joint Agreement and Filing shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement and Filing, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1 RSMo 1994 to present testimony, cross-examine witnesses, and present oral

argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each Party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Joint Agreement and Filing, whether or not the Commission approves and adopts this Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement and Filing is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

## I. THE CONTEXT OF THE AGREEMENT

This agreement is submitted by the undersigned parties as a "joint agreement on a plan" to remedy the identified alleged deficiencies as contemplated by 4 CSR 240-22.080(8). St. Joseph Light & Power Company (SJLP or Company) has filed its 1996 Electric Resource Plan (ERP) with the Missouri Public Service Commission (Commission) which documented the Company's decision to (1) replace the generation from purchased power contracts terminating in the year 2000 and (2) meet load growth with a ten-year contract to purchase up to 100 megawatts from the Nebraska Public Power District. Since SJLP's current forecasts do not anticipate the need for additional purchases of any significance or for the construction of generation facilities until after 2006, and barring substantial changes in load growth or an unexpected change in the availability of existing generation capacity (owned or under contract), SJLP will not need to make decisions regarding any significant supply-side additions until its Commission required ERP filing in 2002. It is in this context that the parties recommend that SJLP's scheduled 1999 ERP filing be modified as provided in this agreement.

The parties to this agreement have considered whether or not this agreement constitutes a request for a "complete waiver" from the Commission's ERP rules. There is an understanding among the parties that what is contained in this agreement does not constitute a request for a "complete waiver" from the Commission's ERP rules. Instead, it is a proposal by which the Commission would allow SJLP to submit resource planning analysis that is focused on areas that the parties believe to be relevant to the Company's resource needs over the next six years, and that is also consistent with the "spirit" and "intent" of the Commission's ERP rules. Thus, the parties



believe that the analysis and filings, which are set out and committed to in this agreement, are in keeping with the general analysis and filings required by the Commission's ERP rules and do not constitute a "complete waiver" from the rules.

The parties to this agreement have also discussed the possibility of retail competition and the effect it would have on resource planning for SJLP. There is consensus that retail competition could have a major impact on SJLP's obligation to provide both supply-side and demand-side resources for those who are currently its native load customers. If, because of retail competition, the Commission rescinds or suspends the operation of 4 CSR 240-22 before the date of SJLP's 1999 filing, the parties agree that SJLP will not be required to continue the analysis and make the filing herein scheduled for its 1999 filing date. If, because of retail competition, the Commission modifies 4 CSR 240-22, or for any other reason, the Commission rescinds, suspends the operation of or modifies 4 CSR 240-22 before the scheduled dates set out herein, the parties agree to renegotiate the terms of this agreement to meet the stated intent of the Commission, and in the event that a new agreement cannot be reached, the parties may present their positions to the Commission for final determination.

SJLP may request extensions of any of the filing dates herein should unforeseen circumstances arise. SJLP may request waivers of any of the requirements herein on the basis that completing a requirement would not be cost effective.

## II. THE CONTENT OF THE AGREEMENT

### Load Analysis and Forecasting Filings:

In order to address the deficiencies alleged by Office of the Public Counsel (OPC) in its November 8, 1996, filing and Missouri Public Service Commission Staff (Staff) in its November 8, 1996, filing with respect to 4 CSR 240-22.030 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.030 and taking into account the agreements in Section I, SJLP agrees to file:

- (1) By July 31, 1997 - a report which covers the Company's proposal for incorporating load research and end-use information into its peak demand forecast;
- (2) At its scheduled 1999 filing date - estimates of weather normalized hourly demands for its net system load for the period 1990 through 1998;
- (3) At its scheduled 1999 filing date - estimates of weather normalized monthly energies and demands at time of monthly system peaks for each of its major classes, including estimates of losses, and separate estimates for the hours of the summer and winter peaks, all covering the period 1990 through 1998 and reconciled with the estimates in (2) for each month as well as the hours of summer and winter peaks;
- (4) At its scheduled 1999 filing date - estimates of end-use hourly demands (weather and non-weather sensitive end uses at a minimum) for each of the major classes over the 1990 through 1998 period that are reconciled with the estimates of monthly energies, monthly peaks and seasonal peaks in (3) above; and
- (5) At its scheduled 1999 filing date - ten year forecasts for summer and winter coincident peak demands for the system as well as for the major classes; and ten year forecasts for monthly energies for the system as well as for the major classes.

### Demand-Side Resource Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.050 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.050 and taking into account the agreements in Section I, SJLP agrees to file:

**(6) By July 31, 1997 - an explanation of what caused the change from the demand-side resources in its preferred resource plan to the demand-side programs in its marketing plan, including:**

- **Estimates of the capacity and energy savings that are expected from each of the demand-side programs described in its marketing plan; and**
- **Comprehensive impact and process evaluation plans for each of the demand-side programs in its marketing plan;**

**(7) For the end-uses found to be cost-effective in the program screening analysis of its filing, SJLP will determine the market barriers to implementation for various market segments. Market barriers considered will at least include, but not be limited to: high up-front costs, split incentives and limited product and service availability in local markets. Demand-side programs will then be designed that combine the end-use measures by common market barriers and customer market segments. The delivery mechanisms considered will range from low intensity (e.g., information only) to high intensity (e.g., low-interest financing, rebates or shared savings). The information obtained from considering a range of mechanisms will be utilized in determining which mechanisms are necessary to obtain the demand-side resource in SJLP's preferred resource plan and in developing contingency plans. By January 31, 1998, SJLP will file a report describing:**

- **The details of the program design to achieve the demand-side resources in its preferred plan including the targeted market segments, the barriers that SJLP will attempt to overcome and the delivery mechanism chosen;**
- **The impact and process evaluation plans for the programs; and**
- **Detailed implementation schedules for the years 1998 and 1999.**

**(8) By January 31, 1998 - a cost-effective demand-side program designed for low-income residential customers to overcome market barriers that are specific to this group; and develop both implementation and evaluation plans for these low-income demand-side programs, with scheduled implementation for 1998.**

(9) For building shell thermal integrity and HVAC related measures that were not screened for the residential and commercial new construction market segments, SJLP will perform the following analyses and tasks:

- Determine which measures are cost effective;
- Determine the market barriers to implementation. Market barriers considered will include but not be limited to: high up-front costs, split incentives and limited product and service availability in local markets;
- Design programs that combine the end-use measures by common market barriers;
- Consider delivery mechanisms ranging from low intensity (e.g., information only) to high intensity (e.g., low-interest financing, rebates or shared savings). A home rating system will also be considered as a delivery mechanism for the residential new construction market segment; and
- Perform cost effectiveness screening of the new construction programs for the residential and commercial market segments.

By SJLP's scheduled 1999 filing date, it will file a report describing:

- The measure screening results for building shell thermal integrity and HVAC related measures;
- The details of the program design for residential and commercial new construction programs;
- The impact and process evaluation plans for these programs; and
- Detailed implementation schedules.

With respect to the additional analysis that SJLP has agreed to perform in item (7) above, Staff and OPC agree that they will not request that the Commission require SJLP to revise the 4 CSR 240-22.060 and 4 CSR 240-22.070 analysis that it has already performed for its 1996 ERP filing.

Supply-Side Resource Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.040 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.040 and taking into account the agreements in Section I, SJLP agrees to file:

(10) At its scheduled 1999 filing date - a report that includes the following elements:

- Determination of the physical condition of each of the units and common facilities at its Lake Road plant, including the likelihood of failure for components that are determined to be critical;
- Determination of the effect that maintaining versus refurbishing would have on the likelihood of component failure;
- Determination of the levels and changes in costs of maintaining versus refurbishing the Lake Road plant; and
- Evaluate the overall cost effectiveness of maintaining versus refurbishing versus retiring, taking into account the uncertainties associated with the following areas - component failure, cost of replacement power, availability of replacement power, peak load growth, and environmental regulations.

Contingency Plan Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.070(10) of the Commission's rules and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.070(10), SJLP agrees to file:

(11) By July 31, 1997 - a contingency plan that includes the following elements:

- The ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the preferred resource plan is judged to be appropriate;
- An explanation of how these limits were determined;
- A set of contingency options that are judged to be appropriate responses to extreme outcomes of the critical uncertain factors;

- An explanation of why these contingency options are judged to be appropriate responses to the specified outcomes;
- A process for monitoring the critical uncertain factors on a continuous basis and reporting significant changes in a timely fashion to those managers or officers who have the authority to direct the implementation of contingency options when the specified limits for uncertain factors are exceeded; and
- Consideration of the following critical uncertain factors in SJLP's contingency analysis:
  - The price of purchases of short-term capacity and energy, as well as how those prices might vary with increasing demands made by SJLP within a given year;
  - The limits to the amount of capacity available for purchase in the short-term markets;
  - The effectiveness of various delivery mechanisms for achieving demand-side reductions;
  - The effectiveness of rate programs in achieving demand-side reductions;
  - The level of growth in summer peak demand; and
  - The operational life of Unit #3 at the Lake Road plant.

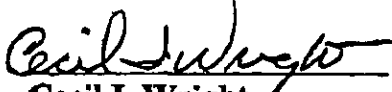
(12) At its scheduled 1999 filing date - an implementation plan as defined by 4 CSR 240-22.070(9) to update SJLP's implementation plan currently on file with the Commission as modified pursuant to requirements (7) and (8) of this agreement and an update to the contingency plan filed July 31, 1997 that meets the requirements of 4 CSR 240-22.070(10)(D) and (E).

The parties to this agreement understand that if there are any significant changes in the preferred resource plan which SJLP currently has on file with the Commission, the requirements of 4 CSR 240-22.080(10) still apply. Specifically, SJLP will notify the Commission within sixty (60) days of its determination to change its preferred resource plan. If this change results in SJLP's

**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 7 day of JANUARY, 1997.**

  
**Cecil L. Wright  
Executive Secretary**

intention to implement resource options before its 1999 filing that are different from those in its preferred resource plan, SJLP will include in its filing a revised implementation plan.

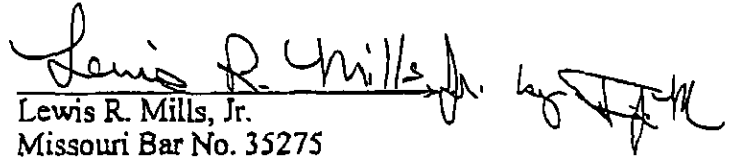
WHEREFORE, the signatories respectfully request that the Commission issue its order approving the terms of this Joint Agreement and Filing as soon as practicable.

Respectfully submitted,



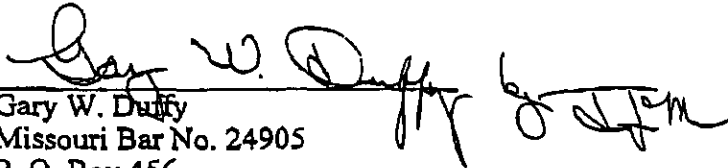
Timothy J. McClellan  
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Jefferson City, MO 65102  
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573/751-9285 (fax)

ATTORNEY FOR THE  
MISSOURI PUBLIC SERVICE  
COMMISSION



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ATTORNEY FOR THE  
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573/635-7166  
573/635-3847 (fax)

ATTORNEY FOR  
ST. JOSEPH LIGHT AND POWER

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 December, 1996.





**FRANK A. DEBACKER**  
7308 N. Richmond  
Kansas City, MO 64158  
816-781-0495

**PROFESSIONAL OBJECTIVE**

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Former Licensed professional engineer, States of Kansas and Colorado

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

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In the Matter of St. Joseph Light and Power Company's Electric Resource Plan Pursuant to 4 CSR 240-22. )  
Case No. EO-96-5

**ORDER REGARDING ST. JOSEPH LIGHT AND POWER COMPANY'S  
ELECTRIC RESOURCE PLAN FILING AND JOINT AGREEMENT**

This docket was opened on July 10, 1995, for the purpose of allowing St. Joseph Light and Power Company (SJLP) to file its integrated resource plan pursuant to 4 CSR 240-22 of the Commission's rules. In accordance with Chapter 22, the Commission published notice and allowed intervention by proper parties. After substantial review of the SJLP filing, reports on the filing were made by both the Staff of the Commission (Staff) and the Office of the Public Counsel (OPC).

In those reports alleged deficiencies were outlined and discussed, and resolution of those deficiencies was suggested. As a result, on December 23, 1996, a joint agreement between the parties was filed, (appended hereto as Attachment A) setting out a detailed plan to address the alleged deficiencies noted by the Staff and the OPC. The joint agreement purports to represent a complete resolution of all issues regarding this filing.

The Commission must determine whether SJLP has demonstrated, through its filing and the execution of the joint agreement, substantial compliance with the rules contained in Chapter 22 and, more specifically, whether SJLP's resource planning meets the requirements set out in 4 CSR 240-22.010(2)(A)-(C), which states:

(2) The fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that adequately serves the public interest. This objective requires that the utility shall--

(A) Consider and analyze demand-side efficiency and energy management measures on an equivalent basis with supply-side alternatives in the resource planning process;

(B) Use minimization of the present worth of long-run utility costs as the primary selection criterion in choosing the preferred resource plan; and

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall document the process and rationale used by decision makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing contingency options. These considerations shall include, but are not necessarily limited to, mitigation of --

1. Risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

2. Risks associated with new or more stringent environmental laws or regulations that may be imposed at some point within the planning horizon; and

3. Rate increases associated with alternative resource plans.

The parties characterize the agreement as being a proposal by which the Commission would allow SJLP to submit a resource planning analysis that is focused on those areas the parties believe to be relevant to SJLP's resource needs over the next 6 years. The parties are of the opinion that

the agreed-upon analysis and periodic filings required in the joint agreement are in keeping with the Commission's resource planning rules.

Generally, the areas specified in the joint agreement in which alleged deficiencies exist and in which various solutions were agreed to are in the areas of load analysis and forecasting, demand-side and supply-side analysis, and the creation of a contingency plan. As set out in the joint agreement, SJLP has agreed to perform various analyses, plans and other determinations in the above-stated areas, and make periodic filings and reports in this docket.

After review of the integrated resource plan filing and joint agreement, the Commission finds that SJLP has made substantial effort to achieve compliance with 4 CSR 240-22. The Commission regards the integrated resource plan process as an ongoing one and will allow this docket to remain open for the filing and review of the various matters as set out in the joint agreement of December 23, 1996. The Commission will order SJLP to take the actions specified in the joint agreement of December 23, 1996, and will allow the parties to submit reports to the Commission on any subsequent filing and to continue necessary discovery.

**IT IS THEREFORE ORDERED:**

1. That St. Joseph Light and Power Company is hereby ordered to do and perform all those matters agreed to in the joint agreement in this case, filed December 23, 1996.

2. That the integrated resource plan filed by St. Joseph Light and Power Company has met the requirements of Chapter 22 of the Commission's rules, pending continued compliance as set out in the joint agreement of December 23, 1996.

3. That this docket will remain open for periodic filings by St. Joseph Light and Power Company and periodic reports by the remainder of the parties regarding those filings.

4. That this order shall become effective on the date hereof.

BY THE COMMISSION



Cecil L. Wright  
Executive Secretary

(S E A L)

Zobrist, Chm., McClure,  
Crumpton, and Drainer, CC., Concur.  
Kincheloe, C., Absent.

ALJ: Derque

FILED

DEC 23 1996

MISSOURI  
PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of St. Joseph Light & Power )  
Company's Electric Resource Plan ) Case No. EO-96-5  
Pursuant to 4 CSR 240-22. )

JOINT AGREEMENT AND FILING

Comes now St. Joseph Light & Power Company (SJLP or Company); Commission Staff (Staff); and the Office of the Public Counsel (OPC), pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, and submit this Unanimous Agreement regarding the recommendations parties have made regarding SJLP's Electric Resource Plan.

To the extent that all of the parties agree, this document constitutes a unanimous agreement between SJLP and such parties as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments and there will be no need for a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this unanimous agreement.

This Joint Agreement and Filing has resulted from extensive negotiation among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement and Filing in total, then this Joint Agreement and Filing shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement and Filing, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1 RSMo 1994 to present testimony, cross-examine witnesses, and present oral

argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each Party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Joint Agreement and Filing, whether or not the Commission approves and adopts this Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement and Filing is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.



## I. THE CONTEXT OF THE AGREEMENT

This agreement is submitted by the undersigned parties as a "joint agreement on a plan" to remedy the identified alleged deficiencies as contemplated by 4 CSR 240-22.080(8). St. Joseph Light & Power Company (SJLP or Company) has filed its 1996 Electric Resource Plan (ERP) with the Missouri Public Service Commission (Commission) which documented the Company's decision to (1) replace the generation from purchased power contracts terminating in the year 2000 and (2) meet load growth with a ten-year contract to purchase up to 100 megawatts from the Nebraska Public Power District. Since SJLP's current forecasts do not anticipate the need for additional purchases of any significance or for the construction of generation facilities until after 2006, and barring substantial changes in load growth or an unexpected change in the availability of existing generation capacity (owned or under contract), SJLP will not need to make decisions regarding any significant supply-side additions until its Commission required ERP filing in 2002. It is in this context that the parties recommend that SJLP's scheduled 1999 ERP filing be modified as provided in this agreement.

The parties to this agreement have considered whether or not this agreement constitutes a request for a "complete waiver" from the Commission's ERP rules. There is an understanding among the parties that what is contained in this agreement does not constitute a request for a "complete waiver" from the Commission's ERP rules. Instead, it is a proposal by which the Commission would allow SJLP to submit resource planning analysis that is focused on areas that the parties believe to be relevant to the Company's resource needs over the next six years, and that is also consistent with the "spirit" and "intent" of the Commission's ERP rules. Thus, the parties

believe that the analysis and filings, which are set out and committed to in this agreement, are in keeping with the general analysis and filings required by the Commission's ERP rules and do not constitute a "complete waiver" from the rules.

The parties to this agreement have also discussed the possibility of retail competition and the effect it would have on resource planning for SJLP. There is consensus that retail competition could have a major impact on SJLP's obligation to provide both supply-side and demand-side resources for those who are currently its native load customers. If, because of retail competition, the Commission rescinds or suspends the operation of 4 CSR 240-22 before the date of SJLP's 1999 filing, the parties agree that SJLP will not be required to continue the analysis and make the filing herein scheduled for its 1999 filing date. If, because of retail competition, the Commission modifies 4 CSR 240-22, or for any other reason, the Commission rescinds, suspends the operation of or modifies 4 CSR 240-22 before the scheduled dates set out herein, the parties agree to renegotiate the terms of this agreement to meet the stated intent of the Commission, and in the event that a new agreement cannot be reached, the parties may present their positions to the Commission for final determination.

SJLP may request extensions of any of the filing dates herein should unforeseen circumstances arise. SJLP may request waivers of any of the requirements herein on the basis that completing a requirement would not be cost effective.

## II. THE CONTENT OF THE AGREEMENT

### Load Analysis and Forecasting Filings:

In order to address the deficiencies alleged by Office of the Public Counsel (OPC) in its November 8, 1996, filing and Missouri Public Service Commission Staff (Staff) in its November 8, 1996, filing with respect to 4 CSR 240-22.030 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.030 and taking into account the agreements in Section I, SJLP agrees to file:

- (1) By July 31, 1997 - a report which covers the Company's proposal for incorporating load research and end-use information into its peak demand forecast;
- (2) At its scheduled 1999 filing date - estimates of weather normalized hourly demands for its net system load for the period 1990 through 1998;
- (3) At its scheduled 1999 filing date - estimates of weather normalized monthly energies and demands at time of monthly system peaks for each of its major classes, including estimates of losses, and separate estimates for the hours of the summer and winter peaks, all covering the period 1990 through 1998 and reconciled with the estimates in (2) for each month as well as the hours of summer and winter peaks;
- (4) At its scheduled 1999 filing date - estimates of end-use hourly demands (weather and non-weather sensitive end uses at a minimum) for each of the major classes over the 1990 through 1998 period that are reconciled with the estimates of monthly energies, monthly peaks and seasonal peaks in (3) above; and
- (5) At its scheduled 1999 filing date - ten year forecasts for summer and winter coincident peak demands for the system as well as for the major classes; and ten year forecasts for monthly energies for the system as well as for the major classes.

### Demand-Side Resource Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.050 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.050 and taking into account the agreements in Section I, SJLP agrees to file:

- (6) By July 31, 1997 - an explanation of what caused the change from the demand-side resources in its preferred resource plan to the demand-side programs in its marketing plan, including:
- Estimates of the capacity and energy savings that are expected from each of the demand-side programs described in its marketing plan; and
  - Comprehensive impact and process evaluation plans for each of the demand-side programs in its marketing plan;
- (7) For the end-uses found to be cost-effective in the program screening analysis of its filing, SJLP will determine the market barriers to implementation for various market segments. Market barriers considered will at least include, but not be limited to: high up-front costs, split incentives and limited product and service availability in local markets. Demand-side programs will then be designed that combine the end-use measures by common market barriers and customer market segments. The delivery mechanisms considered will range from low intensity (e.g., information only) to high intensity (e.g., low-interest financing, rebates or shared savings). The information obtained from considering a range of mechanisms will be utilized in determining which mechanisms are necessary to obtain the demand-side resources in SJLP's preferred resource plan and in developing contingency plans. By January 31, 1998, SJLP will file a report describing:
- The details of the program design to achieve the demand-side resources in its preferred plan including the targeted market segments, the barriers that SJLP will attempt to overcome and the delivery mechanism chosen;
  - The impact and process evaluation plans for the programs; and
  - Detailed implementation schedules for the years 1998 and 1999.
- (8) By January 31, 1998 - a cost-effective demand-side program designed for low-income residential customers to overcome market barriers that are specific to this group; and develop both implementation and evaluation plans for these low-income demand-side programs, with scheduled implementation for 1998.

(9) For building shell thermal integrity and HVAC related measures that were not screened for the residential and commercial new construction market segments, SJLP will perform the following analyses and tasks:

- Determine which measures are cost effective;
- Determine the market barriers to implementation. Market barriers considered will include but not be limited to: high up-front costs, split incentives and limited product and service availability in local markets;
- Design programs that combine the end-use measures by common market barriers;
- Consider delivery mechanisms ranging from low intensity (e.g., information only) to high intensity (e.g., low-interest financing, rebates or shared savings). A home rating system will also be considered as a delivery mechanism for the residential new construction market segment; and
- Perform cost effectiveness screening of the new construction programs for the residential and commercial market segments.

By SJLP's scheduled 1999 filing date, it will file a report describing:

- The measure screening results for building shell thermal integrity and HVAC related measures;
- The details of the program design for residential and commercial new construction programs;
- The impact and process evaluation plans for these programs; and
- Detailed implementation schedules.

With respect to the additional analysis that SJLP has agreed to perform in item (7) above, Staff and OPC agree that they will not request that the Commission require SJLP to revise the 4 CSR 240-22.060 and 4 CSR 240-22.070 analysis that it has already performed for its 1996 ERP filing.

Supply-Side Resource Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.040 and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.040 and taking into account the agreements in Section I, SJLP agrees to file:

(10) At its scheduled 1999 filing date - a report that includes the following elements:

- Determination of the physical condition of each of the units and common facilities at its Lake Road plant, including the likelihood of failure for components that are determined to be critical;
- Determination of the effect that maintaining versus refurbishing would have on the likelihood of component failure;
- Determination of the levels and changes in costs of maintaining versus refurbishing the Lake Road plant; and
- Evaluate the overall cost effectiveness of maintaining versus refurbishing versus refiring, taking into account the uncertainties associated with the following areas - component failure, cost of replacement power, availability of replacement power, peak load growth, and environmental regulations.

Contingency Plan Filings:

In order to address the deficiencies alleged by OPC and Staff with respect to 4 CSR 240-22.070(10) of the Commission's rules and in lieu of its 1999 filing to meet the detailed list of requirements on 4 CSR 240-22.070(10), SJLP agrees to file:

(11) By July 31, 1997 - a contingency plan that includes the following elements:

- The ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the preferred resource plan is judged to be appropriate;
- An explanation of how these limits were determined;
- A set of contingency options that are judged to be appropriate responses to extreme outcomes of the critical uncertain factors;

- An explanation of why these contingency options are judged to be appropriate responses to the specified outcomes;
- A process for monitoring the critical uncertain factors on a continuous basis and reporting significant changes in a timely fashion to those managers or officers who have the authority to direct the implementation of contingency options when the specified limits for uncertain factors are exceeded; and
- Consideration of the following critical uncertain factors in SJLP's contingency analysis:
  - The price of purchases of short-term capacity and energy, as well as how those prices might vary with increasing demands made by SJLP within a given year;
  - The limits to the amount of capacity available for purchase in the short-term markets;
  - The effectiveness of various delivery mechanisms for achieving demand-side reductions;
  - The effectiveness of rate programs in achieving demand-side reductions;
  - The level of growth in summer peak demand; and
  - The operational life of Unit #3 at the Lake Road plant.


(12) At its scheduled 1999 filing date - an implementation plan as defined by 4 CSR 240-22.070(9) to update SJLP's implementation plan currently on file with the Commission as modified pursuant to requirements (7) and (8) of this agreement and an update to the contingency plan filed July 31, 1997 that meets the requirements of 4 CSR 240-22.070(10)(D) and (E).

The parties to this agreement understand that if there are any significant changes in the preferred resource plan which SJLP currently has on file with the Commission, the requirements of 4 CSR 240-22.080(10) still apply. Specifically, SJLP will notify the Commission within sixty (60) days of its determination to change its preferred resource plan. If this change results in SJLP's

**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 7 day of JANUARY, 1997.**


  
**Cecil L. Wright**  
**Executive Secretary**



intention to implement resource options before its 1999 filing that are different from those in its preferred resource plan, SJLP will include in its filing a revised implementation plan.

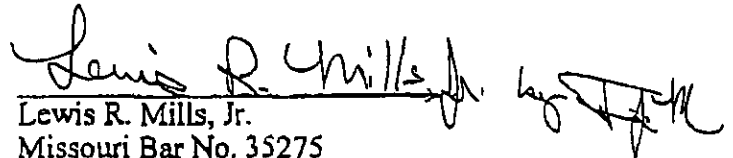
WHEREFORE, the signatories respectfully request that the Commission issue its order approving the terms of this Joint Agreement and Filing as soon as practicable.

Respectfully submitted,



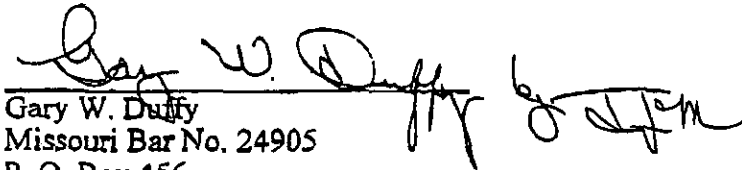
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ATTORNEY FOR THE  
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COMMISSION



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ATTORNEY FOR  
ST. JOSEPH LIGHT AND POWER

**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 December, 1996.



STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 18th  
day of July, 1997.

In the matter of the Application of Kansas )  
City Power & Light Company's Electric )  
Resource Plan, pursuant to 4 CSR 240-22, ) Case No. EO-97-522  
and its request for extension of time to )  
file ERP. )

ORDER APPROVING JOINT AGREEMENT

This docket was opened on June 3, 1997 to accept an Application  
by Kansas City Power & Light Company (KCPL) for an extension of time in  
which to file its second electric Integrated Resource Plan, per Chapter 22  
of 4 CSR 240-22.

In its Application KCPL states that its second filing was  
scheduled to be filed on July 1, in accordance with the Commission's rules.  
Given the fundamental changes in the industry and the pending plan of  
merger with Western Resources, Inc., KCPL requests the Commission grant an  
extension of time in which to make its compliance filing.

On June 30 a Joint Agreement was filed between the Staff of the  
Commission (Staff), the Office of the Public Counsel (OPC) and KCPL in  
which the parties recognize the extensive changes in the electric utility  
industry and propose an extensive series of meetings, requirements and  
filings as an alternative to the filing requirements of the Commission's  
original Integrated Resource Planning rules. The Joint Agreement is  
appended to this order as Attachment A.

The parties state that the purpose of the agreement is to set  
aside the filing requirements of the Commission's Integrated Resource  
Planning rules as they apply to this filing and, at the same time, go

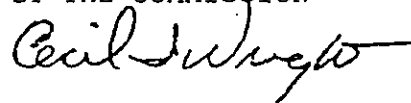
forward with various current issues involving Electric Resource Planning as it applies to the changing regulatory environment. The Commission agrees that this plan is reasonable and in the public interest, particularly in light of the inception of wholesale electric competition and various proposals for retail competition.

After review, the Commission finds the Joint Agreement, appended hereto and marked as Attachment A, to be reasonable and designed to fulfill the purposes of the Integrated Resource Planning rules as they now apply to the electric utility industry. The Commission will accept the agreement as an alternative plan for full compliance by KCPL with the Commission's Integrated Resource Planning rules, and will order KCPL to comply with the terms and conditions of the Joint Agreement.

IT IS THEREFORE ORDERED:

1. That the Joint Agreement by and between the parties hereto, appended to this order as Attachment A, is found to be reasonable and in the public interest and is hereby approved in accordance with 4 CSR 240-22, as set out above.
2. That Kansas City Power & Light Company is ordered to comply with all terms and conditions of the Joint Agreement.
3. That this order shall become effective on July 29, 1997.

BY THE COMMISSION



Cecil I. Wright  
Executive Secretary

(S E A L)

Zobrist, Chm., Crumpton, Drainer,  
Murray, and Lumpe, CC., Concur.

ALJ: Derque

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
JUN 30 1997  
MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of Kansas City Power & )  
Light Company's Electric Resource Plan ) Case No. EO-97-522  
Pursuant to 4 CSR 240-22. )

JOINT AGREEMENT AND FILING

Comes now Kansas City Power & Light Company (KCPL or Company); Staff of the Missouri Public Service Commission (Staff); and Office of Public Counsel (OPC), pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, and submit this Unanimous Agreement regarding the recommendations parties have made regarding KCPL's Electric Resource Plan.

To the extent that all of the parties agree, this document constitutes a unanimous agreement between KCPL and such parties as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments and therefore, the parties submit that there will be no need for a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this unanimous agreement.

This Joint Agreement and Filing has resulted from extensive negotiation among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement and Filing in total, then this Joint Agreement and Filing shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement and Filing, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1, RSMo 1994 to present testimony, cross-examine witnesses, and present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each Party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the signatories to the Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement and Filing is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent

reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

## I. THE CONTEXT OF THE AGREEMENT

### A. The Status of KCPL's Resource Plans

In Case No. EO-94-360, KCPL filed with the Commission its Electric Resource Plan (ERP) in July, 1994. In that filing KCPL's Preferred Resource Plan showed the need for a 136 MW combustion turbine (CT) in 1998 and four additional CT units in the year 2000. These ERP filings were reviewed by the Staff and the OPC as well as other intervenors and the findings were reported to the Commission. The reports and the subsequent agreements between the parties associated with these reviews were also filed in Case No. EO-94-360. Case EO-94-360 was concluded with the Commission's order on December 5, 1995.

Since that filing KCPL has installed a new 142 MW combustion turbine called Hawthorne 6. In addition KCPL currently plans to purchase the equivalent of 3 CT units through capacity purchases beginning in the year 2000. Although KCPL's load is growing, the purchases in the year 2000 are primarily needed to replace the capacity that is currently supplied through long-term purchased power agreements that will expire in the year 2000. KCPL conducts annual "Needs Assessments" to monitor its load growth, demand-sided resources and the resulting supply-side resource requirements. Since its anticipated supply-side capacity additions are for peaking or intermediate capacity, KCPL is not currently in the process of purchasing these resources, but instead will continue to re-evaluate this decision prior to its 2000 resource plan filing.

The parties to this agreement have also discussed the possibility that KCPL and Western Resources, Inc. (WRI) will consummate their announced merger. There is a

consensus that the consummation of this proposed merger would also have a major impact upon KCPL's current ERP process since the resources of KCPL and WRI would be merged, and planning for the future would be done by a combined company. The proposed merger of KCPL and WRI would in all likelihood alleviate the need for a KCPL-specific ERP in 2000.

B. Changes in the Electric Industry

The changes in the electric industry since the Commission adopted its Electric Resource Planning Rules have been extensive. In 1993, the electric industry was viewed as having a vertically integrated structure in which the utility reading customers' meters is the same one adding generation plant to meet the growing demands of those same customers. Building new generation plant or long-term purchases from available capacity were generally considered the standard way to meet growing demands. While competitive bidding for supply-side resources was being considered by some utilities in Missouri, the resulting short-term purchased power agreements were primarily seen as a method for filling in reserve requirements on a year-to-year basis. In the context of emerging competition for retail customers, utilities are now looking to short-term purchases acquired through competitive bids as the preferred method for adding capacity.

At the time the Commission's Electric Resource Planning rules were adopted, demand-side resources were either peak shaving or conservation. Peak shaving had the greatest potential for lowering the present value of revenue requirements without raising rates. Retail competition has raised a concern by the utilities about the potential for conservation options raising rates and increasing the likelihood of losing customers to



alternative generation supplies. At the same time, increasing competition to be the customer's energy services provider has resulted in most utilities focusing on planning and implementing marketing programs, some of which have demand-side components.<sup>1</sup>

C. Reports and Briefings During the Transition

In Missouri, the next several years is a transition period during which the electric industry's focus will be on issues surrounding retail competition. To make a workable transition for those involved in the electric resource planning filings and reviews, this agreement proposes periodic reports and twice-a-year briefings by KCPL on its resource implementation plans.

The intention of having scheduled briefings by KCPL is to provide a forum in which an ongoing dialogue will occur about the increasing effect that the potential for retail competition is having on KCPL's supply-side and demand-side resource acquisition process. The emphasis on the supply-side will be on the emerging market structures for wholesale generation resources. The demand-side will focus on two basic concerns. First is a concern that market barriers to the least-cost provision of electric services for low-income customers be addressed. Second is a concern that because large customers may be seen as more profitable than small customers, residential and small commercial customers may not have the same opportunities for energy services that are likely to be offered to large customers.

The parties to this agreement recognize the Commission's recent order in Case

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<sup>1</sup>The distinction between demand-side and marketing programs is that demand-side programs focus on removing market barriers that are obstacles to customer implementation of energy efficiency measures, while marketing programs are designed to sell energy services in a market environment that is competitive.

No. EW-97-245 as having two possible connections to this agreement. First, a significant level of resource will need to be devoted to the questions raised by the possibility of retail competition. The time and efforts of those scheduled to file and review electric resource plans takes resources away from these critical questions. Second, there are longer-term questions about how the objectives of the Commission's Electric Resource Planning rules might change or be better implemented in the context of retail competition.

The intent of this agreement is to provide a way for the parties to set aside the filing requirements of the Commission's rule as they apply to KCPL's second resource plan filing, and at the same time go forward on issues that jointly relate to electric resource planning and retail competition. It is the hope of the parties that this will free significant resources that can then focus on the longer-term questions concerning retail competition. One of the purposes of the scheduled briefings is to improve the understanding of the parties regarding the impact of retail competition on the electric resource planning process.

The briefings and periodic reports detailed in the next section of this agreement are obviously not a full and comprehensive substitute for the detailed analysis and filing requirements that are set forth in the Electric Resource Planning rule. Therefore, since this process is different from the requirements of 4 CSR 240-22, the objectives achieved by this process may be different from the objectives that are set forth in 4 CSR 240-22.010.

## II. THE CONTENT OF THE AGREEMENT

### Resource Plan Requirements:

With respect to 4 CSR 240-22 of the Commission's chapter on electric resource planning and in lieu of its 1997 filing to meet the detailed list of requirements of that chapter, KCPL agrees to brief the Staff and OPC on or about November 1, 1997; May 1, 1998; November 1, 1998; May 1, 1999; and November 1, 1999.

**(1) These briefings shall include information on the following:**

- Any changes in load forecasts for seasonal class energy and peaks with an explanation of those changes;
- Any changes in implementation plans for both demand-side and supply-side resources with an explanation for those changes; and
- Any changes in uncertainties, sensitivities, risks and contingency plans with an explanation for those changes.

### Load Analysis and Forecasting Requirements

With respect to 4 CSR 240-22.030 of the Commission's rules and in lieu of its 1997 filing to meet the detailed list of requirements on 4 CSR 240-22.030, KCPL will meet the following load analysis and forecasting filing requirements.

**(2) In its November 1997, 1998 and 1999 briefings, KCPL will provide Staff and OPC with the information regarding the status of the following activities:**

- Update to its historical data base on driver variables, seasonal energy and peak demands for its major classes;
- Forecasts of units and use per unit by season for the Residential and Commercial classes;

- Forecasts of annual energy by end-use for the Residential and Commercial classes;
- Forecasts of seasonal energy for all other classes;
- Forecasts of driver variables for all classes at the appropriate level of aggregation; and
- Report on the load forecast that documents any changes made in load forecasting methods, compares both load forecasts and driver variable forecasts to historical trends and compares load forecasts and driver variable forecasts to those from the previous year.

Updated forecasts and historical data bases will be provided as developed by KCPL for planning purposes but not less than every three (3) years, first beginning January 1998.

Supply-Side Resource Requirements:

Kansas City Power and Light's current resource plan shows that current capacity contracts totaling 350 MW will expire in the year 2000. KCPL expects to continue to meet its capacity needs with incremental purchases of up to 650 MW over the year 2000-04 time frame. KCPL does not show the addition of a generating unit until the year 2005. Since this need is expected to be for peaking or intermediate capacity, which has a shorter lead time than base load capacity, KCPL does not currently need to commit to the purchase of those resources but instead will continue to re-evaluate this need prior to KCPL's 2000 resource plan filing.

With respect to 4 CSR 240-22.040 and in lieu of its 1997 filing to meet the detailed list of requirements on 4 CSR 240-22.040, KCPL will meet the following supply-side filing requirements:

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- (3) In its May 1998 briefings, KCPL will provide Staff and OPC with a summary report that evaluates the overall cost effectiveness of maintaining versus refurbishing versus retiring of existing generating units, taking into account the uncertainties associated with the following areas - component failure, cost of replacement power, availability of replacement power, peak load growth, environmental regulations, and retail competition.
- (4) In its May 1999 briefings, KCPL will provide Staff and OPC with a copy of the competitive bidding request for proposal (RFP) if KCPL decides to use a competitive bidding process to solicit KCPL's capacity needs which begin in the year 2000. In its November 1999 briefing, KCPL will provide Staff and OPC with KCPL's evaluation of the competitive solicitations that KCPL received in response to its competitive RFP, or a briefing on its alternative process of selection. This evaluation should include the elements on risk analysis and plan selection as described in 4 CSR 240-22.070.

Demand-Side Analysis Requirements:

KCPL has re-screened a comprehensive list of demand-side measures and provided Staff and OPC with those results in May of 1996. The results from another re-screening at this point in time are not likely to provide additional information about the cost effectiveness of the measures.

Since its original filing in July 1994, KCPL has met with Staff and OPC twice with updates of current and proposed programs. In addition, KCPL has continued to develop and offer energy services through its marketing department. Because of their profit potential, competitors are also offering energy services to some of KCPL's customers.

Low-income customers face a significant market barrier from high up-front costs for energy efficiency. It is not clear that the competitive market will meet these customers' need for basic energy services provided in the most cost-effective manner. KCPL has taken an initial step towards meeting this need with planned programs targeting this market. A pilot will shortly begin for a portion of those programs. These programs

are generally designed to work in conjunction with assistance agencies and depend, in part, upon the passing of enabling legislation. More details of these programs can be found in Attachment 1 which is an executive summary from the Company's market assessment of these programs.

With respect to 4 CSR 240-22.050 and in lieu of its 1997 filing to meet the detailed list of requirements on 4 CSR 240-22.050, KCPL agrees to provide the following:

**(5) By September 1, 1997, KCPL will provide to Staff and OPC a report explaining how demand-side measures that have passed the screening process are developed into programs. This report will at least include:**

- demand-side measures included in all current and planned demand-side and marketing programs;
- for those measure that did not pass measure screening, a description of why they were included in a program;
- a description of why those measures that passed measure screening were not included in a program;
- the demand and energy impacts of current and planned demand-side programs and marketing programs containing demand-side measures;
- a description of how the determination is made as to which services will be offered for competitive purposes and which will be offered for other purposes.

**(6) By November 1, 1997, KCPL will provide to Staff and OPC a plan for expanding its efforts to provide efficient basic service for low-income customers in coordination with the Kansas City, Missouri Weatherization Department. In addition, KCPL will give a status report on its Vendor Payment Protection Program and its support for the Welfare-To-Work program.**

**(7) KCPL will continue its evaluation and improvement of currently implemented programs with emphasis on refining customer market segments**

and identifying the market barriers for these segments. It will also continue to review measures for potential inclusion in demand-side programs. KCPL will update Staff and OPC in its twice a year briefings on the status of its demand-side and marketing programs. These updates will include:

- **Estimated demand and energy impacts of implemented and planned programs;**
- **Evaluation results on market barriers and customer market segments;**
- **Implementation and evaluation schedules;**
- **A description of how KCPL determines whether energy services will be offered for competitive purposes or for other purposes;**
- **Its list of current and planned energy services that are or will be offered for competitive purposes and those which will be offered for other purposes; and**
- **Its progress in providing efficient basic service for low-income customers and related programs for low-income customers such as the Vendor Payment Protection Program and the Welfare-To-Work Program.**

Contingency Plan Requirements:

With respect to 4 CSR 240-22.070 of the Commission's rules and in lieu of its 1997 filing to meet the detailed list of requirements on 4 CSR 240-22.070, KCPL agrees to file:

(8) **By November 1, 1998 - a contingency plan that includes the following elements:**

- **The ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the preferred resource plan is judged to be appropriate;**
- **An explanation of how these limits were determined;**

- A set of contingency options that are judged to be appropriate responses to extreme outcomes of the critical uncertain factors;
- An explanation of why these contingency options are judged to be appropriate responses to the specified outcomes;
- A process for monitoring the critical uncertain factors on a continuous basis and reporting significant changes in a timely fashion to those managers or officers who have the authority to direct the implementation of contingency options when the specified limits for uncertain factors are exceeded; and
- Consideration of the following critical uncertain factors in KCPL's contingency analysis:
  - The price of purchases of short-term capacity and energy, as well as how those prices might vary with increasing demands made by KCPL within a given year;
  - The limits to the amount of capacity available for purchase in the short-term markets;
  - The level of growth in summer peak demand and the likelihood of achieving demand-side reductions; and
  - The operational life of KCPL's existing generating units.

Filing Requirements:

The parties to this agreement understand that if there are any significant changes in the preferred resource plan which KCPL currently has on file with the Commission, the requirements of 4 CSR 240-22.080(10) still apply. Specifically, KCPL will notify the Commission within sixty (60) days of its determination to change its preferred resource plan. If this change results in KCPL's intention to implement resource options before its 2000 filing that are different from those in its preferred resource plan, KCPL will include



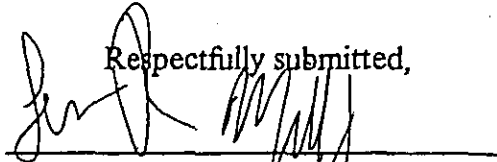
in its filing a revised implementation plan.

WHEREFORE, the signatories respectfully request the Commission to issue its order approving the terms of this Joint Agreement and Filing as soon as practicable.



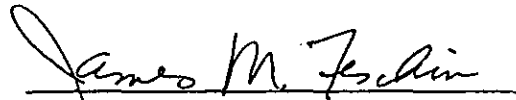
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ATTORNEY FOR THE  
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COMMISSION STAFF

Respectfully submitted,  


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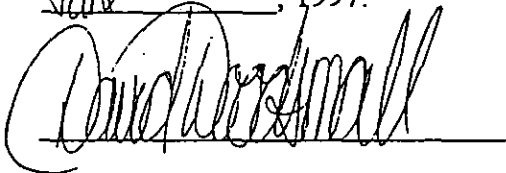


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ATTORNEY FOR KANSAS CITY  
POWER & LIGHT COMPANY

### 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 30th day of June, 1997.



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**ATTACHMENT 1**

**KANSAS CITY POWER & LIGHT COMPANY'S**

**LOW INCOME CUSTOMER**

**SERVICE PROGRAM**

# KCPL LOW INCOME CUSTOMER SERVICE PROGRAM

## Executive Summary

### Recommendation

Developing a low income service package which meets customer needs, reduces energy costs and provides an acceptable return for KCPL requires carefully balancing these seemingly opposing goals. Implementing an effective low income program will need to overcome many more hurdles than the typical residential or commercial marketing program due to public policy issues surrounding the current wave of welfare reform.

The Low Income Project Team investigated a multitude of options for a low income program. Team members are Vickie Myers, Terry Blattel, Jim Fitzgeralds, Jim Murray, Cotton Sivils, David Christian, Carla Liberda and Judy Spinner. The team consensus is to recommend a three-phased program. This three-phased program will meet the multiple goals of developing a program acceptable to regulators; developing a program which mirrors and supports the current public policy environment; developing a program which provides energy assistance and builds loyalty for a broad spectrum of low income customers; and developing the most cost effective program for KCPL. The three phases are:

- Implement a Conservation Program (CP) in 1997 for Missouri customers using the Kansas City Missouri Weatherization Department. This will be targeted at low income elderly with single family homes and high usage. This will address the interests of regulators in a weatherization component and provide customers with a permanent reduction in energy costs. The program will focus first on those low income elderly with electric space heat, then on low income elderly with other types of space heating equipment. End-use repairs can include electric furnace tune-ups or replacements, air conditioner tune-ups or replacements, replacing incandescent bulbs with fluorescents, inefficient refrigerator replacements, air infiltration improvements and insulation. Maximum expenditures per home will not exceed \$2500. Replacement criteria and other program specifics will be developed once the program is approved by KCPL management.
- Implement a Vendor Payment Protection Program (VPPP) concurrent with the implementation of the welfare reform restructure of the Missouri Welfare System. The VPPP will provide customers with a 10% bill discount and guaranteed electric service. In return, the customer agrees to approve the State redirecting a portion of their state income maintenance payment to KCPL for electric service. The program also allows customer to pay-off arrearages over time. The per-customer discount totals approximately \$75 per year based on a monthly discount cap of 750 kWh. This program is targeted to those individuals currently receiving state income maintenance checks, primarily Aid to Families With Dependent Children (AFDC).

This program will reduce the customers' electric expense and result in substantial savings of customer service, collection and bad debt expense for KCPL.

- Implement a program to support the Welfare-to-Work (WTW) initiative offering those customers who are participating in the Welfare-To-Work (WTW) program a 20% discount. This program will be structured the same as the VPPP but substituting a 20% discount for the 10% discount. The higher discount indicates KCPL's support of the WTW movement. Eligible participants are those in the Local Investment Commission's (LINC) WTW initiative which is currently targeting AFDC recipients in Jackson County. Participants enter a two to four year program targeted to move them from welfare to independence through job training and subsidies. This program has the same benefits to KCPL as the VPPP and provides significant marketing opportunities to spotlight KCPL in media articles on welfare reform.

The recommended combined program spending cap for the three programs is \$1,000,000 annually. The estimated breakdown is \$250,000 for the Conservation Program, \$500,000 for the Vendor Payment Protection Program and \$250,000 for the Welfare-to-Work program. These costs may be offset by operating costs savings and tax credits. Each program will be implemented on a pilot basis in Missouri initially to resolve any key issues and determine the actual economic impacts to KCPL.

## ENVIRONMENTAL SCAN

### Other Local Utility Programs:

Missouri Gas Energy (MGE) currently has two low income programs and is proposing a third. The first is a replica of KCPL's Dollar Aide program called Neighbors Helping Neighbors. MGE's second program is trial two-year Weatherization Program to assist low income customers in reducing their natural gas usage and energy bills. The program costs are recovered through rates and targets customers who have high arrearages. Only 5% of eligible customers participate in the program. MGE has spent \$250,000 per year for the past two years on this pilot program.

MGE's third program is a proposed rate discount for low income customers. This was revealed by MGE's CEO, Tom Clowe, during testimony for MGE's current rate case. He stated they would be filing a tariff sometime within the next few weeks.

### Governmental Environment

This project, more than most, has considerable public policy implications which are interwoven with regulatory issues, legal issues and marketing considerations.

### LIHEAP Funds

Both Missouri and Kansas are concerned about the possibility of the federal government reducing or eliminating the Low Income Heating Assistance Program

(LIHEAP) funds in an effort to balance the federal budget. To address this issue, Missouri regulators and legislators are asking utilities to propose and implement programs to assist low income customers on a voluntary basis. It is in KCPL's best interest to respond to this request and move forward swiftly with a low income program which has maximum economic and marketing benefits.

#### Welfare Reform Initiative - State Level

In August 1996 President Clinton signed the Welfare Reform Bill into law. This law allocates block grants to each state in return for the state designing and implementing programs to move welfare recipients into the work force. When fully implemented, 80% of current welfare recipients are required to enter job training programs.

Missouri chose to delay restructuring the state welfare system until the federal law was passed. Missouri is now faced with the daunting task of revamping their entire system by the end of the next legislation session in May 1997. According to the Department of Social Services (DSS), which is responsible for administering welfare, they are unsure how the system will be restructured. Possible strategies include eliminating the state agency and creating county programs, paying recipients through ATM's and creating expanded vendor payment programs. It will be critical for KCPL to work closely with the DSS and key legislators to assure legislation favorable to KCPL's low income program strategy is passed.

#### Welfare Reform Initiative - Local Level

Kansas City is fortunate to be on the leading edge of welfare reform due to the establishment of the Local Investment Commission (LINC) in 1992. LINC is a 33-person lay commission and they see to it that all federal and state monies coming into Kansas City for AFDC, Medicaid, child care, food stamps, etc. are well spent. Marcus Jackson is one of the 33 LINC commissioners.

LINC is currently overseeing the 21st Century Wage Supplement Initiative in Jackson County which redeploys AFDC and food stamps monies to employers. In turn, the employer hires a welfare recipient and uses these funds as a wage supplement and to provide job training. The welfare-to-work participant receives subsidies for child care, transportation and Medicaid during the two to four year program. At the end of that time their salary should be adequate to cover normal living expenses.

By supporting the LINC initiative, KCPL will be supporting those individuals who are trying to help themselves. KCPL will also be supporting both the national, state and local program to move people off welfare.

#### **Regulatory/Legal Environment**

Missouri - According to KCPL's Legal Department, current Missouri regulation does not allow a rate reduction for low income customers. Since MGE is about to file a low income rate tariff without new legislation, KCPL should be able to monitor the outcome

to determine the actual necessity of new legislation. If legislative action is necessary, David Christian believes the Missouri Legislature will look favorably on passing the necessary laws to permit rate discounts since they are encouraging utilities to develop low income programs.

Missouri IRP Requirements - According to KCPL's IRP filing, we are committed to submitting a formal proposal for a low income program in December 1996. Public Counsel has repeatedly stated they support low income programs incorporating weatherization measures. This is an additional reason to include weatherization in KCPL's proposal.

## STRATEGIC CONSIDERATIONS

### Program Advantages for KCPL

Each of the three recommended program strategies accomplishes some of targeted program goals. The combination of the three strategies accomplishes all of these goals. The following matrix indicates the advantages of each program on a five point scale with the "5" indicating the highest advantage.

### Low Income Program Advantages

Program Advantages	Weatherization Program	Vendor Payment Protection	Welfare-To-Work
Encourage Conservation	5	2	1
Encourage Timely Bill Pay.	1	5	5
Easy to Administer	5	4	3
Easy to Implement	5	2	1
Build Brand Equity	4	4	5
Reduce Internal Costs	1	5	3
Satisfy IRP Requirements	5	3	3
Program Totals	26	25	21

### Program Barriers for KCPL

The two primary obstacles to implementing either the VPPP or WTW programs are obtaining the cooperation of the Division of Social Services (DSS) and the uncertainty surrounding welfare reform. The DSS has stated they are in the throes of welfare reform and want to wait until the structure of the system is more defined before embarking on a VPPP with KCPL. It became clear during a recent meeting between the DSS and KCPL that KCPL will need to work with the DSS and key legislators to pass welfare reform legislation favorable to the VPPP strategy.

## MARKETING CONSIDERATIONS

Each of the three program phases targets a different group of low income customers as shown below:

<u>Program Name</u>	<u>Target Group</u>	<u>Est. No. of First Year Participants</u>
Conservation Program	Low Income Elderly	100 to 150 Homes
Vendor Payment Program	State Income Maintenance Recipients	15% of 46,000 Eligible or 6,900
Welfare-To-Work	LINC WTW Participants	15% of 10,000 Eligible or 1,500

## ECONOMIC CONSIDERATIONS

The inability of customers to pay their electric bills has significant economic implications for KCPL. The most obvious is, of course, lack of payment for energy consumed. Others include costs associated with customer service expense and credit and collection activities. All three of the recommended programs produce negative ten-year EVA's, all will reduce the amount of billable revenue and all will reduce internal operating costs. The EVA models assume these costs will not be recovered through rates.

The CP will result in permanent costs savings but will impact a smaller number of customers; the VPPP will result in the most significant cost savings for KCPL and benefit the highest number of customers; and the WTW Program will result in moderate cost savings but has the greatest potential to spotlight KCPL's support of low income customers. For the Conservation Program, the Tax Department believes KCPL may be able to obtain Neighborhood Assistance Program tax credits. These tax credits are available to encourage companies to implement programs which benefit society and are only available for programs implemented through a non-profit agency. These NAP credits markedly improve the short-term EVA for the Conservation Program. The economic impact of implementing each of the three program phases is summarized below.

## Low Income Program Economic Impacts

<u>Program Name</u>	<u>1st Year Revenue Reduction</u>	<u>1st Year Net Operating Savings</u>	<u>Ten Yr. EVA</u>
Conservation Program (With NAP Credits)	\$24,704	\$16,026	(\$317,000)
Conservation Program (W/O NAP Credits)	\$24,704	\$16,026	(\$1,037,000)
Vendor Payment	\$524,138	\$509,036	(\$128,227)
Welfare-To-Work	<u>\$229,432</u>	<u>\$111,410</u>	<u>(\$750,955)</u>
Total w/NAP Credits	\$778,274	\$636,472	(\$1,196,232)

Obviously the two programs which provide the best financial return to KCPL are the Conservation Program with NAP credits and the VPPP which has significant operating cost savings.

### CONCLUSION

The Low Income Program Team recommendation is to implement pilot programs for all three phases of the Low Income Program before the end of 1997. The process can begin by obtaining any necessary regulatory approval for the Conservation Program. Once KCPL management approves the VPPP and WTW program concepts, we can enlist the support of key legislators to pass welfare reform and rate discount legislation favorable to KCPL's program.



BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
AUG 29 1997  
MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of Union Electric Company's ) Case No. EO-94-178  
Resource Plan Pursuant to 4 CSR 240-22. )

JOINT AGREEMENT AND FILING

Comes now Union Electric Company (UE or Company), Staff of the Missouri Public Service Commission (Staff), and Office of Public Counsel (OPC), pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, and submit this Joint Agreement regarding the recommendations Staff and OPC have made regarding UE's Electric Resource Plan.

This document constitutes a complete agreement among UE, Staff and OPC as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments. Therefore, the parties submit that they are not asking for, nor from their perspective is there a need for, a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this complete agreement.

This Joint Agreement and Filing has resulted from extensive negotiation among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement and Filing in total, then this Joint Agreement and Filing shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement and Filing,

that the proposed joint agreement constitutes a reasonable alternative to full compliance with the March 1, 1998 UE filing requirement.

In the joint agreement, UE agrees to brief the remainder of the parties on five occasions up to October 1, 1999. The joint agreement provides in detail what matters will be included in those briefings. Generally those details include information and data regarding load analysis, supply side resource requirements, demand side analysis requirements, demand side screening and program status and contingency plan information.

The parties agree that, in the event there are significant changes in the UE preferred resource plan, the requirements of Chapter 22 will still apply and UE will be required to notify the Commission of its determination to change its preferred plan.

After review the Commission finds the joint agreement to be reasonable and designed to accomplish the intent of the agreement, that is, to shift emphasis from the filing requirements of Chapter 22 of 4 CSR 240 and to go forward with issues that jointly relate to electric resource planning and retail competition in an efficient and effective manner. The Commission will approve the agreement as an alternative plan for compliance by UE with the Commission's integrated resource planning rules, and will order UE to comply with the terms and conditions of the agreement.

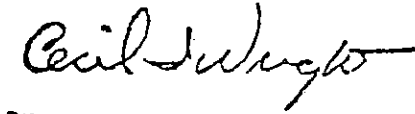
**IT IS THEREFORE ORDERED:**

1. That the joint agreement between the parties, appended to this order as Attachment A, is found to be reasonable and in the public interest and is hereby approved in accordance with 4 CSR 240-22.

2. That Union Electric Company is hereby ordered to comply with the terms and conditions of the joint agreement.

3. That this order shall become effective on November 14,  
1997.

BY THE COMMISSION



Cecil I. Wright  
Executive Secretary

(S E A L)

Lumpe, Ch., Crumpton, Murray,  
and Drainer, CC., concur.

Derque, Regulatory Law Judge

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 4th  
day of November, 1997.

In the Matter of Union Electric Company's )  
Resource Plan Pursuant to 4 CSR 240-22. )

Case No. EO-94-178

ORDER REGARDING UNION ELECTRIC COMPANY'S INTEGRATED  
RESOURCE PLAN AND JOINT AGREEMENT

This docket was opened for the purpose of receiving and reviewing periodic integrated resource plan filings of Union Electric Company (UE) pursuant to 4 CSR 240-22 of the Commission's rules. By order of June 11, 1997, the Commission extended the time for UE to accomplish its most recent filing to March 1, 1998 for reason that UE was engaged in a merger transaction which could substantially alter the nature of the data included in such an integrated resource plan.

On August 29 UE, the Staff of the Commission (Staff) and the Office of the Public Counsel (OPC) filed a proposed joint agreement for Commission approval, appended to this order as Attachment A. The joint agreement is intended to provide a method for the parties to shift the emphasis from the filing requirements of 4 CSR 240-22 as they would otherwise apply to UE's second resource plan filing and to go forward with issues that relate to current resource planning and anticipated retail competition as it relates to the electric resource planning process. The joint parties also state that the briefings and detailed periodic reports as set out in the text of the agreement are not intended to be a full and comprehensive substitute for the filing requirements of 4 CSR 240-22 and are intended to achieve different objectives. However, the parties believe

SCHEDULE FAD-4

Page 4 of 22

the parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1 RSMo 1994 to present testimony, cross-examine witnesses, and present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the signatories to the Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement and Filing is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be

subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

## I. THE CONTEXT OF THE AGREEMENT

### A. The Status of UE's Resource Plans

In December 1996, UE filed with the Commission its revised Implementation Plan, which included descriptions and schedules for the major tasks for the calendar years 1997 and 1998. In that filing, UE's Preferred Resource Plan showed no need to install additional generation capacity until 2002. Since this need is expected to be for peaking or intermediate gas-fired capacity, UE does not need to make decisions about major resource acquisitions until about the year 2000.

The parties to this agreement have also discussed the intention of UE and Central Illinois Public Service Company (CIPS) to consummate their announced merger. There is a consensus that the consummation of this proposed merger would also have an impact upon UE's current Energy Resource Planning process due to plans to jointly dispatch the generation units from both operating companies and plans to engage in resource planning separately for each company.

### B. Changes in the Electric Industry

The changes in the electric industry since the Commission adopted its Electric Utility Resource Planning rules have been extensive. In 1993, the electric industry was viewed as having a vertically integrated structure in which the entity reading customers' meters was the same one adding generation plant to meet the growing demands of those same customers. Building new generation plant or contracting for long-term purchases from available capacity were generally

considered the standard ways to meet growing demands. While competitive bidding for supply-side resources was being considered by some utilities in Missouri, the resulting short-term purchased power agreements were primarily seen as a method for filling in reserve requirements on a year-to-year basis. In the context of emerging competition for retail customers, utilities are now looking to short-term purchases acquired through competitive bids as the preferred method for adding capacity.

At the time the Commission's Electric Utility Resource Planning rules were adopted, demand-side resources were either peak shaving or conservation. Peak shaving had the greatest potential for lowering the present value of revenue requirements without raising rates. Competition from alternative energy suppliers has raised a concern by electric utilities about the potential for conservation options raising rates and increasing the likelihood of losing customers. In addition, energy service companies are offering energy services in Missouri which has resulted in most utilities focusing on planning and implementing marketing programs, some of which have demand-side components.<sup>1</sup>

### C. Reports and Briefings During the Transition

In Missouri, the next several years is being viewed by many as a transition period during which the electric industry's focus will be on issues surrounding retail competition. To accommodate what is believed to be a workable transition for those resources involved in the electric resource planning filings and reviews, this agreement proposes periodic reports and twice-a-year

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<sup>1</sup> The distinction between demand-side and marketing programs is that demand-side programs focus on cost-effective alternatives to supply-side alternatives in the resource planning process. Marketing programs are designed to sell energy services in a competitive market environment.

Energy services, at its broadest, is defined as products and services that are related to selling and delivering energy. In the State of Missouri, entities other than utilities can offer energy services, other than energy itself, that can result in improved operational efficiencies to the utilities' customers.

briefings by UE on its resource planning process and implementation plans.

The intention of having scheduled briefings by UE is to provide a forum in which an ongoing dialogue will occur about the increasing effect that the potential for retail competition is having on UE's supply-side and demand-side resource acquisition process. The emphasis on the supply-side will be on the emerging market structures for wholesale generation resources. The demand-side will focus on two basic concerns. First is a concern that market barriers to the least-cost provision of electric services for low-income customers be addressed. Second is a concern that because large customers may be seen as offering a more profitable prospect than small customers, residential and small commercial customers may not have the same opportunities for energy services that are likely to be offered to large customers.

The parties to this agreement recognize the Commission's recent establishment of Case No. EW-97-245, In the Matter of a Commission Inquiry into Retail Electric Competition, as having two possible connections to this agreement. First, a significant level of resources will need to be devoted to the questions raised by the prospect of retail competition. The time and effort of those UE, Staff and OPC personnel required to file and review electric resource plans takes resources away from addressing the critical questions posed by retail competition. Second, there are longer-term questions about how the objectives of the Commission's Electric Utility Resource Planning rules might change or be better implemented in the context of retail competition.

The intent of this agreement is to provide a way for the parties to shift the emphasis from the filing requirements of these Commission rules as they otherwise would apply to UE's second resource plan filing, and go forward on issues that jointly relate to electric resource planning and



retail competition. It is the hope of the parties that this agreement will free significant resources that can then focus on the longer-term questions concerning retail competition rather than be used to file and review UE's second resource plan compliance filing. One of the purposes of the scheduled briefings is to improve the understanding of the parties regarding the impact of retail competition on the electric resource planning process.

The briefings and periodic reports detailed in the next section of this agreement are not intended to be a full and comprehensive substitute for the detailed analysis and filing requirements that are set forth in the Electric Utility Resource Planning rules. (As these briefings and periodic reports may contain information which is highly confidential or proprietary, the provisions of the Protective Order previously issued in this docket will apply.) Since this process is different from the requirements of 4 CSR 240-22, the objectives achieved by this process are different from the objectives that are set forth in 4 CSR 240-22.010. However, the parties believe that this agreement constitutes a reasonable alternative to full compliance with the rule, solely in place of UE's March 1, 1998 filing. UE's next filing pursuant to 4 CSR 240-22 is scheduled for December 6, 1999.

## II. THE CONTENT OF THE AGREEMENT

### Resource Plan Requirements:

With respect to 4 CSR 240-22 of the Commission's chapter on electric resource planning and in lieu of its March 1998 filing to meet the detailed list of requirements of that chapter, UE agrees to brief the Staff, OPC and intervenors on or about October 1, 1997; April 1, 1998; October 1, 1998; April 1, 1999; and October 1, 1999.

(1) These briefings shall include information on the following:

- Any changes in load forecasts for seasonal class energy and peaks with an explanation of those changes;
- Any changes in implementation plans for both demand-side and supply-side resources with an explanation for those changes; and
- Any changes in uncertainties, sensitivities, risks and contingency plans with an explanation for those changes.

Load Analysis and Forecasting Requirements:

With respect to 4 CSR 240-22.030 of the Commission's rules and in lieu of its March 1998 filing to meet the detailed list of requirements in 4 CSR 240-22.030, UE will meet the following load analysis and forecasting filing requirements.

(2) In its October 1997, 1998 and 1999 briefings, UE will provide the information regarding the status of the following activities:

- An update to its historical data base on driver variables, seasonal energy and peak demands for its major classes;
- Forecasts of units and use per unit by season for the Residential and Commercial classes;
- Forecasts of annual energy by end-use for the Residential and Commercial classes;
- Forecasts of seasonal energy for all other classes;
- Forecasts of driver variables for all classes at the appropriate level of aggregation; and
- A report on the load forecast that documents any changes made in load forecasting methods, compares both load forecasts and driver variable forecasts to historical trends and compares load forecasts and driver variable forecasts

to those from the previous year.

**Supply-Side Resource Requirements:**

Union Electric Company's current resource plan does not show the need for significant supply-side resources until the year 2002. Since this need is expected to be for peaking or intermediate capacity, which has a shorter lead time than base load capacity, UE does not currently need to commit to the purchase of those resources but instead, prior to UE's 2000 decision date, will continue to re-evaluate this need.

With respect to 4 CSR 240-22.040 and in lieu of its March 1998 filing to meet the detailed list of requirements in 4 CSR 240-22.040, UE agrees to provide to Staff and OPC:

**(3) By July 1, 1998 - a written report that includes the following elements:**

- **An update on the current condition of existing generating facilities;**
- **An economic review of improvements considered for existing generating facilities. Improvements include major refurbishments, upgrades and performance improvements;**
- **A determination of when improvements to existing facilities may be justified; and**
- **A review of uncertain factors that may be critical to the economics of the improvements.**

**Demand-Side Analysis Requirements:**

UE has re-screened a comprehensive list of demand-side measures and provided Staff and OPC with those results twice since its initial (December 1993) resource plan filing. The results from another re-screening at this point are not likely to provide additional information about the cost

effectiveness of the measures.

Since its updated filing in July 1995, UE has met with Staff and OPC several times a year with updates of current and proposed programs. Program design has evolved since its July 1995 filing, due, in part, to additional information on market barriers and customer segments gathered in program evaluation.

In addition, UE has continued to develop and offer energy services through its Marketing and Customer Services Departments and through one of its subsidiaries, UE Development Corporation. Marketing is offering energy services that could fit either in a demand-side management context or in a competitive market environment. Because of the profit potential, competitors are also offering energy services to some of UE's customers.

Low income customers face a significant market barrier from high up-front costs for energy efficiency. It is not clear that the competitive market will meet the need of these customers for basic energy services that are provided in the most cost-effective manner. UE's Customer Service Department offers this market segment assistance through its current Energy Plus programs. These programs include "safety-net" programs designed to help people with immediate needs in paying their electric bills. There are also some universal service programs that help improve the customer's use of energy services through limited weatherization of dwellings and increased information on ways to reduce energy consumption. In addition, there are Energy Plus programs for the elderly and the disabled. UE has provided more details on Energy Plus programs in Attachment I.

With respect to 4 CSR 240-22.050 and in lieu of its March 1998 filing to meet the detailed list of requirements in 4 CSR 240-22.050, UE agrees to:

(4) At its October 1, 1997 briefing, provide a written report explaining how demand-side measures that have passed the screening process are developed into programs. This report will at least include:

- demand-side measures included in all current and planned demand-side and marketing programs;
- for those measures that did not pass measure screening, a description of why they were included in a program;
- a description of why those measures that passed measure screening were not included in a program; and
- the demand and energy impacts of current and planned demand-side programs and marketing programs containing demand-side measures.

(5) UE will continue its evaluation and improvement of currently implemented programs with emphasis on refining customer market segments and identifying the market barriers for these segments. It will also continue to review measures for potential inclusion in demand-side programs. In its twice a year briefings UE will include updates on the status of its demand-side and marketing programs. These updates will include:

- Estimated demand and energy impacts of implemented and planned programs;
- Evaluation results on market barriers and customer market segments;
- Implementation and evaluation schedules;
- A description of how UE determines whether energy services will be offered for competitive purposes or for other purposes;
- Its list of current and planned energy services that are or will be offered in UE's service territory by UE or its subsidiaries, or Ameren or its subsidiaries for competitive purposes and those current and planned energy services that are or will be offered for other purposes; and
- Its progress in providing efficient basic service for low-income customers and coordinating its efforts with social and other agencies and organizations.

**Contingency Plan Requirements:**

With respect to 4 CSR 240-22.070 of the Commission's rules and in lieu of its March 1998 filing to meet the detailed list of requirements in 4 CSR 240-22.070, UE agrees to:

**(6) Include in its October 1, 1997 briefing the following:**

- **A summary of the risk and uncertainty analysis performed in conjunction with the implementation plan filed by UE in December 1996;**
- **A discussion of which critical uncertain factors could cause a change in the implementation plan filed by UE in December 1996. Factors such as the following would be considered for inclusion :**

**purchase power capacity;**

**delivery mechanisms for DSM;**

**peak demand growth; and**

**extended outage of a large existing generating facility.**

- **A discussion of what actions UE would undertake to mitigate the impact of changes in these critical uncertain factors.**

**Filing Requirements:**

The parties to this agreement understand that if there are any significant changes in the preferred resource plan which UE currently has on file with the Commission, the requirements of 4 CSR 240-22.080(10) still apply. Specifically, UE will notify the Commission within sixty (60) days of its determination to change its preferred resource plan. If this change results in UE's intention to implement resource options before its 1999 filing that are different from those in its

preferred resource plan, UE will include in its filing a revised implementation plan.

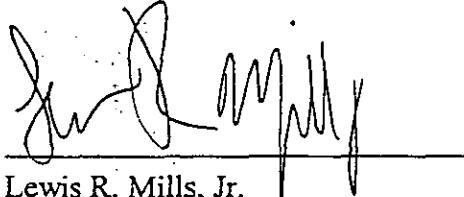
WHEREFORE, the signatories respectfully request the Commission to issue its order approving the terms of this Joint Agreement and Filing as soon as practicable.

Respectfully submitted,



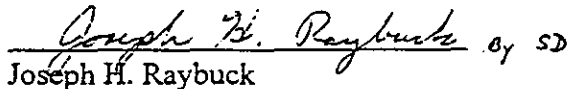
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ATTORNEY FOR UNION  
ELECTRIC COMPANY

**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 29th day of August, 1997.

Steven D. [Signature]



## ENERGY PLUS PROGRAMS

### Universal Service Programs

#### ENERGY PLUS GRANTS PROGRAM (\$60,000\*)

The Energy Plus Grants program funds organizations across Union Electric Company's service area to improve the weather-worthiness of the homes of elderly, low-income or handicapped residents.

Nonprofit organizations are eligible to receive these grants for a wide range of energy-related projects.

Grants are used to purchase weatherization materials or to enhance an existing efficient use of conservation programs.

Some of the grants have been awarded to help organizations conduct energy workshops, train youth groups for weatherization work and provide weatherization materials to older adults. Grants are awarded to support highly localized needs not covered by more structured Energy Plus Programs.

#### WEATHERIZATION KITS (\$75,000\*)

Union Electric provides kits of energy-saving materials to its senior customers. Each fall, volunteers help install kits in many locations throughout UE's service area.

Kit materials include door sweeps and self-adhesive V seals; foam gaskets for electrical switch plates and outlet plates; rope caulk and transparent tape; reusable plastic and snap-in channels for windows.

Weatherization can cut customers' annual energy costs by at least \$40. The material can be removed and re-used.

### YOUTH EMPLOYMENT OPPORTUNITIES (\$70,000\*)

*This program has been eliminated beginning in 1998*

Since 1984, Union Electric has worked with local social service and government organizations to sponsor youth employment programs during the summer months. Through these programs, thousands of youths have found employment, and thousands of homes have been weatherized.

Teams of young people weatherize the living units of senior citizens and needy people by installing heavy duty plastic on windows and caulking and weather-stripping around doors and windows. In 1992, the Air Conditioning Program merged with Youth Employment Opportunities.

### ENERGYWISE/ENERGY SMART (\$10,000\*)

Through the EnergyWise/EnergySmart Program founded in the 1980s, Union Electric retirees offer money-saving energy conservation tips and general information to senior citizen groups in UE's service area.

EnergyWise is a 30 to 40 minute program that concentrates on no-cost/low-cost ways to reduce energy consumption and save money in the process. A videotape show outlines the basics of home energy efficiency, and team members use tabletop exhibits for "live" demonstrations of several weatherization tips.

EnergySmart, a 40 to 50 minute program involving audience participation, acquaints UE's senior customers with programs UE has available for them, including all Energy Plus Programs.

An Energy Services guidebook containing conservation, health and safety tips is used as the primer for an Energy IQ test for program participants.

### NITE LITE PROGRAM (\$150,000\*)

Nite Lite is a cooperative program involving neighborhood organizations, local police and Union Electric to help hundreds of city residents use porch lights to fight crime.

As a partner in Nite Lite, UE provides energy-saving compact fluorescent lights to neighborhood organizations for distribution to residents.

Working with local police, the neighborhood organization develops and implements a plan to insure the fluorescent bulbs are installed and turned on at night to deter crime. These bulbs' operating costs are one-fourth that of regular light bulbs.

UE also provides grants to neighborhoods to assist with the installation of wiring and motion detectors.

SCHEDULE FAD-4

Page 18 of 22

## Safety Net Programs

### DOLLAR MORE (\$950,000 from customer contributions)

Established in 1982, Union Electric Company's Dollar More Program provides an outlet for UE customers interested in making voluntary contributions to energy assistance funds that help low-income families.

Contributions are distributed by United Way agencies to a network of human service agencies in the areas where contributors live. To contribute, customers simply mark a box on their bills, indicating a willingness to contribute and a pledge amount, or they can call UE to receive pledge cards.

Pledges are listed as an additional item on the customer's monthly bill and can be canceled or changed at any time by contacting UE.

### UNION ELECTRIC DOLLAR MORE COMPANY PROGRAM (\$200,000\*)

Union Electric's Corporate Dollar More provides funding for utility assistance. Corporate Dollar More funds come from UE's Charitable Trust and go to local social service agencies that have established energy assistance programs. Many recipient agencies use the Corporate Dollar More funds as a means to encourage other donors to match UE's funds.

### CUSTOMER ASSISTANCE PROGRAM (\$840,000\*)

Union Electric Company has established a program designed to address the underlying causes of sudden, erratic bill payments.

To respond to the needs of customers who are in a crisis of a non-recurring nature, UE's Customer Assistance Program (CAP) has resulted in the restoration of financial stability for more than a third of those referred to the program. Another 55 percent of CAP's clients make significant progress toward stability.

Established in 1986, CAP is administered by Provident Counseling, a social service outreach agency, through a contractual arrangement with Union Electric.

Each CAP counselor is a professional social worker knowledgeable about community resources and trained to develop a course of action for referred customers. CAP helps customers by assessing social service and financial needs, evaluating customer resources, assisting in budgeting and concentrating on helping customers find solutions that will foster long-term stability by providing:

- Initial assessment of social service and financial needs.
- Evaluation of the current and potential resources.
- Assistance in making payment arrangements with Union Electric.
- Referrals to appropriate community and/or government resources.
- Information on energy conservation options.
- Development of a realistic household budget.
- Liaison with private/public agencies.

The organization refers customers to appropriate agencies. CAP also provides energy conservation options and serves as the liaison with private and public agencies.

### Other Energy Plus Programs

#### URBAN LEAGUE COMMUNITY OUTREACH PROGRAM (\$60,000\*)

The Urban League Community Outreach Center was made possible through a grant from Union Electric Company. The center has received funds, in-kind services and material contributions from a number of St. Louis-based corporations.

Centrally located, at 4151 Olive Street in St. Louis, the center operates the only local food bank that is open daily.

#### AIR CONDITIONING PROGRAM (\$80,000\*)

Since 1988, Union Electric, with air conditioning unit wholesale supplier Marco Sales, Inc., has funded a program that provides free air conditioning units to older, medically certified persons.

The program is coordinated by Senior Home Security, a not-for-profit organization that provides, among other services, energy conservation assistance to elderly and physically disabled persons. Another program partner is Operation Weather Survival, a consortium of social service agencies.

To qualify, recipients must have proof from attending physicians that they require air conditioning for medical reasons. The window units are loaned to recipients, who are also eligible for a grant from Union Electric's Dollar More Program to help pay energy bills.

UE began its partnership with Senior Home Security, Inc., to offer youths a viable skill in the repair and installation of air conditioning units. The youths also weatherize homes by putting plastic on the windows, caulking and weather-stripping around the doors and windows.

### LIFE SUPPORT SERVICE

Once Union Electric knows that a customer has life support equipment in a home, that information is entered into a computerized life support equipment registry.

Union Electric notifies customers about planned maintenance outages and gives a suggested back-up plan for emergency outages. Customers have been registering for this service for several years. Customers can call Union Electric for registration forms.

### SERVICES FOR SPEECH AND HEARING IMPAIRED

Since the mid-1970s, Union Electric has offered a special computerized phone hook-up that lets UE communicate with speech and hearing impaired customers. If those customers have a telephone device known as a telecommunications device for the deaf (TDD or TDY), they can call UE directly and ask questions about billing, service or anything else pertaining to Union Electric.

### BRILLE BILLING

Many customers have taken advantage of the Braille bill developed by Union Electric for the blind since it was created in January 1990.

### LARGE PRINT BILLS

In October 1992, UE created a large print bill for the visually impaired customer as a supplement to the regular bill.

All customers served by UE are eligible to receive this bill, which is sent along with a regular bill. In large print, it lists the dates of service, the customer's account number and address, usage amounts, current amount, prior balance, budget billing amount (if the customer has signed up for that service), the total amount due and the payment due date.

### HOSPITAL STAY FOR THE ELDERLY

UE customers age 60 and older, who are in the hospital, are eligible for UE's Hospital Stay Program.

While in the hospital, the customer will not receive delinquent notices if the UE bill is not paid. Also, the customer's service will not be disconnected due to non-payment while he/she is in the hospital. UE will work with the customer to make payment arrangements.

### DEFERRED PAY-DATE

Through this program, established in 1986, Union Electric allows customers receiving retirement benefits or disability payments to delay paying their Union Electric bill for up to 21 days.

This allows that customer to pay the bill when he or she receives retirement or Supplemental Social Security income checks, easing a budget crunch that can occur when the UE bill arrives earlier in the month than benefit payments.

To qualify for Deferred Pay-Date, UE customers must be at least 60 years old and permanently retired or disabled and receiving Supplemental Social Security income. The customer must pay the electric bill in full every month on or before the special extended due date.

### THIRD PARTY NOTIFICATION

Union Electric will contact the families of registered elderly or customers with disabilities before disconnecting service for nonpayment of utility bills.

Customers must be at least 60 years old or disabled to receive this service.

### GATEKEEPER

Focusing on older adults who live alone and have little contact with others, UE's Gatekeeper Program involves those Union Electric employees who have contact with the public as part of their normal workday. These employees receive special training to recognize when an older person may need help.

The trained UE Gatekeeper who observes a warning sign -- an overgrown lawn, newspapers piled up or a confused or disoriented senior -- starts the process by alerting appropriate officials. The agency assesses the need for intervention and arranges appropriate assistance.

RECEIVED

JAN 07 1998

BRYDON, SWEARENGEN & ENGLAND P.C.

STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a Session of the Public Service Commission held at its office in Jefferson City on the 7th day of January, 1998.

In the Matter of The Empire District Electric Company's Electric Resource Plan Pursuant to 4 CSR 240-22.

Case No. EO-96-56

ORDER REGARDING THE EMPIRE DISTRICT ELECTRIC COMPANY'S INTEGRATED RESOURCE PLAN AND JOINT AGREEMENT

This case was opened on August 21, 1995, for the purpose of receiving and reviewing periodic integrated resource plan filings of The Empire District Electric Company (EDE) pursuant to 4 CSR 240-22 of the Commission's rules. On December 5, 1997, EDE, the Staff of the Commission (Staff), the Office of Public Counsel (OPC) and Intervenor Kansas City Power & Light Company (KCPL) filed a proposed joint agreement regarding EDE's Electric Resource Plan (ERP). Intervenor St. Joseph Light & Power Company (SJLP) did not participate in the agreement but filed a separate statement that it does not oppose the agreement and waives notice and hearing. Pursuant to the Commission's rules, SJLP acknowledges that such waiver constitutes acknowledgment that the proposed agreement is unanimous.

EDE filed its most recent resource plan in September 1995. After review by the other parties, a joint agreement was reached and approved by the Commission on March 29, 1996. As a part of that agreement, EDE agreed to perform an all-source competitive solicitation for its projected 2001 resource needs. On August 7, 1996, EDE notified the Commission that the approved plan was no longer appropriate, in accordance with 4 CSR 240-22.080(10). The proposed joint agreement details the reasons why the 1995 plan is no longer appropriate. Briefly put, those reasons include placing in service state line combustion turbine No. 2,

changes in the capacity margin requirements by the MoKan Power Pool and ongoing changes in the electric industry itself.

The parties are, therefore, viewing the next several years to be a transitional period in the electric industry in the state of Missouri. The parties state that the electric industry will focus on issues surrounding potential retail competition and that, therefore, the competitive solicitation program is no longer desirable and an ongoing dialogue is needed regarding the potential effect of retail competition on demand-side and supply-side resource acquisition. The parties are proposing a series of briefings and periodic reports, partially to improve the understanding of the parties regarding the impact of anticipated retail competition on the electric resource planning process. The briefings and periodic reports are detailed in the proposed agreement.

The parties have also stated that the proposed agreement constitutes a reasonable alternative to the requirements in the joint agreement reached in the EDE September 1995 resource plan filing and a reasonable alternative to compliance with EDE's September 1998 filing requirement as set out in 4 CSR 240-22.

After review the Commission finds the joint agreement to be reasonable in that it is designed to shift emphasis from the filing requirements of Chapter 22 of 4 CSR 240 and to go forward with issues that jointly relate to electric resource planning and retail competition in an efficient and effective manner. The Commission will approve the agreement as an alternative plan for EDE's compliance with the Commission's integrated resource planning rules, and will order EDE to comply with the terms and conditions of the agreement.

**IT IS THEREFORE ORDERED:**

1. That the joint agreement between the parties, appended to this order as Attachment A, is found to be reasonable and in the public interest and is hereby approved in accordance with 4 CSR 240-22.



2. That The Empire District Electric Company is hereby ordered to comply with the terms and conditions of the joint agreement.

3. That this order shall become effective on January 21, 1998.

BY THE COMMISSION

*Dale Hardy Roberts*

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,  
and Drainer, CC., concur.

Derque, Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

DEC 05 1997

MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of The Empire District )  
Electric Company's Electric Resource Plan ) Case No. EO-96-56  
Pursuant to 4 CSR 240-22. )

JOINT AGREEMENT

Comes now The Empire District Electric Company (Empire or Company); Staff of the Missouri Public Service Commission (Staff); Kansas City Power & Light Company (KCPL); and Office of Public Counsel (OPC), and pursuant to 4 CSR 240-22.080(8) of the Commission's rules on Electric Utility Resource Planning, submit this Agreement regarding Empire's Electric Resource Plan (ERP) in Case No. EO-95-56 and the scheduled filing of a new ERP by Empire in 1998. Although a party to this proceeding, St. Joseph Light & Power Company is not participating in this agreement, but is simultaneously filing correspondence which states that it does not oppose this Joint Agreement and waives its rights under 4 CSR 240-2.115 to notice of the filing of this agreement and a hearing thereon.

This document constitutes a unanimous agreement between Empire and such parties as to these recommendations. Furthermore, the parties waive their respective rights under section (9) of 4 CSR 240-22.080 to file a response or comments. Therefore, the parties submit that they are not asking for, nor from their perspective is there a need for, a hearing by the Commission. The parties are ready and willing to respond to any questions of the Commission which may arise during its consideration of this unanimous agreement.

This Joint Agreement has resulted from extensive negotiation among the signatories and the

terms hereof are interdependent. In the event the Commission does not approve and adopt this Joint Agreement in total, then this Joint Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

In the event the Commission accepts the specific terms of the Joint Agreement, the Parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.080.1, RSMo 1994 to present testimony, cross-examine witnesses, and present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1994.

If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its rationale for entering into this Joint Agreement and Filing. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any further proceeding or in this proceeding whether or not the Commission approves this Joint Agreement and Filing. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the signatories to the Joint Agreement and Filing.

The Staff shall also have the right to provide, at any agenda meeting at which this Joint Agreement is noticed to be considered by the Commission, whatever oral explanation the

Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

## I. THE CONTEXT OF THE AGREEMENT

### A. The Status of Empire's Resource Plans

In September 1995, in Case No. EO-95-56, Empire filed with the Commission its Electric Resource Plan. In that filing, Empire's Preferred Resource Plan showed the need for a 101 MW combustion turbine (CT) in 1997 and an additional 150 MW resource need in the year 2001. The ERP filing was reviewed by the Staff and the OPC as well as other intervenors and the findings were reported to the Commission. The reports and the subsequent agreements between the parties associated with these reviews were also filed in Case No. EO-95-56. The parties filed a Joint Agreement February 16, 1996. The Commission issued an order in Case No. EO-95-56 on March 29, 1996, which incorporated the Joint Agreement. One of the primary provisions was that Empire agreed to perform an all-source competitive solicitation in 1997 for its projected 2001 resource need.

On August 7, 1996, pursuant to 4 CSR 240-22.080(10), Empire notified the Commission that its preferred resource plan was no longer appropriate. At that time, Empire informed the Commission that a 152 MW combustion turbine was to be constructed in 1997 instead of the 101 MW combustion turbine that was identified in the preferred resource plan. The 152 MW combustion turbine called State Line Unit 2 has successfully complied with all in-service criteria and is currently

serving Empire's customers' needs.

Additionally, during December 1996, the MOKAN power pool executive committee agreed to reduce the capacity margin requirement for its members from 15.3 percent to 13.04 percent, effective for the contract year beginning June 1, 1997. Empire is a member of MOKAN. This reduction was allowed within the guidelines of the Southwest Power Pool ("SPP"). The SPP guidelines basically state that capacity margins can be as low as 15.3 percent in any system without the performance of a loss of load probability ("LOLP") study and that capacity margins can be as low as 13.0 percent if an LOLP study shows loss of load probability of less than one time in a ten year period. The MOKAN and SPP LOLP studies that were performed supported a reduction in capacity margin for the MOKAN system to 13.04 percent. This lower capacity margin requirement from the power pool therefore reduces the amount of capacity which Empire has to have to meet reserve margin requirements. As a result, future capacity requirements are reduced. Empire's 1997-2001 forecast shows a capacity shortfall of 58 MW in the year 2001. Although Empire's native load is growing, the requirement in the year 2001 is needed in part to replace capacity that is currently supplied through purchased power agreements that will expire in the years 2000 and 2001.

B. Changes in the Electric Industry

The changes in the electric industry since the Commission adopted its Electric Resource Planning Rules have been extensive. In 1993, the electric industry in Missouri was still viewed as having a vertically integrated structure in which the utility reading customers' meters is the same one adding generation plant to meet the growing demands of those same customers. Building new generation plants or long-term purchases from available capacity were generally considered the standard ways to meet growing demands. While competitive bidding for supply-side resources was

being considered by some utilities in Missouri, the resulting short-term purchased power agreements were generally seen as a method for filling in reserve requirements on a year-to-year basis and delaying construction of new generation plant. In the context of emerging competition for retail customers, Empire is now focusing on shorter term planning horizons and looking to short-term purchases acquired through competitive bids as the preferred method for meeting resource requirements.

At the time the Commission's Electric Resource Planning rules were adopted, demand-side resources were generally considered as peak shaving or conservation. Peak shaving had the greatest potential for lowering the present value of revenue requirements without raising rates. Retail competition has raised a concern by the utilities about the potential for conservation options raising rates and increasing the likelihood of losing customers to alternative generation suppliers. At the same time, increasing competition to be the customer's energy services provider has resulted in most utilities focusing on planning and implementing marketing programs, some of which have demand-side components.<sup>1</sup>

C. Reports and Briefings During the Transition

In Missouri, the next several years is being viewed by many as a transition period during which the electric industry's focus will be on issues surrounding retail competition. The parties to this agreement believe that the "1997 Competitive Solicitation" that was agreed to and incorporated

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<sup>1</sup> The distinction between demand-side and marketing programs is that demand-side programs focus on removing market barriers that are obstacles to customer implementation of energy efficiency measures, while marketing programs are designed to sell energy services in a market environment that is competitive.

<sup>2</sup> Energy services, at its broadest, is defined as products and services that are related to selling and delivering electricity. In the state of Missouri, entities other than utilities can offer energy services, other than electricity which can result in improved operational efficiencies to the utilities' customers.

in the Commission order in Case No. EO-95-56 is no longer timely. Due to changes in Empire's resources and due to the changes in the electric industry, the parties agree that postponing the "competitive solicitation" is desirable. The parties believe that Empire performing any competitive solicitation without considering the potential impact of retail competition could increase Empire's financial risk.

To accommodate what is believed to be a workable transition for those entities involved in the electric resource planning filings and reviews, this agreement proposes periodic reports and twice-a-year briefings by Empire on its resource planning activities and implementation plans.

The intent of having scheduled briefings by Empire is to provide a forum in which an ongoing dialogue will occur about the increasing effect that the potential for retail competition is having on Empire's supply-side and demand-side resource acquisition process. The supply-side emphasis of these meetings will be on the emerging market structures for wholesale generation resources. The demand-side will focus on the least cost provision of electric services for low-income customers. The primary goal of Empire's planning process will remain to provide low cost, safe, and reliable electrical energy to its customers while at the same time positioning the Company for possible retail generation choice.

The parties to this agreement recognize the Commission's recent order in Case No. EW-97-245 as having two possible connections to this agreement. First, a significant level of resources will need to be devoted to the questions raised by the possibility of retail competition. The time and efforts of those scheduled to file and review electric resource plans takes resources away from these critical questions. Second, there are longer-term questions about how the objectives of the Commission's Electric Utility Resource Planning rules might change or be better implemented in

the context of retail competition.

The intent of this agreement is two-fold. The first is to relieve Empire of its obligation to perform the 1997 competitive solicitation. The second is to provide a way for the parties to shift the emphasis from the filing requirements of the Commission's rule as they apply to Empire's second resource plan filing, and go forward on issues that jointly relate to electric resource planning and retail competition. It is the hope of the parties that this will free significant resources that can then focus on the longer-term questions concerning retail competition. One of the purposes of the scheduled briefings is to improve the understanding of the parties regarding the impact of retail competition on the electric resource planning process.

The briefings and periodic reports detailed in the next section of this agreement are not intended to be a full and comprehensive substitute for the detailed analysis requirements that are set forth in the Electric Utility Resource Planning rules. Therefore, since this process is different from the requirements of 4 CSR 240-22, the objectives achieved by this process may be different from the objectives that are set forth in 4 CSR 240-22.010. However, the parties agree that this agreement constitutes a reasonable alternative to the requirements in the Joint Agreement reached in Empire's September 1995 resource plan filing and a reasonable alternative to compliance with the rule for Empire's September 1998 filing. Empire's next filing pursuant to 4 CSR 240-22 is scheduled for September 6, 2001.

If the Commission rescinds or suspends the operation of 4 CSR 240-22 before the requirements of this agreement are fulfilled, the parties agree that EDE will not be required to continue the analysis and make the filings herein scheduled. If the Commission modifies 4 CSR 240-22, or for any other reason, the Commission rescinds, suspends the operation of or modifies 4



CSR 240-22 before the scheduled dates set out herein, the parties agree to renegotiate the terms of this agreement to meet the stated intent of the Commission, and in the event that a new agreement cannot be reached, the parties may present their positions to the Commission for final determination.

## II. THE CONTENT OF THE AGREEMENT

### Resource Plan Requirements:

In lieu of the 1997 competitive solicitation required by the Joint Agreement of February 16, 1996, and in lieu of Empire's scheduled 1998 filing to meet the requirements of 4 CSR 240-22, the parties agree that Empire will brief the Staff, OPC and intervenors on or about March 1, 1998; September 1, 1998; March 1, 1999; September 1, 2000; March 1, 2000; and September 1, 2000.

**(1) These briefings shall include information on the following:**

- Any changes in load forecasts for seasonal class energy and peaks with an explanation for those changes;
- Any changes in implementation plans for both demand-side and supply-side resources with an explanation for those changes; and
- Any changes in uncertainties, sensitivities, risks and contingency plans with an explanation for those changes.

### Load Analysis and Forecasting Requirements

With respect to 4 CSR 240-22.030 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.030, Empire will meet the following load analysis and forecasting filing requirements.

- (2) In its March 1998, 1999, and 2000 briefings, Empire will provide Staff, OPC and intervenors with the information regarding the status of the following activities:**

- Update to its historical data base on driver variables, seasonal energy and peak demands for its major classes;
- Forecasts of units and use per unit by season for the Residential and Commercial classes;
- Forecasts of annual energy by end-use for the Residential and Commercial classes;
- Forecasts of seasonal energy for all other classes;
- Forecasts of driver variables for all classes at the appropriate level of aggregation; and
- Report on the load forecast that documents any changes made in load forecasting methods, compares both load forecasts and driver variable forecasts to historical trends and compares load forecasts and driver variable forecasts to those from the previous year.

Updated forecasts and historical data bases will be provided as developed by Empire for planning purposes but not less than every three (3) years, first beginning March 1998.

Supply-Side Resource Requirements:

Empire's 1997-2001 forecast shows a need for 58 MW in contract year 2001. Empire does not believe that it needs to commit to the purchase of this resource at this time, but instead believes that it should continue to re-evaluate its needs as the possible effects of retail competition are more fully realized.

With respect to 4 CSR 240-22.040 and in lieu of its 1998 filing to meet the requirements in 4 CSR 240-22.040, Empire will meet the following supply-side filing requirements:

- (3) In its September 1998 briefing, Empire will provide Staff, OPC and intervenors with a summary report of a reoptimized supply side only plan. The report will include a presentation on the derivation of avoided costs that will be used in screening DSM measures.