Exhibit No. 136

Evergy Missouri West – Exhibit 136
Report and Order
from EO-91-360 (12/20/91)
File Nos. ER-2022-0129 & ER-2022-0130

1991 WL 501955 (Mo.P.S.C.), 129 P.U.R.4th 381

Re Missouri Public Service

Case No. EO-91-358

Re Missouri Public Service

Case No. EO-91-360

Missouri Public Service Commission

December 20, 1991

APPEARANCES: James C. Swearengen, Brydon, Swearengen & England, P.C., 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102, for Missouri Public Service, a division of UtiliCorp United Inc. Lewis R. Mills, Jr., First Assistant Public Counsel, and Assistant Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of Public Counsel and the public. Steven Dottheim, Deputy General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

Before Steinmeier, chairman, Mueller, Rauch, McClure, and Perkins, commissioners.

By the COMMISSION:

REPORT AND ORDER

On May 10, 1991, Missouri Public Service (MPS), a division of UtiliCorp United Inc., filed an application, docketed as case EO-91-358, requesting an Accounting Authority Order (AAO) to defer depreciation expenses and carrying costs associated with the life extension construction and coal conversion project at the Sibley Generating Station. Also on May 10, 1991, MPS filed an application, docketed as case EO-91-360, requesting the Commission defer certain costs associated with two capacity purchase contracts. MPS requested that each case be processed on an expedited basis.

The Commission by order issued June 7, 1991, denied the motion for expedited treatment and set a prehearing conference in both cases. As a result of the prehearing conference MPS and Commission Staff filed proposed procedural schedules. Staff, in addition, moved the Commission to dismiss the two cases.

By order issued June 21, 1991, the Commission consolidated cases EO-91-358 and EO-91-360, denied Staff's motion to dismiss and established a procedural schedule. In addition, the Commission established a protective Order for confidential information.

A hearing was held in these cases on September 16, 1991. Briefs were filed pursuant to a briefing schedule and the cases are now before the Commission for decision.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Missouri Public Service (MPS) is a division of UtiliCorp United Inc., which is a Delaware corporation duly authorized to conduct business in Missouri. MPS is engaged in the generation, purchase, transmission, distribution and sale of electric energy in portions of western and north-central Missouri. MPS also provides natural gas in portions of its Missouri service area.

As part of its ongoing operations, MPS has been rebuilding its Sibley Generating Station and converting Sibley for the use of low sulfur western coal. In addition, MPS has entered into purchase power capacity contracts with Union Electric Company (UE) and Associated Electric Cooperative, Inc. (AECI) to meet its system energy and peak requirements through the year 2000.

By the applications filed in these consolidated cases MPS has requested the Commission allow the deferral of certain costs associated with the Sibley rebuild and western coal conversion projects and the purchase power capacity contracts so that MPS can have the opportunity to recover those costs in rates in its next rate case. MPS considers these costs extraordinary and unique and therefore not recoverable through normal operations. Although MPS earlier indicated it would need to file a rate case in August 1991 if the deferrals were not approved, that position has been modified. It is now MPS's proposal that it will file its next rate case in August 1992 with rates anticipated going into effect in July 1993. This filing will be made regardless of the Commission decision concerning the deferrals. MPS also proposes to end the deferrals, if approved, in July 1993. MPS would expect to have the opportunity to recover all deferrals in a subsequent rate case even if a rate case filing is not made in August 1992.

The Commission is thus faced with requests to allow the deferral of certain costs to a later period. The applications being considered here have raised the larger issue of whether and when the Commission should allow deferrals; if allowed, what standards would be applied; and then, do the deferrals requested meet those standards? The Commission will address the general questions first.

Accounting Authority Orders

The request to defer costs from one period to another has been characterized as a request for an Accounting Authority Order (AAO). This characterization occurs because what is proposed is the booking of certain costs in Account 186 under the Uniform System of Accounts (USOA) rather than in a traditional account for the type of costs incurred. The Booking of the costs in Account 186 creates an asset rather than a liability and so improves the financial picture of the company for the period when the costs were booked.

The Commission by authority pursuant to Section 393.140(4) promulgated rule 4 CSR 240-20.030, which prescribes the use of the USOA adopted by the Federal Power Commission, now the Federal Energy Regulatory Commission (FERC), for use by electric utilities subject to its jurisdiction. As stated in the Commission rule, the USOA contains definitions, general instructions, electric plant instructions, operating expense instructions and accounts that comprise the balance sheet, electric plant, income, operating revenues, and operation and maintenance expenses. Costs incurred by the utility during a period are offset against revenues from that same period in determining a company's profitability.

The USOA provides for the treatment of extraordinary items in Account 186. The account was created to include "all debits not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, which are in process of amortization and items the proper final disposition of which is uncertain." The USOA describes extraordinary items thus:

7. *Extraordinary Items.*

It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments as described in paragraph 7.1 and long-term debt as described in paragraph 17 below. Those items related to the effects of events and transactions which have occurred during the current period and which are not typical or customary business activities of the company shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of business. (In determining significance, items of a similar nature should be considered in the aggregate. Dissimilar items should be considered individually; however, if they are few in number, they

may be considered in aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary. (See accounts 434 and 435.)

It appears from the description of Account 186 that the USOA allows for the deferring of costs associated with extraordinary events in Account 186 without Commission approval unless they are less than five percent of the income computed before extraordinary items. Under the USOA a company could defer what it considers are extraordinary expenses until its next case, where the issue of recovery would be addressed. If an item thought to be extraordinary did not meet the five percent requirement or a company felt there remained too much uncertainty of deferring these costs without Commission approval, a utility could file an application, as was done in these cases, for a Commission decision on whether the deferral should be made.

By seeking a Commission decision the utility would be removing the issue of whether the item is extraordinary from the next rate case. All other issues would still remain, including, but not limited to, the prudency of any expenditures, the amount of recovery, if any, whether carrying costs should be recovered, and if there are any offsets to recovery.

If a utility seeks a Commission decision for deferral, the Commission is not required to set the matter for hearing. Section 393.140(4) authorizes the Commission to prescribe a uniform method of keeping accounts. No hearing is required to establish the method but any changes in the method must be with six months notice to the affected utilities. The Commission also is of the opinion that no hearing is necessary to make a determination concerning the application of the USOA, such as whether an item is extraordinary and thus whether to allow deferral in Account 186. The USOA would allow the company to book the costs without Commission approval unless the costs do not meet the five percent requirement. Since the company could book these costs without Commission approval and the only decision being requested is whether the event is extraordinary, the filing of a formal request does not affect the legal rights, duties or privileges of any other person and hearing is not required by law or rule. Interested parties may request a hearing and, depending upon the costs in question, the Commission may order a hearing be held. The determination of whether the event is extraordinary and the costs deferred in Account 186 is an issue concerning the application of subsection (4). Public Counsel contends that subsection (8) of Section 393.140 controls the deferrals. The Commission disagrees. Subsection (8) applies when the Commission prescribes the booking of specific costs or revenues and requires a hearing. Here the Commission is determining when certain costs are extraordinary so they can be deferred in Account 186. This determination is being made pursuant to 4 CSR 240-20.030 which adopted the USOA as authorized by Section 393.140(4). MPS's request that the Commission allow the deferral does not transform the matter from a question of application under subsection (4) to a question of prescription under subsection (8).

The Commission granted a hearing in these consolidated cases in order to review the use of AAOs and what procedures are required before the Commission could grant an AAO. The Commission is of the opinion that all due process requirements have been met by the procedures followed in these cases and the cases are properly before the Commission.

Standards For Deferral

The Commission in past instances has granted AAOs on a case by case basis after reviewing a company's request and Staff's and/or Public Counsel's recommendations. In this case Staff and Public Counsel are seeking greater scrutiny of AAO requests, with Staff proposing six criteria for judging those requests. Public Counsel proposed that criteria similar to those for interim rate relief be adopted. MPS supports the Commission's past procedure of case by case determination, although it agrees generally with some of the criteria proposed by Staff.

The deferral of cost from one period to another period for the development of a revenue requirement violates the traditional method of setting rates. Rates are usually established based upon a historical test year which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment ; and (4) allowable operating expenses. *State ex. rel. Union Electric Company v. PSC, (UE)*, 765 S.W.2d 618, 622 (Mo.App.1988).

Allowable operating expenses are those which recur in the normal operation of a company, and company's rates are set for the future based upon its past experience for test year with adjustments for annualizations, normalizations and known and measurable changes. Under historical test year ratemaking, costs are rarely considered from earlier than the test year to determine what is a reasonable revenue requirement for the future. Deferral of costs from one period to a subsequent rate case causes this consideration and should be allowed only on a limited basis.

This limited basis is when events occur during a period which are extraordinary, unusual and unique, and not recurring. These types of events generate costs which require special consideration. These types of costs have traditionally been associated with extraordinary losses due to storm damage or outages, conversion or cancellations. *UE* at 618. The commission in the past has also allowed accrual of Allowance for Funds Used During Construction (AFDUC) and nuclear fuel leases. These were allowed because of the size of the investments to be deferred. The USOA recognize that only extraordinary items should be deferred. The definition cited earlier states the intent of the USOA that net income shall reflect all items of profit and loss during the period and exceptions are only for those items which are of significant effect, not expected to recur frequently, and which are not considered in the evaluation of ordinary business operations.

More recently the Commission has allowed deferral of costs associated with expenditures by gas utilities to meet Commission safety requirement, a coal contract buy-out, pension costs, and an automated mapping system. In addition, the Commission, in Case No. EO-90-114, allowed deferral of certain costs associated with the Sibley rebuild and coal conversion projects for which deferral is sought of additional costs in case No. EO-91-358.

The decision to defer costs associated with an event turns on whether the event is in fact extraordinary and nonrecurring. The commission finds that these are decisions that are best performed on a case basis. Factors such as those proposed by Staff as criteria can influence that decision but the primary focus is on the uniqueness of the event, either through its occurrence or its size. Staff's criteria would have the Commission address issues in a deferral case which are not particularly relevant to the issue of deferral or which should be considered in a rate case.

Staff's first criterion, which requires the event to be extraordinary, is, as stated above, the most significant inquiry in a deferral case. As MPS points out, the crux of the criterion is, what is an extraordinary event? This, of course, will be the primary focus of the Commission in any case involving a request for an AAO. The issues of whether the event has a material or substantial effect on a utility's earnings is also important, but not a primary concern. The company, under the USOA, is required to seek Commission approval if the costs to be deferred are less than five percent of the company's income computed before the extraordinary event. This five percent standard is thus relevant to materiality and whether the event is extraordinary but is not case-dispositive.

The Commission agrees with Staff that whether the event has occurred or is certain to occur in the near future is a relevant factor. Utilities should not seek deferral of speculative events since it is hard to determine whether an event is extraordinary or material unless there is a high probability of its occurring within the near future.

The Commission finds that a time limitation on deferrals is reasonable since deferrals cannot be allowed to continue indefinitely. The Commission finds that a rate case must be filed within a reasonable time after the deferral period for recovery of the deferral to be considered. For purposes of this case the Commission finds that twelve months is a reasonable period. This limitation accomplishes two goals. First, it prevents the continued accumulation of deferred costs so that total disallowance would not affect the financial integrity of the company or the Commission's ability to make the disallowance; and secondly, it ensures the Commission a review of those costs within a reasonable time. If the costs are truly extraordinary, recovery in rates should not be delayed indefinitely. A utility should not be allowed to save deferrals to offset against excess earnings in some future period.

Staff's emphasis on whether the utility was earning above its authorized rate of return at the time of the deferral, whether the expenditures are reasonable and prudently incurred, and whether to include carrying costs in the recovery, are rate case issues

and best left for rate review. Record-keeping procedures and the booking of any offsets associated with the extraordinary event may be requested; whether to allow those offsets is a decision for the rate case. Another reasonable inquiry in the rate case is whether a company's shareholders were compensated to some extent for the extraordinary event of return authorized by the Commission.

MPS presented four considerations it believes are the benefits of allowing deferral of the costs requested. These are rate stability, avoidance of rate case expense, lessening the effect of regularity lag, and maintaining the financial integrity of the utility. Although each of these considerations is a reasonable goal, none of them is particularly relevant in determining whether an event is extraordinary. Extraordinary means unusual and nonrecurring. The considerations espoused by MPS do not contribute to a determination of whether an event is unusual or nonrecurring.

Rate stability is a benefit to consumers but deferring costs which could result in additional rate increases in the future to accomplish stability in the short term only will cause grater instability in the longer term. Rates that reflect the current cost of doing business are reasonable and provide more stability than sharp increases caused by improper deferrals of costs to a later period. Requiring a company to operate within the revenue requirement authorized encourages efficiency and prudent decisions.

Avoidance of rate case expense is a beneficial goal since it reduces the cost of doing business, but delaying rate cases just to avoid rate case expense should not be used as an excuse to defer costs which are attributable to normal operations of a company. The benefit gained will not necessarily outweigh the increased rates caused by the deferral.

Lessening the effect of regulatory lag by deferring costs is beneficial to a company but not particularly beneficial to ratepayers. Companies do not propose to defer profits to subsequent rate cases to lessen the effects of regulatory lag, but insist it is a benefit to defer costs. Regulatory lag is a part of the regulatory process and can be a benefit as well as a detriment. Lessening regulatory lag by deferring costs is not a reasonable goal unless the costs are associated with an extraordinary event.

Maintaining the financial integrity of a utility is also a reasonable goal. The deferral of costs to maintain current financial integrity, though, is of questionable benefit. If a utility's financial integrity is threatened by high costs so that its ability to provide service is threatened, then it should seek interim rate relief. If maintaining financial integrity means sustaining a specific return on equity, this is not the purpose of regulation. It is not reasonable to defer costs to insulate shareholders from any risks. If costs are such that a utility considers its return on equity unreasonably low, the proper approach is to file a rate case so that a new revenue requirement can be developed which allows the company the opportunity to earn its authorized rate of return. Deferral of costs just to support the current financial picture distorts the balancing process used by the Commission to establish just and reasonable rates. Rates are set to recover ongoing operating expenses plus a reasonable return on investment. Only when an extraordinary event occurs should this balance be adjusted and costs deferred for consideration in a later period.

Public Counsel would have the Commission impose a strict standard for determination of what is an extraordinary event. Public Counsel recommends that the Commission only allow deferral of costs associated with acts of God or when the integrity of the service to customers is threatened. The Commission agrees that when these circumstances occur they very possibly would be extraordinary events. However, to limit extraordinary events to these situations is too restrictive. There may be instances which occur that are neither acts of God nor threaten the provision of service but that are nonetheless unusual, unique and nonrecurring, where deferral would be justified and reasonable.

Sibley Life Extension and Coal Conversion Projects

MPS decided, in response to its need for generating capacity to meet its customers' needs, to rebuild the Sibley Generating Station rather than build a new peaking capacity unit. MPS expects the rebuild project to be completed in April 1992 and, once completed, the useful life of Sibley will be extended by twenty years.

MPS has incurred the following amounts in connection with the life extension project:

Prior to	1987		$ 2,260,797
	1987		5,693,388
	1988		10,890,221
	1989		18,699.026
	1990		19,297,455
	1991	through May	96,090
TOTAL			$56,936,977

MPS has been allowed to recover $54.7 million in rates in case No. ER-90-101, which includes amounts allowed to be deferred in case No. EO-90-114. This represents 78 percent of the total projected expenditures for the Sibley life extension project.

MPS expects to incur an additional $8,991,503 from June through December 1991 and $4,329,024 from January through March 1992. These budgeted expenditures total $13,320,577.

In Case No. EO-91-358 MPS requests the Commission to allow deferral of depreciation expense and carrying costs associated with the approximately $14 million in costs related to with the Sibley rebuild for 1992. These costs are associated with replacing boiler units 1 and 2. MPS estimates the carrying costs and depreciation for these amounts to be $2,046,147 in 1992 and $2,006,000 in 1993. MPS proposes to compute the actual costs deferred in the same manner as approved by the commission in ER-90-101.

In response to the Clean Air Act, MPS decided to modify the Sibley Generating Station so that it could burn low sulfur western coal. Actual expenditures for the coal conversion project have been:

1989		$ 51,080
1990		1,359,871
1991	through May	253,251
TOTAL		$1,664,202

MPS projects the additional costs to be incurred are:

1991, June-December	$ 4,055,946
1992	13,903,358
1993	21,334,405

MPS has projected the coal conversion project will be completed by April 1993. The actual conversion to the low sulfur coal is not expected to occur until after the 1993 summer season. $925,787 of the cost of the coal conversion project was included in rates in Case No. ER-90-101.

In Case No. EO-90-114 the Commission authorized MPS to defer certain costs associated with both projects. Those costs were deferred from January 1, 1989 through the effective date of the rates established in case No. ER-90-101 which was October 17, 1990. Case No. EO-90-114 was consolidated with case No. ER-90-101 and the Commission reserved ratemaking treatment of the deferred costs until the issue was addressed in ER-90-101.

On October 5, 1990, the Commission issued its Report And Order in Case No. ER-90-101 (118 PUR4th 215) in which it addressed the deferred costs. RE: *MPS* (Report And Order issued 10/5/90), mimeo at 23-31. The Commission in its Report And Order allowed recovery of most of the costs deferred in Case No. EO-90-114. The Commission allowed the deferral based upon the significant effect the projects had on MPS's financial status since those costs were over 23 percent of MPS's electric net income. The Commission also found the projects to be prudent.

MPS is now seeking to defer a significant portion of the additional costs associated with the life extension project. This portion is approximately twenty percent of the total project. The Commission finds that it would be unreasonable to deny deferral of the remainder of the costs associated with this project. The Commission has already found the project to be an extraordinary event by allowing deferral of costs associated with the project in Case No. EO-90-114. The fact that there is not now a concurrent rate case does not change that decision. Deferral of costs, as discussed earlier, is only made for unusual or extraordinary events. The Commission has already determined this project to be an extraordinary event.

The Commission will allow deferral on the same basis as the costs were allowed to be deferred in Case No.EO-90-114. The issue of the actual amount of the deferred costs to be recovered as well as other ratemaking issues will be left to MPS's anticipated August 1992 rate case. The deferral will begin January 1, 1992. The Commission in this order is only finding the costs are extraordinary and may be deferred. For the deferred costs to be considered for recovery, MPS must have filed a rate case by December 31, 1992. If there is no rate case pending at that time the Commission will assume MPS is earning a reasonable return on its investment and will not allow recovery in any rate case filed after December 31, 1992.

The Commission also found the coal conversion project to be an extraordinary event in Case No. EO-90-114. Even though only a small percentage of the projected costs were deferred into Case No. ER-90-101 and recovered in rates, the determination was made. Both projects were treated together and both were found to be extraordinary. The Commission is of the opinion it should not now reverse its prior decision and finds that the evidence presented in this case to reverse that decision is not persuasive. As with the costs associated with the rebuild project, deferral will be allowed on the same basis as the costs were deferred in Case No. EO-90-114. The issue of the actual amount to be deferred as well as other ratemaking issues will be left for the anticipated rate case. Also as with the costs allowed to be deferred for the rebuild project, the costs will not be considered for recovery unless a rate case is pending on December 31, 1992. If no rate case is pending the Commission will not allow recovery in any subsequent rate case.

Purchase Power Capacity Contracts

MPS has entered into contracts with UE and AECI to purchase incremental amounts of purchased power capacity starting in June 1989 and to continue through the year 2000. The capacity contracted for is called "system participation" since the contracts contain a demand charge to ensure the associated energy is available when requested by MPS. The contracts are structured so that the price will increase at set times throughout the life of the contracts. By the application in Case No. EO-91-360, MPS is seeking to defer and record those expenses relating to the increased price per kilowatt (kw) of capacity above that included in rates in Case No. ER-90-101. The increased price would be applied to the quantity of capacity purchases allowed in Case No. ER-90-101, and MPS proposes to begin the deferral June 1, 1992 and to continue the deferral through the effective date of the rate case proposed to be filed in August 1992. The deferral would be of the expenses and related carrying costs and would be booked in Account 186. MPS believes these costs are significant, unusual and extraordinary and should be deferred for recovery in MPS's next rate case.

Staff and Public Counsel oppose the deferral of the costs associated with the increase in demand charges. They contend that these purchase power contracts are not extraordinary or unique but are a part of the normal operations of a reasonable and prudent utility. The Commission agrees.

Purchasing power or capacity to meet a company's demand for service is a fundamental undertaking of a regulated utility. A utility must plan for future demand and make a decision of how best to meet that demand. Purchase power capacity contracts which ensure a source of supply of energy for a period are a proper function of management. The fact that these contracts contain rate increases or additional charges as they mature does not render them extraordinary or unique. Costs of other services go up, while others may go down. If the Commission allowed deferral of these costs, then any item of expense with rising costs could arguably be deferred. As the Commission has discussed earlier, only costs associated with extraordinary, nonrecurring events should be deferred since they are not part of the normal operating expenses of a company. Power purchases of this nature are not extraordinary events.

The costs associated with the purchase power capacity contracts are recurring expenses. The Commission has established rates based upon both capacity costs and kw's purchased during the test year. The fact that these costs increase based upon the contract does not make them extraordinary. The fact that the contracts were entered into instead of building new peaking capacity does not make them extraordinary. The management at MPS is expected to make prudent and reasonable decisions to meet MPS's need for energy. This is part of the normal operations of a utility and costs associated with these decisions are normal operating expenses which are recoverable through existing rates. Although this reasoning may be said to apply to the Sibley projects, there are significant differences. The Sibley rebuild project is unique since it is a staged construction as opposed to having a single in-service date, and the coal conversion project is being performed to comply with recent federal clean air requirements.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over these matters pursuant to the provisions of Section 393.140(4), R.S.Mo. 1986. This section authorizes the Commission to prescribe a uniform method of keeping accounts for electric utilities subject to Commission jurisdiction. Pursuant to that authority, the Commission adopted the FERC's USOA in 4 CSR 240-20.030. The Commission in these consolidated cases, after hearing, has considered the evidence concerning the requested deferral of certain costs associated with the Sibley life extension project and coal conversion project, and costs associated with two purchase power contracts, to determine whether these costs should be deferred to a subsequent period for recovery in rates. Since these matters involved deferral of costs and not rate recovery, the Commission did not order notice be sent to all customers.

Based upon the evidence adduced and prior Commission decisions concerning both the Sibley projects, the Commission found that they were extraordinary events and that depreciation expenses and carrying costs could be deferred to MPS's next rate case, to be filed in August 1992. The Commission also found that the decision in this matter only allowed deferral, and that recovery of the costs and ratemaking treatment afforded the costs would be reserved for the August 1992 rate case.

The Commission considers this decision to fall within its broad discretion to determine what costs are recoverable in rates. *UE* at 622; *State ex rel. Hotel Continental v. Burton*, 334 S.W.2d 75, 80 (Mo.1960). In the Union Electric Callaway II cancellation case the Court upheld the Commission's denial of recovery of cancellation costs and reaffirmed the broad discretion of the Commission. In that case the Commission determined that the cancellation costs were not ordinary expenses but were similar to extraordinary losses. For extraordinary losses the Court upheld the Commission's decision to place the initial risk of cancellation on the shareholders since to do otherwise would be to make the investment practically risk-free. *UE* at 622. The Commission found that investors had been compensated for their investment through the use of the Discounted Cash Flow (DCF) method for calculating a return on equity for UE and therefore rate recovery was not reasonable. The Court affirmed the Commission's decision and reasoning concerning the treatment of items not attributable to normal operations of the company.

The analysis in the Callaway II decision can be extended to these cases as far as the Commission's discretion. Here, the Commission is only determining what should be considered in a later period and not the issue of recovery. Section 393.140(4) authorizes the Commission to make this determination, as does the USOA adopted by the Commission. The Commission also believes that the analysis of the Court in the Callaway II case supports the Commission's authority. In that case the Court affirmed the Commission's decision and reasoning in its treatment of the cancellation costs associated with Callaway II. The Commission treated the cancellation costs as an extraordinary item and then held that UE had already recovered the costs through its rate of return authorized in previous decisions. *UE* at 623-624.

The Commission does not consider the granting of the deferrals of extraordinary items either single-issue or retroactive ratemaking as argued by Public Counsel. Retroactive ratemaking occurs when rates are set to recover for past deficiencies or to refund past excesses. As stated by the Missouri Supreme Court:

The utilities take the risk that rates filed by them will be inadequate, or excessive, each time they seek rate approval. To permit them to collect additional amounts simply because they had additional past expenses not covered by either clause is retroactive rate making, i.e., the setting of rates which permit a utility to recover past losses or which require it to refund past excess profits collected under a rate that did not perfectly match expenses plus rate-of-return with the rate established, *Board of Public Utility Commission v. New York Telephone Co.*, 271 U.S. at 31, PUR1926C 740, 46 S.Ct. 363; *Lightfoot v. Springfield*, 89 PUR NS 436, 236 S.W.2d at 353. Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses, but under prospective language of the statutes, Sections 393.270(3) and 393.140(5) they cannot be used to set future rates to recover for past losses due to imperfect matching of rates with expenses. (Citations omitted).

State ex rel. Utility Consumers Council of Missouri v. P.S.C., 33 PUR4th 273, 585 S.W.2d 41, 59 (Mo. banc 1979).

The deferrals approved in Case No. EO-91-358 do not constitute retroactive ratemaking since they involve items which have been found to be extraordinary and therefore outside the current period match of revenues and expenses. Costs associated with extraordinary events such as losses, cancellations or service-threatening timing differences have been authorized by the Commission. The Commission's discretion on what items to include in ordinary operating expense and what are extraordinary items is broad. *UE* at 222.

The Commission uses many accounting conventions to set just and reasonable rates. These include annualizations, normalizations of the adjustments for known and measurable items, and true-ups. Amortization of the costs associated with extraordinary items is also an approved procedure for setting just and reasonable rates. As discussed previously in this Report And Order, the issue in this case is whether an event is extraordinary and once that decision is made, deferral is allowed under the USOA.

The deferrals are also not single-issue ratemaking since only deferral is being allowed and if recovery is approved, rates are not based just on the deferred costs. The deferred costs will be considered with all relevant factors during the test year in which rates are set. By deferring the costs the Commission is allowing MPS to argue in the next rate case that those costs should be included since they are not ordinary and recurring expenses and therefore they fall outside the normal ratemaking formula. Bringing the costs forward for review in a rate case allows the Commission the opportunity to determine whether they should be included in MPS's revenue requirement calculation.

IT IS THEREFORE ORDERED:

1. That Missouri Public Service, a division of UtiliCorp United Inc., be hereby authorized to defer and record in Account 186 depreciation expense and carrying costs associated with the life extension and coal conversion projects at the Sibley Generating Station beginning January 1, 1992. If no rate case is filed on or before December 31, 1992, no recovery of these costs shall be allowed in any subsequent rate case.

2. That Missouri Public Service, a division of UtiliCorp United Inc., shall maintain its books and records in the same manner as directed in the order in Case No. EO-90-114 for the deferrals approved in ordered paragraph 1.

3. That Missouri Public Service, a division of UtiliCorp United Inc., is directed hereby to maintain detailed supporting work papers relating to the monthly accruals of each item booked in Account No. 186 and any capital costs booked to capital accounts in regard to the deferrals approved in ordered paragraph 1 including, but not limited to, a daily accounting of test power and interchange transactions associated with these projects.

4. That the request of Missouri Public Service, a division of UtiliCorp United Inc., to defer certain costs associated with two (2) purchase power contracts be hereby denied.

5. That nothing in this order shall be considered as a finding by the Commission of the in-service criteria regarding the costs to be deferred by ordered paragraph 1, the reasonableness of the expenditures, or the recovery of the expenditures.

6. That this Report And Order shall become effective on the 31st day of December, 1991.

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