STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service Commission held at its office in Jefferson City on the 14th day of January, 1998.

In the Matter of the Application and Request for Expedited Treatment of Union Electric Company for Approval of Decommissioning Cost Estimate and Funding Level of Nuclear Decommissioning Trust Fund, and Contingent Request for Waiver of Quarterly Funding Requirement.	)	**CASE NO. EO-97-86**

ORDER APPROVING COST ESTIMATES AND FUNDING LEVELS FOR NUCLEAR DECOMMISSIONING COSTS

On September 3, 1996, Union Electric Company (UE) filed an application with the Missouri Public Service Commission (Commission) for approval of its nuclear decommissioning costs estimate, and the funding level of its nuclear decommissioning trust fund. UE included as Attachment 1 a document entitled "Callaway Plant Decommissioning Cost Estimate Update for September 1, 1996," and as Attachment 2 a document entitled "UE Nuclear Decommissioning Zone of Reasonableness, Missouri Jurisdiction." UE's application stated that the current contribution of $6,214,184 is adequate to meet the cost of decommissioning, based on a number of reasonable assumptions, including a projected inflation rate of 4 3/4 percent to just over 6 1/4 percent. UE's cost estimate to decommission the Callaway plant is $419,975,000 in 1996 dollars.

In addition, UE sought expedited treatment of its application, and requested a Commission decision by December 1, 1996, or in the alternative, a contingent waiver of 4 CSR 240-20.070(4)(D). UE explained that in order to obtain tax-deductible treatment for its contribution to the

decommissioning trust fund, UE must request and obtain a schedule of ruling amounts from the Internal Revenue Service (IRS), a process which takes several months. UE indicated that it needed to obtain IRS approval by April 24, 1997, in order to make its first quarter contribution for 1997, which was scheduled for April 25. However, UE stressed that even if the Commission was able to issue an order by December 1, 1996, there was no guarantee that the IRS would be able to issue the requested ruling before the end of April. Consequently, UE requested that in the event the Commission was not able to issue an order by December 1, 1996, or in the event that the IRS was not able to grant its approval by April 24, 1997, the Commission grant a waiver of the requirement to make contributions to UE's decommissioning trust fund on a quarterly basis under 4 CSR 240-20.070(4)(D). UE maintained that good cause existed for its waiver request, and that no harm would result from a grant of the waiver, since UE would be able to make "catch up" contributions for 1997 at any time until March 15, 1998.

The Commission issued an Order and Notice on September 19, 1996, and set an intervention deadline of October 18, 1996. No applications for interventions were filed. The Commission issued an order on October 31, 1996, which set an early prehearing conference for November 18. In lieu of a proposed procedural schedule, Staff filed a letter on November 22, indicating that the parties did not believe a procedural schedule would be necessary, and proposed to report the status of the case on December 2. On December 2, Staff filed a letter indicating that the parties anticipated filing a stipulation and agreement by December 20. A stipulation was not filed by that date, but several other letters concerning the status of the case were subsequently filed.

A Unanimous Stipulation And Agreement (Stipulation) was filed on

April 22, 1997. On September 24, 1997, the Commission issued its Order Directing the Filing of Suggestions in Support of Stipulation and Agreement, directing Staff to either file its suggestions no later than October 24, or file an explanation of why it was unable to comply with this directive. Staff filed a response on October 24, indicating that testimony in support of the Stipulation would be filed by October 31. Subsequently, several extensions of time were requested, and the testimony of witness David Broadwater in support of the Stipulation was ultimately filed on November 14, 1997.

DISCUSSION

The Stipulation purports to be a settlement of all issues pertaining to this case, and is attached hereto and incorporated by reference as Attachment 1. The major provisions of the stipulation may be summarized as follows:

- In the immediately preceding decommissioning cost proceeding, Case No. EO-94-81, the cost to decommission the Callaway Plant was deemed to be $371,511,680 in 1993 dollars.
- The annual decommissioning expense accrual and trust fund payment in Case No. EO-94-81 was maintained at $6,214,184, the level first set in Case No. EO-91-300. No changes to the funding level were sought because UE concluded, based upon an analysis of the funding level, that it would be sufficient to cover the cost of decommissioning under a reasonable set of economic, financial, and investment assumptions.
- UE considers the funding level of $6,214,184 to be sufficient to cover the current decommissioning cost estimate of $419,975,000, based upon certain assumptions used in its

analysis. Solely for purposes of the Stipulation, Staff and Public Counsel do not object to the economic, financial and investment assumptions utilized by UE, including UE's assumptions as to inflation and trust fund earnings.

- Decommissioning costs in the amount of $6,214,184 are, and should continue to be, included in UE's cost of service and reflected in its current rates for ratemaking purposes.
- UE shall continue its Missouri retail jurisdiction expense accruals and trust fund payment at current levels without a change in its Missouri retail jurisdictional rates.
- In the event the Commission approves the stipulation in this case, no further action regarding UE's application will be required by the Stipulation And Agreement approved by the Commission in Case No. ER-95-411.
- UE should be granted a waiver from 4 CSR 240-20.070(4)(D) pursuant to 4 CSR 240-20.070(17), and such waiver should relate back to any quarterly payments that would otherwise have been required for 1997, and should remain in effect until UE receives a ruling from the IRS authorizing it to make contributions for 1997 and subsequent years. Upon receipt of the IRS ruling, UE will immediately make a catch-up contribution consisting of amounts which UE would otherwise have contributed as required by the Commission's quarterly funding requirements.
- UE or its trustee shall comply with the quarterly and annual filing requirements of 4 CSR 240-20.070(5) and 4 CSR 240-20.070(6).

In connection with the above agreements, the signatories to the

Stipulation request that the Commission: (a) approve the Unanimous Stipulation And Agreement; (b) recognize that UE's current decommissioning costs are included in its current cost of service and reflected in its current rates for ratemaking purposes; (c) grant UE a limited waiver, pursuant to 4 CSR 240-20.070(17), of 4 CSR 240-20.070(4)(D), from the Commission's requirement that contributions to the decommissioning trust fund be made on a quarterly basis, in order to address the situation that UE will not receive an IRS ruling amount for 1997 by April 25, 1997, with the waiver to relate back to any quarterly payments otherwise required for 1997; and (d) direct that UE or its trustee comply with the quarterly and annual filing requirements of 4 CSR 240-20.070(5) and 4 CSR 240-20.070(6).

In support of the Stipulation And Agreement, Staff filed the testimony of David Broadwater. Staff first explains what decommissioning is, and provides an historical background on UE's prior decommissioning cases, including Case No. EO-94-81. Staff explains that UE's analysis of the current cost to decommission the Callaway Plant is an update of the study performed by the company in 1993, which the Staff agreed to in Case No. EO-94-81. Staff maintains that it is reasonable to accept UE's analysis in the present case without having an outside consultant perform a study. Nevertheless, Staff submits that for the purposes of UE's 1999 filing, Staff should retain an outside consultant to perform or assist in an analysis of the cost to decommission the Callaway Plant and perform a reconciliation between the Callaway Plant and the Wolf Creek Nuclear Generating Station (Wolf Creek) concerning decommissioning quantities, dimensions, weights and levels of radioactivity. Staff also explains the three alternative decommissioning options explored by UE--DECON, SAFSTOR and ENTOMB--and notes that all three alternatives are acceptable to the United States Nuclear Regulatory Commission (NRC). The cost to

decommission the Callaway Plant under the DECON alternative[1] is $419,975,000 in 1996 dollars.

In addition, Staff reviewed the status of UE's decommissioning trust fund. Staff explains that while the cost to decommission the Callaway Plant is estimated at approximately $420 million in 1996 dollars, Missouri retail customers of UE will be responsible for 87.6 percent of the costs, or approximately $368 million. As of June 30, 1997, UE's decommissioning trust fund for its Missouri jurisdictional portion of the Callaway Plant had a market value of approximately $112.6 million, and has achieved an internal rate of return of 14.01 percent.[2] Staff performed an analysis of UE's decommissioning trust fund based upon certain reasonable assumptions, and notes that while the fund is currently outperforming Staff's assumptions, Staff does not believe that current conditions will exist for the remaining life of the fund. Because of concerns with the reliability of decommissioning cost estimates for any nuclear power plant, as a result of the general lack of historical information respecting the cost of decommissioning nuclear generating units, Staff maintains that it is appropriate to keep the funding level of UE's decommissioning trust fund at its current annual level of $6,214,184, with payments made on a quarterly basis.

Moreover, Staff addresses UE's waiver request. Staff explains that UE's most recent revised schedule of ruling amounts from the IRS is a

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[1] The DECON alternative assumes decontaminating and decommissioning immediately following the conclusion of power operations in 2024, when the 40-year operating license expires. Work is anticipated to be completed by 2032. DECON consists of removal of fuel assemblies, source material, radioactive fission and corrosion products, and other radioactive materials immediately after cessation of power operations.

[2] The internal rate of return is the annualized interest rate that equates the ending market value with the historical stream of quarterly fund payments.

letter dated December 12, 1992, which contains ruling amounts for the Missouri retail jurisdiction for 1992 through 1996. The IRS issued this ruling for only these five years because it was concerned that the 1992 changes to the federal tax law, which removed "Black Lung"[3] restrictions from decommissioning trust funds and reduced the tax rate applicable to income earned by these funds, might lead to an overfunding because the Commission's order issued on August 21, 1992, did not account for an after-tax rate of return on fund assets that reflected the legislative changes which were signed into law in October 1992. Apparently UE did not subsequently submit to the IRS the Commission's order issued on June 14, 1994 in Case No. EO-94-81. UE therefore has not made quarterly decommissioning trust fund payments during 1997, other than a January 1997 payment for the third quarter of 1996. If UE does not receive a ruling from the IRS before March 15, 1998, it will be permitted to make a contribution for 1997 as of that date, in an amount equal to the proposed 1997 ruling amount in UE's request letter that would then be pending before the IRS. Staff concludes that if UE does not receive a ruling from the IRS before March 15, 1998, it will still make its 1997 catch-up contribution at that time.

The decommissioning cost estimate update provided by UE states that the cost estimate is based upon current requirements and present-day technology. The update uses the same assumptions regarding decommissioning

[3] "Black Lung" investments are public debt securities of the United States; obligations of a state or local government that are not in default as to principal or interest; and time or demand deposits in banks or insured credit unions located in the United States. Taxable bonds and equity securities are not included among "Black Lung" investments. After federal law lifted the prohibition against investments in equity securities, UE's decommissioning trust fund was able to invest in these securities and take advantage of the higher likely yield, subject to the restriction in 4 CSR 240-20.070(4)(E)3 that the total book value of these investments not exceed 65 percent of the trust fund's book value.

requirements, techniques, and cost estimate methodology, with the exception of certain work efficiency assumptions, as were made in the earlier 1993 study, but takes into account physical changes made to the plant since 1993, as well as inflation. The update also includes a risk assessment of the impact of input variability on total cost. Further, the study assumes that spent fuel will be stored on site for five years following the Callaway Plant's final shutdown in 2025, in accordance with the requirements of the U.S. Department of Energy (DOE), which mandates the five-year period to allow adequate cooling prior to DOE acceptance of the spent fuel. The cost for the disposal of spent fuel is not included in UE's cost estimate, as the cost for fuel disposal is funded by DOE's one mill per kilowatt surcharge.

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.

The Commission has considered UE's application, the Callaway Plant Decommissioning Cost Estimate Update for September 1, 1996, the chart of UE's nuclear decommissioning zone of reasonableness for the Missouri jurisdiction, the Unanimous Stipulation And Agreement, and the testimony of Staff witness Broadwater in support of the Stipulation.

The Commission finds as follows:

(A) No party has requested a hearing in this case.

(B) UE is not requesting a change to its authorized rates and charges for its nuclear decommissioning trust fund.

(C) The decommissioning cost study filed by UE should be received into evidence, along with the Unanimous Stipulation And Agreement.

(D) The Unanimous Stipulation and Agreement is just and reasonable with respect to the continuation of Missouri retail jurisdiction expense accruals and nuclear decommissioning trust fund payments at current levels without a change in Missouri retail jurisdiction rates, as well as with respect to all other agreed-upon terms and conditions specified in the stipulation and previously set forth in this order.

(E) That the cost in 1996 dollars to immediately decommission the Callaway Plant at the end of its 40-year operating license shall be deemed to be $419,975,000.

(F) That UE's Missouri retail jurisdiction annual decommissioning expense accruals and trust fund payments shall continue at the current level of $6,214,184.

(G) That the $6,214,184 funding level is currently included in UE's current cost of service, and is reflected in its current rates for ratemaking purposes.

(H) UE's attempt to obtain tax-deductible treatment from the IRS for the contribution to its decommissioning trust fund is reasonable and appropriate.

(I) Pursuant to 4 CSR 240-20.070(17), UE should be granted a limited waiver of 4 CSR 240-20.070(4)(D) from the Commission's requirement that contributions to the decommissioning trust fund be made on a quarterly basis. The waiver shall relate back to any quarterly payments that otherwise would have been required for 1997, and shall remain in effect until UE receives a ruling from the IRS authorizing it to make contributions for 1997 and subsequent years.

(J) That UE shall make a catch-up contribution consisting of amounts which it would otherwise have contributed to its decommissioning trust fund as required by the Commission's quarterly funding requirements.

(K) That UE or its trustee shall comply with the quarterly and annual filing requirements of 4 CSR 240-20.070(5) and 4 CSR 240-20.070(6) on an ongoing basis.

In restating portions of the Unanimous Stipulation And Agreement, the Commission is not changing the language or terms of the Stipulation, but adopts it in full as resolving all issues that were set out therein. The Commission in adopting the Stipulation is satisfied that the negotiated settlement represents a reasoned and fair resolution of the issues in this case, and that it would be in the interest of all parties for the Commission to adopt the Stipulation.

Conclusions of Law

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

UE is a Missouri corporation, with its principle place of business located at 1901 Chouteau Avenue, St. Louis, Missouri, and is in the business of supplying electricity and gas in parts of Missouri and elsewhere. It is an electrical corporation and public utility as defined in Section 386.020, RSMo. Supp. 1996, and is subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393 of the Missouri Revised Statutes. UE owns 100 percent of the Callaway Plant, and 87.6% of that ownership interest is allocated to the Missouri retail jurisdiction.

Pursuant to 4 CSR 240-20.070(9), utilities with decommissioning trust funds are required to file every three years a cost study detailing the utility's latest cost estimate for decommissioning its nuclear generating unit, along with the funding levels necessary to defray these decommissioning costs. The purpose of UE's filing of September 3, 1996 is to comply with this requirement.

Ordinarily, a hearing would be required in the event a change in the level or annual accrual of decommissioning funding is proposed, pursuant to Section 393.292, RSMo 1994. No such change has been proposed. In addition, no party has requested a hearing. Likewise, no party has requested a hearing pursuant to 4 CSR 240-20.070(17) with regard to UE's waiver request. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989).

Pursuant to Section 536.060, RSMo. Supp. 1996, the Commission may approve a stipulation and agreement concluded among the parties as to any issues in a contested case. The standard for Commission approval of a stipulation and agreement is whether it is just and reasonable. The Commission, in accordance with its statutory power, has determined that the Unanimous Stipulation And Agreement which settles all issues raised in this case is just and reasonable and appropriate, and therefore should be approved in full.

IT IS THEREFORE ORDERED:

1. That the Missouri Public Service Commission approves and adopts the Unanimous Stipulation And Agreement filed on April 22, 1997, and agreed to and signed by Union Electric Company, the Staff of the Missouri Public Service Commission, and the Office of the Public Counsel, which is incorporated herein by reference and attached hereto as Attachment 1.

2. That the Unanimous Stipulation And Agreement shall be received into evidence as Exhibit No. 1, and the decommissioning cost study filed by Union Electric Company shall be received into evidence as Exhibit No. 2.

3. That pursuant to the Unanimous Stipulation And Agreement, the cost in 1996 dollars to immediately decommission the Callaway Plant at the end of its 40-year operating license shall be deemed to be $419,975,000.

4. That pursuant to the Unanimous Stipulation And Agreement, Union Electric Company's Missouri retail jurisdiction annual decommissioning expense accruals and trust fund payments shall continue at the current level of $6,214,184.

5. That the current decommissioning costs for the Callaway Plant are included in Union Electric Company's current cost of service, and are reflected in its current rates for ratemaking purposes.

6. That pursuant to 4 CSR 240-20.070(17), Union Electric Company is granted a limited waiver of 4 CSR 240-20.070(4)(D) from the Commission's requirement that contributions to the decommissioning trust fund be made on a quarterly basis.

7. That the waiver granted in ordered paragraph 6 above shall relate back to any quarterly payments that otherwise would have been required for 1997, and shall remain in effect until Union Electric Company receives a ruling from the Internal Revenue Service authorizing it to make contributions for 1997 and subsequent years.

8. That Union Electric Company or its trustee is directed to file on a prospective basis in Case No. EO-97-86 the quarterly and annual reports required by 4 CSR 240-20.070(5) and 4 CSR 240-20.070(6) respectively.

9. That this order shall become effective on January 24, 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.

Bensavage, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application and Request for Expedited Treatment of Union Electric Company for Approval of Decommissioning Cost Estimate and Funding Level of Nuclear Decommissioning Trust Fund, and Contingent Request for Waiver of Quarterly Funding Requirement.	)	**CASE NO. EO-97-86**

NOTICE

On January 14, 1998, the Commission issued an Order Approving Cost Estimates And Funding Levels For Nuclear Decommissioning Costs. Attached is the Unanimous Stipulation and Agreement which was inadvertently not attached to the order.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Dated at Jefferson City, Missouri,
on this 16th day of January, 1998.

Bensavage, Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Application and Request for Expedited Treatment of Union Electric Company for Approval of Decommissioning Cost Estimate and Funding Level of Nuclear Decommissioning Trust Fund, and Contingent Request for Waiver of Quarterly Funding Requirement	))))))	Case No. EO-97-86

UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW Union Electric Company (UE or Company), Staff of the Missouri Public Service Commission (Staff), and Office of the Public Counsel (Public Counsel), and state the following in resolution of Case No. EO-97-86.

Section 393.292 RSMo 1994 states that the Commission, pursuant to regulations, may authorize changes to the rates and charges of an electrical corporation as a result of a change in the level or annual accrual of funding necessary for its nuclear power plant decommissioning trust fund. Section 393.292 was passed by the Missouri Legislature as House Bill No. 609 on May 12, 1989 and was signed into law by the Governor on June 20, 1989. This statute creates a narrow exception to the general body of law in Missouri as applied to electric utilities in State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Serv. Comm'n, 585 S.W.2d 41 (Mo.banc 1979) . This general body of law set out therein requires that before the Commission can change any rate charged by a utility under its jurisdiction, it must consider all relevant factors. Under Section 393.292, the Commission can limit its review to those factors relevant to the funding level or accrual rate of the decommissioning trust fund when ruling on matters related to the rates and charges associated with

collecting the amounts necessary for funding the trust. Further, Section 393.292 gives the Commission authority to adopt rules and regulations governing the procedures associated with these tariff changes as well as to ensure that the amounts contained in the trust funds will be neither "greater nor lesser than the amounts necessary to carry out the purposes of the trusts." As a result of the enactment of this statute, and to carry out its terms, on March 2, 1990, in Case No. EX-90-110, the Commission adopted the original decommissioning rule.

4 CSR 240-20.070(9) requires that on or before September 1, 1990 and every three years thereafter, utilities with decommissioning trust funds shall file cost studies with the Commission detailing their latest cost estimates for decommissioning, along with funding levels necessary to defray these costs.

UE established a decommissioning trust fund as a result of its Callaway nuclear plant (Callaway) rate case decided by the Commission in 1985. Re Union Electric Co., Case Nos. EO-85-17 and ER-85-160, 27 Mo.P.S.C. (N.S.) 183, 249, 256-57 (1985); See also, Re Union Electric Co., Case Nos. ER-84-168 and EO-85-17, 27 Mo.P.S.C. (N.S.) 164 (1984).

Section 1917 of the Energy Policy Act of 1992 (EPACT) lifted the stringent "Black Lung" investment restrictions[1] on tax-qualified decommissioning trust funds which prohibited investment in equity securities. The Commission's original decommissioning rule had limited to 40 percent the amount of nontax-qualified trust assets that could be held in the form of equity securities and prohibited the holding of equity securities as tax-qualified trust assets. The Commission in Case No.

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[1] "Black Lung" investments are public debt securities of the United States; obligations of a state or local government that are not in default as to principal or interest; and time or demand deposits in banks or insured credit unions located in the United States. Taxable bonds and equity securities are not included among "Black Lung" investments.

EX-93-304 amended its decommissioning trust fund rule to permit a maximum investment in equity securities of 65 percent of the decommissioning trust fund's book value for tax-qualified and non-tax qualified trust assets. Section 1917 of EPACT reduced the federal income tax rate on certain investment earnings of decommissioning trusts from the regular corporate federal income tax rate of 35 percent to 22 percent for 1994 and 1995, and 20 percent commencing in 1996. The Commission's amendment of its decommissioning rule places more restrictions on self-dealing and prohibits the trust from holding investments of affiliated companies associated with the trust or the utility.

On September 3, 1996, pursuant to 4 CSR 240-20.070, UE filed an Application for approval of its decommissioning cost estimate and continuation of the current authorized funding level for its nuclear decommissioning trust fund for Callaway. UE also requests that the Commission find that the annual decommissioning costs in the amount of $6,214,184 are included in UE's current cost of service for ratemaking purposes. UE owns 100 percent of Callaway and approximately 88 percent of Callaway is allocated to UE's Missouri retail operations.

The last year for which the Internal Revenue Service (IRS) has issued a ruling amount for UE's Missouri-jurisdictional decommissioning costs is 1996. UE's tax deductible contribution to its decommissioning fund for any year may not exceed the ruling amount applicable for that year. IRC Section 468A(b)(2) and 26 C.F.R. Section 1.468A-2(b)(1)(ii). Thus, UE will be precluded from making any contribution to the decommissioning fund of Missouri decommissioning costs for 1997 until it requests and receives from the IRS a ruling amount for 1997. This Commission must first approve UE's application before UE may request a schedule of ruling amounts from the IRS for 1997 and subsequent years. This process involving the IRS takes several months. Thus, UE requested

that its September 3, 1996 Application be accorded expedited treatment, preferably a decision by December 1, 1996, in order to minimize the potential delay of UE's quarterly contributions to the decommissioning trust fund. The contribution for the first quarter of 1997 is scheduled for April 25, 1997. UE's Application stated that if the Commission were not able to issue an Order by December 1, 1996, it was doubtful that UE would be able to secure an IRS ruling before April 25, 1997 authorizing contributions for 1997. UE noted that even if the Commission were able to issue an Order by December 1, 1996, and UE immediately filed an application with the IRS, there was still no guarantee that the IRS would be able to issue the requested ruling by the end of April 1997.

As a consequence, UE in its September 3, 1996 Application requested a waiver of the Commission's requirement that contributions to the decommissioning trust fund are to be made on a quarterly basis, in the event that UE has not obtained IRS approval by April 25, 1997. 4 CSR 240-20.070(4)(D) (quarterly funding requirement); 4 CSR 240-20.070(17) (waiver of any provision of the rule). UE will be able to make "catch-up" contributions for 1997 at any time until March 15, 1998.[2] Thus, UE's Application stated that no harm will result from UE obtaining a waiver. The Staff and Public Counsel agree that UE should be granted a waiver and that said waiver should relate back to any quarterly payments that otherwise would have been required for 1997.

Accompanying UE's Application is a cost study detailing its latest estimate for decommissioning Callaway (1996 UE Study) entitled "Callaway Plant Decommissioning Cost Estimate, Update For September 1, 1996." The cost study was jointly prepared by UE and Wolf

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[2]UE will make the catch-up payment immediately after it receives a schedule of ruling amounts from the IRS. If UE does not receive an IRS ruling by March 15, 1998, it will be permitted to make its 1997 catch-up contribution on that date in an amount equal to the 1997 ruling amount in UE's request letter that would then be pending with the IRS. 26 C.F.R. Section 1.468A-3(j).

Creek Nuclear Operating Corporation. Although Callaway and Kansas City Power & Light Company's (KCPL) Wolf Creek Generating Station (Wolf Creek) are very similar generating units (they have the same architect/engineer, nuclear steam supply system and turbine generator manufacturer), they are not identical units, e.g., Callaway has a cooling tower whereas Wolf Creek has a cooling lake.

The 1996 UE Study is an update of a 1993 site specific study performed by TLG Engineering, Inc. for UE. Three decommissioning options were examined: (1) DECON,[3] (2) SAFSTOR[4] and (3) ENTOMB.[5] Each of these three alternatives is acceptable to the United States Nuclear Regulatory Commission (NRC).

Also accompanying the Application was an analysis of the current funding level for UE's decommissioning trust, as set forth in a three-page document entitled "UE Nuclear Decommissioning Zone of Reasonableness, Missouri Jurisdiction." Based on this analysis, UE concluded that its current funding level should result in a final decommissioning trust amount which is sufficient to

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[3] DECON assumes decontaminating and decommissioning (D&D) immediately following conclusion of power operations in 2024, when the 40 year operating license expires. Work is anticipated to be completed by 2032. DECON consists of removal of fuel assemblies, source material, radioactive fission and corrosion products, and other radioactive materials immediately after cessation of power operations. Total cost to decommission in 1996 dollars is $419,975,000.

[4] SAFSTOR places the facility in protective storage once spent fuel and source material are removed. Delayed decontamination and dismantling activities are initiated such that license termination is accomplished within the 60 year time period set by the NRC. Total cost to decommission in 1996 dollars is $698,209,000.

[5] ENTOMB places the facility in protective storage. Initial activities include: removing contaminated components, systems, and structures outside the designated entombment boundary, and sealing the remaining radioactivity within the reactor containment building. This process is restricted in overall duration to 60 years. Total cost to decommission in 1996 dollars is $612,339,000.

cover the costs estimated in its decommissioning cost study under what UE believes are a reasonable set of economic, financial and investment assumptions. Consequently, UE does not seek any changes to its funding level and asks the Commission to approve the current amount. Since UE is not proposing a change in the funding level, UE has not filed new tariffs regarding its funding of decommissioning, is not requesting a hearing, and does not believe that a hearing is required respecting its decommissioning cost study filing.

Certain agreements have been reached by the parties. Consequently, UE, Staff and Public Counsel stipulate and agree as follows:

1. The cost in 1993 dollars to immediately decommission (DECON) Callaway, upon the end of its operating license (40 years of service), was deemed to be $371,511,680 in UE's immediately preceding decommissioning cost proceeding, Case No. EO-94-81.

2. UE's Missouri retail jurisdiction annual decommissioning expense accrual and trust fund payment was set by the Commission at $6,214,184, first in Case No. EO-91-300, Re Union Electric Co., 1 Mo.P.S.C.3d 356 (1992), and again in Case No. EO-94-81, Re Union Electric Co., 3 Mo.P.S.C.3d 68 (1994).[6] In addition to a cost study detailing UE's latest cost estimate for

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[6] In 1984 in UE's Callaway rate case, UE and the Staff stipulated that the decommissioning cost of Callaway was $120,000,000 in 1983 dollars. As a result of the Commission's Callaway Report And Order, UE's Missouri jurisdictional annual trust fund payment requirement was set at $2.9 million. Re Union Electric Co., Case Nos. EO-85-17 and ER-85-160, 27 Mo.P.S.C.(N.S.) 183, 249 (1985). In Case No. EO-91-300, UE's first filing pursuant to 4 CSR 240-20.070, a Unanimous Stipulation And Agreement was accepted by the Commission which identified the cost in 1990 dollars to immediately decommission Callaway, as if it had completed 40 years of service, as being $347 million and set UE's Missouri retail jurisdiction annual trust fund accrual and payment requirement as $6,214,184. The great increase in the cost estimate was due principally to a major increase in the projected cost of disposal facilities for low-level radioactive waste. (Low-level radioactive waste should not be confused with high level radioactive waste and spent nuclear fuel.

(continued...)

decommissioning Callaway, an analysis of the then current funding level for UE's decommissioning trust accompanied UE's Application in Case No. EO-94-81 and in the instant case. Based on this analysis, UE concluded that its then current funding level fell within a zone of reasonableness which should result in a final decommissioning trust amount that would be sufficient to cover the costs estimated in UE's decommissioning cost study under what UE believed to be a reasonable set of economic, financial, and investment assumptions. Consequently, UE did not seek any changes to its funding level and asked the Commission to approve the then current amount.

3. UE deems the current decommissioning cost annual contribution amount of $6,214,184 to be sufficient to cover the current decommissioning cost estimate of $419,975,000 under the set of economic, financial and investment assumptions used by UE in its analysis. Solely for purposes of the instant Unanimous Stipulation And Agreement, the Staff and Public Counsel do not object to the economic, financial and investment assumptions utilized by UE, including UE's assumptions as to inflation and trust fund earnings.

4. UE believes that it is reasonable and prudent to continue the annual accruals at the current level of $6,214,184. Thus, UE's Application asks that the Commission approve the continuation of the annual accrual at the current level. Decommissioning costs in the amount of $6,214,184 are, and should continue to be, included in UE's cost of service and reflected in its current rates for ratemaking purposes.

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[6](...continued)
The federal fee which is collected with each kilowatt hour of electricity generated by Callaway, and the recent federal litigation against the Department of Energy which this Commission was a party to along with many other states, relates to disposal facilities for high-level radioactive waste and spent nuclear fuel, not disposal facilities for low-level radioactive waste.)

5. UE shall continue its Missouri retail jurisdiction expense accruals and trust fund payments at current levels without a change in its Missouri retail jurisdictional rates.

6. UE's 1996 nuclear decommissioning cost study for its nuclear decommissioning trust fund for Callaway is addressed in the Stipulation And Agreement in Case No. ER-95-411 (In the matter of a Stipulation And Agreement respecting Union Electric Company's effectuating a one-time credit, a reduction in annual Missouri retail electric revenues, and a three-year experimental alternative regulation plan). Said Stipulation And Agreement was approved by the Commission in a July 21, 1995 Report And Order in Case No. ER-95-411. UE noted in its cover letter to its September 3, 1996 Application in this proceeding that "[i]n accordance with the Stipulation And Agreement in Case No. ER-95-411 (Para. 5, p. 17), the Company is notifying the parties to that case of this filing. A copy of the filed documents will be made available to them upon request." Should the Commission approve the instant Stipulation And Agreement, no further action respecting UE's September 3, 1996 Application would be required by the Stipulation And Agreement approved by the Commission in Case No. ER-95-411.

7. UE requests a waiver of the Commission's requirement that contributions to the decommissioning trust fund are to be made on a quarterly basis. UE clarifies that its requested waiver would remain in effect until it receives a ruling from the IRS authorizing it to make contributions for 1997 and subsequent years. 4 CSR 240-20.070(17) and 20.070(4)(D). When the IRS issues such a ruling, UE will immediately make a catch-up contribution consisting of amounts which UE would otherwise have contributed as required by this Commission's quarterly funding requirements. Thereafter, UE will again make contributions on a quarterly basis. UE should be

granted the requested waiver and said waiver should relate back to any quarterly payments that otherwise would have been required for 1997.

8. UE or its trustee shall in the instant docket, Case No. EO-97-86, comply with the quarterly and annual filing requirements of 4 CSR 240-20.070(5) and 20.070(6), respectively.

9. None of the parties to this Unanimous Stipulation And Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this Unanimous Stipulation And Agreement.

10. 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 Stipulation And Agreement. 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 the 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 future proceeding or in this proceeding whether or not the Commission approves this Stipulation And Agreement. 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 this Stipulation And Agreement, whether or not the Commission approves and adopts this Stipulation And Agreement.

The Staff also shall have the right to provide, at any agenda meeting at which this Stipulation And 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 the Staff. The 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.

11. This Unanimous Stipulation And Agreement represents a negotiated settlement for the sole purpose of addressing the authority requested by the Application of UE. Except as specified herein, the parties to the Unanimous Stipulation And Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Unanimous Stipulation And Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve the Unanimous Stipulation And Agreement in the instant proceeding, or in any way condition its approval of same.

12. The decommissioning cost study of UE shall be received into evidence.

13. The provisions of this Unanimous Stipulation And Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event that the Commission does not approve and adopt the terms of this Unanimous Stipulation And Agreement in total, it shall be void and no party hereto shall be bound by, prejudiced, or in any way affected by any of the agreements or provisions hereof unless otherwise provided herein.

14. In the event the Commission accepts the specific terms of this Unanimous Stipulation And Agreement, the signatories waive their respective rights to cross-examine witnesses; their

respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1994; 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. This waiver applies only to a Commission Report And Order issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Unanimous Stipulation And Agreement.

WHEREFORE, the signatories hereto request that the Commission (1) approve the instant Stipulation And Agreement, (2) specifically recognize in its Report And Order that Union Electric Company's current decommissioning costs are included in its current cost of service and are reflected in its current rates for ratemaking purposes, (3) grant UE a limited waiver, pursuant to 4 CSR 240-20.070(17) and 20.070(4)(D), from the Commission's requirement that contributions to the decommissioning trust fund are to be made on a quarterly basis, in order to address the situation that Union Electric Company will not receive from the Internal Revenue Service a ruling amount for 1997 by April 25, 1997 and said waiver shall relate back to any quarterly payments that otherwise would have been required for 1997 and (4) direct that Union Electric Company or its trustee shall in Case No. EO-97-86 comply with the quarterly and annual filing requirements of 4 CSR 240-20.070(5) and 20.070(6), respectively.

Respectfully submitted,

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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 22nd day of April, 1997.

Steven Dottheim

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Case No. EO-97-86

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