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October 29, 1999

Mr. Dale Hardy Roberts
Executive Secretary
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³

OCT 29 1999

Missouri Public
Service Commission

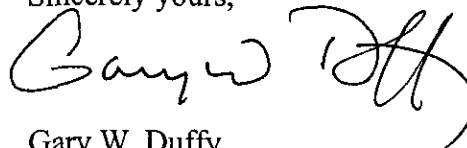
RE: Case No. AX-2000-113

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and fourteen copies of the initial comments of Brydon, Swearngen & England, P.C.

If you have any questions, please give me a call.

Sincerely yours,


Gary W. Duffy

Enclosures
cc w/encl: Office of Public Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of Proposed Rule)
4 CSR 240-2.065 Tariff Filings)
Create Cases)

Case No. AX-2000-113

COMMENTS OF BRYDON, SWEARENGEN & ENGLAND, P.C.

Comes now the law firm of Brydon, Swearngen & England P.C. and for its comments in this matter respectfully states as follows:

1. These comments are in response to the numerous notices of proposed rulemaking published in the *Missouri Register* on October 1, 1999 (24 Mo.Reg. 2318 through 2340). The law firm of Brydon, Swearngen & England P.C. ("BSE") routinely represents numerous utilities who are regulated by the Commission. Therefore, the firm is required to utilize and abide by the rules of practice and procedure of the Commission, and thus members of the firm and their clients will be affected by changes in those rules. Several members of the firm have experience with the existing rules of practice and procedure of the Commission since their inception in 1975.

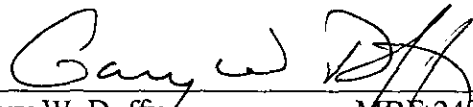
2. Section (1) of 4 CSR 240-2.065 as proposed would institute a new requirement that a public utility filing a general rate case be required to file its direct testimony with the proposed tariff. This deviates from a long-standing practice of the Commission which allowed the filing of a utility's direct testimony approximately 30 to 45 days from the filing of a tariff. As a result, this requirement will add to the administrative burden of filing a rate request by making the same people who are involved in the preparation of the tariff filing also have to be involved in filing of direct testimony. The logical consequence of this is increased costs to the utility for no perceived public benefit. Current practice indicates that the direct testimony of the

utility is usually not that critical to a particular case. Of course, if a utility is proposing a new concept, the testimony can aid in the explanation of that concept, but there does not appear to be a pressing need for the testimony to be available immediately with the tariff filing. Additionally, if a utility wishes to include any proprietary or highly confidential information in its direct testimony, it will have a practical problem. There will not be a case until it files its proposed tariff. If there is not a case in existence, there is not a case in which to file a motion for the issuance of a protective order.

A. While there probably is not a lot of opposition to speeding up the filing of direct testimony by a utility, it should not be required to be filed *simultaneously* with the tariff. It would be reasonable to require its filing within twenty (20) days of the filing of the tariff. That could help to avoid potential overtime costs and practical problems such as the issuance of protective orders. Further, if the processing of rate cases is going to be expedited in this fashion, there should be some corresponding movement of other deadlines, such as the earlier filing of rebuttal testimony by the Staff and the Office of the Public Counsel. The Commission would benefit if parties had more time at the rebuttal and surrebuttal stages of testimony to more fully present their arguments.

3. Section (2) as proposed should be modified with the addition of this phrase at the beginning of the first sentence: "Except when the Commission orders the filing of a tariff" This language would clarify that the filing of "compliance" tariffs by a utility do not require a 30 day effective date, since the Commission routinely issues a Report and Order requiring the filing of tariffs ten days before the operation of law date in rate cases.

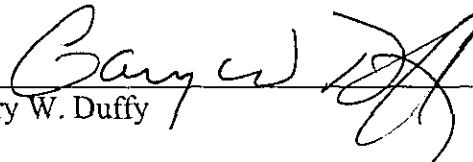
Respectfully submitted,



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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served by hand delivery on the Office of the Public Counsel and the Office of the General Counsel of the Commission this 29th day of October, 1999.



Gary W. Duffy