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Case No. ER-97-394

Case No. ET-98-103

The Staff of the Missouri Public Service Commission,

Complainant,

VS.

Case No. EC-98-126 ✓

UtiliCorp United Inc., d/b/a Missouri
Public Service,

Respondent .

ORDER SETTING DEPRECIATION RATES

On April 16, 1998, the Commission issued its Order Denying Applications for Rehearing, Granting in Part and Denying in Part Application for Reconsideration, Granting Motion for Clarification and Approving Tariff (rehearing order). In its rehearing order, the Commission ordered UtiliCorp United Inc. d/b/a Missouri Public Service (UtiliCorp) to file a complete set of depreciation schedules for all of its accounts no later than May 1 to implement the findings and conclusions of the Commission as set forth in the Commission's March 6

Report and Order, as modified by the rehearing order. The required depreciation schedules were filed on May 1. No party objected to the depreciation schedules that were filed by UtiliCorp. The Commission's rehearing order became effective on April 27, and the tariffs approved in the rehearing order became effective on April 17. The Commission issued a Notice of Case Closure on May 28.

On June 2, UtiliCorp filed a letter with the Commission requesting the Commission to issue an order setting the depreciation rates at the levels proposed by UtiliCorp. Counsel for UtiliCorp stated that Section 393.240, RSMo 1994, requires a Commission order prescribing new depreciation rates on a prospective basis before any such rates may be implemented. On June 17, the Commission's Staff (Staff) filed a request for a Commission order setting depreciation rates. Staff advised the Commission that Jackson County, Missouri (Jackson County), a party to the case before the Commission, had filed a petition for writ of review in the Circuit Court of Cole County, Missouri on May 15, establishing Case No. CV198-0674CC. Staff further advised the Commission that Jackson County filed a withdrawal and dismissal of its petition for writ of review in the circuit court on May 27. As a result, the writ of review that had been issued on May 22 was quashed by the circuit court on May 27, and the case was dismissed. According to Staff, no other petition for writ of review was filed in circuit court respecting the captioned cases. Staff stated that no party objected to the depreciation rates filed by UtiliCorp on May 1, and requested the Commission to issue an order adopting those depreciation rates. No party filed a response to the Staff's request.

The Commission finds that UtiliCorp's proposed depreciation rates, filed on May 1, are designed to implement the Commission's Report and Order of March 6, as modified by its rehearing order of April 16. The Commission notes that it has authority pursuant to Section 393.240, RSMo 1994, to fix the proper and adequate rates of depreciation of the several classes property of UtiliCorp. This statute provides in pertinent part as follows:

1. The commission shall have power, after hearing, to require any or all . . . electrical corporations . . . to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe.

2. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several classes of property of such corporation, person or public utility. Each . . . electrical corporation . . . shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

The statute does not state that depreciation rates established by the Commission should be applied prospectively. Moreover, the depreciation accounts, like UtiliCorp's tariffs, are designed to implement the specific revenue reduction ordered by the Commission on March 6 and in its rehearing order. Therefore, the timing of implementation of the depreciation rates should coincide with the timing of the effective date of UtiliCorp's implementing tariffs.

Based upon the foregoing, the Commission concludes that it should adopt the depreciation rates proposed by UtiliCorp on May 1, and that these depreciation rates should be applied to UtiliCorp's accounts as of

April 17, and should continue to apply until such time as the Commission establishes new depreciation rates in a subsequent case.

IT IS THEREFORE ORDERED:

1. That the depreciation rates filed by UtiliCorp United Inc. on May 1, 1998, are adopted.

2. That UtiliCorp United Inc. shall conform its depreciation accounts to the rates adopted by this order and shall set aside the moneys so provided for out of earnings and carried the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the Commission has prescribed, as required by Section 393.240.2, RSMo 1994.

3. That the depreciation rates adopted pursuant to Ordered Paragraph 1 shall be applied to the accounts of UtiliCorp United Inc. as of April 17, 1998, and shall continue to apply until such time as the Commission prescribes new depreciation rates in a subsequent case.

4. That this order shall become effective on August 14, 1998.

5. That this case may be closed on August 15, 1998.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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

Crumpton, C., absent.

Schemenauer, C., not participating.

Randles, Regulatory Law Judge