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March 19, 2001

FILED²

MAR 19 2001

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, MO 65102

**Re: In the Matter of UtiliCorp United Inc.'s Tariff No. 200100849
Case No. ET-2001-482**

Dear Mr. Roberts:

On behalf of UtiliCorp United Inc., I deliver herewith an original and eight (8) copies of Suggestions of UtiliCorp United Inc. in Opposition to Office of the Public Counsel's Motion to Dismiss or Suspend to be filed with the Commission in the referenced case. A copy is also being hand-delivered to The Office of the Public Counsel this date.

I have also enclosed an extra copy of the Suggestions of UtiliCorp United Inc. in Opposition to Office of the Public Counsel's Motion to Dismiss or Suspend which I request that you stamp "Filed" and return to the person delivering same to you.

Thank you for your attention in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Paul A. Boudreau

PAB:aw
Enclosures

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

FILED²
MAR 19 2001

In the Matter of UtiliCorp United Inc.'s)	
Tariffs Filed to Update the Rules and)	
Regulations for Electric and to Increase)	Case No. ET-2001-482
the Interest Rate Paid on Deposits, the)	Tariff No. 200100849
Late Payment Charge, the Reconnection)	
Fee, and the Charge for Returned Checks.)	

Missouri Public
Service Commission

SUGGESTIONS OF UTILICORP UNITED INC.
IN OPPOSITION TO OFFICE OF THE PUBLIC COUNSEL'S
MOTION TO DISMISS OR SUSPEND

COMES NOW UtiliCorp United Inc. ("UtiliCorp") and offers the following suggestions in opposition to the Motion to Dismiss or Suspend filed by the Office of the Public Counsel ("OPC") with respect to Missouri Public Service Commission ("Commission") Tariff No. 200100849:

1. On or about February 16, 2001, UtiliCorp filed with the Commission tariff sheets bearing an effective date of May 1, 2001. The Commission assigned the filing Tariff No. 200100849. The stated purpose of the tariff filing was to make changes to interest paid on customer deposits, late payment charges, reconnection fees and charges from returned checks for customers of UtiliCorp's St. Joseph Light & Power ("SJLP") Division's steam operations. The changes were proposed to conform those charges and fees to those utilized by UtiliCorp's Missouri Public Service Division. UtiliCorp requested approval of the tariffs by March 19, 2001, to accommodate implementation requirements for the planned conversion in May of the SJLP Division to UtiliCorp's Customer Information System (CIS).

2. It is anticipated that the proposed revised fees and charges will be in effect for only a short period of time because UtiliCorp intends to file a general rate increase for its Missouri electric and steam operations within 3 to 4 months at which time all of the charges addressed by the

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tariff sheets will be subject to further revision and modification in the context of the determination of UtiliCorp's overall revenue requirement. Synchronizing the charges and fees now will allow UtiliCorp to avoid as much as \$100,000 of total costs which will be necessary to modify its programming and coding of the current CIS to accommodate differing charges and fees. This \$100,000 will be a pointless expenditure in light of the fact that UtiliCorp will be seeking uniformity of various charges at issue in the upcoming rate case. The tariffs in question help UtiliCorp avoid these substantial programming costs until the rate case is concluded.

3. Representatives of UtiliCorp met with representatives of both Staff and OPC on February 8, 2001, at the Commission's offices in Jefferson City. The purpose of the meeting was to brief Staff and OPC on the rationale for the proposed tariff changes so that UtiliCorp could make a decision whether to proceed with the filing or to make the major changes to CIS that would otherwise be required to be undertaken. A copy of an outline of that presentation is attached hereto as Appendix A. As indicated, UtiliCorp filed the subject tariff the following week on February 16, 2001.

4. Subsequently, under cover of letter dated March 6, 2001, UtiliCorp received from the Commission the tariffs, red-stamping each page "filed" as of May 1, 2001, in accordance with the Commission's customary practice governing approval of tariff sheets. *See*, § 393.140(11) RSMo. 1994.

5. Thereafter, on March 12, 2001, OPC filed a Motion to Dismiss or Suspend (hereinafter the "Motion") the tariffs setting forth a number of objections and concerns.

6. At the outset, UtiliCorp notes that OPC's Motion has been mooted by the Commission's approval of the tariffs in question pursuant to § 393.140(11) RSMo. Consequently,

OPC's motion is prohibited by 4 CSR 240-2.065 and there is no legal authority for revoking the Commission's approval by suspension or dismissal. In addition, there are good practical and policy reasons to deny OPC's Motion on the merits.

7. Utilities regularly submit, and the Commission routinely approves, tariffs that modify or amend particular rates or charges or terms and conditions of services associated with regulated activities outside the context of a full-blown rate case or complaint. Just two relatively recent examples of this from UtiliCorp's perspective were tariffs modifying the terms of its line extension policy and, before that, the approval of its McDonald's aggregation tariff. OPC's reliance on *State ex rel. Utility Consumers Council Missouri v. Public Service Commission*, 585 S.W.2d 41 (Mo. banc 1979) is misplaced. As the Commission is well aware, the *UCCM* decision invalidated a fuel adjustment clause ("FAC") mechanism built into the rate structures of electric utilities. The FAC would have allowed rates to increase (or decrease) along with increases (or decreases) in the cost of fuel without consideration of offsetting increases (or decreases) in other expenses or costs. In contrast, the charges sought to be modified by the tariff changes in this case are line item *fixed* charges. As such, they will not be indexed to some underlying element of cost of service. The charges are known and published. The prohibition against single-issue ratemaking is simply not applicable to these facts.

8. The Missouri Supreme Court has expressly stated that the Commission has the authority under Chapter 393 RSMo to allow revisions to fixed service charges or terms and conditions of service without suspension as the Commission has done in this instance. Citing its prior decision in *State ex rel. Jackson County v. Missouri Public Service Commission*, 532 S.W.2d 20, 28-29 (Mo banc 1979), the Supreme Court has specifically stated that changes in rates:

can normally be approved either by the file and suspend method, or through a full blown rate hearing. Under either method, a maximum rate must be *fixed* by the Commission. (Italics in the original.)

UCCM, at 56. Were it not able to permit revised charges to go into effect without suspension in some instances, the Commission's day to day responsibilities would grind to a halt because no new services could be offered and no existing rate schedules could be revised in even minor or experimental fashion outside of the context of a full blown rate case.

9. Contrary to OPC's claim, the proposed tariffs are consistent with UtiliCorp's objective to ensure that customer rates remain constant and, more importantly, there be no deterioration of quality of service. The particular elements of reconnection fees, bad check fees, and other rates and charges in question have increased in some instances and decreased in others as a consequence of the new tariff sheets. The net revenue effect of the changes is just marginally positive; that is, slightly over \$11,000 on an annual basis. (See, Appendix A) This amount is inconsequential, representing only about .0001% total electric revenues of the SJLP Division.

10. Another advantage to conforming SJLP Division tariff charges to the current MPS fees and charges is that doing so will maintain standardization of UtiliCorp's call center practices. Customer service may degrade over the short term unless call center practices are standardized. Less standardization leads to increased length of customer phone calls as call center personnel must take the time to ensure that they are correctly advising customers which fees and charges apply to their circumstances. Additionally, the "work arounds" and manual intervention required by discrepancies in such charges and fees can lead to more billing errors. The potential adverse consequence on quality of customer service more than justify this minor tariff adjustment.

11. The synchronization of the SJLP Division tariff fees and charges which are the

subject of the filing in question is a minimal impact and short term tariff synchronization which will avoid a significant and unnecessary programming cost which will almost immediately become obsolete and wasted. As noted above, the Commission will have ample opportunity in UtiliCorp's upcoming rate case to revisit all of the fees and charges which are the subject of the tariff synchronization.

12. Finally, to now claim to suspend the tariff *after* it has been approved (for which no legal authority exists) would potentially create a serious practical obstacle to the integration of the SJLP Division into CIS. Suspension at this time would delay the conversion effort because of the lead time required to perform the programming and coding necessary to accommodate differing fees and charges for the MPS and SJLP Divisions. This was the reason that UtiliCorp requested that the Commission approve the tariff by March 19 to become effective beginning in May; that is, UtiliCorp needs to know *now* whether the tariff synchronization is approved. Otherwise, UtiliCorp needs to start on the programming and coding adjustments immediately. Additionally, the estimated cost to make the programming charges that will be necessary in the event the tariff is suspended or dismissed has already increased to approximately \$100,000 (instead of \$50,000 to \$80,000) in order to meet the now more imminent CIS conversion deadline. Had UtiliCorp known that the tariff would be opposed by OPC, it could have undertaken the task at a much lower cost than is now the case.

WHEREFORE, for good cause shown, the Commission should deny OPC's Motion to Dismiss or Suspend.

Respectfully submitted,



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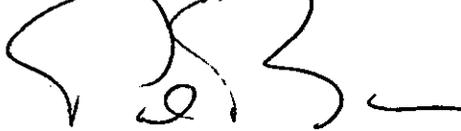
Attorneys for UtiliCorp United Inc.

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 19th day of March, 2001, to the following:

Office of the General Counsel
Missouri Public Service Commission
Governor Office Building
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102

Mr. John B. Coffman, Deputy Public Counsel
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