

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

JUL 05 2000

Missouri Public  
Service Commission

Case No. EM-2000-292

In re the Joint Application of )  
UtiliCorp United, Inc. and St. )  
Joseph Light & Power Company for )  
authority to merge St. Joseph Light )  
& Power Company with and into )  
UtiliCorp United Inc. and, in con- )  
nection therewith, certain other )  
related transactions. )

INTERVENOR AG PROCESSING INC  
APPLICATION FOR REHEARING OR RECONSIDERATION

COMES NOW Intervenor Ag Processing Inc. a Cooperative (AGP) and pursuant to Section 386.500 RSMo 1994 and seeks rehearing or reconsideration of the June 27, 2000 Order Regarding Prehearing Procedures" ("Order") insofar as such Order requires parties to the case to de facto stipulate to the admission of prefiled testimony in the proceeding in advance of such material being properly identified, authenticated and subjected to cross-examination and also insofar as such order was issued with an effective date less than ten (10) days following its issuance. In support thereof AGP states as follows:

1. The Order appears to have been issued on June 27, 2000 and states an effective date of July 5, 2000. This period of time is less than ten (10) days and also transcends a multi-day national holiday in which mail deliveries were and are being interrupted.

2. The Order is not one issued in the usual course of proceedings at the Commission and appears to have been issued sua sponte without a motion by any party seeking such procedure and thus no party (unless they had foreknowledge of its imminent issuance) was or reasonably should have been expecting such directive. Issuing such an order without full notice to the parties and on a period of time less than ten (10) days and over a multi-day national holiday wholly fails to provide proper notice to the parties of such procedure and denies them due process and an effective opportunity to respond.

3. The Order appears to direct that parties stipulate to the admission of all prefiled testimony failing their submission of an objection by 3:00 p.m. on Wednesday, July 5, 2000, said date being the next business day following the national holiday. The Order is silent as regards attached exhibits or schedules. In this regard:

a. The Order is unlawful and unreasonable in that it requests parties to stipulate to the admission of prefiled testimony and exhibits in advance of the proper identification and authentication of such material by live witnesses. This is in direct violation of Section 536.070(2) RSMo 1994.

b. The Order is unlawful and unreasonable in that it requests parties to stipulate to the admission of all prefiled testimony and exhibits before such material has been subjected to cross-examination and thereby would deny due process and would also result in evidence that would not be competent evidence

under applicable Missouri law being permitted into the record where it could cause the Commission to base a decision on such material in violation of the Missouri Constitution and in violation of Section 536.070(2) RSMo. 1994.

c. The Order is unlawful and unreasonable in that it cites no Commission precedent nor does it cite any existing Commission Rule or Missouri statute that purports to permit such a forced stipulation of admissibility. Indeed, Missouri Statutes, namely Section 516.100, contemplate that the standard rules of evidence shall generally apply in Commission proceedings.

WHEREFORE Intervenor AGP prays that rehearing or reconsideration of the Order be granted and that, upon such reconsideration or rehearing, that it be set aside in the portions specified above.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR AG PROCESSING INC.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing pleading by U.S. mail, postage prepaid addressed to all parties by their attorneys of record as provided by the Secretary of the Commission and shown on the sheet following.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: July 5, 2000

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