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March 21, 2001

FILED³

MAR 21 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 an Investigation respecting the sale of UtiliCorp United Inc.'s
Utility Network Construction, Operation and Maintenance Organization
Case No. EO-2001-472**

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 IBEW Local 53's Application to Intervene 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.

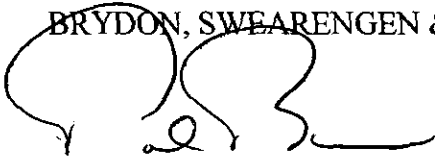
I have also enclosed an extra copy of the Suggestions of UtiliCorp United Inc. in Opposition to IBEW Local 53's Application to Intervene which I request that you stamp "Filed" and return to the person delivering same to you.

Thank you for your attention in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Paul A. Boudreau

PAB:aw

Enclosures

cc: Office of the Public Counsel

FILED³

MAR 21 2001

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation)
respecting the sale of UtiliCorp United)
Inc.'s Utility Network Construction,) Case No. EO-2001-472
Operation and Maintenance Organization.)

**SUGGESTIONS OF UTILICORP UNITED INC. IN OPPOSITION TO
IBEW LOCAL 53'S APPLICATION TO INTERVENE**

COMES NOW UtiliCorp United Inc. ("UtiliCorp"), by counsel, and offers the following suggestions in opposition to the Application to Intervene filed by Local 53 of the International Brotherhood of Electrical Workers, AFL-CIO ("IBEW Local 53") in the captioned matter:

1. On or about March 16, 2001, IBEW Local 53 filed its Application to Intervene in the referenced case. The Application is premature. The Commission has not granted its Staff's Motion to open a formal investigatory docket. Accordingly, any ruling at this time on IBEW Local 53's Application to Intervene is inappropriate.

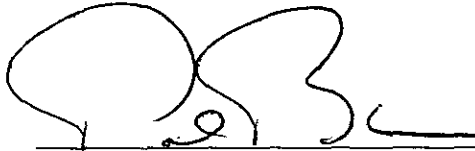
2. With respect to the merits of the Application to Intervene, UtiliCorp contends that IBEW Local 53 has not stated any basis for intervention which meets the requirements of Commission Rule 4 CSR 240-2.075. Specifically, IBEW Local 53 alleges that it represents "employees of contractors" which provide services to UtiliCorp. Clearly, the members of IBEW Local 53 are not employees of UtiliCorp. As a consequence, IBEW Local 53 has not stated an interest which is different than that of the general public. IBEW Local 53 has no status to assert any interest on behalf of their contractor employers in this or any other matter. Furthermore, IBEW Local 53 does not assert any direct interest of its own or of its members, contractual or otherwise, which conceivably could be adversely affected by the sale of the construction, operation and maintenance ("CO&M") Business by UtiliCorp.

3. Likewise, IBEW Local 53 has made no showing that granting its Application to Intervene would serve the public interest. To the contrary, the intervention of IBEW Local 53 would not serve the public interest because the intervention is calculated to place the Commission in a position of mediating the "impact on wages, benefits and terms and conditions of employment of members represented by the IBEW Local 53" of the sale of the CO&M Business. See, *Application*, ¶ 5. The Commission has no statutory authority to, nor does it have any special expertise in, mediating or resolving labor disputes. Moreover, to the extent that there are legitimate labor issues implicated by the sale of the CO&M Business, the IBEW Local 53's rights in this regard are controlled by grievance procedures set forth in labor contracts. Presumably, the IBEW Local 53 may protect the interests of its members to the extent that the circumstances surrounding the sale of the CO&M Business are grievable under the terms of the contract or contracts to which it has agreed.

4. The Application to Intervene filed by IBEW Local 53 simply validates an issue articulated by UtiliCorp in paragraph 7 of its Response to Staff's Motion. In that March 15, 2001, filing, UtiliCorp expressed the concern that opening a formal investigatory docket at this time would simply invite the participation of intervenors who have no legitimate interest in the exercise of UtiliCorp's management discretion through the bid process that is underway. Moreover, it is completely inappropriate to open a formal docket into the manner in which UtiliCorp is going about making a business decision, a subject matter reserved exclusively to UtiliCorp's managerial prerogatives. See, *State ex rel. City of St. Joseph v. Public Service Commission*, 30 S.W.2d 8 (Mo. banc 1930); *State ex rel. Harlan v. Public Service Commission*, 343 S.W.2d 177 (Mo. App. 1960); *State ex rel. Southwestern Bell Telephone Company v. Public Service Commission*, 262 U.S. 276, 43 S.Ct. 544, 67 L.Ed. 981 (1923); *Laclede Gas Company v. Public Service Commission*, 600 S.W.2d 222 (Mo. App. 1980).

WHEREFORE, UtiliCorp opposes the Application to Intervene of IBEW Local 53 for the reasons aforesaid.

Respectfully submitted,



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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 21st day of March, 2001, to:

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A handwritten signature in black ink, appearing to read 'P. A. Boudreau', written over a horizontal line.

Paul A. Boudreau