

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
August 16, 2000**

CASE NO: GE-2000-639

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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of)
UtiliCorp United Inc. d/b/a Missouri)
Public Service for a Waiver of)
Commission Rules 4 CSR 240-40.015 and)
4 CSR 240-40.016 Concerning Capacity)
Release Credits)

Case No. GE-2000-639

ORDER ESTABLISHING PREHEARING CONFERENCE

On April 12, 2000, UtiliCorp United Inc. d/b/a Missouri Public Service (UtiliCorp) filed with the Missouri Public Service Commission (Commission) its application for waiver for good cause from Commission Rules 4 CSR 240-40.015(2)(A) and 4 CSR 240-40.016(3)(A) as to capacity release credits. UtiliCorp stated that it sought a waiver from these Commission rules so that it could continue to operate in accordance with the process reviewed by the Commission in cases number GR-95-273 and GR-96-192. In those cases, the Commission examined the process by which UtiliCorp released capacity to unregulated affiliate entities and the credits provided in exchange for those releases. Releases to regulated affiliates and non-affiliates were not in dispute.

On June 28, 2000, the Staff of the Commission (Staff) filed its recommendation. The Staff recommended, *inter alia*, that the Commission issue an order which (1) grants UtiliCorp a temporary waiver solely for capacity release transactions for a two-year trial period, (2) requires UtiliCorp to collect and retain detailed documentation which shows that (a) UtiliCorp is receiving prevailing market prices for any capacity release transactions which involve its affiliates, (b) the capacity

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release credits received by UtiliCorp from its affiliates are comparable to the capacity release credits which it receives from non-affiliates, and, (c) UtiliCorp is not increasing its pipeline capacity in order to serve the capacity release needs of its affiliates, and (3) requires UtiliCorp to provide this information to the Staff annually on the anniversary date of the Commission's order granting temporary waiver.

UtiliCorp expressed confusion at Staff's recommendations in the response which it filed on July 28, 2000.

UtiliCorp stated that it had an alternative proposal which it believes will be more straightforward and satisfy the objectives identified by the Staff in its Memorandum dated June 9, 2000. UtiliCorp stated that in that Memorandum, the Staff stated the following: a) The purpose of the rule was to prevent the subsidization of affiliates by their regulated counterparts and an attempt to make sure that rates (and ultimately the consumers) are not adversely impacted by a local distribution company's non-regulated activities; and b) while Staff does not argue with the market pricing concept of released pipeline capacity, it does have concerns on how this market level will be arrived at and documented.

In its response, UtiliCorp proposed to satisfy these objectives by posting (or offering) its available capacity on the interstate pipeline electronic bulletin boards. UtiliCorp explained that the interstate pipeline would then receive bids for the capacity to be released and sell the capacity to the highest bidder, regardless of whether it was an affiliate or a non-affiliate. The determination of the highest bidder, under this process, would be made by the interstate pipeline, according to UtiliCorp. It is UtiliCorp's intent that capacity would only be released to a non-regulated subsidiary after this posting and bidding

process and such releases would not be "prearranged." UtiliCorp does, however, intend to continue to perform prearranged capacity release transactions with non-affiliates as such transactions would not implicate the Commission's affiliate transaction rules. Similarly, UtiliCorp does not propose to post for bid capacity released by one Missouri regulated operation to another regulated Missouri operation as this regulated to regulated transaction is also not implicated by the Commission's affiliate transaction rules.

According to UtiliCorp, the proposed bidding process would clearly establish a market rate, which it defines as the highest price at which a willing party would pay for the released capacity in the relevant time period. Thus, this would eliminate any question as to whether UtiliCorp is receiving "maximum market prices." UtiliCorp stated that if, after a bidding process, the capacity is released to the highest bidder, the price paid by that bidder is then the "maximum market price" irrespective of what price may have associated with the sale of other capacity. UtiliCorp stated that the record keeping for this process would be simplified in that it would only need consist of evidence of the posting of the capacity and a summary of the capacity releases which have been awarded by the interstate pipeline.

The Staff did not respond.

Although no party has formally asked for a prehearing conference, this case is obviously contested. Thus, the Commission will schedule a prehearing conference to afford the parties the opportunity to discuss, define, and possibly resolve the issues presented in this case. The Commission will also set a date for the filing of a proposed procedural schedule to ensure that this case progresses.

IT IS THEREFORE ORDERED:

1. That a prehearing conference will be held on September 18, 2000, beginning at 10:00 a.m. The prehearing conference will be held at the offices of the Public Service Commission in Jefferson City, Missouri. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.
2. That a procedural schedule shall be filed no later than October 2, 2000.
3. That this order shall become effective on August 28, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

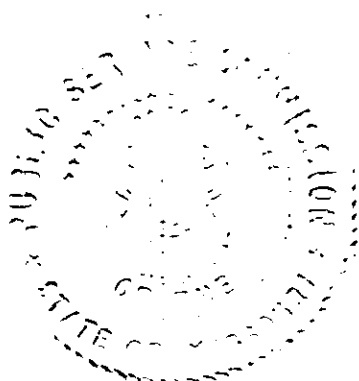
Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 16th day of August, 2000.

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

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 16th day of Aug. 2000.



Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge