

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
May 18, 2000**

**CASE NO: EE-2000-592**

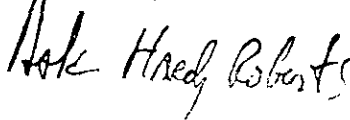
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**Enclosed find certified copy of ORDER in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in dark ink, appearing to read "Dale Hardy Roberts", written over a horizontal line.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 18th  
day of May, 2000.

In the Matter of the Joint Application	)	
of UtiliCorp United Inc. d/b/a Missouri	)	
Public Service, The Empire District	)	
Electric Company and St. Joseph Light &	)	<b><u>Case No. EE-2000-592</u></b>
Power Company for Waivers of Commission	)	
Rules 4 CSR 240-20.015, 4 CSR 240-40.015,	)	
4 CSR 240-40.016 and 4 CSR 240-80.015	)	

**ORDER DENYING WAIVERS**

On March 22, 2000, UtiliCorp United Inc. d/b/a Missouri Public Service, The Empire District Electric Company and St. Joseph Light & Power Company (Applicants) filed an application for waivers of Commission rules 4 CSR 240-20.015, 4 CSR 240-40.015, 4 CSR 240-40.016 and 4 CSR 240-80.015 (the affiliate transaction rules). Applicants note that the effectiveness of the affiliate transaction rules has been stayed for certain utilities. Applicants allege that requiring them to comply with the affiliate transaction rules while other utilities are effectively exempted will result in an uneven application of the rules. Applicants assert that the application of the affiliate transaction rules to some utilities and not others will result in "uneven playing field." Applicants do not allege that they are competing on this playing field against any of the utilities that have received a stay. Applicants also object to complying with the

affiliate transaction rules because of the costs they assert the rules will impose upon them.

On April 3, 2000, the Office of the Public Counsel (Public Counsel) filed suggestions opposing the requested waiver. Public Counsel points out that the fact that certain utilities have had the effectiveness of a validly promulgated rule stayed should not be good cause for exempting other utilities. Public Counsel also disputes Applicants' "level playing field" argument. Finally, Public Counsel counters Applicants' claims of the costs required to comply with the rules.

On April 13, 2000, Applicants filed a response to Public Counsel's April 3, 2000, pleading. Applicants dispute Public Counsel's assertion that the grant of a stay by the Circuit Court frustrates the Commission's intent in promulgating the affiliate transaction rules. The Applicants' also assert that granting the requested waiver would not set back the Commission's intent in promulgating these rules. Applicants argue that a delay in applying the rules to them until the appellate process has been concluded will prevent the potentially needless expenditure of funds. Applicants also take issue with Public Counsel's arguments about the significance of the costs of compliance.

Also on April 13, 2000, the Staff of the Commission filed a pleading entitled "Staff Response in Opposition to Joint Application for Waivers." Staff states the purposes of the rules can be better accomplished by denying the requested waiver than by granting it. Staff contends that the purposes can be accomplished to a certain extent by

applying the rules to some utilities, but that they cannot be accomplished at all if the Commission grants the waiver. Staff points out that Applicants could have filed motions for stay in the Circuit Court, but chose not to. Staff disagrees with Applicants' assertions concerning the costs of complying with the rules.

The Cole County Circuit Court made very clear that its order granting stay only applied to those utilities that requested it. Applicants, if they wished to have the effectiveness of the rule stayed as to them, could have joined with the utilities that received a stay. The Commission agrees with Staff that the purposes of the rule can better be accomplished by applying the rule to all the utilities not specifically exempted by the Circuit Court than by exempting all utilities.

The Commission fully considered all of the evidence concerning the cost of compliance before it issued its order of rulemaking. The Commission will not refrain from enforcing a validly promulgated rule because it is subject to appellate review. The Commission will deny the requested waiver.

**IT IS THEREFORE ORDERED:**

1. That the application for waivers filed by UtiliCorp United Inc. d/b/a Missouri Public Service, The Empire District Electric Company and St. Joseph Light & Power Company on December 13, 1999 is denied.

2. That this order shall become effective on May 31, 2000.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive style with a large initial "D".

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Crumpton, and Drainer, CC., concur  
Murray and Schemenauer, CC., absent

Mills, Deputy Chief Regulatory Law Judge

Atty/Sec'y:

Mills/Boyce

Date Circulated

5-16

CASE NO.

EE-2000-522

88 p 3  
Lumpe, Chair

[Signature]  
Crumpton, Commissioner

[Signature]  
Murray, Commissioner

[Signature]  
Schenenauer, Commissioner

200 p 3  
Drainer, Vice-Chair

Agenda Date

5-30-5-18

Action taken:

3-045

Must Vote Not Later Than

**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 18<sup>th</sup> day of May 2000.

Dale Hardy Roberts

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

