

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
February 7, 2002**

CASE NO: EC-2002-277

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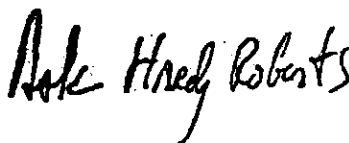
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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

Missouri Coalition for Fair Competition,)	
)	
Complainant,)	
v.)	<u>Case No. EC-2002-277</u>
)	
Missouri Public Service, a Division of)	
UtiliCorp United Inc.)	
)	
Respondent.)	

and

Missouri Coalition for Fair Competition,)	
)	
Complainant,)	
v.)	<u>Case No. EC-2002-278</u>
)	
St. Joseph Light & Power, a Division of)	
UtiliCorp United Inc.)	
)	
Respondent.)	

**ORDER DIRECTING COMPLETION OF SERVICE
AND DIRECTING FILINGS
AND ORDER DIRECTING STAFF REPORT
AND ORDER SETTING PREHEARING CONFERENCE**

On December 12, 2001, the Missouri Coalition for Fair Competition (Complainant) filed two separate but similar complaints with the Missouri Public Service Commission against Missouri Public Service (MPS) and St. Joseph Light & Power (SJLP). Both of these companies are divisions of UtiliCorp United Inc. The complaints allege that MPS and SJLP acted contrary to the requirements of Sections 386.754-764

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and particularly Section 386.756, RSMo 2000, by marketing Heating, Ventilation and Air Conditioning (HVAC) services without required disclosure statements. Exhibit 1 attached to each complaint presented a brochure alleged to violate the statute. The SJLP complaint also presented a published advertisement as Exhibit 2 alleged to violate the statute.

The Commission issued notices of the complaints on December 31, 2001. MPS and SJLP filed answers on January 28, 2002. MPS indicated in its answer that while the complaint referenced Exhibit 2 that it had not been served with any Exhibit 2. Complainant will be directed to file and to serve Exhibit 2 to the MPS complaint or to file a notice of correction stating that there is no Exhibit 2 to this complaint and that the reference is an error.

MPS and SJLP denied any violation of any law. MPS and SJLP also presented affirmative factual allegations and legal conclusions in opposition to those presented in the complaints. Finally, MPS and SLJP assert no claim has been stated and that the Commission lacks subject matter jurisdiction under Sections 386.754-764 or that the Complainant has failed to comply with Commission procedural rules implying a jurisdictional defect. MPS and SJLP will be directed to file motions in support of paragraph 6 (a), (e) and (f) of their respective answers and to file suggestions in support of their position. Complainant and the Commission's Staff will be directed to respond.

The Commission's Staff will be directed to review the complaints, the attached materials and conduct a brief investigation into the matter presented in each complaint and to file a report stating Staff's preliminary findings. Staff may contact each

party to determine whether the complaints may be informally resolved. Complainant, MPS and SLJP will be directed to respond to the Staff report.

The Commission will schedule a prehearing to hear oral argument on any motions filed by the parties, to review the status of these cases, to address procedural matters and to provide an opportunity for settlement discussions.

At the prehearing the parties should be prepared to present argument and to answer questions regarding any motions filed and pending in these cases.

The parties should also be prepared to discuss the nature of any discovery each will conduct and the time necessary to complete discovery, if any, and to prepare for a hearing. The parties should be prepared to name the witnesses each expects to call at hearing; the number and nature of any exhibits each expects to offer at hearing; and the anticipated length of the hearing. Certain documents have been submitted and filed. The parties should be prepared to stipulate as to whether these documents could be received into the evidentiary record without objection.

The parties or their representatives should also be prepared to discuss the status of settlement negotiations and to engage in further settlement negotiations. The Regulatory Law Judge may discuss this case with the parties and with Staff and suggest areas that might provide a basis for the parties to compromise and settle their differences.

If the parties do not resolve their differences, they shall be prepared to discuss a proposed procedural schedule and to formulate a statement of issues the Commission should decide with a schedule of witnesses to be heard and file it in this case. The procedural schedule shall establish dates for the close of discovery and filing

of prepared testimony prior to the hearing. The parties shall state the issues that the Commission must determine, the witnesses to be called on each day of hearing and the order thereof. The proposed procedural schedule shall also propose a hearing date for this matter. The Commission will determine the time for filing a procedural schedule at or following the prehearing conference after reviewing the status of these cases and reviewing these cases with the parties.

IT IS THEREFORE ORDERED:

1. That the Missouri Coalition for Fair Competition shall file and serve Exhibit 2 to its complaint in Case No. EC-2002-277 or file a corrective notice stating that the reference to Exhibit 2 is an error and do so no later than February 14, 2002.

2. That Missouri Public Service and St. Joseph Light & Power shall file motions and suggestions in support of paragraph 6(a), (e) and (f) of the answers filed in Case Nos. EC-2002-277 and EC-2002-278 not later than February 21, 2002. The Missouri Coalition for Fair Competition and the Commission's Staff shall file responses not later than March 7, 2002.

3. That the Commission's Staff shall review the complaints in Case Nos. EC-2002-277 and EC-2002-278 and conduct a brief investigation into the matter presented in each complaint and file a report stating Staff's preliminary findings. Staff may suggest proposed resolutions of the matters presented to the parties and to the Commission. Staff's report shall be filed not later than March 7, 2002. The Missouri Coalition for Fair Competition, Missouri Public Service and St. Joseph Light & Power shall respond to Staff's report not later than March 14, 2002.

4. That a prehearing conference shall be held on March 29, 2002, beginning at 10:00 a.m. The parties must attend the prehearing conference. Staff must attend the prehearing conference to respond to any inquiries that the Commission may have. The prehearing will be held at the Commission's offices in the Governor Office Building, Room 305, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans With Disabilities Act. If any person needs additional accommodations to participate in this prehearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

5. That the parties shall be prepared at the prehearing conference to present oral argument regarding pending motions, to discuss discovery and procedural matters, to discuss settlement of issues, and to discuss a proposed procedural schedule.

6. That this order shall become effective on February 14, 2002.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Keith Thornburg, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 7th day of February, 2002.

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 7th day of Feb. 2002 .



Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge