

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
February 10, 2000**

**CASE NO: EM-2000-292**

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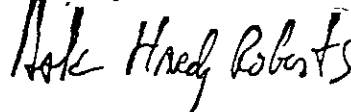
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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

Sincerely,



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

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 10th  
day of February, 2000.

In the Matter of the Joint Application of	)	
UtiliCorp United Inc. and St. Joseph	)	
Light & Power Company for Authority to	)	
Merge St. Joseph Light & Power Company	)	<u>Case No. EM-2000-292</u>
with and into UtiliCorp United Inc., and,	)	
in Connection Therewith, Certain Other	)	
Related Transactions.	)	

**ORDER DENYING MOTION TO CONSOLIDATE**

On October 19, 1999, UtiliCorp United, Inc. (UtiliCorp) and St. Joseph Light & Power Company (SJLP) filed a joint application to merge SJLP with and into UtiliCorp. That merger application was assigned case number EM-2000-292. On December 15, UtiliCorp and The Empire District Electric Company (Empire) filed a joint application to merge Empire with and into UtiliCorp. That merger application was assigned case number EM-2000-369. On December 17, the Office of the Public Counsel (Public Counsel) filed a motion asking that the Commission consolidate and review the two merger applications in a single case. On December 21, the Missouri Department of Natural Resources (MDNR) filed its own Motion to Consolidate, indicating that it joined in Public Counsel's motion to consolidate.

On December 22, the Commission issued a Notice Regarding Motion to Consolidate that notified the parties that they could file their responses to Public Counsel's Motion to Consolidate no later than January

21, 2000. On January 21, AG Processing Inc., (AGP) and the City of Springfield, Missouri, through the Board of Public Utilities (City Utilities), filed responses indicating their support for Public Counsel's motion. On January 24, the Staff of the Commission (Staff) filed a response to the Motion to Consolidate along with a motion asking leave to late file its response. Staff supports the consolidation of the two merger cases. UtiliCorp and SJLP filed a response indicating their opposition to the motion to consolidate on January 21. Staff filed a reply to the responses of UtiliCorp and SJLP on January 31.

Public Counsel's Motion to Consolidate suggests that the merger cases should be consolidated because they share many common issues and much of the testimony that will be presented in the two cases will overlap. The motion suggests that a tremendous and unnecessary waste of resources can be avoided if the two cases are consolidated for purposes of Commission review and hearing. Staff's response suggests that the consolidated merger cases be heard at a single hearing to be held in September, 2000. AGP, City Utilities and Public Counsel also support a September date for hearing the consolidated cases.

UtiliCorp and SJLP oppose the consolidation of the merger cases because they believe that consolidation would only serve to confuse and complicate the consideration of the separate merger applications. They suggest that the two merger applications are separate and distinct transactions. Each should be decided on its own merits in a separate and distinct Commission decision based on record evidence pertaining to that transaction. To consolidate the two applications would deny the

applicants their due process rights. Furthermore, UtiliCorp and SJLP suggest that consolidation would result in increased confusion at the hearing because of the need for the witnesses and the Commission to constantly shift back and forth between the cases.

The Commission has considered the Motion to Consolidate as well as the suggestions put forth by the other parties in support of, and in opposition to, the Motion to Consolidate. While these cases do share many common issues of fact and law, they are not so identical as to require that they be consolidated into a single case. Maintaining the distinction between the cases will allow the Commission the flexibility to deal with the separate issues that will arise with regard to the separate merger transactions.

The Commission is concerned about the need to economize on the use of the regulatory resources of the Commission and the Public Counsel, as well as the resources of the applicants and intervenors. The parties are encouraged to take advantage of any opportunities that may arise to utilize discovery and testimony that are common to both cases. If the parties do file any identical testimony in the two cases, the Commission requests that they inform the Commission by noting that fact on the front cover of the testimony. Because the Motions to Consolidate are being denied, no changes will be made in the procedural schedule previously established for this case.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Consolidate filed by the Office of the Public Counsel on December 17, 1999 is denied.

2. That the Motion to Consolidate filed by the Missouri Department of Natural Resources on December 21, 1999 is denied.

3. That this order shall become effective on February 23, 2000.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

( S E A L )

Lumpe, Ch., Crumpton, Schemenauer,  
and Drainer, CC., concur  
Murray, C., dissents

Woodruff, Regulatory Law Judge

Atty/Sec'y: Woodruff/Bryce

Date Circulated 2-7 CASE NO. EN-2000-292

ltg  
Lumpke, Chair

CR  
Crumpton, Commissioner

cm no  
Murray, Commissioner

DS  
Schemenauer, Commissioner

ndj  
Draimer, Vice-Chair

Agenda Date 2-10

Action taken: 4-1 AS  
5-0 AS

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 10<sup>th</sup> day of FEBRUARY 2000.

Dale Hardy Roberts

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

