

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the Joint Application of)
Missouri Gas Company, a Missouri corporation,)
Missouri Pipeline Company, a Missouri)
corporation, and UtiliCorp United, Inc., a)
Delaware corporation, for an order authorizing the)
sale, transfer and assignment of certain rights,)
properties and assets from Missouri Gas Company) Case No. GM-94-252
and Missouri Pipeline Company to UtiliCorp)
United Inc., d/b/a Missouri Public Service, or)
to wholly-owned subsidiary corporations to be)
formed by UtiliCorp United Inc., and in)
connection therewith, certain other related)
transactions.)

APPEARANCES: James F. Mauzé, Attorney at Law, and Thomas E. Pulliam,
Attorney at Law, Ottsen, Mauzé & Leggat, P.C., 112
South Hanley, St. Louis, Missouri 63105, for Missouri Gas
Company and Missouri Pipeline Company.
James C. Swearengen, Attorney at Law, Brydon, Swearengen
& England, P.C., 312 East Capitol Avenue, Jefferson City,
Missouri 65102, for UtiliCorp United Inc., d/b/a Missouri
Public Service.
Gerald T. McNeive, Jr., Associate General Counsel, 720 Olive
Street, St. Louis, Missouri 63101, for Laclede Gas Company.
James M. Fischer, Attorney at Law, Mutual Savings Bank, 101
West McCarty Street, Suite 215, Jefferson City, Missouri 65101,
for Fidelity Natural Gas, Inc.
Gerald E. Roark, Attorney at Law, Hendren and Andrae,
P.O. Box 1069, Jefferson City, Missouri 65102, for Williams
Natural Gas Company.
John D. Landwehr, Attorney at Law, Cook, Vetter, Doerhoff &
Landwehr, P.C., 231 Madison Street, Jefferson City, Missouri
65101, for Conoco, Inc.
Lewis R. Mills, Jr., Deputy Public Counsel, P.O. Box 7800,
Jefferson City, Missouri 65102, for Office of the Public
Counsel and the Public.
Cherlyn D. McGowan, Assistant General Counsel, P.O. Box 360,
Jefferson City, Missouri 65102, for Staff of the Missouri
Public Service Commission.

HEARING

EXAMINER: Joseph A. Derque, III

REPORT AND ORDER ON REHEARING

On October 12, 1994, the Commission issued its Report and Order in this matter, deciding all issues presented to it as a result of the evidentiary hearing of this case. Upon motion made by UtiliCorp United, Inc., the Commission

extended the effective date of the Commission's Report and Order from October 25, 1994 to November 25, 1994. On November 23, 1994, UtiliCorp filed a motion for modification or rehearing.

On December 16, 1994, the Commission issued an order regarding post-hearing motions and applications for rehearing, which decided all pending matters before the Commission and granted a rehearing solely on a proposed modification to the Commission's original order on the issue which has been styled "affiliated transactions."

The rehearing, held December 19, 1994, resulted from a proposed modification of the Commission's original decision on the "affiliated transactions" issue. The proposed modification is the result of negotiations between the Staff and UtiliCorp, and is by agreement. In addition, none of the remainder of the parties and intervenors are opposed to the requested modification.

Findings of Fact

The Missouri Public Service Commission, having considered all competent and substantial evidence on the record, makes the following findings of fact.

This issue was originally presented by the Commission Staff. It is the Staff's contention that affiliate transactions by UCU must be restricted. The Staff cites as its reason the fact that UCU also owns various LDCs, including one on the instant pipeline at Rolla, Missouri. It is the Staff's concern that, with the ability to offer flexible rates, it is possible that UCU could give preferential treatment to its own LDCs at the expense of the remainder of the pipeline customers.

The Commission, in its original order, adopted the Staff's position. UtiliCorp, in its motion of November 23, 1994, proposed a modification of the Commission's decision. This modification was agreed to by the Staff with several small changes.

In its motion UtiliCorp requested the following modification with the two alterations as proposed by the Staff and agreed to by UtiliCorp. The Staff changes are underlined or noted.

In lieu of the conditions imposed at page 13 of the Report and Order, the Commission imposes the following conditions on this transaction and order that such conditions be set out in tariff sheets for each pipeline and filed with the Commission within 30 days after the consummation of the sale:

- A. These provisions will be applied to the MPC service area and the MGC service area as separate entities and on a separate basis. Rate comparisons for compliance with these provisions will be calculated assuming a 25% load factor.
- B. UtiliCorp will submit to the Commission's Energy - Rates Staff ("Staff") once every three months, a list of all bids or offers UtiliCorp quotes for transportation service rates for each individual pipeline where the bid is less than the maximum rate contained in the tariff for the MGC area or in the tariff for the MPC area as the case may be. For each of the service areas, UtiliCorp will provide the bid price quoted, the length of and the dates of all offerings, the name, address and telephone number of the party to whom the bid was given, any other terms of the bid and a rate comparison sheet for all bids and offers for each month. For each such bid or offering UtiliCorp will completely explain whether the entity being offered the rate is affiliated in any way with UtiliCorp or with any of its affiliates. If the entity is affiliated, UtiliCorp will completely explain such affiliation.
- C. For all transportation agreements entered into with any affiliate after the effective date of the tariff sheets referred to above in those instances in which the term of the agreement is greater than three months:
 - i. The lowest transportation rate charged to an affiliate shall be the maximum rate that can be charged to non-affiliates. Any renegotiation or other type of modification to the rates of any then effective transportation agreement is to be considered an applicable transportation agreement for the purpose of setting this maximum rate for non-affiliates.
 - ii. UtiliCorp will submit each such transportation agreement for Commission approval in those

instances in which the rate offered to a non-affiliate is proposed to be greater than any rate offered to any affiliate.

iii. UtiliCorp will submit a rate comparison for all transportation agreements.

D. UtiliCorp will respond immediately to Staff inquiries concerning discounting.

E. If at some point in time the Staff determines that the provisions of paragraph 3 A., B. and C. above are not effective in preventing rate discrimination to non-affiliates, after contacting UtiliCorp, the Staff may file a notice to that effect with the Commission. As a consequence, on the date of such notice filing, said provisions will be terminated and at that point in time the following provisions will automatically replace paragraph 3 A., B. and C. with regard to all contracts in effect at the time of Staff's filing of said notice with the Commission:

(Phrase omitted). The transportation rate charged to any affiliate on the individual pipelines pursuant to a contract for a term greater than three months entered into after the consummation of the sale shall be the maximum rate which may be charged to non-affiliates.

The above-stated conditions are being imposed for the sole purpose of resolving the affiliate transaction issue in this case and that said conditions shall not be considered as a precedent for dealing with any affiliate transaction issue in any other case or proceeding. UtiliCorp United, Inc. may petition the Commission for a waiver of these conditions in any specific instance should it believe that good cause exists to do so and that at some point in the future should UtiliCorp or any other party to this case prefer an alternative safeguard to prevent unlawful rate discrimination or unlawful affiliate transactions, said party may petition the Commission accordingly.

At the rehearing of this matter, testimony was entered by both the Staff of the Commission and UtiliCorp supporting the proposed modification as providing adequate safeguards to the ratepayers and flexibility to allow UtiliCorp to engage in the short-term gas market. Witnesses for both parties pointed out that the original Commission order, which was a verbatim adoption of

the original Staff position on this issue, prohibited UtiliCorp from engaging in short-term sales and transportation of gas to various customers on both the Laclede system and on the downstream portion of the pipeline. These potential customers included various large volume industrial and commercial users who, as the result of post-636 unbundling, purchase gas periodically on the open market. Testimony indicates that UtiliCorp intends to engage in marketing gas to these customers, including transportation, partially in order to assist in supporting the operation of the pipeline. Testimony from both parties indicated that transportation income derived from this proposed enterprise was important to the economic viability of the pipeline.

Testimony was also elicited regarding the concerns of the Commission as to safeguards against the potential of unauthorized affiliate transactions by UtiliCorp with its affiliates being served by its own pipeline. It was the opinion of the Staff that provisions contained in the proposed modification regarding the submission to the Staff by UtiliCorp of certain records, the monitoring of short-term transactions by the Staff, and the ability of the Staff to impose the more restrictive provisions regarding long-term contracts on UtiliCorp's short-term transactions should a violation be noted, provided adequate safeguards against potential abuse. Finally, a statement was also made by the Office of Public Counsel supporting the proposed modification.

The Commission has considered the additional evidence provided by the parties during the rehearing of this matter. The Commission has also considered the proposed modification. The Commission finds that the testimony given at the rehearing of this matter clearly indicates that the proposed modification provides considerable safeguards against potential abuse, thereby protecting the ratepayer, while considering the economic necessities faced by UtiliCorp in the operation of the pipeline system. For these reasons the Commission finds that

the proposed modification is reasonable and in the public interest, and will be approved.

Conclusions of Law

The joint applicants, UCU, MPC and MGC, are public utilities under the jurisdiction of the Commission, regulated generally by Chapter 393, RSMo 1986.

The Commission finds, in accordance with Section 393.170, that it has the authority to determine the scope of service and area of service for regulated utilities, and to impose conditions it may deem reasonable and necessary. Therefore, for the above reasons, the Commission finds that the proposed transaction, will be approved with these changes, additions, and alterations as set out in this Report and Order.

The Commission finds that the agreed upon modification should not be denied unless good reason exists to do so. The Commission further finds that substantial and competent evidence exists, on the record, to support the Commission's finding that the proposed modification is reasonable and in the public interest.

IT IS THEREFORE ORDERED:

1. That in lieu of the conditions imposed at page 13 of the Report and Order, the Commission imposes the following conditions on this transaction and order that such conditions be set out in tariff sheets for each pipeline and filed with the Commission within 30 days after the consummation of the sale:

- A. These provisions will be applied to the MPC service area and the MGC service area as separate entities and on a separate basis. Rate comparisons for compliance with these provisions will be calculated assuming a 25% load factor.
- B. UtiliCorp will submit to the Commission's Energy - Rates Staff ("Staff") once every three months, a list of all bids or offers UtiliCorp quotes for transportation service rates for each individual pipeline where the bid is less than the maximum rate contained in the tariff for the MGC area or in the tariff for the MPC area as the case may be. For

each of the service areas, UtiliCorp will provide the bid price quoted, the length of and the dates of all offerings, the name, address and telephone number of the party to whom the bid was given, any other terms of the bid and a rate comparison sheet for all bids and offers for each month. For each such bid or offering UtiliCorp will completely explain whether the entity being offered the rate is affiliated in any way with UtiliCorp or with any of its affiliates. If the entity is affiliated, UtiliCorp will completely explain such affiliation.

- C. For all transportation agreements entered into with any affiliate after the effective date of the tariff sheets referred to above in those instances in which the term of the agreement is greater than three months:
 - i. The lowest transportation rate charged to an affiliate shall be the maximum rate that can be charged to non-affiliates. Any renegotiation or other type of modification to the rates of any then effective transportation agreement is to be considered an applicable transportation agreement for the purpose of setting this maximum rate for non-affiliates.
 - ii. UtiliCorp will submit each such transportation agreement for Commission approval in those instances in which the rate offered to a non-affiliate is proposed to be greater than any rate offered to any affiliate.
 - iii. UtiliCorp will submit a rate comparison for all transportation agreements.
- D. UtiliCorp will respond immediately to Staff inquiries concerning discounting.
- E. If at some point in time the Staff determines that the provisions of paragraph 3 A., B. and C. above are not effective in preventing rate discrimination to non-affiliates, after contacting UtiliCorp, the Staff may file a notice to that effect with the Commission. As a consequence, on the date of such notice filing, said provisions will be terminated and at that point in time the following provisions will automatically replace paragraph 3 A., B. and C. with regard to all contracts in effect at the time of Staff's filing of said notice with the Commission:

The transportation rate charged to any affiliate on the individual pipelines pursuant to a contract for a term greater than three


months entered into after the consummation of the sale shall be the maximum rate which may be charged to non-affiliates.

2. That the above-stated conditions are being imposed for the sole purpose of resolving the affiliate transaction issue in this case and that said conditions shall not be considered as a precedent for dealing with any affiliate transaction issue in any other case or proceeding. UtiliCorp United, Inc. may petition the Commission for a waiver of these conditions in any specific instance should it believe that good cause exists to do so and that at some point in the future should UtiliCorp or any other party to this case prefer an alternative safeguard to prevent unlawful rate discrimination or unlawful affiliate transactions, said party may petition the Commission accordingly.

3. That UtiliCorp will, prior to commencing operation, file tariffs in accordance with this order.

4. That this order shall become effective on January 4, 1995.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
Kincheloe and Crumpton, CC., Concur
and certify compliance with the
provisions of Section 536.080, RSMo 1986.

Dated at Jefferson City, Missouri,
on this 22nd day of December, 1994.