

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., d/b/a Missouri Public Service,)
a Delaware corporation, for an order)
authorizing the sale, transfer and)
assignment of certain rights, properties) Case No. GM-94-252
and assets from Missouri Gas Company 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**,
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Missouri Public Service Commission.

HEARING
EXAMINER: **Joseph A. Derque, III.**

REPORT AND ORDER

PROCEDURAL HISTORY

The case was initiated as the result of the filing on February 22, 1994, of the Joint Application of Missouri Gas Company (MGC), Missouri Pipeline Company (MPC), and UtiliCorp United Inc. (UCU) for an order of the Commission authorizing the sale, transfer and assignment of certain rights, properties, and assets from MPC and MGC to UCU.

An Order and Notice was issued by the Commission on March 4, 1994, providing for notice of the proposed transaction and for filing of requests for intervention in this matter. On April 13, 1994, interventions were granted to Fidelity Natural Gas (FNG), Laclede Gas Company (LGC), Williams Natural Gas (WNG), and Conoco, Inc. (Conoco) and a procedural schedule was set for the filing of testimony and evidentiary hearing of this matter. An evidentiary hearing was held in this matter on August 15 and 17, 1994. A briefing schedule was set, and this matter was finally submitted to the Commission on September 23, 1994.

On August 3, 1994, MPC and MGC filed a joint motion to strike the testimony of Michael T. Cline, a witness for LGC. The Commission issued an order denying the motion and stating:

"While the Commission has difficulty with the relevance of Mr. Cline's testimony, the Commission finds that the opportunity for cross-examination of witness Cline should be afforded the parties on the issues raised in witness Cline's testimony before a ruling on the relevance of that testimony can be fairly made."

At the evidentiary hearing, subsequent to the cross-examination of LGC witness Cline, the motion to strike witness Cline's testimony was renewed. The Commission held that the matter would be taken with the record in this case and ruled on in this Report and Order.

The issues raised by LGC in Mr. Cline's testimony will be dealt with at length in the body of this Report and Order. After cross-examination, the Commission finds that the testimony in question is not wholly irrelevant and will be allowed to remain in the record. The Commission will again deny the motion to strike.

FINDINGS OF FACT

The Missouri Public Service Commission, having considered all competent and substantial evidence, upon the whole record, makes the following findings of fact. The Commission has reviewed and considered all of the evidence and argument presented to it by the various parties and intervenors in this case. Due to the volume of material presented to the Commission, some evidence and positions on certain issues may not be addressed in this Report and Order. The failure of the Commission to mention a piece of evidence or the position of a party indicates that, while the evidence or position was considered, it was not found to be relevant or necessary to the resolution of that issue.

The sale agreement in question is between UCU, the buyer, and Edisto Resources Corporation, Vesta Natural Gas Company (a wholly-owned subsidiary of Edisto), and MGC and MPC, both wholly-owned subsidiaries of Vesta, all of whom are the sellers. The terms of the agreement call for a cash payment on closing of \$55.4 million, to be adjusted at closing, for purchase of all rights, properties, and assets of every type used or held for use by MPC and MGC in the operation of the "Missouri System," as described in detail in the agreement. In addition, it is important to note that UCU is asking for transfer to UCU of the certificates of convenience and necessity issued to MPC and MGC, without alteration.

The assets described as the "Missouri System" include an intrastate gas transportation pipeline system. This system originates at its junction with Panhandle Eastern Pipeline in Curryville, Missouri, northwest of St. Charles County. It then runs generally in a southerly direction through St. Charles County, serving a portion of that area, and around the western portion of the St. Louis metropolitan service area of Laclede Gas Company. Finally, the pipeline proceeds southwest following Interstate 44, an area known as the I-44 corridor, serving several small local distribution companies (LDCs) and terminating at Ft. Leonard Wood, Missouri. The division between MPC, which owns the upstream pipeline, and MGC is located just south of the Sullivan, Missouri service area of FNG, at the Franklin-Crawford County line.

Both MPC and MGC are Missouri corporations in good standing which presently hold certificates of convenience and necessity, issued by the Commission in Case No. GA-90-280, to engage in the business of owning and operating the above-described natural gas transportation system.

UCU is a Delaware corporation, in good standing, authorized to conduct business in Missouri through its operating division, Missouri Public Service, and is currently engaged in the provision of electrical and natural gas utility service under the jurisdiction of the Commission. Throughout this Report and Order UCU and all current or proposed operating companies will be referred to as UCU.

The Commission will address the issues presented in this case for decision in the following sequence:

- I. Should the Commission approve the proposed transaction as being economically feasible?
- II. If the Commission approves the sale, what is the nature of the current certificates of convenience and necessity issued to MPC and MGC, particularly in regard to A) retail service as an LDC, and B) "by-pass"?

III. If the commission approves the sale, should additional restrictions be placed on UCU outside of the original MPC and MGC tariffs to avoid rate discrimination against non-affiliates?

IV. If the Commission approves the sale, should the Commission alter or clarify the standard language generally used in agreements which requests Commission approval for the parties to engage in all "related transactions" necessary for the completion of the sale?

I.

Should the Commission approve the proposed transaction as being economically feasible?

In the hearing of this issue a substantial portion of the evidence presented principally by intervenor LGC is of a highly confidential or proprietary nature and, while admitted as evidence on the record in camera, no detailed exposition of this evidence will be contained in this Report and Order.

This issue was presented by LGC. It is the general contention of LGC that the proposed sale to UCU should be rejected or delayed.

In order to understand LGC's position, testimony as to the corporate structure surrounding MPC and MGC was offered by LGC. Both MPC and MGC are wholly-owned subsidiaries of Omega Pipeline, which is currently a wholly-owned subsidiary of Vesta Natural Gas. Vesta Natural Gas is a wholly-owned subsidiary of Edisto Resources. LGC formed a contractual arrangement with ESCO Energy, which was the parent corporation of Omega Pipeline Co. ESCO has since been succeeded by Vesta Energy. Vesta Energy, a sister corporation of Vesta Natural Gas, is a gas marketing company, also referred to as a shipper. It acquires pipeline capacity and provides for the delivery of gas to LDC's, generally at city gate facilities.

LGC currently has a contract, originally with ESCO and now with Vesta Energy, for delivery of a substantial percentage of LGC's annual capacity,

shipped through the MPC pipeline. This contract is currently being renegotiated by LGC and Vesta Energy. It is LGC's contention that the economic viability of the instant transaction is dependent on the continued existence of this contractual arrangement.

LGC uses between 80-90% of the natural gas shipped through the MPC system. LGC also admits that it is currently working with Vesta Energy to reach a mutually acceptable resolution regarding this contract. It is LGC's contention that, if the Commission approves the proposed acquisition prior to an agreement being reached between LGC and Vesta Energy, Vesta will have a greatly reduced incentive to reach a mutually agreeable resolution.

LGC asserts that Vesta energy has been, in effect, underwriting the financial risk associated with the operation of the pipeline by maintaining the long-term contract with LGC. LGC states that, in the event of a breakdown in contract negotiations and subsequent failure of the contract, both the LGC ratepayers and the downstream customers will suffer the adverse economic consequences. LGC maintains that the Commission is responsible for continued service to not only the LGC system, but also to the downstream users whose communities are dependent on the continued viability of the pipeline. LGC is asking the Commission to delay or reject the proposed sale in order to allow the Vesta contract to be renegotiated.

Both MPC and MGC believe that the Commission has no jurisdiction to deal with a contractual dispute between an intervenor and a third party. The sellers point out that neither are in privity with LGC in the Vesta contract. It was shown that MPC and MGC have contractual arrangements with Vesta Energy for transportation of LGC and other downstream gas supplies, but do not contract directly with LGC.

MPC and MGC maintain that the basic issue before the Commission is one involving whether the proposed transaction is not detrimental to the public interest. The sellers maintain that the resolution of the contractual dispute between LGC and Vesta is irrelevant to the issue before the Commission and has little, if any, bearing on the public interest standard.

The Commission has considered the arguments as put forth by LGC regarding possible detriment to the public as the result of the proposed sale. Evidence of record shows that UCU, through its operating company, MPS, is already regulated by this Commission and has provided utility service in the State of Missouri successfully for a number of years. No evidence was presented to indicate MPS has had notable service or economic difficulties. Evidence does exist to infer that the financial position of UCU is much superior to that of Edisto Resources, indicating that improved stability, capability, and commitment may result from the proposed sale. There is no challenge on record as to UCU's financial capability to absorb this proposed transaction or its ability to successfully operate a transportation pipeline efficiently and economically. Evidence of record also indicates that UCU will cooperate with Vesta Energy in its efforts to maintain various shipping agreements that will survive the transfer of assets.

The Commission has, in the past, generally avoided interjecting itself in the management of the various investor-owned utilities that it regulates. The Commission currently does not favor becoming engaged in the micro-management of those companies through its regulatory authority. At base, LGC is asking this Commission to interpose itself in contractual negotiations. LGC's reasons for taking this position seem vague at best. It is apparent from the evidence, however, that, should the Commission

adopt LGC's position in this case, LGC will gain a substantial advantage in the ongoing contract negotiations over Vesta Energy. The Commission does not feel it appropriate to interfere in the negotiations between Vesta Energy and LGC, and particularly through the device of this case.

In addition, the Commission is unwilling to deny private, investor-owned companies an important incident of the ownership of property unless there is compelling evidence on the record tending to show that a public detriment will occur. In final assessment, LGC has managed only to show that there may be a possibility, should several contingencies occur among entities not directly involved in this sale, that a public detriment may later manifest itself.

The Commission finds that the case proffered by LGC requires far too much speculation about the possible actions and reactions of entities not directly involved with this purchase. Clearly, this does not constitute substantial and competent evidence sufficient to find the proposed sale to be detrimental to the public interest sufficient to deny the sellers their incident of ownership.

II.

What is the nature of the certificates of convenience and necessity originally issued to MPC and MGC, particularly in regard to "by-pass" and the provision of retail service as an LDC?

The Staff of the Commission raised several questions in regard to the certificates of convenience and necessity, and therefore the underlying tariffs, originally issued to MPC and MGC. In regard to the activities permitted under the original certificate and underlying tariffs, the Staff maintains that a potential exists for the holder of the certificates to engage in by-pass of LDC's to directly serve end users and to engage in retail service as a LDC. The Staff would have the Commission impose

additional restrictions on the eventual UCU operating company to prevent it from engaging in various activities other than pipeline transportation.

UCU maintains that it is not only purchasing the assets of the pipeline companies, but also their certificates to operate. UCU contends that the certificates issued to MPC and MGC do not specifically prohibit by-pass. UCU does not consider these certificates to be line-only in nature. UCU argues that any act by the Commission to impose additional conditions on these certificates would be an impairment of property rights and would, therefore, be an unlawful taking of property without due process of law.

The Staff argues at length in regard to the fact that the original certificates issued to MPC and MGC do not authorize by-pass. In addition, the Staff states it is appropriate for the Commission to interpret its order in the original certification case, GA-90-280, to define the limits of the certificates issued in that case.

Specifically, the Staff contends that the original certificate issued to MGC is a line certificate authorizing only the transportation of natural gas from Sullivan to Ft. Leonard Wood. The Staff urges the Commission to affirm that this was the Commission's intent in Case No. GA-90-280. The Staff also argues that the Commission should, in this case, limit the original certificate issued to MPC to a "line certificate," and in addition, prohibit potential by-pass by UCU.

In accordance with RSMo 393.190 and existing case law, the Commission has broad authority in regulating the sale, transfer, or disposition of a utility franchise, assets, works, or system. *State ex rel. Martigney Creek v. PSC*, 537 S.W.2d 388 (S.Ct. en banc 1976). In addition, both Sections 393.170 and 393.190, RSMo 1986, give the Commission, as a primary function,

the authority to assign, control, and limit service areas for the various utilities which it regulates.

The Commission has, of its own accord, examined its official case file in Case No. GA-90-280, and reviewed its Report and Order in that case. The case in question involved the award of original certificates of convenience and necessity for the construction and operation of the pipelines which are now being sold to UCU. MPC and MGC were awarded certificates for the pipelines which they now operate. The Commission would note that the case was taken up on appeal and is generally known as the "Intercon gas case." The portions of the Commission order relevant to the issues here are as follows:

"Ordered Sections

IT IS THEREFORE ORDERED:

1. That Missouri Pipeline Company is hereby granted a certificate of public convenience and necessity to construct, install, own, operate, control, manage and maintain an intrastate natural gas pipeline originating at the terminus of said Company's presently existing pipeline in St. Charles County, and extending on a southwesterly direction for 56 miles to a point at or near Sullivan, Missouri, in the southern portion of Franklin County.

2. That Missouri Pipeline Company shall file tariffs reflecting the rates and charges specified in this Order and a concise description and map showing the route of the pipeline herein authorized.

. . . .

7. That Missouri Gas Company is hereby granted a certificate of public convenience and necessity to construct, install, own, operate, control, manage and maintain a 67.5 mile intrastate natural gas pipeline originating near Sullivan, Missouri, and proceeding in a southwesterly direction along the Interstate-44 corridor to Ft. Leonard Wood, Missouri.

8. That Missouri Gas Company shall file tariffs reflecting the rates and charges specified in this Order and which contain a concise description and map showing the route of the pipeline herein authorized."

Further examination of the official case file indicates that MGC filed its tariffs, with a map and legal description of its service area, in accordance with the Commission's order. Ironically, MPC made no such filing in this case, and continues to be in violation of the Commission's order in Case No. GA-90-280, as subsequent tariff filings by MPC are completely lacking in any description of its service territory. The Commission will remedy this oversight in this Report and Order.

Upon review, the Commission's order in granting certificates to MPC and MGC seems abundantly clear. The Commission finds that the certificates issued, and which will be passed to UCU as the result of this purchase, are for the operation of a natural gas pipeline. This does not include the sale of gas, the by-pass of LDCs, or operation other than in the designated territory. Should UCU wish to engage in any of these other activities, it must first seek Commission approval to do so.

Should UCU violate the provisions of its certificate or tariffs by operating outside its defined service area or certificated service scope without first obtaining Commission authorization to do so, any proper party may take up this issue through the complaint process.

The Report and Order in Case No. GA-90-280 also speaks clearly in that the Commission ordered the filing of tariffs pursuant to the issuance of the certificates to both MPC and MGC. As part of that tariff filing, a concise legal description of the service area and map of each pipeline was required. MPC has failed to make such a filing. As the proper filing was incomplete and remains in violation of a Commission order, the Commission will insist that full compliance be achieved in this case.

The Commission will order UCU, by its operating company, to file consolidated tariffs for service jointly on the MPC and MGC portions of the pipeline, together with a legally sufficient description and map of the entire service territory containing the pipeline, from its beginning at Curryville to its termination at Ft. Leonard Wood. The Commission also finds it reasonable to require UCU to file, as a part of its tariff filing, a list of all known city gates, taps and other service junctions on the entire length of the pipeline. This will be completed prior to UCU commencing any operations on the instant pipeline system.

III.

If the Commission approves the sale, should additional restrictions be placed on UCU, outside of the original MPC and MGC tariffs, to avoid rate discrimination against non-affiliates?

This issue was also 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.

For its part, UCU states that it has performed transactions with affiliates in the State of Missouri for a number of years and engendered no complaints from the Staff that any transaction or business activity has been detrimental to the public. UCU also points out, and correctly so, that no evidence exists on the record to show that UCU has any current intention of engaging in predatory pricing or other prohibited affiliate transactions. Finally, UCU states that it has, in the past, demonstrated

that it has and will continue to conduct business with affiliates at arms length.

As a solution to this problem, the Staff recommends that the Commission impose an additional condition on UCU as part of this sale. The Staff proposes to place a price cap on UCU's rates offered to non-affiliates, making the rate offered to affiliates the maximum rate which could be offered to non-affiliates.

The Commission would first note that UCU has recently been granted a franchise and obtained Commission approval for the operation of a LDC in and around Rolla, Missouri, located on the I-44 corridor and served by the instant pipeline. The Commission is concerned that substantial potential for abuse exists in the operation by the same company of both the transportation pipeline for this area and one of several local distribution companies (LDCs). These concerns include those mentioned by the Staff, the potential subsidization of the affiliated Rolla LDC, and other concerns inherent in affiliated transactions. As a result of these concerns, the Commission will adopt the Staff's recommendation to insure that UCU deals in a fair manner with the LDCs it will serve and that the various ratepayer groups do not suffer adverse impact from any discriminatory practices or affiliate transactions.

Per the suggestion of the Staff, the Commission will order UCU to file tariffs reflecting the transportation rate charged to any affiliate on the pipeline is the maximum rate which may be charged to non-affiliates. Should UCU at any time subsequent to this case prefer an alternative safeguard to prevent rate discrimination or other unlawful affiliate transactions, it may petition the Commission to amend this tariff. Alternatively, UCU may petition the Commission for a waiver of this tariff requirement in specific instances should good cause exist to do so.

Finally, the imposition of this tariff requirement is not intended to affect charges contained in any current contracts and/or contracts assigned to UCU as part of the purchase agreement in this transaction.

IV.

Should the Commission alter or clarify the standard language, generally used, which requests Commission approval for the parties to engage in all "related transactions" necessary for the completion of the sale?

This issue was raised by LGC, which states that UCU, in the contract for sale and the joint application, requests approval to engage in "related transactions" necessary to the completion of the sale. LGC takes exception to the fact that nowhere are the anticipated "related transactions" spelled out or sufficiently described. LGC points out that the complete nature of the proposed transaction is not spelled out and that, therefore, the Commission has not been fully apprised as to what it is being asked to approve. LGC suggests that, should the Commission approve the proposed transaction, it should also limit approval to only those "related transactions" already spelled out in detail in the agreement and application.

UCU states that the related transactions involved in completing this sale include the transfer of deeds, easements, rights of way, permits, licenses, and, no doubt, a host of other necessary paperwork.

The Commission has used, in its ordered section, standard language, the purpose of which is to authorize those matters necessary to the completion of complex transactions, and to make it clear to all involved that the parties have full Commission authority to proceed with and complete the transaction without seeking Commission approval for every detail.

The language generally used in the Commission's orders, and containing the "related transaction" phrase, seems perfectly clear on its face and in its intent. The Commission has no reason to change this language, particularly since no complaint has been made, and no known violation of the letter or spirit of the "related transaction" language has been shown or even alleged to have occurred.

The Commission therefore finds, for the reasons set out above, that the proposed transaction is not detrimental to the public interest, and will be approved.

SETTLED ISSUES

The parties reached agreement on the following issues, set out and placed in evidence in the hearing memorandum:

" A. All parties agree that, if the Commission approves the acquisition, the certificates in issue should be transferred to UtiliCorp or UtiliCorp subsidiaries to be formed and not to the Missouri Public Service division of UtiliCorp ("MPS").

B. As to the physical separation of MPC's intrastate pipeline from a portion of a pipeline which crosses the Mississippi River, all parties agree that the prohibition against connecting the intrastate system to the interstate system is a condition which was imposed at the time the certificate was issued to MPC in Case No. GA-89-126, and that it will remain a condition of the certificate if transferred.

C. All parties agree that the depreciation rates presented in Schedule 1 to the rebuttal testimony of Guy C. Gilbert are acceptable. This schedule is attached as APPENDIX I.

D. All parties agree that the following ratemaking language taken from page 12 of Cary Featherstone's rebuttal testimony is acceptable:

'That nothing in this Order shall be considered as a finding by the Commission of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed upon said

properties by the Applicant. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these transactions in any later proceeding.'"

After review of the settled issues, the Commission finds the agreements reached to be reasonable and in the public interest and will reflect the agreed upon matters in its ordered section of this Report and Order.

Finally, on September 23, 1994, the parties filed a memorandum reflecting the fact that the issue involving interconnection "has been resolved in principle" and need not be dealt with in this Report and Order.

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. Specifically, the proposed sale, transfer and assignment of certain rights, properties, and assets is controlled by Section 393.190(1), which states in part:

393.190.1. No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it to do so.

The principle issue before the Commission, based on substantial and competent evidence contained in the record as a whole, and in accordance with the controlling rule in this case, 4 CSR 240-2.060, can be stated as follows: "Is the proposed transaction including the sale of assets and the transfer of certificates of convenience and necessity from MPC and MGC to

UCU not detrimental to the public interest?" See *State ex rel. City of St. Louis v. Public Service Commission*, 73 S.W.2d 393 (Mo. banc 1934); and *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466 (Mo. App. 1980).

In Case No. EM-91-290, in the matter of UtiliCorp United and Colorado Transfer Company, the Commission created a supplemental set of standards for acquisitions and mergers, those being:

- a. All documentation generated relative to the analysis of the merger and acquisition in question must be maintained.
- b. The company must present an estimate of the impact of the merger on its Missouri jurisdictional operations.
- c. The Company must provide an assessment of the relative risk regarding items that impact its Missouri operations.
- d. The Company must propose assurances or conditions that will address the overall merger components that pose the risk of being detrimental to the Missouri public interest.

In the above-stated case, in Ordered Paragraph No. 7, the Commission stated, "that future applications involving acquisitions and mergers shall be subject to the four conditions outlined in this order."

Finally, in *State v. PSC*, 73 S.W.2d at 400, the Court states:

"the respondents found that the public would not be affected by the transfer of the stock. The owners of this stock should have something to say as to whether they can sell it or not. To deny them that right would be to deny them an incident important to ownership of property. *City of Ottawa v. Public Service Commission*, 130 Kan. 867, 288, p. 556. A property owner should be allowed to sell his property unless it would be detrimental to the public."

The Commission finds that the joint application to sell and transfer assets and rights 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 transaction is not detrimental to the public interest.

The Commission finds that the additional standards prescribed by the UtiliCorp case, supra, which apply to acquisitions have been satisfied for purposes of this case.

Finally, 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. Section 393.170 states:

"393.170. Approval of incorporation and franchises--certificate.

1. No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system without first having obtained the permission and approval of the Commission.

2. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities.

3. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary. Unless exercised within a period of two years from the grant thereof, authority conferred by such certificate of

convenience and necessity issued by the commission shall be null and void."

Therefore, for the above reasons, the Commission finds that the proposed transaction, as set out in detail in the application and attached exhibits, is reasonable and not detrimental to the public interest, and will therefore be approved with these changes, additions, and alterations as set out in this Report and Order.

IT IS THEREFORE ORDERED:

1. That the proposed sale, transfer and assignment of rights, properties, and assets from Missouri Gas Company and Missouri Pipeline Company to UtiliCorp United, Inc., as set out in the application, contractual agreement, attachments in this case, and this Report and Order is hereby approved.

2. That UCU will file appropriate tariffs - consolidated if only one operating company is formed for the entire system - in full compliance with the findings as set out in this Report and Order, including appropriate rate schedules for operation of the pipeline system, a valid legal description of the service territory or territories and maps setting out that territory, and a tariff reflecting maximum transportation rates as set out herein.

3. That UCU will fully inform the Staff of the Commission as to the completion of the above-stated transaction, and the final purchase price, and will promptly file the appropriate documentation and a verified report reflecting all journal entries recording the creation and financing of this transaction.

4. That nothing in this Report and Order shall be considered as a finding by the Commission of the value, for ratemaking purposes, of the

properties herein involved, nor as an acquiescence in the value placed upon said properties by the applicant.

5. That the Commission reserves the right to consider the ratemaking treatment to be afforded these transactions in any later proceeding.

6. That UtiliCorp United, Inc., Missouri Pipeline Company, and Missouri Gas Company are hereby authorized to perform the terms and conditions of the contractual agreement for sale and transfer of the assets and rights as approved in Ordered No. 1 herein, and to perform all acts necessary to the implementation and completion of the contractual agreement and transfer of rights and assets.

7. That Missouri Pipeline Company and Missouri Gas Company are authorized to transfer all pertinent certificates of convenience and necessity to UtiliCorp United upon the closing of this transaction.

8. That UtiliCorp United is authorized to purchase and acquire the assets and rights as set out in the above-stated application and agreement, and to own, operate, control, manage and maintain those assets in accordance with the Commission's original certification as set out in Case No. GA-90-280 and this Report and Order.

9. That the issues agreed to by the parties and set out in this Report and Order as "settled issues" are hereby approved and the parties are directed to comply with those agreements.

10. That this order will become effective on October 25, 1994.

BY THE COMMISSION

A handwritten signature in black ink, reading "David L. Rauch". The signature is written in a cursive style with a large, stylized "D" and "R".

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 12th day of October, 1994.