

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the joint application)
of the City of Pleasant Hill, Missouri,)
and UtiliCorp United Inc., for UtiliCorp)
to receive permission, approval, and a)
certificate of convenience and necessity)
authorizing UtiliCorp to own, operate,)
control, manage, improve, and maintain)
an electric transmission and)
distribution system for the public in)
the City of Pleasant Hill, Missouri, or)
in the alternative, for an order finding)
no such certificate is needed, and)
for permission for UtiliCorp to supply)
retail electric energy to persons at all)
structures in the City of Pleasant Hill)
pursuant to Section 393.106.2 RSMo.)

Case No. EA-91-385

APPEARANCES: Gary W. Duffy, Brydon, Swearngen and England, P.O. Box 456,
Jefferson City, Missouri 65102, for UtiliCorp United Inc.

HEARING

EXAMINER: Beth O'Donnell

REPORT AND ORDER

Procedural History

On June 3, 1991, UtiliCorp United Inc. (UUI) and the City of Pleasant Hill, Missouri (City), collectively referred to hereinafter as Applicants, filed an application seeking a certificate for UUI to provide electrical service to the public in the City.

On June 25, 1991, the Commission gave notice of this Application and set July 25, 1991, as the intervention deadline. No applications to intervene were received, and neither the Commission's Staff (Staff) nor the Office of the Public Counsel (Public Counsel) requested a hearing.

On September 13, 1991, Staff filed memoranda in this case recommending that the Commission approve the requested certificate subject to certain conditions which will be enumerated hereinafter. On September 20,

1991, UUI filed a response to Staff's memoranda expressing certain concerns with Staff's conditions which will be set forth below.

Findings of Fact

Having considered all the competent and substantial evidence upon the whole record, the Missouri Public Service Commission makes the following findings of fact.

Applicants are requesting permission, approval and a certificate of public convenience and necessity authorizing UUI to own, operate, control, manage, improve and maintain an electric transmission and distribution system for the public in the City which is located within the presently certificated area of UUI in Cass County, Missouri, and permission for UUI to supply retail electric energy to persons at all structures in the City for a reason other than a rate differential pursuant to Section 393.106.2, RSMo. Cum. Supp. 1990, as amended.

Pursuant to an agreement between UUI and City, a copy of which is attached to the Application in this case as Schedule A and incorporated therein by reference, UUI proposes to buy and City proposes to sell the electric distribution system now used by City in providing retail electric service to its inhabitants. By this Application, UUI seeks a certificate to provide retail electric service in the City after the acquisition is concluded. Applicants seek permission for UUI to provide service pursuant to Section 393.106.2, RSMo. Cum. Supp. 1990, as amended, because the sale necessarily involves a change of suppliers.

UUI is a Delaware corporation with its principal office and place of business at 911 Main Street, Suite 2000, Kansas City, Missouri 64105. UUI is an electric and natural gas utility authorized to conduct business in the State of Missouri through its Missouri Public Service operating division and

provides service as a public utility subject to the jurisdiction of this Commission.

City is a municipality of the State of Missouri organized by special legislative charter with its principal office located at City Hall, Pleasant Hill, Missouri 64080.

The Commission notes that UUI, as the successor in interest to Missouri Public Service Corporation (MPS), holds a certificate of public convenience and necessity for the area immediately surrounding the City pursuant to a certificate issued by this Commission in Case No. 9,470. 23 Mo. P.S.C. 740 (January 18, 1938). However, by order issued November 16, 1939, this Commission authorized MPS to sell the electric distribution system in the City to the City and to discontinue providing electric service as a public utility in the City in Case No. 9,729, which is an unreported case. Therefore, the Commission determines that UUI does not presently hold a certificate to provide electric service within the City and must seek a certificate for the service it contemplates providing.

UUI has attached the metes and bounds description of the City to its Application as Schedule C which is incorporated therein by reference, as well as a feasibility study, marked as Schedule D, which also is incorporated therein by reference. UUI states that there is no other supplier of retail electric energy in the area sought to be certificated. UUI also states that the granting of a certificate is in the public interest because the residents of this City will receive the benefits of the economies of scale which UUI's larger operation will afford.

On July 18, 1991, the President and Secretary of UUI filed a verified statement with the Commission stating that UUI has received the required consent of the proper municipal authorities.

In their memoranda filed in this case, the Staff recommend approval of this application subject to certain conditions as follows:

- (1) That UUI make a complete inventory of the various units of property being purchased;
- (2) That UUI establish unit prices by vintage year, by estimate, if unknown;
- (3) That UUI adjust the unit prices to price the various units of property so that, in the aggregate, the cost to be recorded on the books of UUI does not exceed the original cost of the property recorded on the books of the City (\$1,502,613);
- (4) That UUI record the depreciation reserve on UUI's books by primary plant account, by estimate if unknown, so that the aggregate recorded on UUI's books will not exceed the actual amount recorded on the books of the City (\$904,961);
- (5) That UUI provide the Commission with all journal entries reflecting the cost recorded on UUI's books;
- (6) That UUI use its current depreciation rates as has been directed by this Commission in calculating future depreciation expense;
- (7) That UUI distribute the actual plant in service and accumulated depreciation as shown on Pleasant Hill's books to its plant in service accounts in accordance with the Uniform System of Accounts (USOA);
- (8) That the amortization of the acquisition adjustment for the premium paid be booked below the line by UUI to FERC Account No. 425; and

Staff states that only by adhering to these conditions will UUI be booking these assets in accordance with the USOA. Staff also recommends that the approval of the acquisition by the Commission should not be viewed as an acquiescence as to any ratemaking theory or the acquisition adjustment or any other aspect of the proposed sale.

Staff notes that UUI's rates are slightly higher than the City's rates. However, Staff points out that UUI plans to improve the City's electric system which the City would need to do if it retained the system.

Staff states that, if the City were to make these improvements, it would need to raise its rates above the rates that would be charged by UUI.

In its response filed September 20, 1991, UUI disagrees with Staff that the conditions recommended by Staff are necessary if UUI is to book these assets in accordance with the USOA. UUI recommends that the Commission direct UUI to keep its books in accordance with the conditions enumerated by Staff, but that the Commission explicitly state that neither the Commission nor any party to this case would be bound by any principles or valuation methods implied by the conditions recommended by Staff. UUI further recommends that the Commission reserve ratemaking treatment for these properties to a future rate case.

Based upon the verified Application and affidavit filed in this case and the recommendation of its Staff, the Commission determines that the service proposed by UUI is necessary or convenient for the public service since the City wishes to sell its system and no supplier of retail electric energy is available in the area sought to be certificated. The Commission further finds that UUI is qualified and financially able to provide the service described pursuant to the certificate requested herein. Therefore, the Commission determines that UUI should be given permission, approval, and a certificate of convenience and necessity to provide electric service within the City which certificate is to be included in the already certificated area of UUI.

Since the Commission has found that the grant of the certificate to UUI is necessary and convenient for the public service, and since the change of suppliers is a necessary concomitant of the sale to, and certification of, UUI, the Commission determines, pursuant to Section 393.106.2, RSMo Cum. Supp.

1990, as amended, that the change of suppliers is in the public interest for a reason other than a rate differential.

The Commission finds that it is reasonable to adopt the conditions recommended by its Staff as enumerated herein, but it will reserve ratemaking treatment until a future rate case as to this transaction. The Commission notes that any party is free to contest in a rate case the application of the USOA requirements when, as here, the Commission has reserved the ratemaking treatment to be applied.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following Conclusions of Law.

The Commission has jurisdiction over this Application pursuant to Chapters 386 and 393, RSMo 1986, as amended. Section 393.170, RSMo 1986, authorizes the Commission to grant certificates of public convenience and necessity upon a finding that such a grant is necessary or convenient for the public service. Section 393.170, RSMo 1986 also authorizes the Commission to impose such conditions as it may deem reasonable and necessary when granting a certificate. Therefore, based on the findings set forth herein, the Commission concludes that UUI should be granted a certificate subject to the conditions set forth in this Report and Order.

Section 393.106.2, RSMo Cum. Supp. 1990, as amended, authorizes the Commission to order a change of electric suppliers on the basis that it is in the public interest for a reason other than a rate differential. Therefore, based upon the findings set forth herein, the Commission concludes that UUI should be authorized to provide retail electric service to persons in all the structures within the City.

The Commission has determined that a hearing is not necessary in this case. The requirements of a hearing have been met when all those having a desire to be heard are given such an opportunity. *State ex rel. Deffenderfer Enterprises, Inc. v. PSC*, 776 S.W.2d 494, 496 (Mo. App. 1989). Although notice was given, no timely interventions or motions for hearing were filed. The Applicants submitted evidence in support of the application by verified statement. Since there has been no objection to the evidence being submitted in affidavit form, the Commission concludes, pursuant to Section 536.070(12), RSMo 1986, that the Applicants' verified statements are a sufficient foundation, along with Staff's recommendation, to grant the authority requested.

IT IS THEREFORE ORDERED:

1. That UtiliCorp United Inc., 911 Main Street, Suite 2000, Kansas City, Missouri 64105, be granted hereby permission, approval and a certificate of public convenience and necessity to own, operate, control, manage, improve and maintain an electric transmission and distribution system for the public in the City of Pleasant Hill, Missouri, such area to be included within the area previously certificated to its predecessor in interest in Case No. 9,470, issued on January 18, 1938, subject to the conditions set forth in this Report and Order.

2. That UtiliCorp United Inc., be authorized hereby to provide retail electric energy to persons in all the structures within the City of Pleasant Hill, Missouri, presently being served by the municipally-owned electric system.

3. That nothing in this Order shall be considered as a finding by the Commission of the reasonableness of the expenditures involved herein or of the value for ratemaking purposes of the properties herein involved, or as an

acquiescence in the value placed upon said properties by UtiliCorp United Inc. Furthermore, the Commission reserves the right to consider the ratemaking treatment to be afforded these transactions and the resulting cost of capital in any later proceeding.

4. That this Order shall become effective on the 16th day of October, 1991.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Rauch, McClure and
Perkins, CC., Concur.
Steinmeier, Chm., Absent.

Dated at Jefferson City, Missouri,
on this 2nd day of October, 1991.