

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. 9470

\*\*\*\*\*  
In the matter of the application of the Missouri \*  
Public Service Corporation for a blanket certi- \*  
ficate of convenience and necessity, authorizing \*  
it to construct, operate, and maintain extensions \*  
to its electric transmission and distribution \*  
lines (exclusive of incorporated municipalities) \*  
in all or portions of Jackson, Lafayette, Pettis, \*  
Johnson, Cass, Bates, Henry, Benton, St. Clair, \*  
Vernon, Cedar, Barton, Dade, Harrison, Mercer, \*  
Grundy and Daviess Counties; and to authorize, \*  
a proposed territorial boundry line in Living- \*  
ston County; all within the State of Missouri; \*  
all of the territory and territorial boundaries \*  
lines in the above mentioned Counties being \*  
more fully shown and described on the maps and \*  
in the descriptions attached hereto, marked \*  
exhibits A1 to A19, exclusively. \*  
\*\*\*\*\*

REPORT AND ORDER

This case is before the Commission upon the application of the Missouri Public Service Corporation, hereinafter referred to as the applicant, for an order granting it a Certificate of Convenience and Necessity to construct, maintain and operate, as a public utility, electric transmission and distribution lines for the purpose of furnishing electric service to the public in the counties of Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess all in the State of Missouri. The area within said counties in which the applicant seeks authority to construct the electric lines, as a public convenience and necessity require, are more fully herein after described.

In Livingston County, in which applicant maintains and operates electric transmission lines, it asks that the Commission designate in this case the rural area of that county in which the applicatn shall be expected to construct and maintain electric lines for the purpose of serving the

public located therein. It has heretofore received a certificate of convenience and necessity to construct, maintain and operate lines along designated routes, those lines now being in operation, but have not received authority to construct any additional line along other routes. The County Court has not authorized it to locate electric pole lines along and across any other highways of that county.

The case was heard by the Commission at Jefferson City, Missouri, after due notice has been given, on the 17th day of December, 1937, at which time all interested parties were given an opportunity to be heard.

The applicant is a Missouri Corporation engaged as a public utility in the rendition of water, gas and electric service in cities and towns, as well as rural areas and adjacent to said cities and towns, in the aforesaid counties. Its principal operating office and Post Office address is Warrensburg, Missouri.

The evidence shows that the applicant has received, by the orders of the respective counties Courts hereinafter named with the exception of Livingston County, authority to construct, maintain and operate electric distribution lines along and across the public street, roads and alleys, and other public places and grounds in each of the counties above named. Certified copies of the Court Orders of those counties are filed as a part of the application in this case. The applicant has also been granted authority by the various municipalities wherein it now operates in the aforesaid counties to construct, maintain and operate electric transmission lines and distribution system within the corporate limits of the said towns and villages. As a condition precedent to the granting of a certificate of convenience and necessity by this Commission in any of the towns now served, or for the construction of electric lines along

certain routes in the above counties, the applicant has presented to the Commission proof that it has received the required consent of the proper municipal authorities or orders of the respective counties court for the location of the proposed pole lines or lines along and across the streets, roads and highways of said incorporated or unincorporated ares, as the jurisdiction of the local authorities may require.

Attached to the application marked exhibits "A1" to "A19" inclusive, are maps and verbal descriptions of the respective areas of the counties in which the applicant seeks a certificate of convenience and necessity in this case to extend its lines. These exhibits show that the applicant does not ask that the authority sought cover all the counties above named. We note that the entire areas of Benton, Johnson and Harrison are included, while only portions of the others are included. A general map, marked Exhibits "A1" shows that the exact location of the lines delineating the territory in which the applicant seeks a certificate at this time, with the exception of Livingston county.

At the hearing the applicant corrected its petition wherein it describes the boundry line heretofore determined in a formal action before this Commission between the areas now served by the applicant and the Kansas City Power and Light Company the two parties are in agreement in this description.

In Livingston County the applicant does not have authority from the county court to locate its lines as it may desire along the highways of that county, so without such consent of local authorities it does not include in its petition a request for a certificate of

convenience and necessity for that county, but asks that the Commission declare the line it has shown in its exhibit, and proposes to have it as a matter of record, as outlining the area in Livingston County wherein it should be expected to operate and extend service as against other public utility which are now operating and may be called upon to serve the remaining portion of the county. As we mentioned above it now has a line in that area, the northwestern part of Livingston County, and is operating distribution system in the town of Chula. For these it has been granted, from time to time, certificates of convenience and necessity for the construction of the lines it now has in operation and for the operation of those lines.

The prosecuting Attorney of Livingston County appeared at the hearing and asked that the case be continued in order that the county could have more time to look into this case, but upon further presentation of the issues involved and the position of the applicant, it was determined that the hearing should be held. It was apparent at the hearing that the applicant was not in a position to present a request for any authority of any kind concerning its operation in Livingston County, and in reviewing the evidence submitted the Commission now finds that in view of Section 5193 of the 1929 Revised Statute of Missouri, the applicant was in no position to present any request for authority to operate in Livingston County. It is now operating at certain points in that county, but should it desire to extend its lines or understand of the law is that it will be required to seek a certificate of convenience and necessity for any further extension, and as a condition precedent to the granting of such authority, it must show that it has received the consent of the county court either for the specific line

or for a prescribed area as the court may determine. Our view of the position of the applicant in this case insofar as Livingston County is concerned is that the applicant can only ask to have the record show the area in which it professes its willingness to furnish the service should any one want it and the conditions warrant the extension. The Commission has no power to grant any right or privilege upon such request. Nothing further need be said on the point in this case.

The Consumers Public Service Company, with headquarters at Brookfield, Missouri now engaged in furnishing electric service in Linn, Sullivan, possibly Grundy and Mercer Counties, appeared and was opposed to the applicants proposed line wherein it runs north and south along the east side of the city of Princeton. The Consumers Public Service Company states that it now has a line extending to Princeton over which it purchases from the Municipal plant at Princeton electrical energy for the transmission over that line to its transmission system used in furnishing electric service to a number of cities and towns in those counties. The Consumers Public Service Company did not indicate that it had any demand for service in the area involved at this time, and did not indicate when it may be called upon to furnish the service. The applicant likewise did not indicate that it had any calls for service in that particular area at this time. This conflict will be discussed further below.

The evidence shows that the applicant has paid the \$5.00 filing fee required by law.

Attached to the application, marked exhibits "B1" to "B17" inclusive, are certified copies of the orders of the county courts that have granted the applicant

authority to construct electric transmission and distribution lines along and across the highways of the respective counties. The counties of Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess.

The applicant also filed as exhibits "C" to "U11" inclusive, a list of the named of other electric utilities whose systems are adjacent to the territory in which it is located and in which it seeks the authority herein named. Copies of correspondence it has had with those utilities pertaining to this matter are also attached. Also, as exhibits "D" to "D20" is a list of the names of other public utilities, communication and pipe line, whose lines may be effected by the applicants construction from time to time, together with correspondence it has had with those utilities. Its exhibits "E" lists the names of all parties who are interested as owners or operators of telephone lines, mutual, individually owned or otherwise, to whom letters were sent setting forth the authority the applicant is asking in this case. All these parties were given notice of the hearing herein.

The applicant states that before construction any of its transmission lines along the State Highways it will secure from the State Highway Commission such authority as may be required by law for the proposed construction.

Applicant states that because of the increasing demand for electric service it is required continuously to extend and expand its transmission and distribution, in that under the procedure it has heretofore followed under the laws of the State of Missouri, it has made an application for each extension, regardless of the size, to serve new

customers. During the year 1937, up to the date of the hearing, it made application for some ten minor extensions, and it now has filed with it requests for service by parties located in rural territory, some of them very anxious to get the service at an early date. The applicant further states that each of these smaller extensions heretofore made have cost anywhere from \$31.00 to \$55.00 per extension. It claims that in some instances the cost of securing the certificate of convenience and necessity has amounted to more than the actual cost of constructing the physical property. By this case it hopes to eliminate that added cost, as well as expedite its procedure in arranging to take care of requests for service.

Applicant states that the transmission and distribution lines it will construct from time to time will be constructed in conformity with the National Electrical Safety Code, its specific rule and regulation on file with the Commission, and as the laws of the State of Missouri and the Rules of this Commission may require. It further states that said lines and all equipment connected therewith will be maintained in a reasonable safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines.

In carry out any construction program for which it now seeks authority, the applicant states that before the construction of any extension or before any major change is made in the location, phase or voltage of any existing electric transmission line in the territory described in this preceeding, it will give at least fifteen days, notice to any and all other public utility or

utilities whose lines or system may be effected. In giving such notice applicant agrees to show, in sufficient detail, what the proposed construction or alteration will be, to enable the representatives of the effected utilities to determine what action they may desire to take with reference thereto. Wherever such extensions or major alterations may cause inductive or other electrical interference with the existing lines of other public utility or utilities, the expense, if any, incurred in making such changes shall be determined by agreement between the parties operating such lines and the applicant, and in case of failure of the parties to reach such agreement and settlement thereof, the matter may be submitted to the Commission for arbitration and determination in the matter provided for in Section 118 of the original Act creating the Public Service Commission of the State of Missouri, now Section 5241 of the 1929 revised statis of Missouri.

Counsel for the Barton County Electric Cooperative and the Ozark Electric Cooperative appeared in the interest of those cooperative associations. Those associations incorporated under the laws of the State of Missouri, are composed of the residents within the prescribed county or area who has associated themselves together and incorporated for the purpose of borrowing from the Federal Government, through the Rural Electification Admisistration, funds necessary to construct rural lines within the area for the purpose of securing for themselves electric service. Their special interest in this case is that they be given notice the same as any other public utility by the applicant prior to the construction of any line the applicant may determine as required in the area in which it now seeks a certificate and in which the cooperative will operate. We see no reason



why that information should not be given to the cooperative as well as any other public utility. It must be understood, however, that with the granting of the authority herein sought by the applicant all parties of interest now existing in the counties have notice of the applicants authority, and further, that if at any time in the future the applicant determines to construct a line along a given highway, it will give notice to those utilities who may have lines along or across a particular highway or route of the line, whose service or the operation of whose line may be adversely affected by the construction and operation of the proposed line. If there is no other line along the highway or across it that may be crossed or paralleled by the construction of the applicant at the particular time, we see no reason why notice should be given to any utility, including the cooperative who may have lines in other parts of the county but not effected by this particular construction.

It is not understood by the Commission that the applicant is seeking exclusive authority to operate in the area, but authority to extend its electric lines from its present system or from the system that it may have in existence at any given time in the future, in order that the prospective customers adjacent to the then existing system can receive electric service as promptly as possible and at minimum expense. It is required, 325 Mo. 1217, 31 SW (2) 67, to secure from this commission a certificate of convenience and necessity before beginning any work to extend its service to new customers who reside outside of incorporated cities, towns and villages within the area herein prescribed. In order to avoid delay in securing that authority, which in turn delays the customer from receiving the service and increases the cost of construction,

it claims it seeks authority to extend its lines to new customers within the prescribed area in conformity with its extension rule now in effect or the extension rule it may have in effect at the time an extension is to be made.

A utility, under 315Mo. 312,286 SW 84, is required to extend its lines to a new customer or customers who will comply with the terms and requirements of that utility's extension rule. Likewise the Commission can not require the utility to extend its lines to any new customer except in conformity with the existing extension rule that may be filed and in effect. So it is not understood that the applicant intends to change its practice in extending its lines to new customers within the prescribed area, but will continue to extend its lines in conformity with its extension rule, taking into account the various conditions, including economic conditions, surrounding each and every proposed extension. Of course the reasonableness of its extension rule can be examined at any time conditions may warrant. It therefore appears to the Commission beneficial to the public and desirous to allow the applicant to use its funds to make extensions where expected revenues will justify at as low cost as good construction will permit, so that the public served will have the benefit of the lowest possible rates for the service to be rendered. Should the cooperative have electric lines in operation along the route wherein the applicant may desire to build electric lines, the applicant, of course, will give the cooperative notice of the proposed construction, and if the parties can not agree upon the issues involved

the matter may be submitted to the Commission for arbitration.

With reference to the objections made by the Consumers Public Service Company mentioned above, we see no reason at this time for making any changes in the line as proposed for Mercer County, because neither the applicant nor the Consumers Public Service Company has submitted to the Commission any proof that they expect in the near future to make any extensions in the rural area adjacent to the city of Princeton. Should the applicant have a request to extend its lines in that area that may adversely effect the Consumers Public Service Company but not now served by the Consumers Public Service Company, the matter can be brought to the attention of the Commission for determination of the particular issues that may be involved at that time, and should the Consumers Public Service Company have a request for service in the area now proposed to be covered by the applicant, it will be required to bring the matter to the attention of the Commission for a Certificate of convenience and necessity to serve the area not heretofore served by it. Thereupon the applicant will be given proper notice of any proposed extension into the area enclosed by the applicant in the present case.

Upon the evidence herein submitted, the Commission finds that the authority herein sought and that which the Commission can give should be granted. We find that similar authority has not been granted to other utilities, and our records show that the granting of such authority has, in no instance, effected adversely the interest of the public served. Such authority has been granted the Union Electric Company of Missouri, The Kansas City Power and Light Company, The Empire District Electric Company, The Ozark Utilities Company, and the Lawrence County Water, Light and Cold Storage

Company.

After due consideration, it is therefore

ORDERED: 1. That the Missouri Public Service Corporation be and is hereby authorized to construct, maintain and operate electric transmission lines and distribution sustems over, along and across the highways of the Counties of Jackson, Lafayette, Pettis, Johnson, Cass, Bates, Henry, Benton, St. Clair, Vernon, Cedar, Barton, Dade, Harrison, Mercer, Grundy and Daviess, and along such other routes as may be properly provided in said Counties, and along private rights-of-way as may be secured by the applicant, all in the State of Missouri, with authority to furnish electric service to all persons in the area for which this certificate is granted and in conformity with the extension rules that the applicant, from time to time, may have on file with this Commission and in effect, such area being fully described on the map filed herein by the applicant, attached to its application and marked exhibit "A 1", with the boundry line changed as shown by the testimony taken in the hearing, wherein the applicant the boundry between it and the Kansas City Power and Light Company. The aforesaid map is hereby refered to, with the said correction, and made a part of this order. The authority herein granted, however, does not grant permission to serve within the corporate limits of any municipality unless the consent of the proper municipal authorities shall first have been obtained, and until a certificate of convenience and necessity for the operation in said municipal area shall have been secured from this Commission.

ORDERED: 2. That said electric transmission and power lines and all equipment connected herewith shall be constructed so as to conform with the specific

rules and regulations contained in the National Electrical Safety Code, issued by the United States Bureau of Standards, and where said transmission lines cross the tracts of any railroad company, said crossing shall be constructed so as to conform to the specific rules and regulation contained in the Commissions General Order No. 24, issued August 17, 1925. Furthermore, that said applicant herein shall maintain and operate said transmission lines and all equipment connected herewith in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the service of other aerial lines, and shall give reasonable notice to any of the utilities whose service might be effected by any proposed construction or change; and that the Commission fully retain jurisdiction of the parties and the subject matter of this proceeding, on the evidence now before the Commission, for the purpose of making such further order or orders as may be necessary..

ORDERED: 3. Wherever said electric transmission lines may or do parallel aerial lines belonging to or operated by other companies or individuals or cross such line or lines or come in close proximity thereto so as to cause induction or other electrical enterference, thereby making necessary changes in said line or lines or in the said line or lines of the applicant for the general bebefit and safety of the public, the expense, if any accrued in making such changes shall be determined by an agreement between the parties operating such lines and the applicant, and in case of failure of the parties to reach such agreement and settlement thereof, the matter may be submitted to the Public Service Commission for arbitration and determination as provided for in Section 118 of the original Act creating the Public Service Commission of this State,

now Section 5241 of the Revised Statute of Missouri for 1929.

ORDERED: 4. That before beginning the construction of any electrical power and transmission lines in the territory herein designated and before a change is made in the location, phase or voltage of any electric line that may be in operation, the applicant shall give all other utilities, associations or persons whose lines are or may be effected by such change or construction at least fifteen days written notice, showing in sufficient detail what the proposed construction or change will be to enable competent representatives of those utilities, associations or persons to determine what action the particular utility or utilities, associations or persons may desire to take reference thereto.

ORDERED: 5. That this order shall take effect ten days after the date hereof, and that the Secretary shall forthwith serve on all parties interested herein, a certified copy of this report and order, and that the applicant and all other interested parties shall notify the Commission before the effective date of this order, in the manner prescribed by Section 25 of the Public Service Commission Law, (Sec. 5145, R.S. Mo. 1929), whether the terms of this order are accepted and will be obeyed.

BY THE COMMISSION

MARY FIDLER  
ACTING SECRETARY

James, Chr., Anderson, Boyer,  
Norton and Ferguson, CC. Concur.

Dated at Jefferson City, Missouri  
this 18th day of January 1938

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. 9470

\*\*\*\*\*  
In the matter of the application of the Missouri  
Public Service Corporation for a blanket certi-  
ficate of convenience and necessity, authorizing  
it to construct, operate, and maintain extensions  
to its electric transmission and distribution  
lines (exclusive of incorporated municipalities)  
in all or portions of Jackson, Lafayette, Pettis,  
Johnson, Cass, Bates, Henry, Benton, St. Clair,  
Vernon, Cedar, Barton, Dade, Harrison, Mercer,  
Grundy and Daviess Counties; and to authorize  
a proposed territorial boundary line in Living-  
ston County, all within the State of Missouri;  
all of the territory and territorial boundary  
lines in the above mentioned Counties, being  
more fully shown and described on the maps and  
in the descriptions attached hereto, marked  
Exhibits A-1 to A-18, inclusive.  
\*\*\*\*\*

SUPPLEMENTAL REPORT AND ORDER

The fourth paragraph of the Report and Order issued by the Commission herein on January 18, 1938, said paragraph appearing as the third paragraph on page 2 of the Report and Order, should state that the applicant is a Delaware corporation authorized to do business in the State of Missouri instead of stating that it is a Missouri corporation. To correct such statement this Supplemental Report and Order is issued.

It is, therefore,

ORDERED: 1. That the fourth paragraph of the Report and Order issued herein on January 18, 1938, it being the third paragraph on page 2 of the aforesaid Report and Order, is hereby changed to read as follows:

"The applicant is a Delaware corporation, authorized to do business in Missouri, engaged as a public utility in the rendition of water, gas and electric service in cities and towns, as well as rural areas adjacent to said cities and towns, in the aforesaid counties. Its principal operating office and post-office address is Warrensburg, Missouri."

ORDERED: 2. That in all other respects the aforesaid Report and Order shall be and remain as originally issued.

ORDERED: 3. That this Supplemental Report and Order be effective on January 28, 1938, and that the Secretary of the Commission serve certified copies of this Supplemental Report and Order upon all parties interested herein.

(SEAL)

BY THE COMMISSION,

James, Chr., Anderson, Boyer  
Morton and Ferguson, CC. Concur.

MARY FIDLER,  
ACTING SECRETARY.

Dated at Jefferson City, Missouri,  
this the 20th day of January, 1938

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 correct transcript therefrom and of the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, this 18th day of January,  
1938.

Mary Fidler  
ACTING SECRETARY

(S E A L)



---

**General Warranty Deed**  
(Corporation)

**This Deed**, made and entered into on April 5, 2005, by and between **Grantor(s)**: Effertz Bros., Inc., organized and existing under the laws of the State of Missouri with its principal office in the County of Jackson, State of Missouri, whose address is 16401 Holmes Rd  
Belton MO 64012 and **Grantee(s)**: Aquila, Inc. of the County of Jackson, State of Missouri. **Mailing Address of the Grantee(s)**: 10700 E. 350 Highway, Raytown, MO 64133

**Witnesseth**, that the Grantor(s), for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration paid by the said Grantee(s), the receipt of which is hereby acknowledged, do(es) by these presents **Grant, Bargain and Sell, Convey and Confirm** unto the Grantee(s), the following described Real Estate, situated in the County of Jackson, and State of Missouri, to-wit:

SEE EXHIBIT 'A'

Subject to Building lines, easements, restrictions and conditions of record, if any, and to any zoning law or ordinance affecting the herein described property.

**To Have and To Hold** the same, together with all rights and appurtenances to the same belonging, unto the Grantee(s) and to the heirs and assigns of such Grantee(s) forever.

The Grantor(s) hereby covenanting that Grantor(s) and the heirs, executors, administrators, and assigns of such Grantor(s), shall and will **Warrant and Defend** the title to the premises unto the Grantee(s), and to the successors and assigns of such Grantee(s) forever, against the lawful claims of all persons whomsoever, excepting, however, the general taxes for the calendar year 2005 and thereafter, and special taxes becoming a lien after the date of this deed.

**In Witness Whereof**, the Grantor(s) has or have executed these presents the day and year first above written.

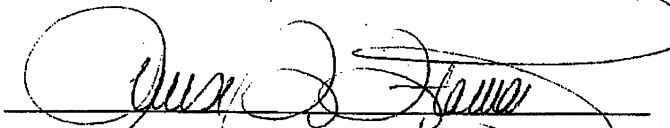
KANSAS  
Effertz Bros., Inc., a Missouri Corporation

Thomas H. Effertz  
By: Thomas H. Effertz  
TH

STATE OF MISSOURI        }  
                                      } ss.  
COUNTY of JACKSON       }

On April 5, 2005 before me personally appeared Thomas H. Effertz, to me known, who, being by me duly sworn, did say that is the RES. of Effertz Bros., Inc., a Corporation and that said instrument was signed in behalf of said Corporation, by authority of its Board of Directors; and said Thomas H. Effertz acknowledged said instrument to be the free act and deed of said Corporation.

***In Testimony Whereof***, I have hereunto set my hand and affixed my official seal in the COUNTY and State the day and year first above written.

  
Notary Public

My term expires:

My Commission Expires June 14, 2006  
County of Jackson  
STATE OF MISSOURI  
Notary Public-Notary Seal  
DENISE S. STAWARZ

DENISE S. STAWARZ  
Notary Public-Notary Seal  
STATE OF MISSOURI  
County of Jackson  
My Commission Expires June 14, 2006

File No: 481765 (dss)

**EXHIBIT 'A'**

**ALL THAT PART OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 47, RANGE 32 IN JACKSON COUNTY, MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 02 DEGREES 23 MINUTES 20 SECONDS EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 A DISTANCE OF 1086.75 FEET TO THE POINT OF BEGINNING; THENCE NORTH 87 DEGREES 36 MINUTES 39 SECONDS WEST A DISTANCE OF 603.45 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 521.00 FEET; THENCE NORTH 87 DEGREES 13 MINUTE 11 SECONDS EAST A DISTANCE OF 627.72 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE SOUTH 02 DEGREES 23 MINUTES 20 SECONDS WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 33 A DISTANCE OF 577.10 FEET TO THE POINT OF BEGINNING.  
A.P.N.**

Initials: \_\_\_\_\_

CENTRAL FILE

60167

AN ORDINANCE

As Am.

NO DAYS AFTER EFFECTIVE  
Legal - Franchise  
+ St. Lighting  
Kansas City  
Franchise  
11-14-86 - 12-31-2006

GRANTING PERMISSION TO AND AUTHORIZING UTILICORP UNITED INC., A CORPORATION DOING BUSINESS AS MISSOURI PUBLIC SERVICE, ITS SUCCESSORS AND ASSIGNS, TO GENERATE, SUPPLY, SELL, DISTRIBUTE AND FURNISH ELECTRICAL POWER AND ENERGY TO THAT PORTION OF KANSAS CITY, MISSOURI, HEREINAFTER SET FORTH, FOR A PERIOD ENDING DECEMBER 31, 2006; STATING THE CONDITIONS UPON WHICH SUCH PERMISSION AND AUTHORITY ARE GRANTED; SPECIFYING CERTAIN OBLIGATIONS ASSUMED BY THE GRANTEE; IMPOSING OBLIGATIONS UPON ITS SUCCESSORS AND ASSIGNS; AND PROVIDING THE MANNER OF ACCEPTANCE OF THE TERMS AND PROVISIONS OF THIS ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. Franchise granted.

Subject to the provisions of the present Charter of Kansas City, Missouri (hereinafter referred to as the "City"), and the laws of Missouri and the present ordinances of Kansas City, Missouri, so far as applicable, and subject to the provisions of this ordinance, permission, right, privilege and authority are hereby given and granted unto UtiliCorp United Inc., a corporation doing business as Missouri Public Service (hereinafter sometimes referred to as the "Grantee"), its successors, transferees and assigns, for a period beginning from and after January 1, 1987, and ending December 31, 2006, to generate, supply, sell, distribute and furnish electrical power and energy to and within that portion of the corporate limits of said City as they now exist or may hereafter exist for which Grantee holds a Certificate of Convenience and Necessity from the Missouri Public Service Commission, and to all electrical energy customers of all classes now or hereafter located within the ~~described~~ areas of Kansas City served by the Grantee, and for that purpose, to operate, maintain, reconstruct and use its present distribution lines, transmission lines, poles, anchors, guy wires, conductors, wires, conduits, substations, transformers, apparatus and appliances now located in, along, over, across and under the public streets, avenues, boulevards, alleys and public ways, and on and across the viaducts and bridges, if any, and located in those portions of Kansas City above mentioned, and for the same purpose to erect, install, construct, maintain and reconstruct the necessary additional distribution lines, transmission lines, poles, conductors, anchors, guy wires, wires, conduits, substations, transformers, apparatus and appliances and other facilities and extensions thereof, and to

Form 8713 - Law  
(04555)

trim and remove trees upon and overhanging such places, for the distribution and sale of electrical energy and power in that area of Kansas City above mentioned, and the public streets, avenues, boulevards, alleys and public ways, and located in that area of Kansas City mentioned above, and on and across the viaducts and bridges, if any, of the City, situated in said aforementioned area, all to be done and performed upon the terms and conditions hereinafter specified in this ordinance.

**Section 2. Quality of service - jurisdiction of the Missouri Public Service Commission recognized.**

The rates to be charged and exacted from the City and its inhabitants and the rules and regulations with reference to the boundary lines, character, quality, standards of service and rules governing the conduct of Grantee under this franchise shall be under the jurisdiction and control of the Public Service Commission of the State of Missouri. In the event Grantee cannot reasonably comply with both provisions of this ordinance and other rules and regulations promulgated by the City and the rules and regulations of the Public Service Commission, then the Grantee shall comply with the rules and regulations of the Public Service Commission.

**Section 3. Records of company - reports.**

The Grantee shall furnish promptly to the City a copy of each annual report filed by the Grantee with the Public Service Commission during the period this franchise is herein granted. Upon request of the City, Grantee shall provide a report of total kilowatt hour sales within the City during the preceding fiscal year of the City.

**Section 4. Rates.**

The Grantee shall supply electrical service within its service area of Kansas City at rates approved by the Missouri Public Service Commission and under terms of the Grantee's rules and regulations filed with and approved by the Public Service Commission.

**Section 5. Excavation of public property - restoration - damage to City property.**

Whenever it becomes necessary to excavate in public streets, alleys, highways, public ways or public grounds of the City under the granting clause of this franchise, granting permission to the

Grantee to do same in order to install, construct, reconstruct, maintain, repair or extend any of Grantee's distribution lines, transmission lines, poles, conductors, anchors, guy wires, wires, conduits, substations, transformers, apparatus and appliances now located or to be located therein or thereon, such excavations shall be made according to all of the provisions of the Charter and General Ordinances of Kansas City, Missouri.

In the construction, maintenance, repair and operation of its transmission lines, poles, conductors, wires, conduits, substations, apparatus and appliances, Grantee shall use all necessary care to avoid doing or permitting to be done any damage to the water lines, sewers, conduits or any property of the City, and shall use all reasonable care to avoid injury to the property of the City, and if it shall in such work do or permit to be done any such damage, Grantee shall promptly restore the property so damaged to the condition in which it was before being damaged, or pay therefor, and shall also be liable for any other damages which may accrue because of said damage to said City or any other person, firm or corporation.

**Section 6. Injury to persons or property - defense of and indemnity to City - parties to legal actions.**

In the construction, installation, repairing, operation and maintenance of all transmission lines, poles, conductors, wires, conduits, substations, apparatus and appliances and other facilities for the distribution of electrical energy and power, the Grantee shall use reasonable and proper precautions to avoid damage or injury to persons or property and shall at all times and under all circumstances hold and save harmless Kansas City from each and all such damage, injury, loss, cost or expense caused or occasioned by reason of any negligent act, or negligent failure to act, of the Grantee herein, its officers, agents, servants and employees in the connection, installation, repairing, maintaining of any of its facilities, for the sale or distribution of electrical power and energy in Kansas City or making excavation in the public streets and highways or public grounds of the City and the paving, repaving or repairing of any of the public streets, highways or public property of the City; and the Grantee herein agrees with Kansas City that if the City is sued in any court by any person, firm, association, company or corporation to recover damages for injuries to person or property alleged to have resulted from the sole negligence of the Grantee, its officers, agents, servants and employees in the installation, operation, maintenance or repairs of the Grantee's distribution lines, transmission lines, poles, conductors, wires, conduits, substations, apparatus and appliances or any part thereof or any of its facilities in Kansas City, the Grantee, its successors and assigns, shall defend all such suits and pay the final judgments, if any, resulting therefrom, and shall at the option of the City or Grantee be made a party of any such court proceeding.

The City shall have the right at all times to take part by its City Attorney in any such suit or action instituted by or against Grantee in which any judgment or decree can be rendered, or foreclosing any lien on any of the Grantee's property, situated in the City, or affecting the rights, powers or duties of Grantee to do or not to do anything which by this ordinance it may be required to do or not to do, and also to take such steps in any such proceeding that may be deemed essential to protect the interest of the City or the public interest. This paragraph shall not be construed to confer standing on the City to join in any such suit or action.

Section 7. No exclusive franchise.

Franchise rights and privileges granted by this ordinance shall never be construed or held to be exclusive, but the City retains and shall ever be considered as having and retaining the right and power to allow and to grant to any other person, firm or corporation, and other electrical companies, franchise rights and privileges to be exercised in and upon its streets, highways and public places and such of the same parts thereof as it may deem best or choose to allow, permit, give or grant.

Section 8. Restrictions on transfers.

Grantee shall not, except as in this ordinance provided, without the consent of the City evidenced by ordinance, sell, lease or transfer this franchise, property rights or privileges herein authorized, to any person, firm, company or corporation; provided, however, that nothing herein shall be construed or held to prevent the Grantee from assigning, conveying or transferring said franchise to a successor company, which company results from a reorganization, reincorporation or a merger of Grantee with another corporation or corporations; or giving a mortgage, voluntary lien or pledge or increase of its debt thereunder, lawfully authorized, on notice to the City and an opportunity to be heard thereon, by the Public Service Commission of the State of Missouri or any lawful authority of the State of Missouri or of the United States of America having jurisdiction in such matter.

The right of the City to demand, require and enforce performance of this ordinance by the Grantee and the City's remedy for default or failure by the Grantee herein, whether herein specified or provided by law, and whether by forfeiture or otherwise, as the City may choose, shall be paramount and superior to the rights, estates, provisions and interests of Grantee and all others whomsoever claiming thereunder; and this condition and provision shall apply successively and continuously at all times to all and every assign of every kind and character and other claiming or who may claim by, through or under Grantee.

### Section 9. Rights and obligations of assignees.

All rights, privileges and franchises by this ordinance given or granted to Grantee, shall inure to the benefit of its assigns, transferees or successors in interest according to the provisions of this ordinance; and all obligations, duties, liabilities, limitations, provisions, amendments, forfeitures by this ordinance created or imposed upon Grantee, shall be binding upon and be assumed, kept and performed by its legal and bona fide transferees, assigns and successors in interest, according to the true intent and purposes of this ordinance, whether expressly so stated or not.

Neither this section nor any provision of this ordinance shall be so construed as to give Grantee the right to assign or transfer any of such rights, privileges or franchises or any right or interest therein or thereunder, except as otherwise provided in this ordinance.

### Section 10. Insurance.

The Grantee shall at all times keep insured in reliable companies licensed, authorized and qualified to do business in Missouri, all buildings, plants and equipment and such other insurable property as is customarily and normally insured by the electric utility industry at not less than eighty percent (80%) of the fair and reasonable value thereof, against loss by fire or otherwise.

### Section 11. Bankruptcy - receivership City's right and obligations of Grantee to continue.

Should the Grantee go into bankruptcy, or into the hands of a receiver or other court officer, or reorganize under provisions of law, the interests and rights and remedies of the City acquired herein shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Grantee, shall be bound by this ordinance and the obligations to the City imposed upon Grantee by this ordinance. These obligations and duties to the City shall be paramount and superior to the rights, liens, interests and estates of all and any other persons, firms, trusts or corporations whomsoever, and shall be so construed and may be enforced by the City against all and any such persons, trusts or corporations in any manner or method in this ordinance provided for enforcement against the Grantee.



## Section 12. Reasonable regulations.

The City shall enact all needful and requisite ordinances to protect Grantee, its works and property, from damages, impositions and frauds, but the City shall not incur any liability by the failure to enact any such ordinance and the City does not hereby waive its police power or right of governmental control over the subject matter of this franchise.

## Section 13. Forfeiture.

The City shall have the right to forfeit the franchise granted by this ordinance upon the grounds and in the manner provided by Section 407 of the City Charter.

## Section 14. Acceptance.

This ordinance and its terms and provisions shall be accepted by Grantee by written instrument, executed and acknowledged by it as a deed is required to be, and filed with the City Clerk within twenty (20) days after the passage of this ordinance. Such written instrument shall state and express the acceptance of this ordinance in its terms, conditions and provisions, and said Grantee shall agree in said instrument to abide by, to observe and perform same and declare that statements and recitals herein are correct and that it has made and does make the agreement, statements and admissions in this ordinance recited or to be made. This ordinance shall take effect on January 1, 1987, provided such formal acceptance hereof of the terms and conditions by Grantee as herein provided, in form approved by the City Attorney, shall be filed with the City Clerk within such twenty (20) days.

Unless this ordinance shall be accepted within the time in this section provided and in the manner herein provided, it shall not become effective. The instrument of acceptance, or any executed counterpart thereof, shall be filed for record in the Office of the Recorder of Deeds of Jackson County, Missouri, at Kansas City, by the City Clerk, at the Grantee's expense, within thirty (30) days after the same is filed with the City Clerk. Two (2) copies of the acceptance shall be marked so as to indicate the receipt of such acceptance, and shall be returned to the Grantee by the Clerk. The recorded copy of such acceptance shall be obtained and preserved by the City Clerk.

**Authenticated as Passed**

Approved as to form and legality:

RICHARD L. D. LLEY, Mayor

E. Richard L. Lley City Clerk

Carroll C. Kennett  
Assistant City Attorney

By                      Deputy City Clerk

-6-

Form 8713 - Law  
(04555)

OCT 30 1986

CERTIFICATE OF CITY CLERK

STATE OF MISSOURI  
COUNTIES OF CLAY, JACKSON, PLATTE  
CITY OF KANSAS CITY

I, E. RICHARD BRENNEMAN, City Clerk of Kansas City, Missouri,  
certify that the following and/or attached is a true and correct copy of As Amended  
ORDINANCE NO. 60167 RESOLUTION NO. \_\_\_\_\_ OTHER \_\_\_\_\_  
of said city, entitled:

GRANTING PERMISSION TO AND AUTHORIZING UTILICORP UNITED INC., A  
CORPORATION DOING BUSINESS AS MISSOURI PUBLIC SERVICE, ITS SUCCESSORS  
AND ASSIGNS, TO GENERATE, SUPPLY, SELL, DISTRIBUTE AND FURNISH ELECTRICAL  
POWER AND ENERGY TO THAT PORTION OF KANSAS CITY, MISSOURI, HEREINAFTER  
SET FORTH, FOR A PERIOD ENDING DECEMBER 31, 2006; STATING THE CONDITIONS  
UPON WHICH SUCH PERMISSION AND AUTHORITY ARE GRANTED; SPECIFYING CERTAIN  
OBLIGATIONS ASSUMED BY THE GRANTEE; IMPOSING OBLIGATIONS UPON ITS SUCCESSORS  
AND ASSIGNS; AND PROVIDING THE MANNER OF ACCEPTANCE OF THE TERMS AND PROVI-  
SIONS OF THIS ORDINANCE.

On OCTOBER 30., 19 86, the above was authenticated as passed by the City Council.

The above appears in records and is on file in the office of the City Clerk, 25th floor, City Hall, Kansas  
City, Missouri.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of this City, this 14th  
day of November, 19 86.



CITY CLERK

James Z. Wate  
DEPUTY

ACCEPTANCE BY UTILICORP UNITED INC., A  
CORPORATION DOING BUSINESS AS MISSOURI  
PUBLIC SERVICE, OF THE TERMS AND PROVISIONS  
OF ORDINANCE NO. 60167, AS AMENDED, OF  
KANSAS CITY, MISSOURI, GRANTING FRANCHISE  
TO SAID COMPANY.

Comes now UtiliCorp United, Inc., a corporation doing business as Missouri Public Service, and hereby accepts all of the terms, conditions and provisions of Ordinance No. 60167, As Amended, passed by the Council of Kansas City, Missouri, on the 30th day of October, 1986, granting said UtiliCorp United Inc., doing business as Missouri Public Service, a franchise to generate, supply, sell, distribute and furnish electric power and energy in the City of Kansas City, Missouri.

IN WITNESS WHEREOF, UtiliCorp United Inc., a corporation doing business as Missouri Public Service, has caused these presents to be executed by its Division Vice President, attested by its Assistant Secretary, and its corporate seal to be hereunto affixed, on this 14th day of November, 1986.

UTILICORP UNITED INC.

By James J. Sage  
Division Vice President

ATTEST:

J. R. Sumner  
Assistant Secretary

STATE OF MISSOURI )  
COUNTY OF JACKSON ) ss.

On this 14th day of November, 1986, before me appeared James J. Sage, to me personally known, who being by me duly sworn, did say that he is the Division Vice President of UtiliCorp United Inc., a corporation, organized under the laws of Missouri and doing business as Missouri Public Service, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and the said Division Vice President acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in Jackson County, Missouri, the day and year last above written.

Mary J. Hammon  
Notary Public

My Commission Expires:

June 7, 1990

ABOVE ACCEPTANCE, INCLUDING THE FORM  
THEREOF, IS HEREBY APPROVED:

RICHARD N. WARD  
City Attorney of Kansas City, Missouri

By Carol C. Kennel  
Assistant City Attorney

Received this 14th day of November, 1986.

CITY OF KANSAS CITY, MISSOURI

By E. Richard Brenneman  
City Clerk