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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

January 29, 2002
Jefferson City, Missouri
Volume 1

In the Matter of the Application)
of UtiliCorp United, Inc., a) Case No.
Delaware Corporation, for) EM-2002-297
Authority to Merge to Effect a)
Name Change)

BILL HOPKINS, Presiding,
SENIOR REGULATOR LAW JUDGE.

REPORTED BY:

MELINDA ADOLPHSON, CSR
ASSOCIATED COURT REPORTERS

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22 FOR: Office of the Public Counsel and the
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1 P R O C E E D I N G S

2 JUDGE HOPKINS: This is the 29th of
3 January, about 10:28 a.m., and this is Case Number
4 EM-2002-297 In the Matter of the Application of
5 UtiliCorp, United to Merge in a change of name. My
6 name is Bill Hopkins. I'm the Law Judge that will
7 take care of this.

8 And could we have entries of appearance
9 starting with you, Mr. Meyer or Mr. Dottheim,
10 whoever wishes to do it?

11 MR. MEYER: David Meyer and Steven
12 Dottheim, for the Staff of the Public Service
13 Commission. Our address is P.O. Box 360,
14 Jefferson City, Missouri 65102.

15 MR. BOUDREAU: Thank you. Appearing on
16 behalf of the Applicant, UtiliCorp United, Inc.,
17 let the record reflect the appearance of Paul A.
18 Boudreau, of the law firm of Brydon, Swearngen and
19 England, Post Office Box 456, Jefferson City,
20 Missouri.

21 MS. O'NEILL: Yes. Good morning.
22 Ruth O'Neill, for the Office of the Public Counsel
23 and the Public, P.O. Box 7800, Jefferson City,
24 Missouri 65102.

25 JUDGE HOPKINS: Thank you. There is a

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1 procedural motion that has not been ruled on, and
2 that would be UtiliCorp's motion for
3 reconsideration, and that's on agenda for Thursday
4 right now. I believe that's the only unruled
5 motion.

6 Some judges may have varied from the
7 purpose in the past, but we're going to have a
8 prehearing conference to determine whether there
9 are any actual issues in controversy, whether the
10 controversy can be resolved or settled. We issued
11 a prehearing order on January 16, 2002, the State
12 did. An early prehearing conference should be
13 scheduled to afford the parties the opportunity to
14 discuss, define and possibly resolve the issues
15 presented in this case or at least agree on a
16 procedural schedule.

17 Is everyone prepared to comply with the
18 Commissioners' orders?

19 MR. BOUDREAU: I don't know exactly how to
20 respond to that. I think you've answered one of
21 the questions that I had, which was whether or not
22 the motion that was filed was going to be
23 considered by the Commission. My understanding is
24 that that matter is up for discussion on Thursday's
25 agenda?

1 JUDGE HOPKINS: That is correct.

2 MR. BOUDREAU: And the reason I hesitate
3 is that the purpose of that motion was to ask for
4 determination about whether or not a hearing was,
5 in fact, necessary. The procedural order pursuant
6 to which we're here today for the prehearing
7 conference, gives the parties instructions to work
8 out a procedural schedule and for hearing. So it
9 seems to presuppose there's going to be a hearing.
10 And I guess my question is, is discussing those
11 items today premature given that the Commission is
12 going to discuss the motion on Thursday?

13 JUDGE HOPKINS: I don't believe your
14 waiving any rights, Mr. Boudreau. We wouldn't
15 assume that you were. Okay?

16 MR. BOUDREAU: I suppose that's part of my
17 concern, is a discussion about a procedural
18 schedule today going to be interpreted as some sort
19 of waiver of the motion that we've made in the
20 argument that we've made that a hearing is not
21 appropriate. With that understanding, I don't mind
22 discussing those items, but I have some concerns.

23 JUDGE HOPKINS: I would think this would
24 be something that could be settled between the
25 parties. In light of the fact, we understand you

1 are not waiving any rights. And is very well
2 prepared at this time to go by the Commission's
3 order as of today rather what you should do today,
4 discuss, define and possibly revolve the issues.
5 And if you can't do that, at least agree on a
6 procedural schedule.

7 Keeping in mind Mr. Boudreau's concerns,
8 is everyone prepared to do that?

9 Mr. Dottheim, you have some concerns?

10 MR. DOTTHEIM: Yes. And excuse me,
11 Judge. I don't know if this in part might address
12 some of what Mr. Boudreau has raised. When the
13 Staff filed its pleading on January 7th, I believe,
14 and there was a data request attached to it to
15 which the Company has responded, and the Staff
16 submitted a second data request, and the Company
17 has responded to that. Copies have been provided
18 to the Office of Public Counsel, which requested
19 copies of data requests.

20 I don't know whether those responses have
21 addressed in any manner the concerns that the
22 Office of Public Counsel had and prompted the
23 Office of Public Counsel to ask for a hearing. And
24 also, too, I don't know if the Office of Public
25 Counsel might indicate whether it is intending to

1 respond in any manner to the motion for
2 reconsideration, and that it was the Office of
3 Public Counsel that asked for the hearing.

4 So the Staff was hoping that those items
5 could be addressed this morning. And I don't know
6 if it's best to address those on or off the record,
7 but that in part might go to Mr. Boudreau's
8 concerns stated on the record just awhile ago.

9 MS. O'NEILL: Your Honor, Public Counsel
10 has some concerns, and whether or not we can
11 address those concerns will be -- we'll indicate
12 whether or not we're going to file a response to
13 the motion today. Obviously, we would file it
14 today since it's on the agenda for tomorrow. But
15 we do have some other questions and, perhaps, those
16 can be answered in our discussions today.

17 JUDGE HOPKINS: All right. I think right
18 now the date for the procedural schedule to be
19 filed is February 24th -- excuse me -- February
20 21st. If you-all cannot settle this and need to
21 have some type of procedural schedule, but move
22 some of those dates up, we will certainly be happy
23 to try to accommodate everyone. And I will be here
24 all day if you need something.

25 And is there anything else before we go

1 off the record?

2 MS. O'NEILL: I don't believe so, Judge.

3 JUDGE HOPKINS: Hearing nothing from any
4 of the parties, I'll go off the record. I will be
5 here today all day if you need anything. Thank you
6 very much.

7 WHEREUPON, the on-the-record portion of
8 the prehearing conference was concluded.

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