

FILED<sup>3</sup>

DEC 15 1999

Missouri Public  
Service Commission

# UTILICORP UNITED INC.

## BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of the Joint Application of )  
UtiliCorp United Inc. and The Empire )  
District Electric Company for authority to )  
merge The Empire District Electric )  
Company with and into UtiliCorp )  
United Inc. and, in connection therewith, )  
certain other related transactions )

Case No. EM-2000-369

**UtiliCorp United Inc. and The Empire District Electric Company Merger**

**Direct Testimony**

December 1999

Exhibit No.:

Issue: The Empire District Electric  
Company-

Company Business Strategy

Witness: Myron W. McKinney

Type of Exhibit: Direct Testimony

Sponsoring Party: The Empire District Electric  
Company

Case No.:

Before the Public Service Commission  
of the State of Missouri

Direct Testimony

of

Myron W. McKinney

December 1999

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI  
DIRECT TESTIMONY OF MYRON W. MCKINNEY  
ON BEHALF OF THE EMPIRE DISTRICT ELECTRIC COMPANY**

**CASE NO.**

1 Q. Please state your name and business address.

2 A. Myron W. McKinney, 602 Joplin Street, Joplin, Missouri, 64802.

3 Q. Who is your employer and what position do you hold?

4 A. The Empire District Electric Company ("Empire") is my employer. I am President and  
5 Chief Executive Officer. I also serve on Empire's Board of Directors.

6 Q. Please summarize your educational background.

7 A. I was graduated from Southwest Missouri State University in Springfield, Missouri, in  
8 1967 with a Bachelor of Science Degree in Business Administration.

9 Q. Please describe your professional experience.

10 A. I joined Empire as a Customer Service Consultant immediately following graduation  
11 from Southwest Missouri State in 1967. My employment with Empire has been  
12 continuous since then. From 1967 until 1982, I held various positions in Empire's  
13 customer service area. In 1982 I was elected Vice President of Customer Services. In that  
14 position I was responsible for all customer service activities, industrial and technical  
15 services, public information and advertising, legislative affairs, and regulatory contacts.  
16 In 1994 I assumed the position of Executive Vice President. In that position I had  
17 responsibility for customer services, production, and transmission and distribution. In  
18 October 1995 I was appointed Executive Vice President - Commercial Operations. In that  
19 position I was responsible for all activities directly affecting customers, including

1 customer service, line services, and engineering. On April 1, 1997, I was elected to my  
2 current position.

3 Q. Have you previously presented testimony before this or any other regulatory body?

4 A. Yes, I have presented testimony before the Missouri Public Service Commission  
5 ("Commission") on a number of occasions. I have also presented testimony before the  
6 Arkansas Public Service Commission, the Kansas Corporation Commission, the  
7 Oklahoma Corporation Commission, and the Federal Energy Regulatory Commission  
8 ("FERC").

9 Q. Please describe Empire.

10 A. Empire is a Kansas corporation with its principal office and place of business at 602  
11 Joplin Street, Joplin, Missouri 64801. Empire is engaged in the business of providing  
12 electrical and water utility services in Missouri to customers in its service areas and has a  
13 certificate of service authority issued by the Commission to provide certain  
14 telecommunications services.

15 Q. Will you please describe the area served by empire and give a brief description of the  
16 customers served?

17 A. Empire provides electric service in an area of approximately 10,000 square miles in the  
18 southwest corner of Missouri and reaches into adjacent corners of the states of Kansas,  
19 Oklahoma, and Arkansas. Empire's operations are regulated by the utility regulatory  
20 commissions of these four states as well as the FERC. The area embraces 120  
21 incorporated communities in 23 counties in the four-state area. In Missouri, Empire's  
22 territory ranges from the Kansas-Missouri state line on the west to a north-south  
23 extension of the east boundary of Greene County on the east, and from the Arkansas-

1 Missouri state line on the south to a western extension of the north boundary of Hickory  
2 County on the north.

3 While tourism plays an important role in the economic growth of the region, the area  
4 economy is well balanced with small to medium manufacturing operations, medical,  
5 agricultural, and retail interests all contributing to the economic expansion of Southwest  
6 Missouri.

7 At the end of 1998, Empire served 119,265 residential customers, 21,774 commercial  
8 customers, 354 industrial customers, 1,739 public authority customers, and 7 wholesale  
9 customers throughout our system. Most of the communities in the service area are small,  
10 with only 19 being in excess of 1,500 population. Only 5 communities have a population  
11 in excess of 5,000, and the largest city is Joplin, Missouri, with a population of  
12 approximately 40,000.

13 In Missouri, at the end of 1998, Empire served 104,431 residential customers, 19,081  
14 commercial customers, 278 industrial customers, 1,423 public authority customers, and 3  
15 wholesale customers. In addition to electric service, Empire also provides regulated water  
16 service to approximately 4,500 customers in the Missouri communities of Aurora,  
17 Marionville, and Verona.

18 Q. Please describe Empire telecommunication operations.

19 A. Empire began installing fiber optics in 1996 for internal purposes; but, due to the  
20 economics, the cables contained excess capacity beyond that which Empire had plans to  
21 use. Some of this excess capacity has since been leased to customers such as cellular  
22 phone companies, long distance carriers, hospitals, schools, and manufacturing. This  
23 capacity is either a number of dedicated dark fibers or an amount of bandwidth on the

1 SONET (Synchronous Optical Network) network. In January of 1998 Empire became  
2 certified (Case No. TA-98-233) as an intrastate interexchange and local exchange  
3 telecommunications company.

4 Q. Would you please provide the background for the merger transaction?

5 A. In recent years, Empire has carefully followed developments in the electric industry that  
6 have resulted in increased competition in the markets for electricity. We have continually  
7 reviewed prospects for effective competition in light of these developments; particularly,  
8 the pressures on small and medium sized utilities to compete as effectively as larger  
9 utilities. As a result, Empire began to develop strategic alternatives including possible  
10 business combinations. As other transactions were announced in the region it became  
11 apparent that it would be advantageous for Empire to combine with a larger company.

12 Q. What are some of the reasons for the merger?

13 A. We believe the merger will provide opportunities for our customers, employees, and  
14 shareholders to achieve benefits that would not be available if Empire were to remain an  
15 independent company and that the merger will result in a combined company that will be  
16 well positioned to succeed in the increasingly competitive energy marketplace.  
17 Specifically, the combined enterprise can more effectively participate in the increasingly  
18 competitive market for the generation of power. Through the elimination of duplicate  
19 activities there will be reductions in operating and maintenance expenses. The inherent  
20 increase in scale and market diversification will provide increased financial stability and  
21 strength, which could not be achieved without the combination of the companies.

22 Q. Please describe the activities which led to the merger.

1 A. Over the last two years Empire has engaged in general conversations with UtiliCorp  
2 regarding activities that might be mutually beneficial. One outgrowth of these  
3 conversations was the signing of an agreement in June of 1998 for Empire to market  
4 natural gas in its service area for UtiliCorp's subsidiary, Aquila Energy.

5 Subsequent discussions to assess areas of common interest led to a meeting in the fall of  
6 1998 where the possibility of a business combination was discussed.

7 Subsequent meetings between the companies, legal advisors, and Empire's financial  
8 advisors over the next few months resulted in a meeting in Kansas City, Missouri, where  
9 UtiliCorp presented its views on the business rationale for a combination of the two  
10 companies and its views on the valuation of Empire, accounting and tax treatments, forms  
11 of consideration, social issues, and advantages for both organizations.

12 Further meetings over the next several weeks resulted in the drafting of a proposed  
13 merger agreement that was received by Empire around March 15, 1999. Empire's Board  
14 of Directors was briefed periodically regarding the progress of the negotiations. The  
15 negotiation of the final agreement was completed in early May. On May 7 Empire's  
16 Board of Directors met to consider the merger offer.

17 Following a comprehensive discussion, along with presentations by Cahill Gordon  
18 (Empire's legal advisors) and Salomon Smith Barney (Empire's financial advisors), the  
19 Board agreed to adjourn until Monday, May 10.

20 At the meeting on May 10 the Board received a Fairness Opinion from Salomon Smith  
21 Barney and a recommendation from Senior Management to accept the merger agreement.  
22 The Board then unanimously voted to accept the merger offer. Following the meeting the  
23 agreement was executed and the merger was publicly announced on May 11, 1999.

1 Q. Please provide an overview of the fairness opinion which was obtained from  
2 Salomon Smith Barney.

3 A. The fairness opinion simply states that Salomon Smith Barney, as Empire's financial  
4 advisor, has examined the merger agreement along with other available information  
5 provided by the companies, both in publicly available reports and in face-to-face  
6 meetings with Senior Managers from both firms, and that from a financial point of view  
7 the transaction is fair to the Empire common stockholders.

8 Salomon Smith Barney subsequently confirmed its May 10 opinion in writing for  
9 preparation of the proxy Statement that was furnished to Empire shareholders.

10 Q. Please characterize UtiliCorp as a merger partner.

11 A. UtiliCorp is the right merger partner.

12 Q. Why?

13 A. It has been Empire's opinion that for a utility merger to be truly beneficial certain  
14 consistent core values must exist in the merger partner. Certainly, financial parameters  
15 must be achieved in the merger for the company giving up control, but if the resulting  
16 entity is not committed to the core values of providing outstanding customer service,  
17 supporting the communities it serves by participating in economic development and other  
18 community betterment programs, and providing enhanced opportunities to employees, the  
19 long-term effects of the merger will not be maximized. We believe that UtiliCorp has  
20 exhibited these core values and that with the addition of St. Joseph Light & Power  
21 Company, a unique opportunity has presented itself to form an outstanding utility from  
22 three Missouri companies who share a common vision of how utility customers would  
23 like to be served. These factors coupled with UtiliCorp experience in overseas markets



1 where unbundling and deregulation have already commenced and their obvious expertise  
2 in the unregulated energy market leads us to the conclusion that UtiliCorp is the right  
3 merger partner for all concerned.

4 Q. Please describe the shareholder vote.

5 A. Each share of common stock is entitled to one vote that may be voted for or against the  
6 merger agreement as presented. Since Empire is registered as a Kansas Corporation a  
7 simple majority of the outstanding shares of common stock must vote in favor of the  
8 merger for it to be approved. Each stockholder was mailed a proxy containing detailed  
9 information about the merger agreement on August 2. The proxy announced a Meeting of  
10 the Shareholders on September 3 for holders as of July 30, 1999. At that meeting 76.3%  
11 of the shares of Empire's common stock voted in favor of the merger agreement, of the  
12 shares voting 93.5% were in favor. This vote indicates that the shareholders were  
13 satisfied that the merger agreement is fair from their point of view and that the resulting  
14 combination of the companies will continue as a quality utility company.

15 Q. What will the Empire shareholder receive for his/her stock?

16 A. In exchange for each share of Empire common stock, Empire shareholders will have the  
17 option to receive either \$29.50 in cash or shares of UtiliCorp common stock with an  
18 average trading price of \$29.50. The amount of cash or value of stock received by Empire  
19 stockholders will increase or decrease if the average trading price of UtiliCorp common  
20 stock is above \$26.00 or below \$22.00 prior to the effective time of the merger.  
21 Additionally, no more than 50% of the shares of Empire common stock can be converted  
22 into cash and the total number of shares of UtiliCorp common stock issued to Empire  
23 stockholders is limited to 19.9% of the outstanding shares of UtiliCorp common stock.

1 Therefore, if too many Empire stockholders elect to receive cash or if too many Empire  
2 stockholders are to receive stock and the limitations are exceeded the amount of cash or  
3 the number of shares of stock actually received by each Empire stockholder may differ  
4 from the consideration elected.

5 Q. Please discuss the impact on employees.

6 A. Empire has a dedicated and skilled workforce for which it has provided enhanced training  
7 over the last few years to assist each employee in maximizing their skills. While the  
8 transition teams have not concluded their activities which will lead to the merger of the  
9 workforces. Needless to say, certain duplicative activities will be combined which will  
10 lead to the reduction of positions. However, the other business units of UtiliCorp will  
11 provide expanded opportunities for employees who are able and willing to take advantage  
12 of them.

13 Q. Please discuss the impact on customers.

14 A. As Empire management has attempted to plan for the future the welfare of its customers  
15 has been a prime concern. Empire customers have enjoyed rates that are among the  
16 lowest in the state and fully 30% below the national average and Empire prides itself on  
17 its ability to provide first rate service. However, as energy markets become more volatile  
18 and the industry becomes increasingly competitive, it will be difficult for companies of  
19 Empire's size to continue to provide service and rates at these existing levels. We believe  
20 the customers will be better served by the merging of the three companies due to the  
21 economics of scale which can only be achieved by larger organizations, by the ability to  
22 spread risk over a larger organization, and through the elimination of duplicative  
23 functions and facilities. As I have stated previously, this is a unique opportunity to

1 combine three Missouri companies into one utility that will definitely serve the best  
2 interests of all constituencies, including the customer. The interests of all concerned will  
3 be best served by the Commission assisting in the culmination of this merger agreement.  
4 If this agreement fails to be completed the eventual result will likely be the sale of the  
5 smaller utilities to out of state or even foreign interests, and a genuine opportunity to  
6 create a strong, vibrant utility will be lost to the State of Missouri and its utility  
7 customers.

8 Q. Does this conclude your testimony?

9 A. Yes it does.