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August 17, 2001

**FILED<sup>3</sup>**

AUG 17 2001

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, MO 65102

**Re: In the Matter of the Joint Application of Gateway Pipeline Company, Inc., Missouri Gas Company and Missouri Pipeline Company  
Case No. GM-2001-585**

Dear Mr. Roberts:

On behalf of UtiliCorp United Inc., I deliver herewith an original and eight (8) copies of UtiliCorp United Inc.'s, Missouri Pipeline Company's, and Missouri Gas Company's List of Issues to be filed in the above-referenced case.

I have also enclosed an extra copy of the this document which I request that you stamp "Filed" and return to the person delivering same to you.

Thank you for your attention in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

  
Paul A. Boudreau

PAB:aw

Enclosures

cc: Office of the Public Counsel  
Parties of Record

FILED<sup>3</sup>

AUG 17 2001

Missouri Public  
Service Commission

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

In the Matter of the Joint Application of       )  
Gateway Pipeline Company, Inc.                )  
Missouri Gas Company and Missouri            )  
Pipeline Company.                                )

Case No. GM-2001-585

**UTILICORP UNITED INC.'S, MISSOURI PIPELINE COMPANY'S, AND  
MISSOURI GAS COMPANY'S LIST OF ISSUES**

COME NOW UtiliCorp United Inc. ("UtiliCorp"), and Joint Applicants Missouri Pipeline Company ("MPC") and Missouri Gas Company ("MGC"), and submit this List of Issues. The issues before the Missouri Public Service Commission ("Commission") in this case are as follows:

1. Should the request of the Joint Applicants that Gateway Pipeline Company acquire all of the stock of UtiliCorp Pipeline Company be approved?
  - A. Would the sale be detrimental to the public interest?
  - B. If so, are there conditions that the Commission could impose to reduce or eliminate any detriment?
2. Will Condition No. 7 contained in the "Finding of Fact" of the Report and Order in Case No. GA-89-126 that the Commission placed on MPC's Certificate of Convenience and Necessity remain in effect should the Commission approve the proposed transaction?
  - A. If so, should the Commission waive this provision?

The issues identified by UtiliCorp, MPC and MGC are largely consistent with those submitted by Staff. UtiliCorp, MPC and MGC have concerns with the wording of Staff's List of Issues. Unfortunately, these differences could not be resolved to the satisfaction of all parties. Although UtiliCorp, MPC and MGC believe that Staff has proposed a workable general structure, the precise wording of the issues identified by Staff contain certain factual misstatements and includes one issue not legitimately before the Commission.

Specifically, with respect to issue No. 2, UtiliCorp, MPC and MGC thought it important that the wording reflect the fact that the condition contained in the Commission's decision in Case No. GA-89-126 that MPC's predecessor in interest maintain a physical separation of certain facilities was a condition of that company's Certificate. UtiliCorp did not dispute that condition when it thereafter acquired the facilities in the Commission's Case No. GM-94-252.

Additionally, UtiliCorp, MPC and MGC believe that Staff's issue No. 2.B. is not properly before the Commission because no party has presented testimony stating that the Commission will in fact lose jurisdiction over MPC and MGC if the transaction is approved. Moreover, it does not conform with the standard of review adopted by the Commission in its Case No. WM-2000-222<sup>1</sup> in which the Commission determined that the controlling case law requires that its denial of such an application requires the showing of a "direct and present public detriment." The Commission stated that the possibility of the occurrence of a future event "is not a present detriment." Consequently, UtiliCorp, MPC and MGC cannot, consistent with their obligation of candor and good faith, submit to the Commission an issue which is inconsistent with the standard that it has so recently expressly adopted.

UtiliCorp, MPC and MGC regret that their efforts to work out these differences of opinion with Staff have been unsuccessful. Consequently, they have been left with only one option; that is, to submit a separate List of Issues that it believes (1) are worded as closely as possible to those offered by Staff, (2) correctly state the nature of the underlying facts, and (3) are consistent with the Commission's standard for approval as determined in its Case No. WM-2000-222.

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<sup>1</sup> *Re Missouri-American Water Company*, March 16, 2000, Report and Order.

Respectfully submitted,



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Attorneys for UtiliCorp United Inc., Missouri  
Pipeline Company and Missouri Gas Company

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 17<sup>th</sup> day of August, 2001, to the following:

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