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November 30, 2000

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RE: Case No. GO-2001-249

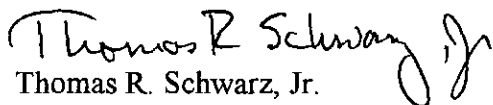
Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **SUGGESTIONS IN OPPOSITION TO MISSOURI GAS ENERGY'S APPLICATION TO INTERVENE.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,



Thomas R. Schwarz, Jr.
Deputy General Counsel
(573) 751-5239
(573) 751-9285 (Fax)

TRS:sw
Enclosure
cc: Counsel of Record

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

FILED³

OF THE STATE OF MISSOURI

NOV 30 2000

Missouri Public
Service Commission

In the matter of an investigation into)
various issues related to UtiliCorp United)
Inc.'s gas supply services department.)

Case No. Case No. GO-2001-249

SUGGESTIONS IN OPPOSITION TO MISSOURI GAS ENERGY'S APPLICATION TO INTERVENE

COMES NOW the Staff (Staff') of the Public Service Commission of Missouri (Commission') and for its suggestions in opposition to the application to intervene in the above-captioned matter filed by Missouri Gas Energy, a division of Southern Union Company ("MGE"), states as follows:

1. On September 9, 2000, the Chair of the Commission received an anonymous letter alleging certain irregularities in the natural gas purchasing practices of UtiliCorp United Inc. ("UCU"). The Chair notified parties to all Open UCU cases of the letter, as required by Commission rule. Similar letters were sent to the public utility commissions of Iowa, Michigan, and Minnesota.
2. In response to the anonymous letter, the Staff filed a motion to open case to investigate the allegations made in the letter. Staff proposed to investigate the propriety of UCU's gas purchasing practices, Staff's gas purchasing audit procedures, and any effect of UCU's corporate structure on gas purchasing practices and costs.
3. The Commission opened this case by order dated November 9, 2000.

4. MGE filed its application to intervene in this case on November 20, 2000. As the basis for its intervention MGE notes that the anonymous letter deals with UCU's use of financial instruments, which MGE itself has used in the past and may make use of them in the future. MGE also observes that the Commission may make decisions regarding the use of financial instruments, which may be argued to have precedential effect upon MGE. MGE concludes that it therefore has an interest in this case sufficient to support its intervention.

5. A number of considerations mitigate strongly against MGE's intervention in this docket. MGE suggests (Application, ¶2) that the Commission may make decisions in this case that arguably could be asserted as precedent in a possible future MGE case. MGE perceives the case far differently than Staff. Staff has sought no action from the Commission in this docket that would affect private rights. The explicit purpose of this docket is to investigate UCU's gas purchasing practices, any possible effect of UCU's corporate structure on those purchasing practices, and to evaluate Staff's own audit procedures in light of the investigation. These are fact—specific issues applicable only to UCU. It makes as much sense for a gas LDC to intervene in a water company rate case on the expectation that a finding on capital structure or return on equity would bind the LDC in its own later rate case.

6. Further, Staff has explicitly stated that any action to apply any information gleaned from the proceedings in this case would be applied in the appropriate UCU ACA/PGA case. The only Commission action Staff sought in its initial pleading – the opening of this docket – has already been granted. Neither the rights of UCU nor MGE will be affected by the investigation conducted in this case. MGE will be able to assert its rights in any future docket that may actually affect them.

6. Second, this case is the Missouri vehicle for a cooperative investigation of UCU's natural gas purchasing practices by four state regulatory Commissions. As such, this case is a direct exercise of the police power of Missouri in vindication of purely public rights. Some states are pursuing the issue in a rate case setting and others in separate investigations, as here. Each state has its own confidentiality requirements, and each must be mindful of the sensitive nature of the information needed in the exercise of its police power. The presence of intervenors who are possible competitors of UCU, such as MGE, will unduly chill the unfettered access to highly sensitive information the respective Commission Staffs need. The participation of private intervenors will raise procedural issues, resolution of which will unduly prolong the process in this case to the detriment of the public interest.

6. Finally, the interest that MGE asserts is too contingent and remote to support its application. MGE alleges that the investigation might lead to a Commission policy that might affect similar practices that MGE might want to undertake at some unspecified time in the future. The present case cannot affect any present right of UCU or MGE. If the Commission should ever seek to apply the knowledge gleaned from this case to MGE, it will do so in the context of an appropriate case in which MGE will be able to fully and fairly assert its rights. Commission rule 4 CSR 240-2.075(4) provides that the Commission may grant intervention where the intervenor has an interest different from that of the general public and which may be adversely affected by a final order in the case. MGE has raised no present interest in the investigation that warrants its intervention in this case under the standard of the rule.

WHEREFORE, the Staff respectfully suggests that the Commission deny MGE's application for intervention in this case.

Respectfully submitted,

DANA K. JOYCE
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 29th day of November, 2000.

Thomas R. Schwarz, Jr.

**Service List for
Case No. GO-2001-249
November 30, 2000**

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