

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
December 6, 2000**

**CASE NO: GO-2001-249**

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Missouri Gas Energy  
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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

**Uncertified Copies:**

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

In the Matter of an Investigation into Various     )  
Issues Related to UtiliCorp United Inc.'s Gas     )     Case No. GO-2001-249  
Supply Services Department.                     )

**ORDER DENYING INTERVENTION**

On October 16, 2000, the Staff of the Missouri Public Service Commission (Staff) moved the Commission to establish a case in order to investigate certain allegations of impropriety contained in an anonymous letter received by the Chair of the Commission on September 9, 2000. The allegations assert that the Gas Supply Services Department of UtiliCorp United Inc., doing business as Missouri Public Service (UtiliCorp), has engaged in certain improper activities intended to increase corporate profits at the expense of Missouri ratepayers. Staff further stated that it "takes these allegations seriously." On October 31, 2000, UtiliCorp responded to Staff's motion, denying the allegations of impropriety and supporting Staff's motion to open a case. The Commission issued its order establishing this case on November 9, 2000.

On November 20, 2000, Missouri Gas Energy (MGE) filed its timely application to intervene. Therein, MGE states that it has an interest in this matter which is different from that of the general public and which cannot be adequately protected by any other party. Further, MGE suggests that it might be adversely affected by a final order in this matter. On November 30, 2000, the Staff of the Missouri Public Service Commission (Staff) filed its suggestions in opposition to MGE's application. Therein, Staff states that this case is an exercise by the State of Missouri of its police power, in vindication of purely public rights. Several other state

8

commissions are also involved in what is a coordinated investigation of UtiliCorp's conduct in several states. Staff suggests that confidentiality issues militate against granting MGE's application. Finally, Staff suggests that the interests urged by MGE are far too remote and contingent to support intervention.

Commission Rule 4 CSR 240-2.075 governs intervention. Rule 4 CSR 240-2.075(2) requires the intervention applicant to state its interest in the proceeding, its reason for intervening, and whether or not the applicant supports the relief sought. Rule 4 CSR 240-2.075(4) lists grounds upon which intervention will be granted: (A) that the intervention applicant has an interest different from that of the general public; or (B) that granting intervention would serve the public interest.

Intervention is the process whereby a stranger becomes a full participant in a legal action. Ballmer v. Ballmer, 923 S.W.2d 365, 368 (Mo. App., W.D. 1996). The Commission's rules, like the civil rules, distinguish between those with a right to intervene and those with a mere desire to intervene. Due process requires that any person with a liberty or property interest that will be affected by the outcome of a legal matter be permitted to intervene upon timely application. See U.S. Constitution, Amendment XIV; Missouri Constitution, Article I, Section 10 (1945). Such persons have a right to intervene. *Supra*, 923 S.W.2d at 368.

In Ballmer, *supra*, an insurance company sought to intervene in a "friendly" lawsuit wherein a father sued his son for the wrongful death of another son in an automobile accident. The insurance company sought to intervene to prevent its insured from confessing judgment. Intervention was denied because the insurer lacked an interest in the case: "As to whether State Farm has an 'interest' in the underlying action, this court has stated that 'the liability of an insurer as a potential indemnitor of

the judgment debtor does not constitute a direct interest in such a judgment as to implicate intervention as a matter of right.'" *Id.* (citations omitted). Like the insurance company in Ballmer, MGE's interest is too remote and contingent to create a right to intervene.

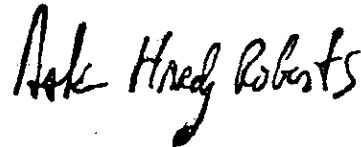
MGE does not argue that permitting its intervention would serve the public interest. Therefore, there is no need to analyze MGE's application under that principle.

MGE's application to intervene is denied.

**IT IS THEREFORE ORDERED:**

1. That the Application to Intervene filed herein by Missouri Gas Energy on November 20, 2000, is denied.
2. That this order shall become effective on December 16, 2000.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Kevin A. Thompson, Deputy Chief  
Regulatory Law Judge, by delegation  
of authority pursuant to Section 386.240,  
RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 6th day of December, 2000.

FYI: To Be Issued By Dele ( ) ion

AL/Sec'y: Thompson / Pope

12-4 12-7  
Date Circulated Return by 2 pm  
10 am

GD-2001-249  
CASE NO. JK

JK  
Lumpe, Chair

mp  
Drainer, Vice Chair

AK  
Murray, Commissioner

AK  
Schemmauer, Commissioner

KS  
Simmons, Commissioner

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 true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 6<sup>th</sup> day of December 2000.

Dale Hardy Roberts

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

