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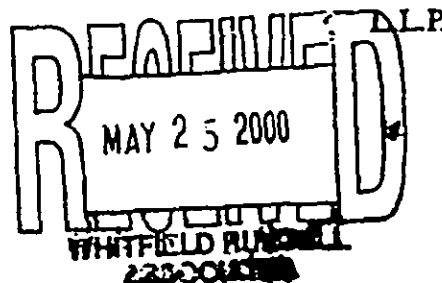


Exhibit No. 302
Date 7-14-00 Case No. EM-2000-090
Reporter TURBIN

May 19, 2000

BY HAND DELIVERY

MAY 23 2000

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

SPINER & McDIARMID

Re: UtiliCorp United Inc., et al., Docket Nos. EC00-27-000 and
EC00-28-000

Dear Mr. Boergers:

By letter dated April 17, 2000, Mr. Michael C. McLaughlin, Director of the Division of Corporate Applications of the Office of Markets, Tariffs and Rates, requested the preparation of certain additional competitive analyses (as well as other information) from the Applicants in the referenced proceedings, for the stated purpose of expediting further consideration of the subject Application by the Commission. That letter order ("the April 17 order") called for a response by Applicants within twenty-one days of its issuance, which would have been May 8, 2000. By letter dated May 4, 2000, Applicants requested an extension of time, to May 12, 2000, to file their response. On May 11, 2000, Applicants requested a further extension, to May 19, 2000. Both requested extensions were granted. With the submission transmitted herewith, Applicants hereby file their response to the April 17 order.

While Applicants now respond in full to the April 17 order, we wish to note our disagreement with the premise on which it was issued - namely, that as of March 10, 2000, a significant change had occurred with respect to the Application, which required that the review process be started over. The April 17 order noted that the Application had not included a competitive analysis of the Applicants' systems based on the assumption of future integration, because "it would be too speculative to try to analyze future interconnections that might or might not occur" (quoting Applicants' witness, Dr. Mark Frankena). Apparently focusing solely on

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that statement by Dr. Frankena and ignoring the more detailed direct (and rebuttal) testimony of Applicants' witness, Richard C. Kreul, the order asserted that Applicants had "stated for the first time on March 10, 2000, that integration would definitely occur." (April 17 order at pages one and two.) The April 17 order went on to state:

"...[I]t now appears certain that Applicants will integrate their systems but are still contemplating different ways in which to accomplish such integration. The integration of the merging systems could materially change the results of the initial competitive analysis filed by the Applicants as part of their application. The Commission cannot evaluate the competitive effects of the proposed merger without incorporating the effects of such integration and the application does not contain the information necessary to do so."

In responding herein to the April 17 order, Applicants wish to state that it has always been their intention to integrate the merged systems in the future and believed that they had so indicated in the totality of the testimony contained in their Application filed last November. We thus disagree with the suggestion in the April 17 order that such intention was stated by Applicants for the first time on March 10, 2000. The uncertainties previously noted by Applicants as the reason for their decision not to attempt to provide competitive analyses of the merged systems in one or more hypothetical, future configurations, related to the question of *how* such integration would be accomplished in the future, not to the issue of *whether* it would be done.^{1/}

It should also be noted that all of the potential options for permanently integrating Applicants' systems after the merger would be accomplished by making substantial investments in transmission upgrades or new lines, which then would

^{1/} Such uncertainty regarding the method of future integration is to be expected, given the continuing uncertain state of affairs with respect to the development of Regional Transmission Organizations in the region surrounding Missouri and Kansas. Indeed, Applicants still cannot state definitively how such integration will be accomplished; however, in order to respond to the April 17 order, Applicants have prepared analyses for the two remaining integration options under consideration.

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be placed under the control of regional transmission entities. The competitive impact of future integration in those circumstances could only be positive, and additional Appendix A analyses assuming post-merger integration under all potential future configurations then under consideration seemed superfluous, at best.

Applicants take exception, therefore, to the statement in the April 17 order that there have been "significant changes" to the merger proposal requiring the new analyses requested, which "will start the Commission's merger review process over." (April 17 order at page two). Notwithstanding such disagreement, Applicants have moved as quickly as possible to carry out and provide the requested analyses. We tender those materials and the other information requested for the Commission's review at this time, with the request that the Commission now act promptly to approve the mergers involved in this Application. Consistent with the twenty-one day period for intervenor comments on this filing, required by the April 17 order, Applicants respectfully request that the Commission approve the Application by no later than July 12, 2000.

Sincerely,



John P. Mathis
Counsel for UtiliCorp United Inc.,
on behalf of all Applicants

Enclosures

cc: Hon. James J. Hoecker, Chairman
Hon. Linda Key Breathitt, Commissioner
Hon. Curt Hebert, Jr., Commissioner
Hon. William L. Massey, Commissioner
Mr. Michael C. McLaughlin, Director, Division of Corporate Applications,
Office of Markets, Tariffs and Rates
All parties of record

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

UtiliCorp United Inc. and)	Docket No. EC00-27-000
St. Joseph Light & Power Company)	
)	
UtiliCorp United Inc. and)	Docket No. EC00-28-000
The Empire District Electric Company)	

RESPONSE OF APPLICANTS
TO LETTER ORDER DATED APRIL 17, 2000

INTRODUCTION

UtiliCorp United Inc. ("UtiliCorp"), St. Joseph Light & Power Company ("St. Joseph") and The Empire District Electric Company ("Empire"), the Applicants in the above-captioned proceedings ("the Applicants"), hereby submit their response to the Commission's Letter Order dated April 17, 2000 (the "April 17 order"). In that letter order, the Commission requested that Applicants supplement the competitive analysis filed with their Application on November 23, 1999, to take into account the post-merger integration of UtiliCorp's Missouri Public Service division ("MPS") with the systems of St. Joseph and Empire. The Commission also requested that Applicants explain certain transactions relating to natural gas that were announced after November 1999.

In response to the April 17 Order, Applicants submit the Supplemental Testimony of Mr. Richard C. Kreul and of Dr. Mark W. Frankena, attached hereto. As Mr. Kreul explains, the purpose of his testimony is to provide the Commission

with certain updated information concerning the Applicants' plans with respect to the future permanent integration of the MPS, St. Joseph and Empire systems. Dr. Frankena's testimony describes the additional competitive analyses performed at Applicants' request, which incorporate the assumptions regarding the future integration options that Mr. Kreul testifies are under consideration by Applicants, and also explains the competitive significance of the results of those analyses.

Applicants respectfully submit that the Supplemental Testimony of Mr. Kreul and of Dr. Frankena provide a full and complete response to the April 17 order. This additional information and analysis provide further confirmation that the mergers before the Commission in this proceeding do not present significant competitive concerns under any future integration scenario under consideration and that the Commission should now proceed to approve the Application without further delay.

DESCRIPTION OF TESTIMONY AND EXHIBITS INCLUDED IN RESPONSE

With respect to the question of the potential future options for permanent integration of the merged companies' currently separate systems in Missouri (i.e., the MPS, St. Joseph and Empire systems), Mr. Kreul provides an update of events that have occurred since his rebuttal testimony was filed on February 10, 2000. He points out that UtiliCorp received on April 21, 2000, the initial results of the System Impact Study prepared by the Southwest Power Pool ("SPP"), in connection with its consideration of UtiliCorp's application for network service, described in his rebuttal testimony (dated February 10, 2000). Upon review

of the data provided by the SPP System Impact Study, Mr. Kreul states that UtiliCorp has concluded that the costs of the upgrades to SPP member company systems that would be required in order to meet SPP's requirements for agreeing to provide network service, when coupled with the charges for such service under the SPP tariff, will cause the total cost of that approach to integration to exceed by a substantial margin the costs involved with construction of the new facilities contemplated originally as the likely integration option for the merged systems in question. (Kreul Supplemental Testimony at 3-4) In addition, Mr. Kreul's supplemental testimony points out that the comparative operational benefits favor the original integration approach as well. (Id.) As a result, he states that UtiliCorp has decided not to continue the application to the SPP for network service and has thus ruled out the use of that approach to the future integration of the subject systems. Because that potential option to future integration is no longer under consideration, Applicants have not attempted to furnish a competitive analysis of the mergers based on that assumption.

Mr. Kreul explains that the Applicants are now limited to the consideration of only two potential alternatives for such integration, both of which involve construction of the new transmission facilities described in his direct testimony, filed in November 1999. Those options are quite straightforward. They are: (a) to place the subject systems of the merged companies, as interconnected by the new transmission facilities, under the SPP regional transmission tariff, or (b) to place such systems, as interconnected, under the regional transmission tariff of the

Midwest Independent System Operator ("the Midwest ISO"). Mr. Kreul emphasizes in his supplemental testimony that the earliest time by which the subject systems could be interconnected (or "integrated") under either the SPP tariff or the Midwest ISO by means of such new facilities is mid-to-late 2002 (Id. at 6). He also notes that during that two-year period, there will likely be significant changes in the structure and configuration of those regional transmission entities. Mr. Kreul states that the Applicants have no objection to being required to join a Regional Transmission Organization meeting the criteria of Order No. 2000 (an "RTO") as a condition of approval of their mergers, but they have requested that they be given the same latitude afforded to all other public utilities under that Order regarding the timing of their statement of intentions with respect to the specific RTO they intend to join. ^{1/}

In view of the above described developments, the Applicants (through the undersigned) instructed Dr. Frankena to prepare competitive analyses utilizing both potential alternative approaches to future integration that remain under active consideration. Thus, analyses of the competitive impact of the mergers assuming integration via construction of the new lines and placing the subject systems under the SPP regional tariff, in the one situation, and under the Midwest ISO, in the other, are furnished and explained in Dr. Frankena's supplemental testimony submitted herewith.

^{1/} See, e.g., American Electric Power Co. and Central and South West Corp., 90 FERC ¶ 61,242, opinion and order dismissing in part, denying in part, and granting

Dr. Frankena notes at the outset that data used for the pre- and post-merger cases have been updated to reflect changes in generation and transmission in the relevant market since his direct testimony was prepared over six months ago. And of course, the other major difference from his previous analyses is the fact that the current post-merger assumptions include the addition of the new transmission lines interconnecting MPS with St. Joseph and Empire, under the two integration scenarios described above. The supplemental Appendix A analyses cover the same 3,960 cases that were considered in Dr. Frankena's direct testimony, where no future integration was assumed. ^{2/} As a result of conducting the requested supplemental analyses, Dr. Frankena found that for each of the two alternatives, the combined effect of the two mergers is to cause an increase in the Herfindahl-Hirschman Index ("HHI") slightly above "Screen 1" ^{3/} in only 27 (for Alternative A) and 25 (for Alternative B) of the 3,960 cases. There are only 7 results which are above "Screen 2" ^{4/} by a trivial amount for each of the alternative integration options analyzed.

in part reh'g, 91 FERC ¶ 61,129 (2000) (conditionally approving merger while permitting applicants to determine appropriate RTO(s) to join).

^{2/} There are 3,960 cases for each alternative because there are 33 destinations, 15 periods, two capacity types (Economic Capacity and Available Economic Capacity), two methods of allocating transmission capability, and two sets of proxies for pre-merger market prices ($33 \times 15 \times 2 \times 2 = 3,960$), as explained in Dr. Frankena's direct testimony.

^{3/} Screen 1 is an increase of 100 or more in a market in which the post-merger HHI is between 1,000 and 1,800.

^{4/} Screen 2 is an increase of 50 or more in a market in which the post-merger HHI is 1800 or more.

As Dr. Frankena explains in his supplemental testimony, among the supplemental HHI results that are above Screen 1, none of the post-merger HHIs is above 1,450, and the increases in HHIs are all 188 or less. Dr. Frankena explains that it would be highly unusual for a federal antitrust agency or court to find that a merger that left the HHI well below 1,800 would raise significant competitive concerns or violate the antitrust laws, particularly where the increase in the HHI was under 200. For the HHI results above Screen 2, the increase in HHI is 62 or less, which is indistinguishable from the safe harbor level of 50 in markets with a post-merger HHI of 1,800 or more. (Frankena Supplemental Testimony at 13).

Dr. Frankena's supplemental analyses do not raise competitive concerns for several fundamental reasons. First, based on their small size and limited historical sales, UtiliCorp, St. Joseph, and Empire would not be significant competitors in any market for electric power absent the proposed merger. Second, the HHI results suggest that the proposed mergers are not likely to increase market power, regardless of entry conditions. Third, all of the screen failures are for Economic Capacity, and as long as utilities retain obligations to serve retail load, the relevant measure of market shares for competitive analysis is Available Economic Capacity. Fourth, entry conditions are such that the proposed mergers are not likely to increase market power, regardless of HHI results. Neither of the supplemental analyses has any relevance until after the new interconnections are completed and after obligations to serve retail load are substantially eliminated in

the region. Because such obligations to serve are unlikely to be eliminated within the next several years, the ease of entry of new generation virtually eliminates any concerns regarding the competitive consequences of the mergers. (Frankena Supplemental Testimony at 12-16). 5/

THE COMMISSION SHOULD ACT PROMPTLY TO APPROVE THE MERGERS

The supplemental material included with this response reinforces the conclusions contained in the original Application, namely that the mergers of UtiliCorp and St. Joseph and of UtiliCorp and Empire are consistent with the public interest and should be approved. 6/ Even if one concedes the premise of the April 17 order, the Commission now has before it all of the information it requires to approve the proposed mergers. In its Merger Policy Statement, the Commission stated that it would make every reasonable effort to issue an initial order on a complete merger application within 120 to 150 days of the filing of the application. The Applicants filed their Application on November 23, 1999. The Commission issued the April 17 Order 146 days later. Applicants therefore respectfully request that the

5/ Dr. Frankena also provides testimony explaining why none of the natural gas transactions involving UtiliCorp subsidiaries that have occurred since November 1999 is of any significance for the level of competition in any market for electric power.

6/ Indeed, Mr. Kreul's Supplemental Testimony resolves the most contentious issue raised by intervenors in response to the original application. Several intervenors had argued that the merged company should be required to place all of its Missouri and Kansas transmission facilities under a single regional tariff. Mr. Kreul now explains that upon completion of the planned transmission facility additions necessary to interconnect the Applicants' systems, all of the merged company's Missouri and Kansas transmission facilities will be placed under a single RTO, either the SPP or the Midwest ISO.

Commission approve the proposed mergers expeditiously -- if possible, by no later than the Commission's July 12, 2000 meeting. Since Intervenor comments on this filing are required by the April 17 order to be filed by June 9, 2000, the July 12 meeting would provide the Commission with over 30 days after the filing of such comments to issue its order.

The Commission's July 12 meeting is 232 days after the original Application was filed. The Commission has approved mergers with far more significant competitive consequences on much shorter timetables. For example, on November 22, 1999, one day before the Applicants filed their application in these dockets, Commonwealth Edison Company and PECO Energy Company filed their merger application in Docket No. EC00-26-000. Although the applicants in that docket were many times the relative size of UtiliCorp, St. Joseph and Empire, and the applicants' competitive analysis showed Appendix A screen failures far more significant than those at issue in this proceeding, 7/ the Commission approved the merger on April 12, 2000. 8/


7/ For example, applicants economic capacity analysis (without mitigation) showed significant screen failures for 10 of 11 time periods for the Commonwealth Edison destination market. The post-merger HHIs ranged from 4395 to 5671 and the HHI changes ranged from 179 to 297. The analysis showed similar results for available economic capacity. Despite these screen failures, the Commission approved the merger without requiring any form of mitigation.

8/ Commonwealth Edison Co and PECO Energy Co., 91 FERC ¶ 61,036 (2000).

CONCLUSION

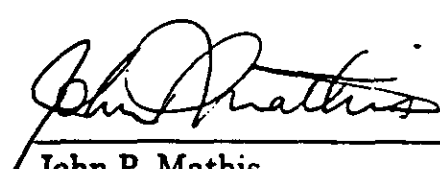
The Applicants thus respectfully request that the Commission issue a decision approving the proposed mergers of UtiliCorp and St. Joseph and of UtiliCorp and Empire as expeditiously as possible.

Respectfully submitted,

Eugene R. Elrod 

Eugene R. Elrod
Sidley & Austin
1722 Eye Street, N.W.
Washington, D.C. 20006

On behalf of
St. Joseph Light & Power Company

John P. Mathis 

John P. Mathis
John R. Lilyestrom
Hogan & Hartson L.L.P.
Columbia Square
555 Thirteenth Street, N.W.
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On behalf of
UtiliCorp United Inc.

Michael E. Small 

Michael E. Small
Wright & Talisman
1200 G Street, N.W., Suite 600
Washington, D.C. 20005


On behalf of
The Empire District Electric Company

Date: May 19, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, by U.S. mail, the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 19th day of May, 2000.


John R. Lilyestrom
Hogan & Hartson L.L.P.
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
(202) 637-5600

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

UtiliCorp United Inc. and)	Docket No. EC00-27-000
St. Joseph Light & Power Company)	
UtiliCorp United Inc. and)	Docket No. EC00-28-000
The Empire District Electric Company)	

SUPPLEMENTAL TESTIMONY OF
RICHARD C. KREUL

- 1 Q. Please state your name, position and business address.
- 2 A. My name is Richard C. Kreul. I am employed by UtiliCorp United Inc.
- 3 ("UCU"), within the operating group, UtiliCorp Energy Delivery
- 4 ("UED"), as Vice President of Transmission Services. My business
- 5 address is 10700 East 350 Highway, P.O. Box 11739, Kansas City, MO
- 6 64138.
- 7 Q. Are you the same Richard C. Kreul who provided direct testimony on
- 8 behalf of UCU in the above-captioned dockets on November 23, 1999
- 9 and rebuttal testimony on February 10, 2000?
- 10 A. Yes.
- 11 Q. What is the purpose of this supplemental testimony?
- 12 A. In a letter order dated April 17, 2000, the Commission directed the
- 13 Applicants in these proceedings to provide additional competitive
- 14 analyses to reflect the integration of Applicants' systems by any

1 mechanisms under consideration for achieving such integration. The
2 purpose of this supplemental testimony is to describe such mechanisms
3 that remain under consideration, which are the bases for the
4 additional analyses undertaken by Applicants' expert witness, Dr.
5 Mark W. Frankena, in response to the April 17 letter order.

6 Q. Have there been any additional factual developments since your
7 rebuttal testimony was filed on February 10, 2000, that have a bearing
8 on the subject matter of the Company's response to the April 17 order?

9 A. Yes.

10 Q. Please explain.

11 A. As I mentioned in my rebuttal testimony last February, UtiliCorp
12 applied on December 6, 1999, for network service under the Southwest
13 Power Pool ("SPP") tariff and on February 8, 2000, executed System
14 Impact Study Agreements with the SPP related to that request. As I
15 stated at that time, the option of potentially integrating the merged
16 companies' systems using network service under the SPP tariff would
17 be considered in the context of the results of the System Impact Study.
18 A principal benefit of such a Study is that it provides UtiliCorp with
19 load flow and other data that permit it to estimate the costs involved in
20 the option of taking network service under the SPP tariff, as compared
21 to the costs associated with the Company's original integration concept
22 of building its own transmission lines (or having such lines built) to

1 join the systems of UtiliCorp's Missouri Public Service ("MPS") division
2 with those of St. Joseph Light & Power Company ("St. Joseph") and
3 The Empire District Electric Company ("Empire"). (A detailed
4 description of those lines is contained in my direct testimony, dated
5 November 15, 1999, at pages 12 and 13.) The initial results of the
6 System Impact Study were delivered by the SPP to UtiliCorp on April
7 21, 2000.

8 Q. What is the significance of those results to the Applicants' thinking
9 regarding the options for the future integration of the systems of the
10 merged companies referred to above?

11 A. Based on our analysis and estimates of the likely cost of the upgrades
12 to SPP member company systems that the SPP has stated will be
13 required in order to approve UtiliCorp's application for network
14 service, it appears that the costs of those upgrade investments, coupled
15 with the SPP's charges for network service, will cause the total costs of
16 that integration option to exceed by a substantial amount the costs
17 that have been estimated for UtiliCorp's original concept of building
18 new transmission lines connecting MPS / St. Joseph and MPS /
19 Empire. It also appears on further study that the comparative benefits
20 to the merged companies' operations of integrating through the use of
21 network service under the SPP tariff will be inferior to those which can
22 be obtained through the construction of the above-described new lines

1 joining the merged companies' systems. Thus, it does not appear
2 fruitful for UtiliCorp to continue to pursue the application for network
3 service with the SPP, and to incur the related costs of that process, at
4 the present time.

5 Q. What options then are Applicants currently considering for the future
6 integration of the systems in question?

7 A. Two options remain under serious consideration, both of which involve
8 the construction of the new transmission lines mentioned above and in
9 my direct testimony. The first option would be to build the lines
10 described (or have them built) and then to place the merged-company
11 systems in question under the SPP transmission tariff but without
12 taking network service (because if the lines are built, network service
13 would no longer be required in order to permit those systems to be
14 joined into a single control area). The second option would be to build
15 such lines and place the systems in question under the transmission
16 tariff of the Midwest Independent System Operator.

17 Q. Are the Applicants willing to limit the amount of transfer capability
18 that is reserved between the three current control areas?

19 A. Yes. Under normal operating conditions, the Applicants are willing,
20 for a period of three years after completion of the integration of the
21 systems described, to limit the amount of priority transfer rights to the
22 following amounts:

1	<u>From</u>	<u>To</u>	<u>Megawatts</u>
2	MPS	SJLP	200
3	MPS	EDE	200
4	SJLP	MPS	100
5	EDE	MPS	100

6 Q. What is the basis for those transfer amounts?

7 A. The above transfer amounts permit the Applicants to achieve the
8 energy cost savings which are one of the benefits resulting from the
9 integration of the power supply functions of the Applicants.

10 Q. Are there any situations in which the Applicants would exceed the
11 above transfer amounts?

12 A. Yes. Under abnormal operating conditions (such as loss of a major
13 generating unit), the transfer amounts shown above may be exceeded
14 due to redispatch or other system requirements, which would be
15 determined by the applicable regional transmission system operator.

16 Q. Is any approach, other than the two options described, for the
17 permanent integration of the merged companies' systems under
18 consideration by Applicants at this time?

19 A. No.

20 Q. Why is UtiliCorp not making an immediate decision regarding whether
21 to place the future integrated systems of MPS, St. Joseph and Empire
22 under the SPP or the Midwest ISO?

23 A. There are several reasons underlying UtiliCorp's belief that such an
24 immediate decision on that choice remains premature at this time.

1 First, when we address the question of the future integration of the
2 subject systems by means of the new lines described, we are talking
3 about an event that will not take place for at least the next two years.
4 The process of planning, siting and building the subject transmission
5 lines will require a minimum of eighteen months from the formal
6 commencement of that process, which will not begin in earnest until
7 after all regulatory approvals for the mergers have been obtained and
8 financial closing of the merger transactions has occurred. That timing
9 would mean that the commencement of integrated operations utilizing
10 those facilities could not occur prior to mid-to-late 2002. Second,
11 UtiliCorp anticipates that the organizational structures and
12 configurations of both the SPP and the Midwest ISO will change
13 significantly during the next six to eighteen months and that a
14 decision on which of the two regional transmission entities the merged
15 systems should join will become clearer than it is today. In fact,
16 discussions among the affected parties in the region regarding the
17 possibilities for changes and additions to the current configurations of
18 the SPP and Midwest ISO are occurring on almost a continuous basis.
19 It is also entirely possible that within the two-year period mentioned
20 above, there may be either in place or in prospect a broader regional
21 entity that encompasses some or all of the systems presently within
22 both the SPP and the Midwest ISO, which of course would remove all

1 uncertainty as to this issue and moot any concerns about whether the
2 merged company systems should be in one entity or the other, for
3 reasons unrelated to the merger.

4 Q. What do you consider to be the date when a definitive decision on this
5 issue should or must be made?

6 A. Given the Commission's requirement in Order No. 2000 that all public
7 utilities must inform it by October 15, 2000, regarding their plans for
8 joining a regional transmission organization meeting the criteria set
9 forth in that Order, UtiliCorp considers that date to be the practical
10 deadline for a decision on this issue, and that is the latitude that the
11 Applicants have requested in the current proceeding. Neither the SPP
12 nor the Midwest ISO has been approved by the Commission as an RTO
13 meeting the criteria of Order No. 2000; however, both of those entities
14 are administering regional transmission tariffs under which they
15 exercise effective control over the operation of the facilities subject to
16 them. Thus, regardless of which of those two entities the merged
17 companies should elect to join, the transmission facilities of the merged
18 companies would be under the control of an operator independent of
19 such companies. And, finally, I would reiterate a point made earlier in
20 these proceedings that Applicants' transmission facilities are *already*
21 under the operational control of regional transmission entities – the

1 SPP, in the case of Empire, and MAPP, in the case of MPS, St. Joseph
2 and UtiliCorp's WestPlains Energy - Kansas division.

3 Q. Do Applicants have any objection to the imposition by the Commission,
4 as a condition of approval of the Application in this proceeding, of a
5 requirement that the merged companies join a Regional Transmission
6 Organization?

7 A. No. As I stated previously, Applicants ask only that they not be
8 required to disclose their intentions on that issue any earlier than the
9 date provided by Order No. 2000 for all public utilities to do so --
10 October 15, 2000. That latitude will provide the maximum opportunity
11 for the choices on that issue to become clearer in Applicants' region
12 than they are today, but nevertheless with a reasonably prompt
13 deadline for a decision on this subject of importance to the region.

14 Q. Does that conclude your supplemental testimony?

15 A. Yes.


AFFIDAVIT

State of Missouri)
) ss.
County of Jackson)

Richard C. Kreul, having been duly sworn, upon his oath, states that he is the Vice President, Transmission Services of UtiliCorp United Inc., and that he has participated in the preparation of the foregoing written testimony, in question and answer form, and believes that the statements therein are true and correct to the best of his knowledge, information and belief.


RICHARD C. KREUL

Subscribed and sworn to before me this 18th day of May, 2000.


NOTARY PUBLIC

My Commission Expires:

NANCY J. MANION
NOTARY PUBLIC STATE OF MISSOURI
JACKSON COUNTY
MY COMMISSION EXPIRES 7/31/2001

SUPPLEMENTAL TESTIMONY OF MARK W. FRANKENA

I. INTRODUCTION

1 Q. What is your name, company affiliation and position?

3 A. My name is Mark W. Frankena. I am a Principal at Economists Incorporated, an
4 economics consulting firm located at 1200 New Hampshire Avenue, N.W.,
5 Washington, D.C. 20036.

6 Q. Are you the same Mark W. Frankena who submitted Direct Testimony and
7 Rebuttal Testimony on behalf of Applicants in the above-captioned dockets
8 in November 1999 and February 2000?

9 A. Yes.

10 Q. What is the purpose of your Supplemental Testimony?

11 A. In a letter order dated April 17, 2000, the Commission requested that Applicants
12 supplement the competitive analyses filed on November 23, 1999, to take into
13 account post-merger integration of Missouri Public Service Co. (MPS), St. Joseph
14 Light & Power Co. (St. Joseph) and The Empire District Electric Co. (Empire).
15 The Commission also requested that Applicants explain certain transactions
16 relating to natural gas that were announced after November 1999.

17 Counsel for UtiliCorp United Inc. (UtiliCorp), St. Joseph and Empire
18 asked me to carry out the additional competitive analyses requested by the

1 Commission in a manner that is consistent with Appendix A to the Commission's
2 1996 *Merger Policy Statement* and 1998 *Notice of Proposed Rulemaking* relating
3 to merger filings. Also, counsel asked me to provide an explanation of the
4 competitive implications of the natural gas transactions identified by the
5 Commission that took place after November 1999.

6 **Q. Does your Supplemental Testimony revise or replace any of your Direct**
7 **Testimony or Rebuttal Testimony?**

8 **A.** No. My Supplemental Testimony responds to the Commission's request for
9 additional analyses. Moreover, the exposition in my Supplemental Testimony
10 assumes that the reader is familiar with my Direct Testimony.

11 **Q. How is your Supplemental Testimony organized?**

12 **A** Section II is a summary. Section III presents the additional Appendix A analyses
13 with post-merger system integration of MPS, St. Joseph and Empire. Section IV
14 explains that the proposed mergers and the integration of MPS, St. Joseph and
15 Empire raise no competitive concerns. Section V evaluates the relevance of
16 natural gas transactions involving UtiliCorp subsidiaries that have occurred since
17 November 1999. Section VI is a conclusion. Data and detailed results for the
18 supplemental Appendix A analyses are provided on a CD-ROM.

19

1 II. SUMMARY OF SUPPLEMENTAL TESTIMONY

2 Q. Please summarize the findings of the Appendix A analysis that you presented
3 earlier in your Direct Testimony.

4 A. In my Direct Testimony, I used the Appendix A methodology to analyze the
5 effects of the proposed mergers in 33 destinations during 15 time periods, or a
6 total of 495 non-firm and short-term energy markets ($33 \times 15 = 495$). For each of
7 these 495 markets, I presented eight analyses, one for each combination of (i)
8 each of two methods of measuring market shares, based on Economic Capacity
9 and Available Economic Capacity, (ii) each of two sets of market prices, based on
10 system lambdas and *Power Markets Week* data, and (iii) each of two methods of
11 allocating transmission capacity, Economic and Pro-rata ($2 \times 2 \times 2 = 8$). Among
12 the resulting 3,960 cases analyzed ($495 \times 8 = 3,960$), there was no case in which
13 the two mergers combined caused an increase in the Herfindahl-Hirschman Index
14 (HHI) of market concentration above either of the screens used by the
15 Commission, namely:

- 16 • *Screen 1*: An increase in the HHI of 100 in a market in which the post-merger
17 HHI is between 1,000 and 1,800.
- 18 • *Screen 2*: An increase in the HHI of 50 in a market in which the post-merger
19 HHI is 1,800 or more.

1 Q. How do the supplemental Appendix A analyses differ from the analyses
2 presented in your Direct Testimony?

3 A. In the supplemental analyses, the post-merger cases reflect integration of the
4 MPS, St. Joseph and Empire systems through construction of direct transmission
5 interconnections. Also, data used for the pre- and post-merger cases have been
6 updated to reflect changes in generation and transmission since my Direct
7 Testimony was prepared.

8 Q. What methods are Applicants considering for integrating their systems after
9 the mergers?

10 A. Richard C. Kreul explains in his Supplemental Testimony that Applicants are
11 giving serious consideration to two alternatives for integrating their systems after
12 the mergers (Alternatives A and B). Both alternatives involve construction of the
13 same two direct interconnections, one between MPS and St. Joseph and the other
14 between MPS and Empire. The difference between the two alternatives is that in
15 Alternative A the Applicants would participate in the Southwest Power Pool
16 (SPP) regional transmission organization, while in Alternative B they would join
17 the Midwest Independent System Operator (MISO).

18 Q. What are the results of the supplemental Appendix A analyses?

19 A. For each of the two integration alternatives, the combined effect of the two
20 mergers is to increase HHIs modestly above Screen 1 and very slightly above
21 Screen 2 in a small number of markets.

1 Q. Do the results of the supplemental analyses change your previous finding
2 that there is no indication that the proposed mergers would lead to a
3 significant increase in generation market power?

4 A. No, this finding is not changed. There are several reasons that the supplemental
5 analyses do not raise competitive concerns. First, as I explained in my Direct
6 Testimony, UtiliCorp is a small owner of electric generating resources, and St.
7 Joseph and Empire are very small owners. Based on the competitive analysis and
8 the review of historical trade data that are presented in my Direct Testimony, it is
9 clear that absent the proposed mergers UtiliCorp, St. Joseph and Empire would
10 not compete significantly in any market. The proposed mergers therefore raise no
11 concerns about generation market power.

12 Second, the supplemental HHI results are not significantly above the
13 Commission's safe harbor levels, and the results are not close to the levels that
14 raise concerns under merger enforcement standards used by the federal antitrust
15 agencies and courts.

16 Third, no supplemental HHI result that is above the Commission's screens
17 is of any potential relevance to evaluation of competition until both (i) Applicants
18 have completed transmission interconnections and integrated their systems and
19 (ii) states in the relevant region have reduced utilities' obligations to serve to the
20 point that market shares are appropriately measured based on Economic Capacity
21 rather than Available Economic Capacity. Entry by new generators into relevant
22 markets will be easy by the time that both (i) and (ii) have occurred, and hence the

1 supplemental HHI results provide no basis for concern about increased market
2 power as a result of the merger. Applicants will not even complete the
3 interconnections needed to integrate their systems before mid-to-late 2002.

4 In addition, the merged company will be a member of a regional
5 transmission organization and will add transmission lines. Therefore, the mergers
6 will not create or enhance transmission market power. Moreover, Mr. Kreul states
7 in his Direct Testimony that Applicants will not effectuate any interconnection
8 plan that would reduce Available Transmission Capacity into or out of
9 Applicants' systems below the levels needed by a transmission dependent entity
10 to import energy to serve its load or to export energy from existing generation.
11 Also, as I explained in my Direct Testimony, the proposed mergers will not create
12 or enhance vertical (gas-electric) market power.

13 Q. Did you analyze whether the natural gas transactions involving UtiliCorp's
14 Aquila Energy subsidiary that are identified in the fourth paragraph of the
15 Commission's April 17, 2000, letter order would affect the competitive
16 analyses of the proposed mergers?

17 A. Yes, I did analyze this. Those transactions have no effect on the competitive
18 analyses of the proposed mergers, including the analysis of the effects of the
19 mergers on vertical (gas-electric) market power. None of those transactions could
20 contribute to market power in any market, and they certainly would not increase
21 UtiliCorp's ability and incentive to reduce the supply of natural gas to rival

1 generators in such a way that St. Joseph's and Empire's generators would sell
2 output at higher wholesale prices.

3 Q. In summary, did any of the supplemental analyses that you carried out
4 indicate that the two proposed mergers, individually or together, are likely to
5 result in a significant reduction in competition in any market for electric
6 power?

7 A. No, they did not. The issues addressed in my Supplemental Testimony do not lead
8 to any change in the conclusions in my Direct Testimony.

9

10 III. ADDITIONAL APPENDIX A ANALYSES WITH
11 POST-MERGER INTEGRATION
12

13 Q. How have you responded to the Commission's request for additional
14 Appendix A analyses that reflect post-merger integration of the MPS, St.
15 Joseph and Empire systems?

16 A. I analyzed two alternative post-merger integration scenarios.

17 *Alternative A:* UtiliCorp would build or have built transmission facilities that
18 would directly connect the MPS, St. Joseph and Empire areas and would operate
19 the combined area as a single control area. MPS, WestPlains Energy-Kansas
20 (WPE-Kansas) and St. Joseph are presently members of the Mid-Continent Area
21 Power Pool (MAPP) and participate in the MAPP regional tariff. MAPP has
22 agreed to merge with the Midwest Independent System Operator (MISO).

1 Therefore, absent the proposed mergers these utilities would soon obtain service
2 under the MISO tariff, and service over their systems would be available to others
3 under the MISO tariff. In Alternative A, after the mergers MPS, WPE-Kansas and
4 St. Joseph would join Empire as members of the SPP regional transmission
5 organization, and transmission service over the four systems would be available to
6 others under the SPP tariff.

7 *Alternative B:* UtiliCorp would build or have built the same transmission facilities
8 considered in Alternative A. After the mergers MPS, WPE-Kansas, St. Joseph and
9 Empire would be members of the MISO, and transmission service over the four
10 systems would be available to others under the MISO tariff.

11 Q. What transmission facilities would be added in Alternatives A and B?

12 A. Applicants would add two transmission lines. Specifically, Applicants would add
13 a 25-mile 161 kV line rated at 312 MVA between the St. Joseph and MPS areas
14 and a 42-mile 161 kV transmission line rated at 251 MVA between the Empire
15 and MPS areas. Applicants would take out of service (open) a 161 kV
16 transmission line rated at 153 MVA between St. Joseph and KCPL that limits
17 power flows. These changes in transmission facilities are summarized in Exhibit
18 No. ____ (MWF-26).

19 Q. How did you model system integration in Alternatives A and B?

20 A. I assumed that after the mergers the transmission line changes identified above
21 would be implemented and that as a result Applicants would have new priority for

1 certain power transfers among the MPS, St. Joseph and Empire areas. Based on
2 the commitment stated in Mr. Kreul's Supplemental Testimony, I assumed there
3 would be 200 MW of new priority transfers from the MPS area to the St. Joseph
4 area when evaluating the St. Joseph destination, 200 MW from the MPS area to
5 the Empire area when evaluating the Empire destination, and 100 MW from the
6 St. Joseph area and 100 MW from the Empire area to the MPS area when
7 evaluating the MPS destination. Therefore, as a result of the merger in my
8 analysis Applicants would have 200 MW of new priority transfers to each of St.
9 Joseph, Empire and MPS.

10 Q. In carrying out the additional Appendix A analyses did you update any data,
11 beyond making the changes described above relating to the integration
12 alternatives?

13 A. Yes. I updated data on transmission pricing, flowgates, anticipated mergers, and
14 generating units. These updated data were used in computing HHIs both before
15 and after the proposed mergers.

16 Q. Please explain the updates to transmission pricing data.

17 A. MAPP is merging with the MISO. Therefore, for transmission pricing in MAPP I
18 used the license plate pricing system of the MISO instead of the megawatt-mile
19 pricing system of MAPP's Schedule F.

1 Q. Please explain the updates to flowgate data.

2 A. I updated flowgate data to reflect the latest publicly available NERC summer and
3 winter reference cases, Summer 1999 Trial 7 and Winter 1999/2000 Trial 5.
4 Based on these reference cases, I calculated new flowgate and net import limits as
5 well as new transfer distribution factors based on the latest Book of Flowgates by
6 using MUST (v 3.01). Post-merger transfer distribution factors are different from
7 pre-merger ones in Alternatives A and B because of improvements in the
8 transmission system.

9 Q. Please explain the updates to anticipated mergers.

10 A. Since my Direct Testimony was prepared, KCPL and Western Resources have
11 abandoned their proposed merger. Therefore, I have returned to KCPL ownership
12 of KCPL's generating units and responsibility for KCPL's loads.

13 Q. Please explain the updates to generating unit data.

14 A. There have been a number of additions to generating capacity in the relevant
15 region since my Direct Testimony was prepared. Exhibit No. ____ (MWF-27)
16 summarizes the generation additions (none of which are owned by Applicants)
17 that are now included in the data.

1 Q. Where do you summarize the results from the competitive analysis screen if
2 Applicants adopt post-merger integration Alternative A or B.

3 A. Summaries for all results for Alternatives A and B that are above Screen 1 or
4 Screen 2 are provided in Exhibit No. ____ (MWF-25).¹ Summaries for remaining
5 cases and details of the 3,960 cases for each alternative are provided on the CD-
6 ROM.

7

8 IV. IMPLICATIONS OF THE SUPPLEMENTAL ANALYSES
9

10 Q. Do the results of the supplemental analyses change your previous finding
11 that there is no indication that the proposed mergers would lead to a
12 significant increase in market power?

13 A. No, this finding is not changed. There are four reasons that the results of the
14 supplemental analyses do not raise competitive concerns.

15 Q. What is the first reason that the supplemental results do not raise
16 competitive concerns?

17 A. As I explained in my Direct Testimony, UtiliCorp is a small owner of electric
18 generating resources, and St. Joseph and Empire are very small owners. At
19 present, UtiliCorp owns 1,607 MW of generating capacity in Kansas and Missouri

¹ The reader is referred to my Direct Testimony and the exhibits to my Direct Testimony for explanations of the data and methodology used for the competitive analysis screen, how the HHIs have

1 while St. Joseph owns a mere 378 MW and Empire owns only 878 MW. If the
2 three companies were now merged, UtiliCorp would still own only 2,863 MW of
3 generating capacity, or less than Kansas City Power & Light (3,574 MW) and
4 much less than Western Resources (5,600 MW) and other still larger utilities in
5 the region, such as Ameren and Entergy, whose mergers were approved in the
6 1990s. Based on the competitive analysis and the review of historical trade data
7 that are presented in my Direct Testimony, it is clear that absent the proposed
8 mergers UtiliCorp, St. Joseph and Empire would not compete with each other
9 significantly in any market. The proposed mergers therefore raise no concerns
10 about generation market power. Furthermore, after the proposed mergers
11 UtiliCorp will be a member of a regional transmission organization that will
12 control its transmission facilities, and service over UtiliCorp's transmission
13 facilities will be available to others under a regional tariff. Consequently, the
14 proposed mergers would not create or enhance transmission market power. My
15 Direct Testimony further explains that the proposed mergers would not create or
16 enhance vertical (gas-electric) market power.

been computed, and relevant antitrust enforcement standards. The exposition in my Supplemental Testimony assumes that the reader is familiar with my Direct Testimony.

1 Q. What is the second reason that the supplemental results do not raise
2 competitive concerns?

3 A. None of the supplemental HHI results is significantly above the Commission's
4 safe harbor levels,² and the results are not close to the levels that raise concerns
5 under the merger enforcement standards used by the federal antitrust agencies and
6 courts.

7 Among the supplemental HHI results that are above Screen 1, none of the
8 post-merger HHIs is much above the middle of the "moderately concentrated"
9 range (1,000 to 1,800), or above the level in a market with seven equal sellers
10 (1,429). Moreover, all increases in the HHIs that result from the mergers in the
11 cases that are above Screen 1 are less than 200. It would be highly unusual for a
12 federal antitrust agency or court to find that a merger that left the HHI well below
13 1,800 would raise significant competitive concerns or violate the antitrust laws,
14 particularly when the increase in the HHI was under 200.³

15 A few of the 3,960 HHI results for each of Alternatives A and B are above
16 Screen 2 by a trivial amount. None of the increases in the HHI is greater than 62,
17 which is indistinguishable from the safe harbor level of 50 in markets with a post-
18 merger HHI of 1,800 or more.

2 The 1992 Department of Justice and Federal Trade Commission *Horizontal Merger Guidelines* (*Merger Guidelines*), which have been adopted by the Federal Energy Regulatory Commission, state that "Other things being equal, cases falling just above and just below a threshold present comparable competitive issues." (Section 1.5)

1 Q. What is the third reason that the supplemental results do not raise
2 competitive concerns?

3 A. All of the HHI results for Alternatives A and B that are above Screen 1 or Screen
4 2 are based on market shares for Economic Capacity. None is based on market
5 shares for Available Economic Capacity. As long as utilities have existing
6 obligations to serve, the relevant measure of market shares for competitive
7 analysis is Available Economic Capacity; Economic Capacity is not relevant
8 because sellers would receive the benefit of higher prices only on energy
9 produced by their Available Economic Capacity.

10 Therefore, the proposed mergers combined with system integration will
11 not have any results above either of the Commission's screens as long as utilities
12 have existing obligations to serve. Given the pace of state restructuring, it will be
13 some years before utilities are relieved of their obligations to serve and HHI
14 results based on Economic Capacity become potentially relevant to market power.
15 I will return to this point when I discuss entry conditions in the next answer.

16 Q. What is the fourth reason that the supplemental results do not raise
17 competitive concerns?

18 A. Suppose, contrary to fact, that absent the proposed mergers the merging
19 companies would be significant competitors in the sale of electric power. Even in

³ See M. B. Coate, "Merger Enforcement at the Reagan/Bush FTC," in M. B. Coate and A. N. Kleit, eds., *The Economics of the Antitrust Process*, Kluwer, 1996, Chap. 7.

1 that case there would be no reason for competitive concerns in the markets with
2 results above Screen 1 and Screen 2 because entry by new generators is easy.

3 Almost all the supplemental results that are above Screen 1 or Screen 2
4 relate to time periods during which, based on the *Power Markets Week* data used
5 in the analysis, competitive market prices are above \$26.50/MWh. That is, energy
6 prices are sufficiently high so that in the analysis modern gas-fired combustion
7 turbines operate. During these periods, entry could take the form of construction
8 of new combustion turbines. In my Direct Testimony (pp. 36-37, 57-60 and
9 Exhibit No. ____ (MWF-17)), I provided convincing evidence that entry by new
10 combustion turbines is easy under the Commission's standards because entry
11 would occur in less than two years in response to an exercise of market power.
12 Given easy entry, there is no basis for concern that the proposed mergers would
13 be likely to cause a significant increase in market power in the markets in
14 question.

15 Moreover, none of the results that are above Screen 1 or Screen 2 for
16 Alternatives A and B has any relevance until more than two years after
17 consummation of the proposed mergers. This is true because Alternatives A and B
18 are irrelevant until (i) Applicants complete direct interconnections among MPS,
19 St. Joseph and Empire and (ii) obligations to serve have been substantially
20 eliminated in the relevant region. Mr. Kreul explains in his Supplemental
21 Testimony that Alternatives A and B will not be implemented prior to mid-to-late
22 2002. As I explained in my preceding answer, obligations to serve are unlikely to

1 be substantially eliminated for some years. These facts provide additional time for
2 entry of new generating capacity that would prevent any hypothetical increase in
3 market power, beyond the two-year time period specified in the *Merger*
4 *Guidelines*.

5 Entry by not only new combustion turbines but also new combined cycle
6 generating capacity, which would operate during all conditions in which there are
7 results above Screen 1 or Screen 2, is likely to be easy by the time that both (i)
8 Alternative A or B has been implemented and (ii) state restructuring has
9 proceeded to the point at which market shares based on Economic Capacity are
10 relevant. Given typical lead times for new combined cycle projects, entry by new
11 combined cycle generators in 2003 would be easy. There are two reasons to
12 believe that entry by combined cycle units is likely to be easy before the end of
13 2002. First, it is likely that some combined cycle projects that are in various
14 stages of planning would be speeded up if there were increased concern over
15 market power. Second, combustion turbine units that are already installed in the
16 region, or that are being installed in the region, probably could be converted to
17 combined cycle operation by mid-to-late 2002.

18

V. TRANSACTIONS SINCE NOVEMBER 1999

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Q. The Commission inquired about some transactions that have taken place since November 1999. What do these transactions have in common?

A. All these transactions involve UtiliCorp's subsidiary Aquila Energy, and all involve natural gas. Therefore, any relevance these transactions might be thought to have to the proposed mergers would involve vertical (gas-electric) market power. However, the analyses contained in my Direct Testimony are sufficient to reach the conclusion that none of these transactions is of any significance for the level of competition in any market for electric power.

Q. The Commission asked for an explanation of how Aquila Energy's long-term contract with American Public Energy Agency (APEA) would be likely to influence the competitive effects of the proposed mergers. Would you please address this issue?

A. On December 8, 1999, UtiliCorp announced that its subsidiary Aquila Energy and APEA had signed a 12-year contract under which Aquila Energy will provide the commodity natural gas to APEA for sale to APEA's municipal utility customers and other public agencies across the U.S. APEA has prepaid for the gas, and Aquila Energy's obligation to deliver and APEA's obligation to take the gas are firm. For reasons that are set out in my Direct Testimony, Aquila Energy's long-term gas supply contracts do not increase UtiliCorp's market power or the effects of the proposed mergers on market power in any relevant market. In my Direct

1 Testimony, I explained the following with reference to Aquila Energy's long-term
2 contracts to supply the commodity natural gas to electric generators:

3 UtiliCorp's Aquila Energy Marketing sells the commodity natural
4 gas to electric generators. Exhibit No. ____ (MWF-8) is a list of
5 plants served by Aquila Energy Marketing under long-term
6 contracts. These contracts do not provide UtiliCorp with control
7 over natural gas supplies to these generators, because these
8 supplies are governed by the contracts. For other electric
9 generators that are not under contract, and for the ones now under
10 contract once the contracts expire, Aquila Energy Marketing must
11 compete, and in the future will have to compete, with dozens of
12 other gas marketers to supply gas. (Exhibit No. ____ (MWF-1),
13 page 83)

14 In short, Aquila Energy's long-term contracts to supply the commodity natural
15 gas directly or indirectly to electric generators do not increase UtiliCorp's ability
16 or incentive to raise prices for electric power. Thus, regardless of the extent to
17 which the natural gas sold by Aquila Energy to APEA would be used to generate
18 electric energy for sale in any market in which St. Joseph's or Empire's
19 generating plants might sell energy, the contract announced in December 1999
20 could not raise a competitive issue relating to the proposed mergers in any
21 relevant market for electric power.

22 It follows from the explanation included in my Direct Testimony, as well
23 as from the discussion immediate above, that the Aquila Energy-APEA contract
24 not relevant to the effects of the proposed mergers on market power.

1 Q. The Commission asked for an explanation of how Aquila Energy's
2 acquisition of the marketing assets of U.S. Gas Transportation, Inc. (USGT),
3 which was announced on March 14, 2000, would be likely to influence the
4 competitive effects of the proposed mergers. Would you please address this
5 issue?

6 A. Dallas-based USGT was a marketer of natural gas serving the midwestern and
7 western US and Canada. Most of its activity was in markets off the Transwestern
8 and El Paso pipelines. As part of the transaction, Aquila took assignment of
9 USGT's gas purchase and sales contracts, the majority of which involve
10 purchases in Texas and sales in California and to a lesser extent in Arizona and
11 New Mexico. The transactions in question involve less than 5 percent of
12 Transwestern's capacity. USGT now operates under the name USGT/Aquila, L.P.
13 and is a subsidiary of Aquila Energy.

14 This acquisition could not have any significant effect on market power in
15 any relevant market nor any effect on the competitive evaluation of the proposed
16 mergers between UtiliCorp and St. Joseph and between UtiliCorp and Empire.
17 First, marketing of natural gas is not concentrated, as I explained in my Direct
18 Testimony:

19 The merger presents no substantive competitive issues with respect
20 to marketing of natural gas. Gas marketing in North America is
21 unconcentrated, with an HHI below 650, and UtiliCorp's share is
22 approximately 8 percent. (Exhibit No. ____ (MWF-7)) These
23 figures are substantially below the minimum levels that might

1 suggest potential competitive concerns. (Exhibit No. ____ (MWF-
2 1), page 83)

3 Second, USGT was a small company with 20 employees. There is no barrier to
4 entry by natural gas marketing companies of that size, and no barrier to expansion
5 of smaller natural gas marketing companies to reach that size. Therefore, the
6 acquisition of a company of that size could not affect market power. Third, the
7 terms on which the gas is sold under USGT's contracts are fixed by the contracts
8 and the buyers are located principally in the Western States Coordinating Council
9 area, which has only limited electric transmission connections to the SPP.

10 It follows from the explanation included in my Direct Testimony, and also
11 from the discussion immediately above, that the Aquila Energy-USGT acquisition
12 has no impact on the competitive effects of the proposed mergers.

13 Q. The Commission asked for an explanation of how the February 2000
14 acquisition by an Aquila subsidiary from USGT of land and development
15 rights for a natural gas storage facility in Texas would be likely to influence
16 the competitive effects of the proposed mergers. Would you please address
17 this issue?

18 A. The potential gas storage facility in question, known as the Chaparral project, is
19 located in the west Texas Permian Basin, four miles from the Waha gas
20 transportation hub. At present, the property is undeveloped desert and a salt dome.
21 Aquila has not decided whether or when it will create a gas storage facility there.
22 A review of area water supplies, which are critical to the development, is ongoing.

1 It is estimated that if the storage facility is completed it will hold up to 6 billion
2 cubic feet (Bcf) of natural gas. The Aquila subsidiary would have the ability to
3 inject or withdraw natural gas on a short-notice basis.

4 My Direct Testimony addressed storage of natural gas but not specifically
5 the Chaparral project. My Direct Testimony states:

6 The merger presents no substantive competitive issues with respect
7 to storage of natural gas....Aquila owns three storage facilities in
8 Texas: Katy, Ambassador, and Pottsville. Katy and Ambassador
9 have a combined capacity of 28.6 Bcf. Pottsville, which is in
10 inactive storage, has capacity of approximately 4 Bcf. In addition,
11 Aquila has contracted for 1 Bcf of capacity at the Moss Bluff field
12 in Texas through March 2002. UtiliCorp's owned and contracted
13 capacity in Texas is less than 5 percent of the 684 Bcf of storage
14 capacity in Texas....Given these low shares of storage capacity [in
15 Texas and other states], it is clear that UtiliCorp does not have the
16 ability materially to affect storage. Nowhere in the country do
17 Applicants have a share of storage capacity that would create
18 competitive concerns of control or vertical foreclosure. (Exhibit
19 No. ____ (MWF-1), pages 79-81)

20 From this information in my Direct Testimony plus the fact that—if developed—
21 the Chapparral project would have a capacity of up to 6 Bcf,⁴ one can compute that
22 the Chapparral project would account for just under 1 percent of natural gas
23 storage capacity in Texas. Also, one can compute that UtiliCorp's ownership of
24 the Chaparral project would increase UtiliCorp's share of natural gas storage
25 capacity in Texas from 4.9 percent to 5.8 percent. This share of storage capacity is
26 much too low to raise competitive concerns relating to control over natural gas for
27 electric generators, or more specifically vertical foreclosure that would impact

⁴ UtiliCorp, March 14, 2000, press release, cited in the Commission's April 17, 2000, letter order.

1 relevant markets in which St. Joseph's and Empire's generators would be likely to
2 have significant shares of wholesale sales of electric energy.

3 It follows from the discussion in my Direct Testimony and the fact that the
4 Chapparral project would have a capacity of up to 6 Bcf that Aquila Energy's
5 acquisition of development rights relating to the Chapparral project has no impact
6 on the competitive effects of the proposed mergers.

7

8 VI. CONCLUSION

9 Q. Please summarize your conclusions.

10 A. None of the issues raised in the Commission's April 17, 2000, letter order change
11 my conclusion that the proposed mergers do not raise competitive concerns.

12 Q. Does this conclude your Supplemental Testimony?

13 A. Yes.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

UtiliCorp United Inc. and
St. Joseph Light & Power Company

)

Docket No. EC00-27-000

UtiliCorp United Inc. and
The Empire District Electric Company

)

Docket No. EC00-28-000

SUPPLEMENTAL TESTIMONY OF MARK W. FRANKENA

City of Washington

)

)

District of Columbia

)

ss:

I, the undersigned, Mark W. Frankena, being duly sworn, depose and say that the content of the foregoing Supplemental Testimony on behalf of UtiliCorp United Inc., St. Joseph Light & Power Company, and The Empire District Electric Company is true, correct, accurate and complete to the best of my knowledge, information, and belief.

1s/ Mark Frankena

Mark W. Frankena

Subscribed and sworn to before me this 18th day of May 2000.

Sandra L. Resau

Notary Public

SANDRA L. RESAU
A Notary Public of District of Columbia
My Commission Expires May 31, 2004

Alternative A Results Above FERC Screen

Season	Time	Capacity	Pre-merger Price	UtiliCorp		St. Joseph & Empire		Post-merger Share	HHH Change	Post-merger HHH	FERC Screen
				Pre-merger MW	Pre-merger Share	Pre-merger MW	Pre-merger Share				
Destination Utility: Missouri Public Service											
Pro-Rata Allocation, Pre-merger Prices based on Lambda Data											
Spring/Fall	Top 5%	EC	\$26.24	1354	29.2	12.1	0.3	33.4	141	1185	Above 1
Summer	Top 5%	EC	\$23.39	1544.3	32.8	11.2	0.2	36.2	151	1402	Above 1
Summer	Next 10%	EC	\$23.49	1544.2	32.8	11.1	0.2	36.2	151	1402	Above 1
Pro-Rata Allocation, Pre-merger Prices based on Power Markets Week Data											
Spring/Fall	Top 5%	EC	\$30.66	1354	29.2	12.1	0.3	33.6	145	1183	Above 1
Spring/Fall	Next 10%	EC	\$28.27	1354.2	29.3	10.7	0.2	33.7	144	1186	Above 1
Spring/Fall	Low Peak	EC	\$21.45	1298.6	28.2	13.6	0.3	32	127	1128	Above 1
Summer	Top 5%	EC	\$100.00	1593.6	33.7	13.5	0.3	37.2	157	1433	Above 1
Summer	Next 10%	EC	\$85.00	1593.6	33.7	13.5	0.3	37.2	157	1433	Above 1
Summer	Low Peak	EC	\$28.40	1544	33	10.2	0.2	36.6	154	1399	Above 1
Summer	Weekend	EC	\$21.48	1541.9	33.3	10.4	0.2	36.5	149	1408	Above 1
Winter	Top 5%	EC	\$27.02	1422	30.3	10.9	0.2	34.5	144	1266	Above 1
Winter	Next 10%	EC	\$26.51	1422.3	30.2	11.5	0.2	34.4	145	1269	Above 1
Economic Allocation, Pre-merger Prices based on Lambda Data											
Spring/Fall	Top 5%	EC	\$26.24	1348.5	20.6	62.8	1	23.1	101	1032	Above 1
Summer	Top 5%	EC	\$23.39	1538.4	22.9	118	1.8	25.3	134	1266	Above 1
Summer	Next 10%	EC	\$23.49	1538.4	22.9	118	1.8	25.3	134	1266	Above 1
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Spring/Fall	Low Peak	EC	\$21.45	1294.4	20	85.3	1.3	22.3	101	1017	Above 1
Summer	Top 5%	EC	\$100.00	1588.8	23.4	72.9	1.1	25.3	108	1244	Above 1
Summer	Next 10%	EC	\$85.00	1588.8	23.4	72.9	1.1	25.3	108	1244	Above 1
Summer	Low Peak	EC	\$28.40	1538.4	22.8	86	1.3	25.2	121	1263	Above 1
Summer	Weekend	EC	\$21.48	1538.4	22.9	119.2	1.8	25.1	131	1268	Above 1
Winter	Top 5%	EC	\$27.02	1416.2	21.4	58.3	0.9	23.7	100	1053	Above 1
Winter	Next 10%	EC	\$26.51	1416.2	21.4	59	0.9	23.8	101	1057	Above 1

Alternative A Results Above FERC Screen

Season	Time	Capacity	Pre-merger Price	UtillCorp		St. Joseph & Empire		Post-merger Share	HHH Change	Post-merger HHH	FERC Screen
				Pre-merger MW	Pre-merger Share	Pre-merger MW	Pre-merger Share				
Destination Utility: West Plains Energy - Kansas											
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Summer	Top 5%	EC	\$100.00	535.2	26.4	19.9	1	27.9	54	2004	Above 2
Summer	Next 10%	EC	\$85.00	535.2	26.4	19.9	1	27.9	54	2005	Above 2

Destination Utility: Empire

Pro-Rata Allocation, Pre-merger Prices based on Lambda Data

Summer	Top 5%	EC	\$50.69	13.8	0.4	1140.3	32.4	36	188	1372	Above 1
Summer	Next 10%	EC	\$38.77	14.7	0.4	1140.2	32.1	36	188	1366	Above 1

Pro-Rata Allocation, Pre-merger Prices based on Power Markets Week Data

Summer	Top 5%	EC	\$100.00	13.3	0.4	1140.5	32.5	36	188	1371	Above 1
Summer	Next 10%	EC	\$85.00	13.3	0.4	1140.5	32.4	36	188	1371	Above 1
Summer	Low Peak	EC	\$28.40	9.3	0.2	1127.5	29.8	35.6	181	1285	Above 1

Destination Utility: Kansas City Power & Light

Economic Allocation, Pre-merger Prices based on Lambda Data

Summer	Low Peak	EC	\$22.37	716.6	7.8	309.7	3.4	11	57	1610	Above 2
Summer	Weekend	EC	\$20.19	659.5	7.6	308.5	3.5	11	59	1671	Above 2

Economic Allocation, Pre-merger Prices based on Power Markets Week Data

Summer	Low Peak	EC	\$28.40	654.7	8.3	370.1	3.6	9.7	51	1956	Above 2
Summer	Weekend	EC	\$21.48	709.7	8.1	306.5	3.5	11.4	62	1886	Above 2

Destination Utility: Sunflower Electric Corp.

Economic Allocation, Pre-merger Prices based on Power Markets Week Data

Summer	Top 5%	EC	\$100.00	412.5	21.6	23.9	1.3	22.3	54	2281	Above 2
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Alternative B Results Above FERC Screen

Season	Time	Capacity	Pre-merger Price	UtiliCorp		St. Joseph & Empire		Post-merger Share	HHI Change	Post-merger HHI	FERC Screen
				MW	Share	MW	Share				
Destination Utility: Missouri Public Service											
Pro-Rata Allocation, Pre-merger Prices based on Lambda Data											
Spring/Fall	Top 5%	EC	\$26.24	1354	29.2	12.1	0.3	33.2	140	1180	Above 1
Summer	Top 5%	EC	\$23.39	1544.3	32.8	11.2	0.2	36.2	150	1395	Above 1
Summer	Next 10%	EC	\$23.49	1544.2	32.8	11.1	0.2	36.2	151	1395	Above 1
Pro-Rata Allocation, Pre-merger Prices based on Power Markets Week Data											
Spring/Fall	Top 5%	EC	\$30.66	1354	29.2	12.1	0.3	33.4	143	1172	Above 1
Spring/Fall	Next 10%	EC	\$28.27	1354.2	29.3	10.7	0.2	33.4	142	1174	Above 1
Spring/Fall	Low Peak	EC	\$21.45	1298.6	28.2	13.6	0.3	31.9	127	1125	Above 1
Summer	Top 5%	EC	\$100.00	1593.6	33.7	13.5	0.3	37	155	1426	Above 1
Summer	Next 10%	EC	\$85.00	1593.6	33.7	13.5	0.3	37	155	1426	Above 1
Summer	Low Peak	EC	\$28.40	1544	33	10.2	0.2	36.4	152	1388	Above 1
Summer	Weekend	EC	\$21.48	1541.9	33.3	10.4	0.2	36.6	150	1412	Above 1
Winter	Top 5%	EC	\$27.02	1422	30.3	10.9	0.2	34.3	143	1259	Above 1
Winter	Next 10%	EC	\$26.51	1422.3	30.2	11.5	0.2	34.3	143	1262	Above 1
Economic Allocation, Pre-merger Prices based on Lambda Data											
Summer	Top 5%	EC	\$23.39	1538.4	22.9	118	1.8	25.3	135	1267	Above 1
Summer	Next 10%	EC	\$23.49	1538.4	22.9	118	1.8	25.3	135	1268	Above 1
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Spring/Fall	Low Peak	EC	\$21.45	1294.4	20	85.3	1.3	22.2	102	1008	Above 1
Summer	Top 5%	EC	\$100.00	1588.8	23.4	72.9	1.1	25.3	108	1248	Above 1
Summer	Next 10%	EC	\$85.00	1588.8	23.4	72.9	1.1	25.3	108	1248	Above 1
Summer	Low Peak	EC	\$28.40	1538.4	22.8	86	1.3	24.9	115	1268	Above 1
Summer	Weekend	EC	\$21.48	1538.4	22.9	119.2	1.8	25.2	133	1267	Above 1

Alternative B Results Above FERC Screen

Season	Time	Capacity	Pre-merger Price	UtiliCorp		St. Joseph & Empire		Post-merger Share	HHI Change	Post-merger HHI	FERC Screen
				MW	Share	MW	Share				
Destination Utility: West Plains Energy - Kansas											
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Summer	Top 5%	EC	\$100.00	535.2	26.4	19.9	1	27.4	52	1959	Above 2
Summer	Next 10%	EC	\$85.00	535.2	26.4	19.9	1	27.4	52	1944	Above 2
Destination Utility: Empire											
Pro-Rata Allocation, Pre-merger Prices based on Lambda Data											
Summer	Top 5%	EC	\$50.69	13.8	0.4	1140.3	32.4	35.9	187	1367	Above 1
Summer	Next 10%	EC	\$38.77	14.7	0.4	1140.2	32.1	35.8	187	1359	Above 1
Pro-Rata Allocation, Pre-merger Prices based on Power Markets Week Data											
Summer	Top 5%	EC	\$100.00	13.3	0.4	1140.5	32.4	35.9	187	1365	Above 1
Summer	Next 10%	EC	\$85.00	13.3	0.4	1140.5	32.4	35.9	187	1365	Above 1
Summer	Low Peak	EC	\$28.40	9.3	0.2	1127.5	29.8	35.4	179	1277	Above 1
Destination Utility: Kansas City Power & Light											
Economic Allocation, Pre-merger Prices based on Lambda Data											
Summer	Low Peak	EC	\$22.37	716.6	7.8	309.7	3.4	11.2	58	1815	Above 2
Summer	Weekend	EC	\$20.19	659.5	7.6	306.5	3.5	11.1	59	1969	Above 2
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Summer	Low Peak	EC	\$28.40	654.7	6.3	370.1	3.6	9.9	51	1955	Above 2
Summer	Weekend	EC	\$21.48	709.7	8.1	306.5	3.5	11.6	62	1886	Above 2
Destination Utility: Sunflower Electric Corp.											
Economic Allocation, Pre-merger Prices based on Power Markets Week Data											
Summer	Top 5%	EC	\$100.00	412.5	21.6	23.9	1.3	22.8	54	2275	Above 2

Transmission Line Changes in Alternatives A and B

From Bus			To Bus			Electric Characteristics			Line Rating (MVA)		Length (Miles)
Number	Name	Nominal KV	Number	Name	Nominal KV	Resistance (R, PU)	Reactance (X, PU)	Charging (B, PU)	Normal	Emergency	
Add the following line between MPS and St. Joseph:											
57503	NASHUA5	161	69705	LAKE RD5	161	0.0108	0.0916	0.0475	312	312	25.5
Add the following line between MPS and Empire:											
57608	NEVADA 5	161	68202	ASB349 5	161	0.0181	0.1134	0.0607	251	251	42
Open the following line between St. Joseph and KCPL so it will be out of service:											
57726	NASHUA 5	161	69705	LAKE RD5	161	0.0327	0.1005	0.0449	153	172	-

Source: UtiliCorp.

Additions to Generating Capacity

Control Area*	Unit Owner*	Plant Name	Plant ID	Unit ID	Type	Fuel	Capability MW	Old Capability MW	Dispatch Cost \$/MWh	Heat Rate mmBtu/MWh	Fuel Cost \$/mmBtu	VOM \$/MWh	SO2
CSWSPP	PANDAE	Oneta			CT	Gas	1000		24.81	12	1.8892	2.14	0
CSWSPP	CTRIxE	Green County		1	CC	Gas	800		15.50	7	1.9087	2.14	0
KCPL	KCPL	Hawthorne 7-8		7-8	CT	Gas	154		24.81	12	1.8892	2.14	0
KCPL	KCPL	Hawthorne 4		4	CC	Gas	140		15.36	7	1.8892	2.14	0
OKGE	WRI	Logan City			CT	Gas	300		24.81	12	1.8892	2.14	0
OKGE	OKGE	Mustang 1-2		1-2	Boller	Gas	115		19.69	10	1.8892	0.8	0
WRI	WRI	Gordon Evans			CT	Gas	200		24.93	12	1.8989	2.14	0
WRI	WRI	Gordon Evans			CT	Gas	100		24.93	12	1.8989	2.14	0
KCPL	KCPL	Hawthorn	2079	5	Boller	Coal	500	479	8.21	10,318	0.7024	0.87	0.63
ASEC	ASEC	New ASEC	X028	1	CC	Gas	530	250	15.36	7	1.8892	2.14	0
ASEC	ASEC	St. Francis	X028	2	CC	Gas	250	34	15.36	7	1.8892	2.14	0

Sources: RDI BaseCase, UtiliCorp, trade press, company web sites.

Notes: * Control area abbreviations in Names file on CD-ROM.

** Owner abbreviations in Names file on CD-ROM.

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