

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: UTILICORP UNITED INC.	DOCKET NO. WRU-01-34-225
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ORDER GRANTING WAIVER

(Issued August 15, 2001)

On June 19, 2001, UtiliCorp United Inc. (UtiliCorp) filed with the Utilities Board (Board) a request for waiver of Iowa Code §§ 476.76 and 476.77 (2001) and 199 IAC 32 with respect to the proposed sale of UtiliCorp Pipeline Systems, Inc. (UPL), by UtiliCorp. On June 29, 2001 the Consumer Advocate Division of the Department of Justice filed a response stating it had no objection to the pleading.

UtiliCorp is a Texas and Virginia corporation with its principal office in Dallas, Texas. Its business is primarily the local distribution and transportation of natural gas. UtiliCorp serves approximately 4,750 customers in Iowa. UPL is a wholly-owned subsidiary of UtiliCorp. UPL has three subsidiaries, Missouri Gas Company, Missouri Pipeline Company, and Omega Pipeline Company (Omega). Prior to the closing of the sale, the stock of Omega will be transferred to UtiliCorp and thus will remain a subsidiary of UtiliCorp.

The estimated purchase price of the sale is \$63.4 million, payable in cash. UtiliCorp states that the closing of the sale may occur as early as September 30, 2001. UtiliCorp states that the sale will not affect the service, rates, or operations of either UtiliCorp or Peoples Natural Gas Company in Iowa.

Iowa Code § 476.77 provides that the Board may adopt rules which exempt a public utility from the filing requirements of that section if the Board finds review is not necessary in the public interest. The Board promulgated rules regarding reorganizations, including waivers or exemptions, in 199 IAC 32. The standards for review of a request for a waiver in § 476.77 indicate the important question is the effect of the acquisition or sale on the utility's ratepayers and the public interest. The Board stated when adopting an amendment to chapter 32, that waivers will be liberally granted where the proposed reorganization has minimal or no impact on Iowa ratepayers. "Order Adopting Rules," In re Disposal of a Public Utility's Assets, Docket No. RMU-91-2 (April 24, 1992).

Because of the small amount of business UtiliCorp does in Iowa, few of UtiliCorp's assets are located in Iowa and subject to rate or service regulation by the Board. The sale of UPL, which has no assets in Iowa, should have no detrimental effect on UtiliCorp's Iowa customers or service.

To grant the waiver the Board must also find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of Iowa Code §§ 476.76 and 476.77 and 199 IAC 32 should be granted based on the Board's review of the information provided

by UtiliCorp in its pleading and the fact that UPL has no customers or assets in Iowa. The Board finds it would be an undue hardship for UtiliCorp to meet the filing requirements of 199 IAC 32 for this sale, since the sale will have minimal or no effect on Iowa ratepayers and review of the reorganization is not necessarily in the public interest.

The Board finds also that the waiver will not affect the substantial legal rights of any person and that Iowa Code § 476.77 specifically allows for the waiver of the Board's rules. Additionally, the Board finds that substantially equal protection of the public health, safety, and welfare will be afforded since none of the assets being transferred by the sale are in Iowa and the sale will not affect Iowa ratepayers.

IT IS THEREFORE ORDERED:

The waiver request filed by UtiliCorp United Inc. on June 19, 2001, is granted. The application of Iowa Code §§ 476.76 and 476.77 (2001) and 199 IAC 32 to the sale of UtiliCorp Pipeline Systems, Inc., is waived.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

Dated at Des Moines, Iowa, this 15th day of August, 2001.