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OF COUNSEL  
RICHARD T. CIOTTONI

January 28, 2002

Mr. Dale Hardy Roberts, Secretary  
Public Service Commission  
Governor Office Building  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, MO 65102-0360

**FILED<sup>2</sup>**

JAN 28 2002

Missouri Public  
Service Commission

**Re: MCFC v. Missouri Public Service  
Case No. EC-2002-277**

Dear Mr. Roberts:

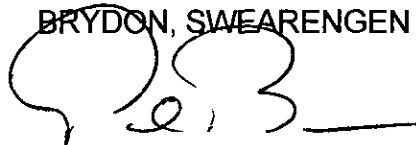
On behalf of UtiliCorp United Inc., enclosed for filing in the above-referenced case please find an original and eight (8) copies each of an Answer and an Entry of Appearance. Copies have also been hand-delivered to the Office of the Public Counsel this date. Please note that I have further enclosed a receipt copy of each document, which I ask that you file stamp and return with the messenger delivering same.

Thank you for your assistance with this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:



Paul A. Boudreau

PAB/aw

Enclosures

cc: PSC General Counsel's Office  
Mr. John Coffman, Office of the Public Counsel  
Mr. Terry C. Allen

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

JAN 28 2002

Missouri Public  
Service Commission

Missouri Coalition for Fair Competition, )

Complainant, )

v. )

Case No. EC-2002-277

Missouri Public Service, a Division of )  
UtiliCorp United Inc., )

Respondent. )

ANSWER

COMES NOW UtiliCorp United Inc. d/b/a Missouri Public Service ("MPS"), pursuant to Commission rule 4 CSR 240-2.070(8), and for its answer to the Complaint of Missouri Coalition for Fair Competition ("MCFC"), states as follows:

1. With respect to paragraph 1 of the Complaint, MPS states that it is without sufficient knowledge or information to form an opinion as to the truth or falsity of the allegations stated therein by MCFC; consequently, the allegations are denied.

2. With respect to paragraph 2 of the Complaint, MPS admits that it is a division of UtiliCorp United Inc. MPS further admits that *Exhibit 1* to the Complaint is a copy of a brochure of MPS. MPS denies each and every other allegation contained in paragraph 2 of the Complaint.

3. MPS denies the allegations contained in paragraph 3 of the Complaint. For further answer and response, and without limitation with respect to its general denial, MPS states that it does not currently offer HVAC services to its customers through an affiliate or through a utility contractor. For further answer and response, MPS states that it has not been

duly served with a copy of the document referred to as *Exhibit 2* and, consequently, MPS is unable to formulate a response with respect to the omitted exhibit.

4. MPS denies the allegations contained in paragraph 4 of the Complaint.
5. MPS denies the allegations contained in paragraph 5 of the Complaint.

**Affirmative Defenses**

6. In accordance with Commission rule 4 CSR 240-2.070(8), MPS asserts the following grounds of defense with respect to the Complaint:

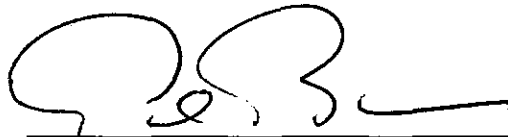
- a. The Complaint fails to state a claim on which relief may be granted.
- b. MPS does not directly, or through an affiliate, provide HVAC services as that term is defined in §386.754(2) RSMo. 2000.
- c. MPS does not permit any affiliate or utility contractor to use its name to engage in HVAC services.
- d. To the extent that any of the conduct complained of would otherwise be prohibited or restricted by §386.756 RSMo. 2000, MPS has been engaged in such activities for a period in excess of five (5) years prior to August 28, 1998.
- e. The Complaint is deficient in that it does not contain a statement as to whether the Complainant has directly contacted MPS with regard to the subject matter of the Complaint as required by Commission rule 4 CSR 240-2.070(5)(E).
- f. The Commission has no subject matter jurisdiction over the activities complained of under §§386.754 through 386.764 RSMo. 2000.
- g. The activities complained of are not in violation of any law of this state.
- h. The activities of MPS complained of are not in violation of any rule or regulation of the Commission.

i. The activities of MPS complained of comply in all respects with the tariffs and regulations of MPS currently on file with and approved by the Commission.

j. The Complaint is deficient for insufficient service of process in that an exhibit referred to in the Complaint was not duly served on MPS.

WHEREFORE, having fully answered the Complaint and set forth its affirmative defenses thereto, MPS requests that the Complaint be dismissed for the reasons hereinabove stated or for such other disposition or relief as may be appropriate in the circumstances.

Respectfully submitted,



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Public Service

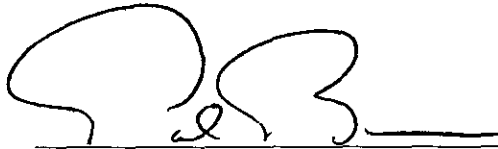
Certificate of Service

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 28<sup>th</sup> day of January, 2002, to:

Mr. Terry C. Allen  
Allen & Holden Law Office, L.L.C.  
102 E. High Street, Suite 200  
P.O. Box 1702  
Jefferson City, MO 65102

Missouri Public Service Commission  
General Counsel's Office  
Governor Office Building  
200 Madison Street, P.O. Box 360  
Jefferson City, MO 65102

Mr. John Coffman, Acting Public Counsel  
Office of the Public Counsel  
Governor Office Building  
200 Madison Street, P.O. Box 7800  
Jefferson City, MO 65102

A handwritten signature in black ink, appearing to read 'P. A. Boudreau', written over a horizontal line.

Paul A. Boudreau