

Exhibit No.:

Issue: Sale of Capital Stock of UtiliCorp
Pipeline Systems

Witness: Richard C. Kreul

Type of Exhibit: Direct

Sponsoring Party: UtiliCorp United Inc., Missouri Gas
Company and Missouri Pipeline
Company

Case No.: GM-2001-585

Date Testimony Prepared: July 10, 2001

FILED²
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Missouri Public
Service Commission

Before the Public Service Commission
of the State of Missouri

Direct Testimony

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Richard C. Kreul

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Richard C. Kreul

1 Q. Please state your name, business address and position.

2 A. My name is Richard C. Kreul. My current business address is 20 West Ninth
3 Street, Kansas City, Missouri, 64105. I hold the position of Vice President,
4 Energy Delivery, at UtiliCorp United Inc. ("UtiliCorp"). Also, I am President of
5 Missouri Pipeline Company ("MPC"), Missouri Gas Company ("MGC") and
6 UtiliCorp Pipeline Systems, Inc. ("UPL").

7 Q. On whose behalf are you filing testimony in this case?

8 A. I am offering testimony on behalf of UtiliCorp and Joint Applicants MPC and
9 MGC.

10 Q. Mr. Kreul, please provide the Missouri Public Service Commission
11 ("Commission") with a brief description of your educational background,
12 professional designations and business experience.

13 A. I graduated from the University of Arkansas with a Bachelor of Science degree
14 and a Master of Science Degree in Mechanical Engineering. I have over 20 years
15 experience in the energy industry in engineering, business development and
16 management assignments. Previous employers include Mobil Pipeline Company
17 in Dallas and Corpus Christi, Texas; Sun Pipeline Company in Tulsa, Oklahoma;
18 and Omega Pipeline Company in Tulsa, Oklahoma. I have been President of
19 MPC and MGC since 1992. I have held my present position as Vice President,
20 Energy Delivery, with UtiliCorp since 2000.

21 Q. What are the nature of your responsibilities as President of MPC and MGC?

1 A. I provide overall direction and management of both MPC and MGC, including
2 operation oversight, regulatory compliance, business development and strategic
3 planning.

4 Q. What is the purpose of your testimony?

5 A. The purpose of my testimony is three-fold. First, I will describe, generally, the
6 operations of MPC and MGC. Second, I will explain in general the nature of the
7 proposed transaction between Gateway Pipeline Company ("Gateway"),
8 UtiliCorp and UPL. ("UPL"). Finally, I will explain why the proposed
9 transaction is not detrimental to the public interest.

10 Q. Please describe the nature of the operations of MPC.

11 A. MPC owns and operates a natural gas transmission pipeline in the State of
12 Missouri. MPC is a transporter of natural gas. It transports natural gas for its
13 customers from Panhandle Eastern Pipeline, near Curryville, Missouri, in Pike
14 County to several delivery points on the system in Pike, Lincoln, St. Charles and
15 Franklin counties to its point of termination at Sullivan, Missouri. Generally,
16 MPC transports natural gas on behalf of a customer or "shipper" to requested
17 points along the pipeline system. MPC's shippers are either local distribution
18 companies ("LDC's"); municipalities; industrial and large commercial natural gas
19 end-users; or natural gas marketing companies moving gas on behalf of LDC's,
20 municipalities, or natural gas end-users behind the LDC's or municipal systems.

21 Q. To whom is MPC interconnected?

22 A. MPC has ten different delivery interconnects with Laclede Gas Company, Union
23 Electric Company, Missouri Natural Gas Company and Fidelity Natural Gas, plus

1 one interconnect with MPC's sister pipeline, Missouri Gas Company, near
2 Sullivan, Missouri.

3 Q. Please describe the nature of the operations of MGC.

4 A. Similar to MPC, MGC owns and operates a natural gas transmission pipeline in
5 the State of Missouri. MGC is a transporter of natural gas. It transports natural
6 gas for its customers from a receipt point at its interconnect with MPC to several
7 delivery points on the system in Crawford, Phelps and Pulaski counties to its point
8 of termination at Fort Leonard Wood, Missouri. Like MPC, MGC transports
9 natural gas on behalf of shippers to requested points along the pipeline system.
10 MGC's shippers are either LDC's; municipalities; industrial and large commercial
11 natural gas end-users; or natural gas marketing companies moving gas on behalf
12 of LDC's, municipalities, or natural gas end-users behind the LDC's or municipal
13 systems.

14 Q. To whom is MGC interconnected?

15 A. MGC has eight delivery interconnects: three with an LDC, Missouri Public
16 Service ("MPS") (a division of UtiliCorp United Inc.) at Rolla, Salem and
17 Owensville; the four municipalities of Cuba, St. James, St. Robert and
18 Waynesville; and Fort Leonard Wood.

19 Q. Have MPC and MGC been certificated by the Commission to provide natural gas
20 service in the State of Missouri?

21 A. Yes, MPC and MGC are intrastate natural gas transmission pipelines. The
22 Commission granted the companies certificates of convenience and necessity in
23 its Case Nos. GA-90-280, GA-90-276, GA-91-81 and GA-91-82.

- 1 Q. Are MPC and MGC corporations in good standing in the State of Missouri?
- 2 A. Yes, they are. MPC and MGC are both Delaware corporations, in good standing
3 in all respects. Attached to my testimony and marked as "Schedule RCK-1" is
4 MPC's Certificate of Good Standing issued by the Missouri Secretary of State.
5 Also attached is "Schedule RCK-2" which is a Certificate of Good Standing
6 issued by the Missouri Secretary of State with respect to MGC. Each company
7 has its principal office and place of business located at 20 West Ninth Street,
8 Kansas City, Missouri, 64105.
- 9 Q. Do MPC or MGC have any pending actions against them or final unsatisfied
10 judgments or decisions against either company from any state or federal agency or
11 court which involve customer service or rates within the three (3) years
12 immediately preceding the filing of the Joint Application in this case?
- 13 A. No.
- 14 Q. Does either company have any overdue Commission Annual Reports or
15 assessment fees?
- 16 A. No.
- 17 Q. Please describe the transaction which is before the Commission in this case.
- 18 A. Subject to the terms of a Stock Purchase Agreement, as amended, UtiliCorp has
19 agreed to sell, and Gateway has agreed to buy, all of the issued and outstanding
20 shares of the capital stock of UPL (the "Transaction").
- 21 Q. What is the relationship of MPC and MGC to UPL?

1 A. UPL is a Delaware corporation and a wholly-owned subsidiary of UtiliCorp.
2 UPL holds all of the capital stock of MPC and MGC. UPL conducts no regulated
3 operations in Missouri.

4 Q. What is the nature of UtiliCorp's operations?

5 A. UtiliCorp is a Delaware corporation, in good standing in all respects, with its
6 principal office and place of business at 20 West Ninth Street, Kansas City,
7 Missouri, 64105. UtiliCorp is authorized to conduct business in Missouri through
8 its MPS and St. Joseph Light & Power operating divisions. Through those
9 divisions, UtiliCorp provides electrical, natural gas and industrial steam service in
10 Missouri to customers in those areas certificated to it by the Commission. As
11 such, UtiliCorp is subject to the jurisdiction of the Commission as provided by
12 law. UtiliCorp has no pending actions against it or final unsatisfied judgements or
13 decisions against it from any state or federal agency or court that involve
14 customer service or rates within the three (3) years immediately preceding the
15 filing of the Joint Application in this case. Likewise, UtiliCorp has no overdue
16 Commission Annual Reports or assessment fees.

17 Q. You mentioned earlier that Gateway proposes to acquire from UtiliCorp all of the
18 capital stock of UPL. Please describe your understanding of Gateway.

19 A. Gateway is a Delaware corporation with offices located at 7662 Davis Peak Road,
20 Littleton, Colorado 80127. It currently conducts no business operations in
21 Missouri. Mr. David Ries, President of Gateway, will provide additional
22 information about Gateway, including its financial and operational capabilities, in
23 his direct testimony.

1 Q. What will take place as a result of the Transaction?

2 A. Upon the completion of the Transaction, both MPC and MGC will continue to be
3 owned by their non-regulated parent, UPL. MPC and MGC will continue to be
4 regulated by the Commission as provided by law pursuant to the rates, terms and
5 conditions of service set forth in their respective tariffs and rate schedules
6 currently on file with and approved by the Commission. In summary, the essence
7 of the Transaction is that the parent of UPL will be changed from UtiliCorp to
8 Gateway. There will be no direct change in ownership of MPC or MGC, the
9 regulated subsidiaries. For the Commission's convenience, I have attached as
10 "Schedule RCK-3" a diagram that illustrates the corporate structure of the
11 involved entities before and after the Transaction. A copy of the Stock Purchase
12 Agreement, as amended, is attached to my testimony and marked "Schedule
13 RCK-4".

14 Q. Will the Transaction involve the transfer of any franchises, permits, operating
15 rights or certificates of convenience and necessity of either MPC or MGC?

16 A. No, it will not. As I explained above, the Transaction only involves the
17 acquisition of all of the capital stock of UPL by Gateway from UtiliCorp.

18 Q. Has UtiliCorp's Board of Directors approved the terms of the Stock Purchase
19 Agreement?

20 A. The Board of Directors delegated the decision-making authority for the
21 Transaction to UtiliCorp's Capital Decision Group. That Group is comprised of
22 the Chief Executive Officer, Chief Operating Officer and Chief Financial Officer.

1 Attached as Schedule RCK-5 to my testimony is a copy of the Unanimous
2 Consent of the Capital Decision Group dated January 19, 2001.

3 Q. Please describe the effect the Transaction will have, if any, on the tax revenues of
4 the political subdivisions in which MPC or MGC have structures or facilities
5 located.

6 A. The Transaction will have no impact on the tax revenues of the political
7 subdivisions in which any of the structures, facilities or equipment of MPC or
8 MGC are located because the Transaction does not contemplate a change in the
9 location or ownership of any of the facilities of MPC or MGC.

10 Q. What is your understanding about Gateway's plans regarding the continued
11 operation of the MPC and MGC systems?

12 A. It is my understanding that the same field employees as are now used by MPC
13 and MGC will continue to be used to conduct business after the Transaction is
14 completed. Gateway witness, David Ries, will address Gateway's plans and
15 capabilities in his direct testimony.

16 Q. Will the Transaction be detrimental to the public interest?

17 A. No. MPC and MGC will continue to be wholly-owned subsidiaries of UPL. The
18 Transaction does not contemplate any change in the rate schedules of MPC or
19 MGC or other terms or conditions of service currently set forth in the tariffs of
20 either company currently on file with and approved by the Commission. The field
21 operations of MPC and MGC will continue uninterrupted, conducted by the same
22 employees. The Commission will retain full authority to regulate the rates, terms
23 and conditions of service rendered by both MPC and MGC as provided by law.

1 Gateway has arranged bank financing for the Transaction evidencing its financial
2 qualifications. The Transaction should be entirely transparent to those customers,
3 communities and entities served by MPC and MGC. Consequently, the
4 Transaction will not be detrimental to the public interest.

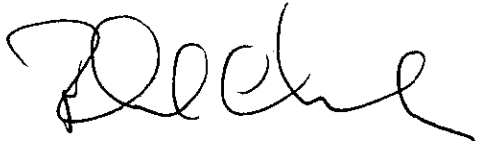
5 Q. Does this conclude your direct testimony?

6 A. It does.

AFFIDAVIT OF RICHARD C. KREUL

STATE OF MISSOURI)
) ss.
COUNTY OF Jackson)

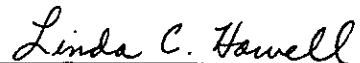
Richard C. Kreul, of lawful age, on his oath, states that he has participated in the preparation of the foregoing testimony in question and answer form and that he has knowledge of the matters set forth in such answers and that such matters are true and correct to the best of his knowledge and belief.



Richard C. Kreul

Subscribed and sworn before me this 3rd day of July, 2001.

Linda C. Howell
Notary Public-Notary Seal
State of Missouri
Jackson County
My Commission Expires: May4, 2004



Notary Public

No. F00405191

STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION

CERTIFICATE OF CORPORATE GOOD STANDING - FOREIGN CORPORATION

I, MATT BLUNT, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

MISSOURI PIPELINE COMPANY

using in Missouri the name

MISSOURI PIPELINE COMPANY

a DELAWARE corporation filed its Evidence of Incorporation with this State on the 29th day of DECEMBER, 1994, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 3rd day of JULY, 2001.


Secretary of State



SCHEDULE
RCK-1

No. F00405192

STATE OF MISSOURI



Matt Blunt
Secretary of State

CORPORATION DIVISION

CERTIFICATE OF CORPORATE GOOD STANDING - FOREIGN CORPORATION

I, MATT BLUNT, Secretary of State of the State of Missouri,
do hereby certify that the records in my office
and in my care and custody reveal that

MISSOURI GAS COMPANY

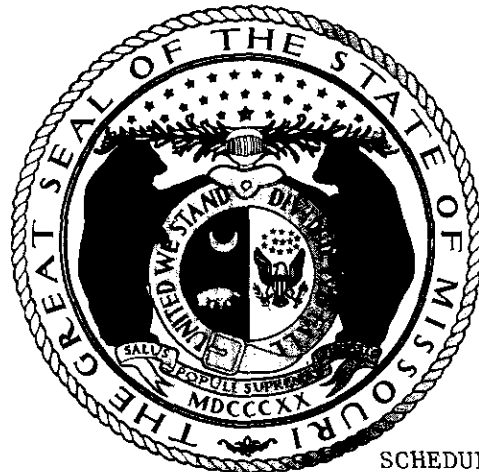
using in Missouri the name

MISSOURI GAS COMPANY

a DELAWARE corporation filed its Evidence of Incorporation
with this State on the 29th day of DECEMBER, 1994, and is in
good standing, having fully complied with all requirements
of this office.

IN TESTIMONY WHEREOF, I have set my
hand and imprinted the GREAT SEAL of
the State of Missouri, on this, the
3rd day of JULY, 2001.

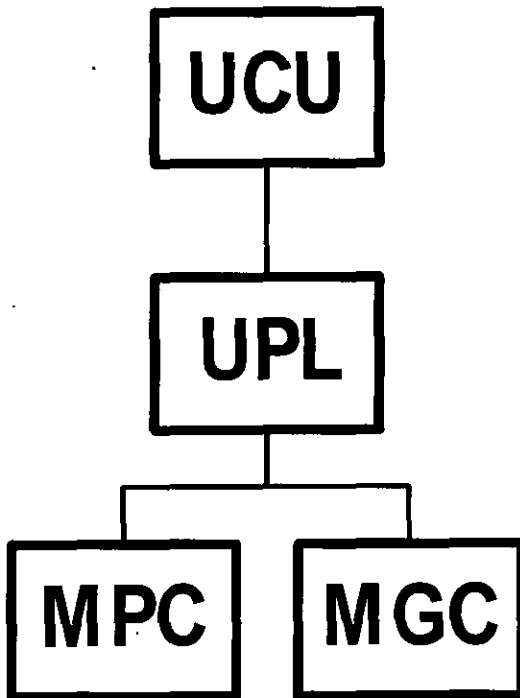

Secretary of State



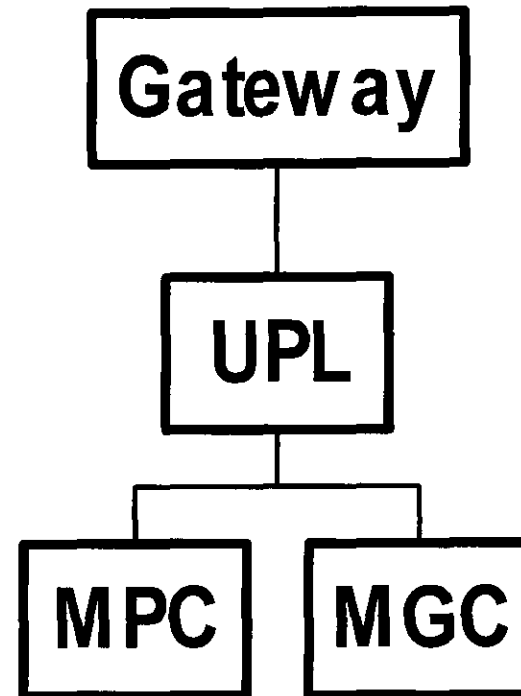
SCHEDULE
RCK-2

UPL Ownership

Current



Post Transaction



UCU – UtiliCorp United, Inc.

UPL – UtiliCorp Pipeline Systems, Inc.

MPC – Missouri Pipeline Company

MGC – Missouri Gas Company

Note: Once transaction occurs, Gateway will change the name of UPL

SECOND AMENDMENT TO STOCK PURCHASE AGREEMENT

This Second Amendment is dated as of April 12, 2001, by and among Gateway Pipeline Company, Inc., a Delaware corporation ("Purchaser"), UtiliCorp United Inc., a Delaware corporation ("Seller"), and UtiliCorp Pipeline Systems, Inc., a Delaware corporation (the "Company").

RECITALS

WHEREAS, the parties hereto entered into a Stock Purchase Agreement dated February 1, 2001 (as previously amended on February 16, 2001, the "Original Agreement"); and

WHEREAS, the parties now desire to further amend the Original Agreement.

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Amendments.

a. Section 1.3. The first sentence of Section 1.3 is amended to read in its entirety as follows: "On or before April 12, 2001, Purchaser shall deliver to Seller, by wire transfer of immediately available funds, funds in an amount of \$5,000,000 as an earnest money deposit (the "Deposit")."

b. Section 1.4. The date "June 30, 2001" in the third line of said Section is hereby amended to read: "September 30, 2001".

c. Section 2.16. Section 2.16 is hereby amended to add the following new subsection (c):

"(c) To the knowledge of Seller, no Environmental Claims are pending or threatened as a result of any environmental conditions or facts disclosed in any of the Environmental Reports set forth on Schedule 2.16(b) hereto."

d. Section 4.4. Schedule 4.4 to the Original Agreement is hereby amended to read in its entirety as follows:

"As exceptions to Section 4.4 of the Agreement, MPC shall have the right to (a) renew the existing agreement No. MP-1011-TAF

with Laclede Gas Company's agent CoEnergy Trading Company, or enter into another agreement with Laclede Gas Company or its agent, with the term of such renewal or agreement not extending beyond December 31, 2002, and provided that any changes to the volume or other terms of such agreement shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld or delayed, and (b) renew the existing agreement No. MP-1024-TAF with Ameren Services, Co. (d/b/a Union Electric), or enter into another agreement with Ameren Services, Co. (d/b/a Union Electric), with the term of such renewal or agreement not extending beyond December 31, 2002, and provided that any changes to the volume or other terms of such agreement shall be subject to Purchaser's prior written approval, which shall not be unreasonably withheld or delayed."

e. Section 8.1(b). The date "December 31, 2001" in the second line of said Section is hereby amended to read: "June 30, 2002".

f. Section 8.1(c). The phrase "on the 12th Business Day after the execution and delivery hereof by all parties" is hereby amended to read: "on or before April 12, 2001".

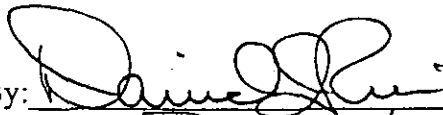
2. Miscellaneous.

Except as amended hereby, the Original Agreement remains in full force and effect. This Second Amendment may be executed by facsimile transmission and in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

REMAINDER OF PAGE
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IN WITNESS WHEREOF, this Second Amendment has been signed by or on behalf of each of the parties by their duly authorized representatives as of the date first above written.

GATEWAY PIPELINE COMPANY, INC.

By: 
Title: PRESIDENT

UTILICORP PIPELINE SYSTEMS, INC.

By: 
Title: PRESIDENT

UTILICORP UNITED INC.

By: 
Title: Sr. Vice President

FIRST AMENDMENT TO STOCK PURCHASE AGREEMENT

This First Amendment is dated as of February 16, 2001, by and among Gateway Pipeline Company, Inc., a Delaware corporation ("Purchase"), UtiliCorp United Inc., a Delaware corporation ("Seller"), and UtiliCorp Pipeline Systems, Inc., a Delaware corporation (the "Company").

RECITALS

WHEREAS, the parties hereto entered into a Stock Purchase Agreement dated February 1, 2001 (the "Original Agreement"); and

WHEREAS, the parties now desire to amend the Original Agreement.

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Amendment.

a. Section 1.3. The phrase "on the 11th Business Day" in the first line of said Section is hereby amended to read "on the 21st Business Day".

b. Section 8.1(c). The phrase "on the 12th Business Day" in the 11th line of said Section is hereby amended to read: "on the 22nd Business Day".

c. Section 8.1(g). The phrase "within ten Business Days" of said Section is hereby amended to read: "within twenty Business Days".

2. Miscellaneous.

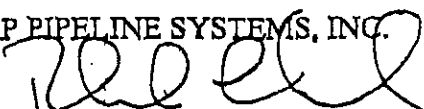
Except as amended hereby, the Original Agreement remains in full force and effect. This First Amendment may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

IN WITNESS WHEREOF, this First Amendment has been signed by or on behalf of each of the parties by their duly authorized representatives as of the date first above written.

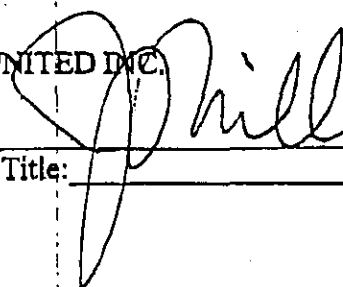
GATEWAY PIPELINE COMPANY, INC.

By: 
Title: PRESIDENT

UTILICORP PIPELINE SYSTEMS, INC.

By: 
Title: PRESIDENT

UTILICORP UNITED INC.

By: 
Title: _____

RECEIVED TIME MAR. 27. 4:51PM

PRINT TIME MAR. 27. 4:54PM

04/17/01 TUE 11:29 [TX/RX NO 7353]

STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this "Agreement"), is entered into as of February 1, 2001, by and among Gateway Pipeline Company, Inc., a Delaware corporation ("Purchaser"), UtiliCorp United Inc., a Delaware corporation ("Seller"), and UtiliCorp Pipeline Systems, Inc., a Delaware corporation (the "Company").

RECITALS

WHEREAS, Seller owns all of the issued and outstanding shares of capital stock of the Company (the "Shares"); and

WHEREAS, Purchaser desires to purchase and Seller desires to sell the Shares on the terms and conditions of this Agreement; and

WHEREAS, Seller, the Company and Purchaser desire to make certain representations, warranties, covenants and agreements in this Agreement in connection with such purchase and sale;

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

ARTICLE I

PURCHASE AND SALE OF THE SHARES

1.1 *Purchase of the Shares from Seller.* Subject to and upon the terms and conditions of this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing") Seller shall sell, transfer, convey, assign and deliver to Purchaser, and Purchaser shall purchase and acquire from Seller, the Shares.

1.2 *Purchase Price for the Shares; Cancellation of Intercompany Balances.* Subject to adjustment in accordance with Section 1.5, the purchase price to be paid by Purchaser for the Shares shall be the net book value of the property, plant and equipment of the Company and its Subsidiaries (other than Omega Pipeline Company) as of the Closing Date as determined in accordance with GAAP (as defined below) ("Net Book Value") (the "Purchase Price"). The Estimated Adjusted Purchase Price (as determined in accordance with Section 1.5), shall be payable at the Closing to Seller by wire transfer of immediately available funds, to an account to be designated by Seller not less than two Business Days prior to the Closing, or by such other means as the parties may agree. For purposes of this Agreement, "Business Day" shall mean any day on which banks are generally open to conduct business in Missouri and New York, but in any event shall not include Saturdays or Sundays. The Purchase Price is estimated to be \$63.4 million and would be allocated as follows:

Missouri Pipeline	-	\$32.7 million
Missouri Gas	-	\$20.4 million
The Company	-	\$10.3 million

The actual Purchase Price will be allocated among the 3 companies in approximately the same percentages set forth in the above estimates.

(a) Unless otherwise agreed by the parties hereto prior to the Closing, immediately prior to the Closing, all income tax reserves and pension assets and liabilities on the books of the Company or any Subsidiary (as hereinafter defined) and all intercompany balances (including any cash sweep balances, accounts receivable and accounts payable) between Seller or any Affiliate (as defined hereinafter) of Seller and the Company or any Subsidiary ("Intercompany Balances") shall be distributed, capitalized or otherwise canceled.

1.3 *Deposit.* On the 11th Business Day after the execution and delivery hereof by all parties (provided Seller has not terminated this Agreement pursuant to Section 8.1(e) hereof), Purchaser shall deliver to Seller by wire transfer of immediately available funds in the amount of \$5,000,000 as an earnest money deposit (the "Deposit"). Pending its disposition as provided herein, the Deposit shall earn interest at an annual rate of 7%. Upon the Closing, the amount of the Deposit (and all interest earned thereon) shall be deducted from the Purchase Price payable under Section 1.2. If Seller terminates this Agreement pursuant to Section 8.1(c) or if the Closing otherwise does not occur due to a breach of this Agreement by Purchaser, then Seller shall be entitled to retain the Deposit (and all interest earned thereon) as its sole and exclusive remedy. If this Agreement is terminated for any reason other than as set forth above, or the Closing otherwise does not occur and Seller is not entitled to retain the Deposit (and all interest earned thereon) pursuant to the above provisions of this Section 1.3, Seller shall immediately return the Deposit (and all interest earned thereon) to Purchaser. Notwithstanding anything in this Agreement to the contrary, should Purchaser for any reason not deliver the Deposit on a timely basis, this Agreement shall terminate as provided in Section 8.1(c) (and Purchaser shall have no liability for failure to deliver the Deposit or the termination of this Agreement).

1.4 *Closing.*

(a) The Closing shall take place at the offices of Bryan Cave LLP, 3500 One Kansas City Place, 1200 Main Street, Kansas City, MO 64105 commencing at 10:00 a.m., Kansas City time, on the later of (i) June 30, 2001 or (ii) the last Business Day of the month in which all of the conditions to each party's obligations hereunder have been satisfied or waived, or at such other place, time or date as may be mutually agreed upon in writing by the parties (the "Closing Date"). The transfer of the Shares by Seller to Purchaser shall be deemed to occur at 11:59 p.m., Kansas City time, on the Closing Date.

(b) Subject to the terms and conditions hereof, at the Closing Seller will deliver the following to Purchaser:

(i) Certificates representing the Shares duly endorsed in blank or with stock powers duly executed in proper form for transfer;

(ii) The resignations of all members of the Board of Directors and officers of the Company and each Subsidiary; and

(iii) All other documents, instruments and writings required to be delivered by Seller at or prior to the Closing Date pursuant to this Agreement.

(c) Subject to the terms and conditions hereof, at the Closing Purchaser will deliver the following to Seller:

(i) The Estimated Adjusted Purchase Price as determined in accordance with Section 1.5, less the amount of the Deposit (and all interest earned thereon), in immediately available funds, in the manner set forth in Section 1.2; and

(ii) All other documents, instruments and writings required to be delivered by Purchaser at or prior to the Closing Date pursuant to this Agreement.

1.5 *Working Capital Adjustment.*

(a) The parties understand and acknowledge that the Purchase Price set forth in Section 1.2(a) must be finally determined based on the Net Book Value as of the Closing Date and does not include any amount for Working Capital. The Purchase Price shall be increased or decreased, as the case may be, on a dollar for dollar basis, by the amount of the Working Capital as of the Closing. For purposes of this Agreement, the term "Working Capital" shall be defined as the net amount, positive or negative, of the asset and liability accounts, set forth in Schedule 1.5(a), the balances of which shall be determined in accordance with Generally Accepted Accounting Principles, applied consistent with past practice ("GAAP").

(b) At least 10 Business Days prior to the Closing Date, the Company shall deliver to the Purchaser a certificate (an "Estimated Purchase Price Certificate") of the Company signed by an officer of the Company addressed to the Purchaser and prepared by the officer in good faith and on a reasonable basis. The officer shall certify that he has examined the financial and other records of the Company and that, based on such examination, he has determined the estimated amount of the Purchase Price, the Working Capital at the Closing Date and the estimated adjustment to the Purchase Price required by Section 1.5(a). The Estimated Purchase Price Certificate shall state the estimated amount of the Purchase Price, the Working Capital at the Closing Date and such estimated adjustment, and shall set out in reasonable detail the basis of such determination. The Purchase Price (adjusted for the estimated Working Capital) set forth in the Estimated Purchase Price Certificate shall be referred to herein as the "Estimated Adjusted Purchase Price."

(c) Within 30 days following the Closing, Seller will deliver to Purchaser a certificate (a "Final Purchase Price Certificate") of Seller signed by an officer of Seller addressed to Purchaser and prepared by the officer in good faith and on a reasonable basis. The officer shall certify that he has examined the financial and other records of the Company and that, based on such examination, he has determined the amount of the Purchase Price, and the Working Capital at the Closing Date ("Closing Working Capital") and the adjustment to the Purchase Price required by Section 1.5(a). The Final Purchase Price Certificate shall state the amount of the Purchase Price, the Closing Working Capital, and such adjustment, and shall set out in reasonable detail the basis of such determination.

(d) Following the delivery of the Final Purchase Price Certificate, the Purchaser shall have a period of 90 days to review the Final Purchase Price Certificate. On or prior to the expiration of such 90-day period, Purchaser shall notify Seller if it accepts such certificate and agrees with the amounts set forth in the Final Purchase Price Certificate or if Purchaser disputes any of such amounts. If the Purchaser does not deliver such notice within such 90-day period, Purchaser shall be deemed to have accepted the Final Purchase Price Certificate as prepared by the Seller. If the Purchaser disputes any of the amounts set forth in the Final Purchase Price Certificate, such notice shall specify the nature of such disagreement in reasonable detail and shall state the opinion of Purchaser as to the correct amount(s).

(e) Any dispute concerning the Final Purchase Price Certificate will be first referred to appropriate representatives of senior management of each of the parties in written form. If the senior management representatives have not resolved the dispute to the satisfaction of the parties within 20 Business Days after Purchaser's notice under Section 1.5(d) is delivered to the Seller, the matter shall be referred by Seller and Purchaser to Ernst and Young LLP or another mutually agreeable Big 5 accounting firm. The Parties will instruct the accounting firm to proceed promptly to determine the matters in issue and, to the extent possible, to render a decision within 20 Business Days. The accounting firm's decision will be final and binding on the parties and will not be subject to appeal. The fees and expenses of the accounting firm will be apportioned by the accounting firm in accordance with its decision.

(f) "Final Adjusted Purchase Price" shall mean either (i) the amount of the adjusted Purchase Price set forth in Seller's Final Purchase Price Certificate if such certificate is accepted by Purchaser pursuant to Section 1.5(d), or (ii) the amount of the adjusted Purchase Price determined pursuant to Section 1.5(e). If Final Adjusted Purchase Price exceeds Estimated Adjusted Purchase Price, the Purchaser shall pay to the Seller an amount equal to the amount by which the Final Adjusted Purchase Price exceeds Estimated Adjusted Purchase Price. If Estimated Adjusted Purchase Price exceeds Final Adjusted Purchase Price, Seller shall pay to the Purchaser an amount equal to the amount by which Estimated Adjusted Purchase Price exceeds Final Adjusted Purchase Price. Any amount to be paid by one party to any other party pursuant to the foregoing provisions shall be paid by wire transfer of immediately available funds within 3 Business Days following the determination of Final Adjusted Purchase Price pursuant

to Section 1.5(d) or Section 1.5(e), as the case may be. Such amounts shall bear interest at 7% from the Closing Date until such amount payable under this Section 1.5(f) is paid.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser that:

2.1 *Corporate Organization.* Each of Seller and the Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of Seller and the Company has the corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and the Company is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary. True and complete copies of the certificate of incorporation and by-laws of the Company, in effect as of the date of this Agreement, have been delivered to Purchaser.

(a) Subject to Section 5.16 below, Schedule 2.1(a) of the Seller's disclosure schedule delivered to Purchaser concurrently herewith (the "Seller Disclosure Schedule") sets forth a complete list of each corporation, partnership, limited liability company, or other organization, whether incorporated or unincorporated, of which the Company owns 50% or more of the outstanding voting securities (each a "Subsidiary" and collectively, the "Subsidiaries") and their respective jurisdictions of incorporation. All of the outstanding shares of capital stock of the Subsidiaries are validly issued, fully paid and non-assessable and such shares are owned by the Company or its wholly-owned Subsidiaries free and clear of any Lien, claim, charge, option, encumbrance, mortgage, pledge, security interest or adverse claim or right of any other party (a "Lien"), restrictions on transfer, or voting or preemptive or other rights with respect thereto. Each Subsidiary (i) is duly incorporated and validly existing and in good standing as a corporation under the laws of its jurisdiction of incorporation, (ii) is duly qualified to do business and in good standing in all jurisdictions (whether federal, state, local or foreign) where its ownership or leasing of property or the conduct of its business requires it to be so qualified, and (iii) has all requisite corporate power and authority to own or lease its properties and assets and to carry on its business as now conducted. As of the date of this Agreement there are not, and at the Closing there will not be, any capital stock or other equity interests in the Subsidiaries issued or outstanding (other than shares of capital stock owned by the Company) or any subscriptions, options, warrants, proxies, voting trusts, calls, rights, convertible securities or other agreements or commitments of any character relating to any stock or other equity interests in any Subsidiary, whether issued or not, or obligating any Subsidiary to issue, transfer or sell any of its capital stock or other equity interests, or any agreements, arrangements, or understandings granting any person any rights in any Subsidiary similar to capital stock or other equity interests. The Company has delivered to Purchaser true and complete copies of the certificates of

incorporation and bylaws of each Subsidiary, in each case as amended to the date of this Agreement.

2.2 *Capitalization.* The authorized capital stock of the Company consists of 1,000 shares of common stock, par value \$1.00 per share, of the Company, of which, as of the date of this Agreement, no shares were held in treasury and only the Shares were issued and outstanding. The Shares have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights, with no personal liability attaching to the ownership thereof. As of the date of this Agreement there are not, and at the Closing there will not be, any capital stock or other equity interests in the Company issued or outstanding (other than the Shares) or any subscriptions, options, warrants, proxies, voting trusts, calls, rights, convertible securities or other agreements or commitments of any character relating to any of the Shares or any stock or other equity interests in the Company, whether issued or not, or obligating the Company to issue, transfer or sell any of its capital stock or other equity interests, or any agreements, arrangements, or understandings granting any person any rights in the Company similar to capital stock or other equity interests.

2.3 *Authority; No Violation.* Each of Seller and the Company has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly and validly approved by all corporate action on the part of Seller and the Company. No other corporate proceedings on the part of Seller or the Company are necessary to approve this Agreement and to consummate the transactions contemplated by this Agreement. This Agreement has been duly and validly executed and delivered by Seller and the Company and, assuming due authorization, execution and delivery by Purchaser, constitutes a valid and binding obligation of Seller and the Company, enforceable against Seller and the Company in accordance with its terms.

(a) Seller has good and marketable title to the Shares, free and clear of any Liens, restrictions on transfer or voting or preemptive or other rights with respect thereto. Seller has the full corporate power, right and authority to transfer, convey and sell the Shares to Purchaser at the Closing.

(b) Subject to Section 2.4 and assuming that there are no facts or circumstances concerning Purchaser or any person directly or indirectly controlling, controlled by, or under common control with Purchaser (each such person, an "Affiliate" of Purchaser, with correlative meaning when used with persons other than Purchaser) that require registration or filing with any Governmental Entity (as defined hereinafter) not otherwise contemplated in this Agreement, the execution, delivery and performance of this Agreement by Seller and the Company do not, and the consummation by Seller and the Company of the transactions contemplated by this Agreement will not (i) constitute a breach or violation of, or a default under, the certificate of incorporation or by-laws of Seller, the Company, or any of the Subsidiaries, (ii) conflict with, constitute a breach or violation of, or a default under, or give rise to any Lien, any acceleration of remedies or any right of termination under, any indenture, license, contract, agreement or other

instrument to which the Company or any of the Subsidiaries is a party or by which any of them or their respective properties or assets may be bound, or (iii) assuming compliance with the applicable requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"), violate any Law (as hereinafter defined) of any Governmental Entity applicable to the Company or any of the Subsidiaries or any of their respective properties or assets.

2.4 *Consents and Approvals.* Except as set forth in Schedule 2.4 of the Seller Disclosure Schedule, and except for applicable requirements of the HSR Act, no notice to, filing with, registration, authorization of, exemption by, or consent or approval of, or the taking of any other action in respect of, and no filing, recording, publication or registration with any Governmental Entity or any other person or entity on the part of Seller, the Company or the Subsidiaries in each case is now, or under existing Law of any Governmental Entity in the future will be, necessary for the consummation by Seller, the Company or any of the Subsidiaries of the transactions contemplated by this Agreement.

2.5 *Licenses; Compliance with Applicable Law.* The Company and each of its Subsidiaries hold all licenses, permits, orders, franchises, concessions, approvals, registrations, authorizations and qualifications issued, granted, required or filed by, with or under, as the case may be, any applicable law, ordinance, statute, order, judgment, writ, judicial decision, injunction, decree, award, requirement, rule or regulation ("Law") of any federal, state, political subdivision, commission or other governmental agency or instrumentality, foreign or domestic (each a "Governmental Entity") necessary for the lawful conduct of their respective businesses ("Permits"). There are no proceedings pending or, to Seller's knowledge, threatened which could result in the revocation, cancellation or suspension or any material modification of any Permit and Seller has no knowledge of any facts which if publicly disclosed would be reasonably likely to result in the revocation, cancellation or suspension or any material modification of any Permit. To Seller's knowledge and except as set forth in Schedule 2.5 hereto, the business of the Company and its Subsidiaries is not being and has not been conducted in violation of any Law of any Governmental Entity and the Company and each of its Subsidiaries has complied with and made all filings, including all tariff filings, required pursuant to any Law of any Governmental Entity.

2.6 *Broker's Fees.* Neither Seller nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any broker's fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement.

2.7 *Financial Statements.* Seller has delivered to Purchaser true and complete copies of the unaudited income statements for the Company and each Subsidiary for fiscal year 2000 and balance sheets as of December 31, 2000. All such balance sheets are complete and accurate and fairly present the financial position of the Company and each Subsidiary as of their respective dates, and such income statements fairly present the results of operations for the fiscal year 2000, all in accordance with GAAP. The balance sheet as of December 31, 2000 is referred to herein as the "Balance Sheet". December 31, 2000 is referred to herein as the "Financial Statement Date."

2.8 *No Undisclosed Liabilities, Claims, etc.* The Balance Sheet disclose all liabilities required by GAAP to be disclosed on the Balance Sheet of the Company, except liabilities arising in the ordinary course of business since the Financial Statement Date. To the knowledge of the Seller, the Company has no liabilities of any kind or nature except as set forth on the Balance Sheet, except liabilities arising in the ordinary course of business since the Financial Statement Date. As of Closing, the Company will have no liabilities for indebtedness for borrowed money or advances made from Seller or any of Seller's other subsidiaries.

2.9 *Absence of Certain Changes.* Except as set forth in Schedule 2.9 of the Seller Disclosure Schedule, since June 30, 2000, there has not been: (a) any adverse change in the business, prospects, financial condition or operations of the Company or any of its Subsidiaries; (b) any damage, destruction or loss, whether covered by insurance or not, adversely affecting the Company's or any Subsidiary's properties and business; (c) any declaration, setting aside or payment of any dividend of stock or property (other than cash) with respect to the Shares, or any redemption or other acquisition of such Shares; (d) any entry by the Company into any commitment or transaction, including, without limitation, any borrowing or capital expenditure, except transactions or commitments entered into in the ordinary course of business of the Company or a Subsidiary; (e) any change in accounting methods, practices or principles as applied to the Company or any of its Subsidiaries, other than changes applicable to Seller generally; (f) any sale, lease or any other disposition or distribution by the Company or any Subsidiary of any of its assets or properties, except transactions in the ordinary course of business of the Company or a Subsidiary or as otherwise consented to by Purchaser; (g) any termination or waiver by Seller, the Company, or any of the Subsidiaries of any rights of value to the business of the Company or any Subsidiary; (h) any conduct by Seller, the Company or any of the Subsidiaries not in the ordinary course of the conduct of the Company's or a Subsidiary's business; or (i) any agreement or understanding made or entered into to do any of the foregoing.

2.10 *Legal Proceedings.* Except as set forth on Schedule 2.10, neither the Company nor any of the Subsidiaries is a party to any, and there are no pending or, to Seller's knowledge, threatened legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against the Company or any of the Subsidiaries. There are no injunctions, orders, judgments or decrees imposed upon the Company or any of the Subsidiaries.

2.11 *Taxes.*

(a) Definitions. For purposes of this Section 2.11 and Article V hereof, the following definitions shall apply:

(i) The term "Taxes" shall be deemed to include without limitation all federal, possession, state, city, county and foreign (or governmental unit, agency, or political subdivision of any of the foregoing) income, profits, employment (including Social Security, unemployment insurance and employee income tax withholding), franchise, gross receipts, sales, use, transfer, stamp, occupation, property, ad valorem and excise taxes; Pension Benefit Guaranty Corporation premiums and any other governmental charges of the same or similar

nature; and all penalties, additions to tax and interest relating to any such taxes, premiums or charges. Any one of the foregoing Taxes shall be referred to sometimes as a "Tax."

(ii) The term "Returns" shall be deemed to include, without limitation, all reports, estimates, information statements and returns (including information returns and reports (e.g., Forms W-2 and Forms 1099)) relating to or required by Law to be filed by the Company in connection with any Taxes and, in the case of consolidated or combined tax returns, by Seller on behalf of the Company. Any one of the foregoing Returns shall be referred to sometimes as a "Return."

(iii) The term "Tax Affiliate" shall mean, with respect to a corporation, any member of an "Affiliated group" as defined in section 1504 of the Code, or member of a combined or unitary group of which such corporation is or was a member (other than such corporation).

(iv) The term "Code" shall refer to the Internal Revenue Code of 1986, as amended, and/or, where appropriate, its predecessor, the Internal Revenue Code of 1954, as amended.

(b) Member of Affiliated Group. Since its formation, the Company and each of its Subsidiaries have been a member of an "Affiliated group" of corporations within the meaning of section 1504 of the Code, with respect to which Seller is and at all times has been the common parent, and has joined in or will join in the filing of Seller's consolidated federal income tax returns for all its taxable periods ending on or prior to the Closing Date.

(c) Returns Filed and Taxes Paid. All Returns required to be filed by or with respect to the Company and each of its Subsidiaries have been filed on a timely basis and all such Returns are complete and accurate. All Taxes due and owing with respect to the Company and its Subsidiaries prior to the Closing whether or not reflected in the Returns as filed, have been paid in full or adequately reserved for on the Closing Date balance sheet (and thus included in the Working Capital Adjustment).

(d) Withholding Taxes. Company has complied with all applicable laws, rules, and regulations relating to the withholding of Taxes and the payment thereof (including, without limitation, withholding of Taxes under Section 1441 and 1442 of the Code, or similar provision under foreign laws), and timely and properly withheld from employee wages and paid over to the proper governmental authorities all amounts required to be withheld and paid over under applicable laws.

(e) Section 338(h)(10) Representations. Seller has filed a consolidated federal income tax return with the Company for the taxable year immediately preceding the current taxable year, and Seller is eligible to make an election under section

338(h)(10) of the Code (and any comparable election under state, local or foreign tax law) with respect to the Company.

2.12 *Contracts.*

(a) The Company has delivered to Purchaser at the offices of the Company true and complete copies of all contracts and agreements of the following categories to which the Company or any of its Subsidiaries is a party or by which any of their respective properties or assets are bound (the "Company Contracts"):

(i) material license, distributor, dealer, sales agency, advertising, property management or brokerage agreements;

(ii) agreements for the future purchase of more than \$10,000 of materials, supplies, services, merchandise or equipment;

(iii) agreements under which the Company or any Subsidiary interconnects with any other interstate, intrastate or local distribution pipeline or pipelines (i.e. interconnect or balancing agreements);

(iv) agreements under which the Company or any Subsidiary is obligated to: (A) gather, treat, compress or transport natural gas, or undertake such gathering, treating, compressing or transportation, for a third party; or (B) process or have processed natural gas (a "Gas Transportation Contract");

(v) agreements for the sale or lease of the Company's or any Subsidiary's property or assets, or the grant of any preferential right to purchase any of the Company's or any Subsidiary's property or assets or requiring the consent of any party to the transfer and assignment of the Company's or any Subsidiary's property or assets, other than those entered into in the ordinary course of the Company's or any Subsidiary's business;

(vi) agreements, indentures or other instruments relating to the borrowing of money or the guarantee of any obligation, other than such agreements, indentures and other investments that will be terminated on or before Closing;

(vii) franchises, licenses, royalty or other Agreements respecting or restricting any Intellectual Property Rights (as hereinafter defined);

(viii) agreements made other than in the ordinary course of the Company's or any Subsidiary's business;

(ix) agreements with any Affiliate of the Company, except Agreements among only the Company and any of its Subsidiaries; or

(x) agreements limiting the freedom of the Company or any Subsidiary to compete in any line of business or with any party.

Schedule 2.12(a) of the Seller Disclosure Schedule lists all of the Company Contracts.

(b) Neither the Company nor any of its Subsidiaries has any contracts whereby they are obligated to purchase any natural gas from or sell natural gas to any person.

(c) There is no default under any Company Contract by the Company or any Subsidiary or, to Seller's knowledge, by any other party thereto, and no event has occurred or condition exists that with the lapse of time or the giving of notice or both would constitute a default thereunder by the Company or any Subsidiary or, to Seller's knowledge, any other party. No party to any Company Contract has given notice to the Company or any Subsidiary of or made a claim against the Company or any Subsidiary with respect to any breach or default thereunder.

(d) Schedule 2.12(d) of the Seller Disclosure Schedule sets forth a true and correct summary of the term and price provisions of each Gas Transportation Contract.

(e) Schedule 2.12(e) of the Seller Disclosure Schedule sets forth all unresolved disputes under any Gas Transportation Contract.

(f) Since December 31, 1998, there has been no transportation of natural gas by the Company or any Subsidiary in interstate commerce that would invoke or subject the Company or any Subsidiary or their respective assets or properties to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") under the Natural Gas Act of 1938, including all amendments thereto.

2.13 *Assets.* The Company and/or the Subsidiaries have good and marketable title to all of the properties and assets reflected in the Balance Sheet or acquired after the date thereof (except properties sold or otherwise disposed of since the date thereof in the ordinary course of business) free and clear of all Liens, except for Permitted Encumbrances. Schedule 2.13A contains a true and accurate list of all vehicles owned by the Company. As used herein, the term "Permitted Encumbrances" shall mean, with respect to or upon any of the property or assets of the Company or its Subsidiaries, whether owned as of the date hereof or thereafter, any (1) Liens on property of the Company and its Subsidiaries existing on the date of this Agreement and set forth on Schedule 2.13B of the Seller Disclosure Schedule; (2) Liens incurred and pledges and deposits made in the ordinary course of business in connection with workers' compensation; (3) Liens imposed by law, such as carriers', warehousemen's, mechanics', materialmen's, landlords', laborers', suppliers' and vendors' liens, incurred in good faith in the ordinary course of business and securing obligations which are not yet due or which are being contested in good faith by appropriate proceedings as to which the Company or such Subsidiary, as the case may be, shall, to the extent required by GAAP, have set aside on its books adequate reserves; (4) Liens securing the payment of Taxes, either not delinquent or being contested in

good faith by appropriate legal or administrative proceedings and as to which the Company or such Subsidiary, as the case may be, shall, to the extent required by GAAP, have set aside on its books adequate reserves; (5) with respect to owned real property, zoning restrictions and easements, licenses, rights of way, declarations, reservations, provisions, covenants, conditions, waivers, restrictions on the use of property or other title matters of record (and with respect to leasehold interests, mortgages, obligations and Liens incurred, created, assumed or permitted to exist and arising by, through or under a landlord or owner of the leased property, with or without consent of the lessee); and (6) extensions, renewals and replacements of Liens referred to in (1) through (5) of this sentence (provided, that any such extension, renewal or replacement Lien shall be limited to the property or assets covered by the Lien extended, renewed or replaced and that the obligations secured by any such extension, renewal or replacement Lien shall be in an amount not greater than the amount of the obligations secured by the original Lien extended, renewed or replaced); provided, that in each case referred to in (1) through (6) above, such Liens would not materially impair or prevent the operation, value or use of the Company's or its Subsidiaries' assets as presently used, and do not present financial obligations or liabilities of the Company or its Subsidiaries. The Company and the Subsidiaries own or lease, directly or indirectly, all of the assets and properties necessary to carry on their respective businesses or operations as presently conducted. No assets owned by Omega (as defined in Section 5.18 below) are used in the operation of Company or its other Subsidiaries. TransMississippi Pipeline Company ("TMP") was merged with and into the Company as of June 30, 1999.

(a) Real Property.

(i) Schedule 2.13(a)(i) of the Seller Disclosure Schedule contains a list of all leases of real property under which the Company or any Subsidiary is a tenant. With respect to the leased real property described on Schedule 2.13(a)(i) of the Seller Disclosure Schedule, to Seller's knowledge (A) all such leases are in full force and effect and constitute valid and binding obligations of the respective parties thereto; (B) there have not been and there currently are not any defaults thereunder by any party thereto; (C) no event has occurred which (whether with or without notice, lapse of time or the happening or occurrence of any other event) would constitute a default thereunder entitling the lessor to terminate the lease; and (D) the continuation, validity and effectiveness of all such leases under the current rentals and other current terms thereof will in no way be affected by the transactions contemplated by this Agreement.

(ii) Schedule 2.13(a)(ii) of the Seller Disclosure Schedule contains a map showing the pipeline of the Company and its Subsidiaries and a list of all easements or rights of way, road crossings, railroad crossings, water body crossings and any other real property rights (the "Easements"), reasonably necessary to carry on the respective business or operations of the Company or any Subsidiary as presently conducted as shown on said map, it being the intention of the parties that by acquiring the Shares, Purchaser is acquiring the pipeline and the Easements (through the ownership thereof by the Company and its Subsidiaries).

(iii) Each parcel of real property, building, structure and improvement owned by the Company or any Subsidiary (collectively the "Premises") conforms to all applicable Laws of any Governmental Entity in all material respects, including zoning regulations, none of which will, upon the sale of the Shares to Purchaser, prohibit the use of such properties, buildings, structures or improvements, for the purposes for which they are now utilized.

(b) Personal Property. The Company and the Subsidiaries hold fee and/or leasehold title to all the personal property and assets, tangible or intangible, shown on the Balance Sheet of a quality sufficient to allow Purchaser to conduct the business of the Company and the Subsidiaries as presently conducted. None of such assets are subject to any Liens except for Permitted Encumbrances and standard equipment leases.

(c) Accounts Receivable. The accounts receivable of the Company and each Subsidiary reflected in the Balance Sheet (the "Accounts") represent valid obligations arising from sales actually made or services actually performed in the ordinary course of the Company's and each Subsidiary's business. There is no contest, claim or right of set-off under any Company Contract with any obligor of an Account relating to the amount or validity of such Account.

2.14 *Reports and Inspections.* Schedule 2.14 of the Seller Disclosure Schedule contains a list of all material reports of inspections by representatives of any Governmental Entity of the business and properties of the Company or any Subsidiary from January 1, 1999 through the date hereof under OSHA and under all other applicable health and safety Laws of any Governmental Entity.

2.15 *Absence of Certain Business Practices.* To Seller's knowledge, none of Seller, the Company, any of the Subsidiaries, or any other Affiliate of Seller, acting alone or together, has, directly or indirectly: (a) received any rebates, payments, commissions, promotional allowances or any other economic benefit, regardless of its nature or type, from any customer, supplier, trading company, shipping company, governmental employee or other entity or individual with whom the Company or any Subsidiary has done business directly or indirectly; or (b) given or agreed to give any gift or similar benefit to any customer, supplier, trading company, shipping company, governmental employee or other person or entity who is or may be in a position to help or hinder the business of the Company or any Subsidiary (or assist the Company or any Subsidiary in connection with any actual or proposed transaction) which, in either case (a) or (b), would be reasonably expected to subject the Company or any Subsidiary to any damage or penalty in any criminal or governmental litigation or proceeding.

2.16 *Environmental Matters.*

(a) The following definitions shall be applicable only to this Section 2.16:

(i) "Environmental Laws" shall mean any applicable laws, statutes, regulations, rules, ordinances, and codes of governmental agencies of the

United States, the states and localities or municipalities currently in effect designed to minimize, prevent, punish, or remedy damages or threats of damage to the environment or public health caused by the manufacture, use, treatment, storage, disposal, or handling of Hazardous Materials.

(ii) "Hazardous Materials" shall mean chemicals, materials, substances or wastes which are listed, designated, classified as, defined or otherwise determined to be, "hazardous substances", "hazardous materials", "toxic substances", "extremely hazardous substances", or words of similar import or otherwise hazardous or toxic or a pollutant or contaminant under or pursuant to any Environmental Law and specifically including petroleum and friable asbestos or friable asbestos containing materials.

(iii) "Release" shall mean any spilling, emitting, discharging, leaking, pouring, emptying, leaching, escaping, dumping, disposing or other releasing of Hazardous Materials into the environment, whether intentional or unintentional.

(iv) "Environmental Claim" shall mean any:

(A) fines, penalties, judgments, awards, settlements, legal or administrative proceedings, damages, losses, claims, demands and response, investigative, remedial, or inspection costs and expenses arising under Environmental Laws; and

(B) any pending or threatened administrative, regulatory or judicial actions or causes of action, suits, judgments, orders, and notices of noncompliance or violation relating to any Environmental Laws or arising from the presence or Release of any Hazardous Materials.

(v) "Facilities" shall mean any real property currently owned, leased, or operated by the Company or its Subsidiaries and any buildings, structures, or equipment currently owned or operated by the Company or its Subsidiaries.

(b) Except as set forth in Schedule 2.16(b) of the Seller Disclosure Schedule:

(i) the Company and its Subsidiaries are in compliance with all applicable Environmental Laws;

(ii) Seller, the Company and its Subsidiaries have not received any written notice alleging that the Company or its Subsidiaries may be in violation of or subject to liability under any Environmental Law;

(iii) Seller, the Company and its Subsidiaries have not directly or proximately caused any Release of Hazardous Materials at any Facilities or any

other locations controlled by the Company or its Subsidiaries in which the Company or its Subsidiaries has or had an interest which would require reporting or require remedial action under or pursuant to Environmental Law;

(iv) there are no pending or, to Seller's knowledge, threatened Environmental Claims with respect to or adversely affecting any of the Facilities or any other properties and assets in which the Company or its Subsidiaries has or had an interest;

(v) Seller has delivered to Purchaser true and complete copies and results of any reports, studies, analyses, tests, or monitoring possessed or initiated by the Company or its Subsidiaries pertaining to the Release of Hazardous Materials in, on, or under the Facilities, or concerning compliance by the Company or its Subsidiaries with Environmental Laws;

(vi) to Seller's knowledge, except for materials that are commonly present or utilized in the ordinary course of the businesses of the Company and the Subsidiaries, there are no Hazardous Materials present on or at the Facilities, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent, and deposited or located in land, water, sumps or any other part of the Facilities or incorporated into any structure therein or thereon; and

(vii) Seller, the Company and its Subsidiaries have not installed any underground storage tanks at any of the Facilities and, to Seller's knowledge, there are no underground storage tanks at any of the Facilities.

2.17 Intellectual Property. Except for the Trademarks and Logos (as hereinafter defined), the Company or a Subsidiary owns or licenses (and accordingly has the right to use), and Schedule 2.17 of the Seller Disclosure Schedule contains a listing of, each copyright, trademark, trade name, service mark, trade dress, patent, registration of any of the foregoing, and application for any patent or registration (collectively "Intellectual Property Rights") necessary for the Company and the Subsidiaries to carry on their respective businesses as currently conducted. To Seller's knowledge, the conduct of the business of the Company and its Subsidiaries (including the use of the Intellectual Property Rights) as currently conducted does not infringe upon the proprietary rights of any third party and there are no present or threatened infringements of the Intellectual Property Rights by any third party. There are no pending or, to Seller's knowledge, threatened proceedings or litigation or other adverse claims by any person against the use by the Company or any of its Subsidiaries of any Intellectual Property Rights. Except as otherwise set forth on Schedule 2.17 of the Seller Disclosure Schedule, all of said Intellectual Property Rights, the right to use them and the right to convey them are free and clear of all Liens and royalty obligations.

2.18 Employee Benefits. Except as set forth on Schedule 2.18 of the Seller Disclosure Schedule, neither the Company nor any Subsidiary maintains, contributes or is

required to contribute to any "employee welfare benefit plan" (within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974 ("ERISA")), any multiemployer plan, any "employee pension benefit plan" (within the meaning of Section 3(2) of ERISA) or any fringe benefit, profit sharing, deferred compensation, bonus, stock option, stock purchase, pension, retainer, consulting, retirement, welfare, or other incentive plan or Agreement (collectively, "Employee Benefit Plans") and has no liability (whether known or unknown, absolute, accrued, fixed or contingent, matured or unmatured, or otherwise) for any Employee Benefit Plan maintained or contributed to by any Affiliate of the Company or any Subsidiary.

2.19 *Employees.* Neither the Company nor any Subsidiary has any employees. All persons engaged primarily in the business and operations of the Company and each Subsidiary are listed on Schedule 2.19 of the Seller Disclosure Schedule, which for each such person lists the current job title and base salary.

2.20 *Insurance.* Seller has insurance policies (and amounts and types of coverage) that are, in the aggregate, sufficient to protect and insure the Company and each Subsidiary against perils which good business practice demands be insured against or which are normally insured against by other industry members similarly situated.

2.21 *Suppliers.* Since the Financial Statement Date, no supplier of goods or services to the Company or any Subsidiary that has since the Financial Statement Date made sales or provided services representing more than \$25,000 in payments or commitments by the Company or any Subsidiary has: (a) ceased, or indicated any intention to cease, doing business with the Company or any Subsidiary; or (b) changed or indicated any intention to change any material terms or conditions for future supply or sale of products or services.

2.22 *Bank Accounts.* Schedule 2.22 of the Seller Disclosure Schedule lists all bank accounts, lock boxes, post office boxes and safe deposit boxes maintained in the name of or controlled by the Company or any Subsidiary and the names of the persons having access thereto.

2.23 *Books and Records and Agreements.* The books of account, minute books, stock record books and other records of the Company and the Subsidiaries, all of which have been either delivered to Purchaser or made available to Purchaser in accordance with the terms of this Agreement, are complete and correct in all material respects.

2.24 *Public Utility Holding Company Act.* None of the Company or any of its Subsidiaries is a "public utility company" or a "holding company" or a "subsidiary company" of a "holding company" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

2.25 *Regulatory.* Except as disclosed on Schedule 2.25 of the Seller Disclosure, (a) Missouri Gas Company ("MGC") and Missouri Pipeline Company ("MPC") each hold all required certificates of public convenience and necessity to conduct their respective businesses as presently conducted and are in full compliance with all of the terms and conditions of such certificates, (b) MGC and MPC have no current requirements under any prior or current order, directive, demand or request to have to file for any review or other determination of its

rates, tariffs and/or operating terms and conditions and (c) none of Seller, the Company, MGC or MPC have received any written or verbal communication from any governmental or regulatory body directing, demanding or requesting that MPC or MGC file for any review or other determination of its rates, tariffs and/or operating terms and conditions.

2.26 *Customers.* The 5 largest customers of the Company in the last fiscal year and the percentage of the gross revenue of the Company contributed by each is set forth on Schedule 2.26 hereto (the "Material Customers"). To the best of Seller's and the Company's knowledge, no Material Customer (i) has cancelled or threatened to cancel or indicated its intention to cancel or otherwise materially adversely modify its relationship with the Company, (ii) is in breach of any contract with the Company (iii) has asserted that any contract with the Company (or any material provision thereof, including the rates set forth therein) is invalid or unenforceable or (iv) has asserted that it has a right of set off for any reason of any amount in excess of \$5,000.

2.27 *Disclosure.* No representation or warranty made in this Agreement contains any untrue statement of a material fact necessary to make the statement made therein, in light of the statements made therein, not misleading.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller that, except as disclosed in the Purchaser's disclosure schedule delivered to Seller concurrently herewith (the "Purchaser Disclosure Schedule"):

3.1 *Corporate, Organization.* Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Purchaser has the corporate power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not adversely affect the ability of Purchaser to consummate the transactions contemplated by this Agreement. True and complete copies of the articles of incorporation and by-laws of Purchaser, as in effect as of the date of this Agreement, have previously been made available by Purchaser to Seller.

3.2 *Authority; No Violation.* Purchaser has full corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly and validly approved by the Board of Directors of Purchaser. No other corporate proceedings on the part of Purchaser are necessary to approve this Agreement and to consummate the transactions contemplated by this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser and, assuming

due authorization, execution and delivery by Seller and the Company, constitutes a valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms.

(a) Assuming that there are no facts or circumstances concerning Seller, the Company or their respective Affiliates that require registration or filing with any Governmental Entity not otherwise contemplated in this Agreement, the execution, delivery and performance of this Agreement by Purchaser do not, and the consummation by Purchaser of the transactions contemplated by this Agreement will not, (i) constitute a breach or violation of, or default under the articles of incorporation or by-laws of Purchaser, (ii) conflict with, constitute a breach or violation of, or a default under, or give rise to any Lien, any acceleration of remedies or any right of termination under, any indenture, license, contract, agreement or other instrument to which Purchaser or of any of its Subsidiaries is a party or by which any of them or their respective properties or assets may be bound, or (iii) assuming compliance with the applicable requirements of the HSR Act, violate any Law of any Governmental Entity applicable to Purchaser or any of its Subsidiaries or any of their respective properties or assets (but no representation is given regarding any approvals by the Missouri Public Service Commission), except in the case of (ii) and (iii) above for such breaches, violations, defaults, liens, accelerations or rights as would not be reasonably expected, individually or in the aggregate, to adversely affect the ability of Purchaser to consummate the transactions contemplated by this Agreement.

3.3 *Consents and Approvals.* Except for the applicable requirements of the HSR Act, no notice to, filing with, registration, authorization of, exemption by, or consent or approval of, or the taking of any other action in respect of any Governmental Entity or any other entity on the part of Purchaser is necessary for consummation by Purchaser or any of its Subsidiaries of the transactions contemplated by this Agreement, except where the failure to provide such notice, make such filing, or obtain such authorization, exemption, conflict or approval would not, individually or in the aggregate, be reasonably expected to adversely affect the ability of Purchaser to consummate the transactions contemplated by this Agreement.

3.4 *Broker's Fees.* Neither Purchaser nor any of its Affiliates nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any broker's fees, commissions or finder's fees in connection with the transactions contemplated by this Agreement.

3.5 *Legal Proceedings.* Neither Purchaser nor any of its Affiliates is a party to any, and there are no pending or, to Purchaser's knowledge, threatened legal, administrative, arbitral or other proceedings, claims, actions, or governmental or regulatory investigations of any nature against Purchaser or any of its Affiliates which, individually or in the aggregate, would reasonably be expected adversely affect the ability of Purchaser to consummate the transactions contemplated by this Agreement.

3.6 *Acquisition of Shares for Investment.* Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its purchase of the Shares. Purchaser is acquiring the Shares for investment and not with a view

toward or for sale in connection with any distribution thereof, or with any present intention of distributing or selling the Shares. Purchaser agrees that the Shares may not be sold, transferred, offered for sale, pledged, hypothecated or otherwise disposed of without registration under the Securities Act of 1933, as amended, except pursuant to an exemption from such registration available under such Act, and without compliance with foreign securities laws, in each case, to the extent applicable.

ARTICLE IV

COVENANTS OF THE PARTIES

4.1 *Investigation of Business; Access to Properties and Records.* From the date of this Agreement through the Closing, Seller shall use commercially reasonable efforts to cause the Company and its Subsidiaries to afford to representatives of Purchaser reasonable access to the offices, properties, employees, customers, suppliers, books and records of the Company and its Subsidiaries during normal business hours, in order that Purchaser may have a full opportunity to make such investigations as it desires of the affairs of the Company and its Subsidiaries, provided, however, that such investigation shall be at reasonable times and upon reasonable notice and shall not unreasonably disrupt the personnel and operations of any of Seller, the Company or any of the Subsidiaries. All requests for access to the offices, properties, books, and records relating to the Company or its Subsidiaries shall be made to such representatives of Seller as Seller shall designate, who shall be solely responsible for coordinating all such requests and all access permitted hereunder. Without limiting Seller's obligations set forth in the first sentence of this Section, neither Purchaser nor its representatives shall contact any of the employees, customers or suppliers of any of Seller, the Company or the Subsidiaries, in connection with the transactions contemplated by this Agreement, whether in person or by telephone, mail or other means of communication, except as may be jointly scheduled by Purchaser and Seller.

(a) Any information provided to Purchaser or its representatives pursuant to this Agreement shall be held by Purchaser and its representatives in accordance with, and shall be subject to the terms of, the confidentiality agreement dated January 10, 2000 entered into between Seller and R2 Development Inc., (the "Confidentiality Agreement").

(b) Following the Closing Date, Purchaser shall provide Seller, its accountants and counsel, during normal business hours, upon reasonable notice, full access to the books, records, properties and employees of the Company and the Subsidiaries to the extent that such access may be requested for any legitimate purpose at no cost to Seller (other than for reasonable out-of-pocket expenses),

4.2 *Consents and Approvals.* Subject to the terms and conditions of this Agreement, Purchaser and Seller each agree to use their respective reasonable best efforts to promptly (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable Laws of any Governmental Entity to consummate and make effective the transactions contemplated by this Agreement, (ii) obtain and maintain all

approvals, consents, registrations, permits, authorizations and other confirmations required to be obtained from any third party that are necessary, proper or advisable to consummate the transactions contemplated by this Agreement, (iii) lift or rescind any injunction or restraining order or other order adversely affecting its ability to consummate the transactions contemplated by this Agreement, and (iv) fulfill all conditions to this Agreement. In no event, however, will the Company or any Subsidiary, prior to the Closing, commit to any divestiture, or similar transaction or action with respect to any asset or business of the Company or its Subsidiaries, which commitment and implementation may be conditioned upon and effective as of the Closing, for the purpose of obtaining any such approval, consent, registration, permit, authorization or other confirmation without Purchaser's prior written consent. Furthermore, in no event shall either Seller, Purchaser, the Company or any Subsidiary be obligated to (x) pay any material amount of money to any person or to offer or grant other financial or other accommodations to any person in connection with its obligations under this Section 4.2 or (y) provide any undertaking or agreement, or take or refrain from taking any other action in connection with either party's obligations under this Section 4.2, which, in such party's reasonable judgment, would, individually or in the aggregate, adversely affect the continuing business of such party or any of its Affiliates. Subject to applicable Laws of any Governmental Entity relating to the exchange of information, Seller and Purchaser shall have the right to review, in advance, and to the extent practicable each will consult the other on, all submissions and communications relating to the Company and the Subsidiaries or Purchaser, as the case may be, made with any third party and/or any Governmental Entity in connection with the transactions contemplated by this Agreement.

(a) In furtherance and not in limitation of the foregoing, each of Purchaser and Seller agrees to (i) make an appropriate filing of a Notification and Report Form pursuant to the HSR Act with respect to the transactions contemplated by this Agreement as promptly as practicable and in any event within thirty Business Days of the date of this Agreement, (ii) supply as promptly as practicable any additional information and documentary material that may be requested pursuant to the HSR Act and (iii) use reasonable commercial efforts (not including the expenditure of amounts in excess of \$100,000) to complete the review process under the HSR Act to permit the consummation of the transactions contemplated by this Agreement.

(b) In furtherance and not in limitation of the foregoing, if the parties determine in their reasonable discretion that a party must (i) obtain from any Governmental Entity consents, waivers, approvals, authorizations, or Permits in connection with the authorization, execution, and delivery of this Agreement or the consummation of the transactions contemplated hereby or (ii) make any applications or filings with a Governmental Entity under any applicable public utility laws or regulations or any other applicable law of any Governmental Entity with respect to this Agreement or the transactions contemplated hereby, including without limitation applications for approval by any Governmental Entity or a request for a declaratory ruling from any Governmental Entity with respect to the jurisdiction of such Governmental Entity over the transactions contemplated hereby, the parties shall fully cooperate with each other in such regard and use their respective reasonable best efforts to obtain such Permits and to make such applications or filings.

4.3 *Further Assurances.* Seller and Purchaser agree that, from time to time, whether before, at or after the Closing Date, each of them will execute and deliver such further instruments of conveyance and transfer and take such other action as may be necessary to carry out the purposes and intents of this Agreement.

4.4 *Conduct of Business.* Without limiting the Seller's obligations pursuant to Section 4.5 hereof, from the date of this Agreement through the Closing, except as disclosed on Schedule 4.4 attached hereto or otherwise provided for in, or contemplated by, this Agreement, and except as consented to or approved by Purchaser in writing (which consent or approval shall not be unreasonably withheld), Seller covenants and agrees that:

(a) each of the Company and the Subsidiaries shall operate its business in the ordinary course in all material respects;

(b) none of the Company or the Subsidiaries shall (i) amend its respective certificate or articles of incorporation or by-laws or comparable organizational documents or (ii) make any change in its authorized or issued capital stock;

(c) none of the Company or the Subsidiaries shall (i) issue, sell or agree to issue or sell any shares of its capital stock, or any securities convertible into, or options with respect to, or warrants to purchase or rights to subscribe for, any shares of its capital stock or (ii) redeem, purchase or otherwise acquire, directly or indirectly, any of the Shares or other securities of the Company or any Subsidiary; and

(d) none of Seller, the Company or the Subsidiaries will, or will cause the Company or any Subsidiary to, take any affirmative action, or fail to take any reasonable action within their control, as a result of which any of the changes or events listed in Section 2.9 is likely to occur.

Without limiting the rest of Section 4.4, from the date of this Agreement through the Closing, none of the Company or the Subsidiaries shall enter into any agreement (or renewal of any contracts with existing customers) (i) with a term extending beyond December 31, 2001, other than gas transportation agreements at maximum tariff rates, or (ii) which requires construction of any new facilities or purchase of any new equipment.

Notwithstanding the provisions of this Section 4.4, nothing in this Agreement shall be construed or interpreted to prevent the Company or the Subsidiaries from (i) paying or making regular or special dividends or other distributions consisting of cash, (ii) making or accepting inter- or intra-company advances to, from or with one another or with Seller or any of its Affiliates, or (iii) engaging in any transaction incident to the normal cash management procedures of Seller and its Affiliates.

4.5 *Preservation of Business.* Subject to the terms and conditions of this Agreement, Seller shall, and shall cause the Company and the Subsidiaries to, use reasonable commercial efforts to preserve the Company's business intact, to keep available to the Company and the Subsidiaries the services of the Company Employees (as defined below) and to preserve

the goodwill of customers and others having business relations with the Company and the Subsidiaries in all material respects.

4.6 *Public Announcements.* Except as otherwise required by law, each of Seller and Purchaser will consult with the other and obtain the consent of the other (which consent shall not be unreasonably withheld or delayed) before issuing, or permitting any agent or Affiliate to issue, any press releases or otherwise making or permitting any agent or Affiliate to make, any public statements with respect to this Agreement and the transactions contemplated by this Agreement; provided, however, the parties agree that the Seller may make such disclosure as may be required by applicable securities law or by obligations pursuant to any listing agreement with any national securities exchange without prior consultation. No press release or public statement with respect to the Agreement or the transactions contemplated hereby shall be made until Purchaser delivers the Deposit to Seller under Section 1.3 above subject to requirement of applicable law (including securities laws) and such listing agreements.

4.7 *Corporate Names.* Purchaser acknowledges that, from and after the Closing Date, Purchaser shall have no rights with respect to any names, marks, trade names, trademarks and logos (collectively, "Trademarks and Logos") incorporating "UtiliCorp" or "EnergyOne" or "Aquila" by themselves or in combination with any other Trademark or Logo, including, without limitation, the corporate design logos associated therewith, and that Seller shall retain absolute and exclusive proprietary rights thereto or goodwill represented thereby or pertaining thereto. Purchaser agrees that promptly after the Closing Date it will amend the Company's certificate of incorporation to remove the "UtiliCorp" or "EnergyOne" or "Aquila" name and that from and after the Closing Date it will not, nor will it permit any of its Affiliates to, use any name, phrase or logo incorporating "UtiliCorp" or "EnergyOne" or "Aquila" or such corporate design logo or any confusingly similar name, phrase, logo or corporate design logo in or on any of its literature, sales materials or products or otherwise in connection with the sale of any products or services; provided however, that Purchaser may continue to use any printed literature, sales materials, purchase orders and sales or lease agreements, and sell any products, that are included in the inventories of the Company or any of its Subsidiaries on the Closing Date and that bear a name, phrase or logo incorporating "UtiliCorp" or "EnergyOne" or "Aquila" or such corporate design logo, until the supplies thereof existing on the Closing Date have been exhausted, but in any event for not longer than 30 days from the Closing Date or, in the case of field location signs, 180 days from the Closing Date.

4.8 *Insurance.* Purchaser acknowledges that the programs and policies of insurance maintained by Seller to provide coverage in favor of the Company and the Subsidiaries will be terminated effective 12:01 A.M. on the day following the Closing Date. Except as contemplated in this Agreement, from and after the Closing Date, all risk of loss with respect to properties and assets of the Company and the Subsidiaries shall be borne by Purchaser.

4.9 *Guaranties.* Purchaser shall use its reasonable commercial efforts (including an offer of a substitute guarantee, letter of credit or undertaking of the Purchaser) to cause or procure the release, as of the Closing Date, of all liabilities or obligations of Seller or any Affiliate of Seller (other than the Company and Subsidiaries) (each of Seller and any such Affiliate other than the Company and the Subsidiaries being referred to in this Section 4.9 as a

"Guarantor") from any guarantees (whether of payment or performance), letters of credit or other similar undertakings or credit support arrangements such Guarantor has delivered to others for the benefit of the Company or any Subsidiary, all of which are listed on Schedule 4.9 hereto. If after the Closing Date one or more Guarantor(s) remains liable for any such liabilities, Purchaser shall continue to use its reasonable commercial efforts to cause or procure the Guarantors' release from such liabilities and agrees to indemnify and hold harmless such Guarantor(s) from any cost, expense or loss (including reasonable attorneys' fees) incurred by such Guarantor(s) arising directly or indirectly therefrom. Any reasonable out-of-pocket expense incurred by any Guarantor with respect to maintaining such support for periods after the Closing Date shall be reimbursed to such Guarantor by the Company or Purchaser.

4.10 *Notification.* Between the date hereof and the Closing Date, each of Seller and Purchaser will promptly notify the other in writing if it becomes aware of any fact or condition that, individually or together with other facts or conditions, causes or constitutes a material breach of any of Seller's or Purchaser's representations and warranties as of the date of this Agreement, or if it becomes aware of the occurrence after the date of this Agreement of any fact or condition that, individually or together with other facts or conditions, would cause or constitute a material breach of any such representation or warranty had it been made as of the time of occurrence or discovery of such fact or condition. Should any such fact or condition require any change in the Seller Disclosure Schedule if the Seller Disclosure Schedule were dated the date of the occurrence or discovery of any such fact or condition, Seller will promptly deliver to Purchaser a supplement to the Seller Disclosure Schedule specifying such change. During the same period, each of Seller and Purchaser will promptly notify the other in writing of the occurrence of any material breach of any covenant of Seller or Purchaser or the occurrence of any event that may make the satisfaction of the conditions in Article VII impossible or unlikely. For the avoidance of doubt, no such disclosures or supplements shall affect Seller's or Purchaser's rights under Article VII or Article VIII. Furthermore, if (a) the conditions to Purchaser's obligation to close are not satisfied due to disclosures made by Seller in any supplement to the Seller Disclosure Schedule delivered by Seller to Purchaser as described above, (b) such disclosures reasonably should have been made in the Seller Disclosure Schedule delivered by Seller to Purchaser on the date hereof, and (c) as a result, the Closing does not occur, then Seller shall reimburse Purchaser's reasonable out-of-pocket costs (including attorneys' fees and bank commitment fees) incurred in connection with this Agreement and the transactions contemplated hereby, not to exceed \$1.5 million. If, however, Seller delivers to Purchaser a supplement to the Seller Disclosure Schedule as described above, and if the Closing occurs, the supplement shall be part and parcel of the Seller Disclosure Schedule for all purposes under this Agreement (including without limitation Articles II and IX), but Seller shall pay to Buyer one-half of the Damages that Purchaser demonstrates to Seller's reasonable satisfaction will be incurred as a result of such disclosure, not to exceed \$150,000. Notwithstanding anything herein to the contrary, but subject to Section 8.1(g) below, if Seller delivers any changes or additions to Schedule 2.13(a)(ii) or Schedule 2.16(b) within five Business Days after the execution and delivery hereof (the "Schedule Supplement Date"), such delivery shall for all purposes hereunder be deemed to have occurred on the date hereof.

4.11 *No Negotiation.* Until such time, if any, as this Agreement is terminated pursuant to Article VIII, Seller will not, and will cause each of Company and Subsidiaries not to,

directly or indirectly solicit, initiate or encourage any inquiries or proposals from, discuss or negotiate with, provide any non-public information to, or consider the merits of any unsolicited inquiries or proposals from, any party other than Purchaser or its Affiliates relating to any transaction involving the sale of the securities, business, assets or properties (other than in the ordinary course of the operation of the businesses or indirectly through any transaction involving Seller or any of its Affiliates that will not affect the sale of the Shares to Purchaser under this Agreement) of the Company or any Subsidiary, or any merger, consolidation, business combination or similar transaction involving the Company or any Subsidiary.

4.12 *Resignations.* At Closing, Seller shall cause the Company and each of the Subsidiaries to cause the persons listed on Schedule 4.12 attached hereto to resign from their positions as officers, directors or other similar positions of the Company and the Subsidiaries.

4.13 *Release.* Seller shall execute and deliver to Purchaser at the Closing a release in substantially the form attached hereto as Exhibit A.

4.14 *Employees.* Prior to the Closing, Seller shall not, and shall cause each of the Company and the Subsidiaries and its Affiliates not to, discourage any employee of Seller listed on Schedule 6.1 attached hereto from transferring their employment to the Company or any Subsidiary if the Company or any Subsidiary seeks to employ such employee and such employee chooses to accept such employment or hinder any attempt by the Company or any Subsidiary to hire any such employee. For a period of 3 years following the Closing, neither Seller nor any of its Affiliates shall, directly or indirectly, solicit (other than by general solicitations not targeted at specific individuals, such as help-wanted advertising) any employee listed on Schedule 6.1 who accepts employment with the Company or any Subsidiary and remains in such employment. The parties acknowledge that Seller has a severance package for employees and will have job openings with Seller or one or more Affiliates of Seller and that neither (a) the existence of, informing the employees of the existence of, or making payments under said severance package, nor (b) the existence of, informing the employees of the existence of, or hiring the employees to fill said job openings will constitute a violation of this Section.

4.15 *Noncompetition Agreement.*

(a) For a period of 5 years after the Closing neither Seller nor any of its Affiliates shall, directly or indirectly, either individually or as a principal, partner, agent, employee, employer, consultant, stockholder, joint venturer, or investor, or as a director or officer of any corporation or association, or in any other manner or capacity whatsoever, construct a pipeline for the transportation of natural gas or convert a pipeline for some other resource into a natural gas pipeline, in either case located anywhere in the following counties located in the State of Missouri: Pike, Lincoln, St. Charles, Franklin, Washington, Crawford and Pulaski. The parties agree, however, that it shall not be a violation of this Section 4.15(a) if Seller or any of its Affiliates directly or indirectly constructs a pipeline for the transportation of natural gas to a merchant electricity generating facility owned or operated, in whole or in part, by Seller or any of its Affiliates.

(b) The parties believe the covenants against competition contained in Section 4.15(a) are reasonable and fair in all respects, and are necessary to protect the interests of Purchaser. However, in case any one or more of the provisions or parts of a provision contained in Section 4.15(a) shall, for any reason, be held to be invalid, illegal or unenforceable in any respect in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or part of a provision of Section 4.15(a), but Section 4.15(a) shall be reformed and construed in any such jurisdiction as if such invalid or illegal or unenforceable provision or part of a provision had never been contained herein and such provision or part shall be reformed so that it would be valid, legal and enforceable to the maximum extent permitted in such jurisdiction.

4.16 *Non-Disclosure.* Neither Seller nor any of its Affiliates shall, at any time within 3 years after the Closing, use or disclose, directly or indirectly, any Company Confidential Information (as defined below) to the detriment of Purchaser, the Company or any Subsidiary and without any reasonable commercial or regulatory justification; provided that, for the avoidance of doubt, this Section 4.16 shall not limit in any way the taking of any prudent action by Seller on behalf of its customers; provided, however, notwithstanding the foregoing phrase to the contrary, Company Confidential Information shall not be used in such action. As used herein, the term "Company Confidential Information" means non-public information that is disclosed to or known by Seller or an Affiliate of Seller as a consequence of its ownership and operation of the business and assets of the Company and its Subsidiaries, and (ii) relates to the business or assets of the Company or its Subsidiaries. Company Confidential Information shall not include (x) any information generally known in the industry on the date hereof (y) any information which becomes generally known in the industry after the date hereof through no fault of Seller or any of its Affiliates or (z) any information which is disclosed after the date hereof to Seller or an Affiliate not in violation of any rights of Purchaser known to Seller or such Affiliate. In the event that Seller or any of its Affiliates or anyone to whom such persons have transmitted the Company Confidential Information becomes legally compelled (by interrogatories, subpoena, civil investigative demand or similar process) to disclose any of the Company Confidential Information, Seller will provide to Purchaser prompt written notice of such demand so that Purchaser may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Section. In the event that such protective order or other remedy is not obtained, or that Purchaser waives compliance with the provisions of this Agreement, Seller may and will furnish only that portion of the Company Confidential Information which is legally required and will exercise its best efforts to obtain reliable assurances that confidential treatment will be accorded the Company Confidential Information.

4.17 *Data and Other Information.* At the Closing, Seller shall deliver to Purchaser all data and information owned by the Company or a Subsidiary or used in the business of the Company and its Subsidiaries but in Seller's possession, including without limitation, customer files, books, records, contracts, maps, plats, surveys and photographs, whether in electronic format or otherwise; provided, however, that in the case of data and information used in the business of the Company and its Subsidiaries but in Seller's possession, such delivery shall not include data and information that (a) also relate to or are used in connection with other businesses of Seller or any of its other Affiliates, (b) cannot reasonably be redacted or otherwise edited to apply only to the business of the Company and its Subsidiaries,

and (c) are not necessary for the operation of the business of the Company and its Subsidiaries. Seller shall use reasonable commercial efforts to accommodate Purchaser's reasonable formatting requests in respect of such data and information in electronic format.

ARTICLE V

TAX MATTERS

5.1 *Definitions.* For purposes of this Agreement, the following terms shall have the meanings ascribed to them below:

(a) "Adverse Consequences" means all actions, suits, proceedings, hearings, investigations, charges, complaints, claims, demands, injunctions, judgments, orders, decrees, rulings, damages, dues, penalties, fines, costs, amounts paid in settlement, obligations, taxes, Consolidated Income Taxes, Other Taxes, liens, losses, expenses, and fees, including court costs and attorney's or accountant's fees and expenses.

(b) "Consolidated Income Taxes" means Income Taxes filed on a consolidated, combined or unitary basis that include Seller or any of its subsidiaries (other than the Company or any of its Subsidiaries), on the one hand, and the Company or any of its Subsidiaries, on the other hand.

(c) "Income Taxes" means federal, state or local taxes measured by net income or capital gain.

(d) "Liability" means any liability (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liability for Consolidated Income Taxes, Other Taxes or Taxes.

(e) "Other Taxes" means Taxes other than Consolidated Income Taxes.

(f) "338 Forms" means all returns, documents, statements and other forms that are required to be submitted to any taxing authority in connection with the 338 Election (as hereinafter defined), including any "statement of Section 338 election" and Internal Revenue Service Form 8023 (together with any schedules or attachments thereto) that are required pursuant to any tax laws.

5.2 *Section 338(h)(10) Election.* Purchaser and Seller and Seller's Subsidiaries shall join in making a timely election under Section 338(h)(10) of the Code and the Treasury Regulations promulgated thereunder and any similar state statute or regulation with respect to the transactions contemplated hereunder involving the Company and its Subsidiaries (the "338 Election"). Purchaser shall execute any and all documents (including, without limitation, the 338 Forms) and take any and all action necessary to cause the 338 Election to become effective, and Seller shall use reasonable efforts to cooperate with Purchaser to prepare,

complete, and file such forms. In connection with the 338 Election, Purchaser and Seller shall cooperate to reach a mutually acceptable allocation of Purchase Price among the assets, which allocation shall be made in accordance with Schedule 5.2 (which shall be consistent with Section 1.2 hereof) and shall be reasonable, based on fair market values and consistent with Section 338 of the Code and any comparable provisions of state or local income tax law or regulation. Unless otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code, Purchaser and Seller each shall report, act and file in all Income Tax respects and for all Income Tax purposes consistent with such allocation.

5.3 *Tax Indemnification by Seller.* Seller shall be liable for, and shall indemnify and hold harmless Purchaser, the Company, the Subsidiaries, and any successors thereto, and their respective officers, directors, employees and agents (collectively, the "Purchaser Indemnitees") from and against, all Adverse Consequences the Purchaser Indemnitees may incur or suffer resulting from, arising out of, or relating to:

(a) any Liability for Taxes of the Company or any of its Subsidiaries (not including any amounts for Taxes included in the Working Capital Adjustment in Section 1.5) (i) incurred with respect to any taxable period ending on or before the Closing Date, other than Income Taxes caused by the Liability of the Company and its Subsidiaries under Treasury Regulations Section 1.1502-6, (ii) accruing with respect to any taxable period resulting from a breach of any representations or warranties contained in Section 2.11 or Article V hereof, or (iii) incurred as a result of any actions taken pursuant to Section 1.2(a);

(b) the timely and proper making of the 338 Election, or Seller's inability or failure to timely or properly make the 338 Election;

(c) the settlement or other resolution (without the consent of Purchaser or the Company) of a proposed tax adjustment in respect of Taxes of the Company or any of its Subsidiaries which relates to a tax period ending on or before the Closing Date. For example, if Seller agrees in an income tax audit to reduce the depreciable basis of property acquired by the Company before the Closing Date, Seller shall be liable for any additional taxes due from the Company by reason of reduced depreciation deductions; and

(d) any and all sales taxes arising as a result of the sale and purchase of the Shares contemplated by this Agreement.

5.4 *Tax Indemnification by Purchaser.* Purchaser shall be liable for, and shall indemnify and hold harmless Seller, its Affiliates (other than the Company and its Subsidiaries), and any successors thereto, and their respective officers, directors, employees and agents (collectively, the "Seller Indemnitees") from and against, all Adverse Consequences the Seller Indemnitees may incur or suffer resulting from, arising out of, or relating to:

(a) any Liability for Taxes of Purchaser or any of its Affiliates (other than the Company or its Subsidiaries);

(b) any Liability for Taxes of the Company or any of its Subsidiaries (other than such Taxes for which Seller is responsible under Section 5.3) accruing after the Closing Date; and

(c) Purchaser's inability or failure to timely or properly make the 338 Election.

5.5 *Indemnity Payments.* With respect to any indemnity payment under this Sections 5.3 or 5.4, the parties agree to treat, to the extent permitted by law, all such payments as an adjustment to the consideration paid for the sale and transfer of the Shares of the Company hereunder, unless otherwise required pursuant to a "determination" within the meaning of Section 1313(a) of the Code. The parties also agree that the indemnifying party shall pay the indemnified party an additional or lesser amount sufficient to make such indemnified party whole, taking into account any deductions, credits or other tax benefits allowable with respect to the loss for which indemnification is required and any taxes payable on or with respect to such indemnity payment.

5.6 *Survival.* Any representation, warranty and agreement set out in Section 2.11 and/or Article V hereof shall survive until the later of the final resolution of any judicial or administrative proceeding involving the matter or the expiration of any applicable statute of limitations (including any suspensions, tollings or extensions thereof).

5.7 *Defense of Tax Claim Subject to Seller's Indemnity.* Whenever Purchaser, the Company or any Subsidiary receives any communication in which any taxing authority asserts a claim, makes an assessment, serves notice of a proposed audit or otherwise disputes the amount of Taxes in respect to which indemnity may be sought against Seller pursuant to Section 5.3 of this Agreement, Purchaser will promptly (and in any event within 20 days thereafter) notify Seller in writing, and Seller will have the right to control any resulting meetings, conferences or proceedings and to determine whether and when to settle any such claim, assessment or dispute to the extent such proceedings or determinations could affect the amount of Tax for which Seller is responsible. Purchaser and the Company shall reasonably cooperate in the preparation for and participation in any meetings, conferences or proceedings Seller controls. Seller agrees to pay to Purchaser and the Company all of their reasonable expenses which they shall incur in connection with such cooperation. Purchaser may request that Seller decline to take any further action with respect to any claim, demand or deficiency described herein, and Seller thereafter shall take no action, provided the Purchaser Indemnitees have notified Seller in writing that they waive their right to indemnification for any liability resulting therefrom. In the event Seller requests the Company to pay Taxes to a taxing authority prior to contesting the assessment thereof and thereafter to file a claim or suit for refund, Seller shall advance to the Company, on an interest-free basis, the amount of any such payment, after which the Company shall promptly pay the amount to the governmental authority as directed by Seller.

5.8 *Defense of Tax Claim Subject to Purchaser's Indemnity.* Whenever Seller receives any communication in which any taxing authority asserts a claim, makes an assessment, serves notice of a proposed audit or otherwise disputes the amount of Taxes in respect to which indemnity may be sought against Purchaser pursuant to Section 5.4 of this Agreement, Seller will

promptly (and in any event within 20 days thereafter) notify Purchaser in writing, and Purchaser and the Company will have the right to control any resulting meetings, conferences or proceedings and to determine whether and when to settle any such claim, assessment or dispute to the extent such proceedings or determinations could affect the amount of Tax for which Purchaser is responsible. Seller shall reasonably cooperate in the preparation for and participation in any meetings, conferences or proceedings Purchaser and the Company control. Purchaser agrees to pay to Seller all of its reasonable expenses which it shall incur in connection with such cooperation. Seller may request that the Purchaser and the Company decline to take any further action with respect to any claim, demand or deficiency described herein, and Purchaser and the Company thereafter shall take no action, provided the Seller Indemnitees have notified the Purchaser in writing that they waive their right to indemnification for any liability resulting therefrom. In the event Purchaser or the Company requests Seller to pay Taxes to a governmental authority prior to contesting the assessment thereof and thereafter to file a claim or suit for refund, Purchaser shall advance to Seller, on an interest-free basis, the amount of any such payment, after which the Seller shall promptly pay the amount to the governmental authority as directed by Purchaser.

5.9 *Filing Responsibility.*

(a) Seller shall prepare (or cause to be prepared) and file (or cause to be filed) the consolidated federal income tax return of Seller's Affiliated group and all other consolidated, combined or unitary tax returns of Seller or its Tax Affiliates which include the Company, and shall report the operations of the Company in such Tax Returns for all taxable periods of the Company ending on or prior to the Closing Date. Except as otherwise provided in this Section 5.9, Purchaser shall be responsible for filing all Tax Returns required to be filed by or on behalf of the Company or any of its Subsidiaries after the Closing Date. Those Tax Returns which include any taxable period beginning before and ending after the Closing Date shall be filed on a basis which is consistent with the manner in which Seller or its Tax Affiliates filed such Tax Returns in the past, unless a contrary treatment is required by law. Purchaser shall not, and shall cause the Company and its Subsidiaries not to, file any amended returns for any tax period (or portion thereof) ending on or prior to the Closing Date, without Seller's prior written consent.

(b) With respect to any Tax Return required to be filed by Purchaser for a taxable period of the Company or any Subsidiary which includes (but does not close on) the Closing Date, Purchaser shall provide Seller with copies of such completed Tax Return and a statement (the "Statement") certifying the amount, if any, of tax shown on such Tax Return that is allocable to Seller pursuant to Article V (subject to, for the avoidance of doubt, any reserves included in the Working Capital Adjustment) at least 20 Business Days prior to the due date for the filing of such Tax Return, and Seller and its authorized representatives shall have the right to review such Tax Return and Statement prior to the filing of such Tax Return. Seller and Purchaser agree to consult and resolve in good faith any issues arising as a result of the review of such Tax Return and Statement by Seller or its authorized representatives and to mutually consent to the filing of such Tax Return. No later than 3 days before the due date for payment of Taxes with respect

to such Tax Return, Seller shall pay to Purchaser an amount equal to the Taxes shown on the Statement as being allocable to Seller.

5.10 *Tax Elections.* No new elections with respect to Taxes or any changes in current elections with respect to Taxes affecting the Company shall be made by Seller after the date of this Agreement without the prior written consent of Purchaser.

5.11 *Cooperation.* Upon Purchaser's reasonable request, from time to time, Seller shall deliver or make available to Purchaser all information (including, without limitation, all work papers, schedules, memoranda and other information prepared by Seller or its Tax Affiliates, Subsidiaries and agents, relating to the assets of the Company) reasonably available to Seller and necessary to the preparation of the Company's Returns for periods ending after the Closing Date. Seller shall also provide to Purchaser, upon Purchaser's written request and after they become available to Seller, copies of the Company's separate pro forma federal income and state income tax returns for all tax years of the Company in which the Company was included in Seller's federal consolidated income tax return and for all tax periods ending on or prior to the Closing Date, together with any data or schedules reasonably necessary to support the computations and information shown on such returns. In the event of an audit of Purchaser or the Company by a taxing authority with respect to any Return for any taxable period or periods ending subsequent to the Closing Date, Seller shall provide Purchaser with such factual information which Seller possesses as Purchaser may reasonably request, in writing, with respect to the Company and shall otherwise provide such assistance as Purchaser may reasonably request in connection with such audit. Seller shall maintain and preserve its records with respect to the Company for at least six years from the Closing Date. Upon Seller's reasonable request, from time to time, Purchaser shall deliver or make available to Seller all information reasonably available to Purchaser and necessary to the preparation of Seller's Returns for periods ending on or before the Closing Date. In the event of an audit of the Company or any Subsidiary (or of the Seller in respect of the Company or any Subsidiary), Purchaser or the Company shall provide Seller with such factual information which Purchaser, the Company or any of its Subsidiaries possesses as Seller may reasonably request, in writing, with respect to the Company and its Subsidiaries and shall otherwise provide such assistance as Seller may reasonably request in connection with such audit.

5.12 *Tax Refunds.*

(a) Seller shall be entitled to, and Purchaser agrees to promptly pay to Seller, all foreign, federal, state and local refunds and interest thereon (including, without limitation, as a credit or offset against any other Taxes) (collectively "Refunds"), if any, received by Purchaser or the Company to the extent attributable to (i) Taxes paid with respect to Returns of the Company for all taxable periods ending on or prior to the Closing Date, or (ii) any Taxes for which Seller has indemnified the Purchaser Indemnitees pursuant to this Agreement.

(b) In the event and to the extent that Seller or any of its Tax Affiliates become entitled to a refund or credit of Taxes for any taxable period ending on or before the Closing Date attributable solely to the carryback of losses, credits or similar items

from any taxable period beginning after the Closing Date and attributable to the Company, Seller shall pay to Purchaser the amount of such refund or credit, within 30 days of receipt of such refund or credit together with interest accrued thereon at the rate and in the manner specified in Section 6621 of the Code for overpayments in respect to federal Income Taxes and at the rate provided by applicable law for overpayments in respect of Other Taxes, provided that (i) Purchaser shall indemnify and hold harmless Seller and its Tax Affiliates from and against any Liability, including interest and penalties, assessed against Seller or any of its Affiliates by reason of the reduction or disallowance and (ii) Seller shall not be obligated to use any such carryback item in preference to any carryback item which Seller or any of its Affiliates may otherwise use.

5.13 *Income Tax Liabilities.*

(a) Subject to Section 5.2, the sale and transfer of the Shares of the Company hereunder shall be effective for state or local income tax purposes as of the Closing Date (including under the laws of any taxing jurisdiction which does not recognize a short tax period in respect of the sale and transfer of the Shares), and all income, deductions, losses, gains and credits accrued or incurred before the Closing Date shall be reportable by Seller.

(b) Subject to Section 5.2, in order to apportion any state or local income taxes relating to a taxable period that includes, but that would not (except for this Section 5.13) end on the Closing Date, Seller and Purchaser will, to the extent permitted by applicable law, elect with the relevant state and local taxing authority to close the taxable period of the Company on the Closing Date. In any case where applicable law does not permit the Company to close its taxable year on the Closing Date, then such income taxes, if any, attributable to the taxable period of the Company that includes the Closing Date shall be allocated to Seller for the portion of the taxable period up to and including the Closing Date and to Purchaser for the portion of the taxable period subsequent to the Closing Date. For these purposes, such income taxes for the portion of the taxable period up to and including the Closing Date shall be determined in the case of a tax based on net income, on the basis of an interim closing of the books as of the Closing Date.

(c) For the avoidance of doubt, except as otherwise provided herein, Seller and Purchaser shall be responsible for their own respective Income Taxes.

5.14 *Article V to Control.* To the extent that there is a conflict between any provision of Article V and any other provision of this Agreement, the provisions of Article V shall control.

5.15 *Tax Sharing Agreements.* All tax-sharing agreements or similar agreements with respect to or involving the Company shall be terminated prior to the Closing Date, and, after the Closing Date, the Company shall not be bound thereby or have any liability thereunder for amounts due in respect of periods prior to the Closing Date.

5.16 *Plan of Liquidation.* Notwithstanding anything to the contrary in this Agreement, Seller retains the right to adopt, prior to Closing, an agreement and plan of liquidation (the "Plan") with the Company in the form attached hereto as Schedule 5.16 to effect a complete liquidation of the Company for Federal Income Tax purposes under Section 332 of the Code. Purchaser acknowledges that as a result of the plan of liquidation so adopted, the Company's Subsidiary named Omega Pipeline Company, a Delaware corporation ("Omega"), will become a direct, wholly owned subsidiary of Seller, and, accordingly, prior to the Closing Date, Company will no longer own any shares of, or hold any other interest in, Omega or any of its assets or businesses. Purchaser also acknowledges that in the event Seller does not so adopt a plan of liquidation, Purchaser and the Company may take such other corporate actions as may be necessary to ensure that prior to the Closing Date the Company will no longer own any shares of, or hold any other interest in, Omega or any of its assets or businesses. In any event, for the avoidance of doubt, and notwithstanding any other provision of this Agreement to the contrary, the parties hereby affirm (a) their understanding and agreement that the Company will not, as of the Closing Date, own any shares of, or hold any other interest in, Omega or any of its assets or businesses, and (b) that for all purposes of this Agreement (other than this Section 5.16), Omega is not a Company Subsidiary. Seller shall be solely responsible for all Adverse Consequences as a result of the Plan.

ARTICLE VI

EMPLOYEE MATTERS

6.1 *Transfer of Employees.* Subject to Purchaser's hiring requirements, Seller, the Company and Purchaser shall take all steps necessary or appropriate so that each individual who is an employee of Seller seconded to the Company or a Company Subsidiary and who is listed on Schedule 6.1 of the Seller Disclosure Schedule (the "Company Employees") is offered a transfer to the employment of the Company or one of the Company Subsidiaries at substantially the same base cash compensation as such individuals were employed immediately before such transfer. Seller represents that no action by Seller will cause the Company Employees not to be "at-will" employees when employed by the Company. Seller shall be responsible for all of its employees who are not Company Employees. In the case of all Company Employees, such transfer shall be effective not later than the Closing, and the Company Employees' "Transfer Date" shall be the Closing Date. Purchaser shall retain all liabilities relating to its hiring decisions.

6.2 *Cash Compensation Generally.* Effective as of the Closing Date, the Company and the Company Subsidiaries shall assume and be solely responsible for all wages, salary, overtime pay, bonuses, incentive pay, vacation pay and other cash compensation of Company Employees, regardless of when such compensation accrues or becomes payable and regardless of whether such compensation is for periods before, on or after the Closing Date to the extent that with respect to amounts prior to the Closing, such amounts are accrued as expenses in the calculation of Working Capital. The Company Employees will be ineligible for any incentive payment under Seller's Year 2001 Annual Incentive Plan ("AIP") should the Closing Date be prior to the pay-out date under the AIP. If the Company Employees are ineligible for an incentive payment under the AIP because the Closing Date occurs prior to the pay-out date,

Seller shall pay the Company Employees who accept employment with the Company or one of the Subsidiaries, within thirty (30) days following the Closing Date, an amount equal to the annual incentive award they would have earned based on a target level of personal and Seller performance under the AIP, pro-rated for the portion of the year 2001 the Company Employees worked for Seller or Seller's Affiliates, less any required withholdings. For the avoidance of doubt, no liability account relating to amounts payable under the AIP will be included in the calculation of Working Capital.

6.3 *Employee Benefits Generally.* Except as provided in Section 6.4 below, effective as of the Closing Date, the Company Employees shall cease to be active participants in the Plans. Purchaser, the Company and the Company Subsidiaries shall have no obligations and shall assume no liabilities with respect to the Employee Benefit Plans.

(a) From and after the Closing Date but except as provided in Section 6.4 below, the Company, the Company Subsidiaries and Purchaser shall be solely responsible for providing Company Employees with employee benefits (including without limitation welfare and savings benefits, including health, life, disability, and 401(k) benefits), consistent with benefits provided to other employees of Purchaser.

(b) For purposes of eligibility to participate and vesting under all compensation and benefit plans applicable to Company Employees after the Closing, Purchaser, the Company and the Company Subsidiaries shall give Company Employees credit for all service with Seller and its Affiliates before the Closing Date.

6.4 *Welfare Benefits and Workers Compensation.* Without limiting the generality of the above provisions, this Section 6.4 contains certain specific provisions regarding the provision of benefits under "welfare plans" as defined in Section 3(l) of ERISA ("Welfare Benefit Plans") and of workers compensation benefits.

(a) Effective as of 12:01 a.m. on the first day of the first calendar month following the Closing Date (the "Plan Date"), Purchaser shall cause the Company Employees to be covered by Welfare Benefit Plans sponsored by Purchaser and/or its Affiliates (and Seller shall continue to provide coverage for Company Employees prior to such Date subject to the terms of such plans).

(b) Seller shall be responsible for (i) claims of Company Employees and their eligible beneficiaries and dependents for workers compensation and under Welfare Benefit Plans that are incurred on or before the Plan Date, and (ii) claims relating to continuation of health coverage required pursuant to Section 4980B of the Code or Part 6 of Subtitle B of Title I of ERISA ("COBRA Coverage") attributable to "qualifying events" occurring on or before the Plan Date with respect to any Company Employees and their eligible beneficiaries and dependents. Purchaser, the Company and the Company Subsidiaries shall be solely responsible for (A) claims of Company Employees and their eligible beneficiaries and dependents for workers compensation benefits and claims under Welfare Benefit Plans that are incurred after the Plan Date, and (B) claims relating to COBRA Coverage or any applicable continuation provisions of state law

attributable to "qualifying events" occurring after the Plan Date with respect to Company Employees and their beneficiaries and dependents. For purposes of the foregoing, a medical/dental claim shall be considered incurred on the date when the medical services are rendered or medical supplies are provided, and not when the condition arose or when the course of treatment began; provided, that claims relating to a hospital confinement that begins before the Plan Date but continues thereafter shall be treated as incurred before the Plan Date. A disability or workers compensation claim shall be considered incurred before the Plan Date if the illness or injury giving rise to the claim occurs before the Plan Date.

(c) Each Company Employee shall be immediately eligible to participate, without any waiting time, in any and all Welfare Benefit Plans sponsored by Purchaser and its Affiliates for the benefit of Company Employees (such plans, collectively, the "New Welfare Plans") to the extent coverage under such New Plan replaces coverage under a comparable Welfare Benefit Plan sponsored by Seller in which such Company Employee was previously participating (such plans, collectively, the "Old Welfare Plans"). For purposes of each New Welfare Plan providing medical, dental, pharmaceutical and/or vision benefits, Purchaser shall use reasonable commercial efforts to cause all pre-existing condition exclusions and actively-at-work requirements of such New Welfare Plan to be waived for Company Employees and their eligible beneficiaries and dependents, and Purchaser shall cause any eligible expenses incurred by any Company Employee and his or her eligible beneficiaries and dependents during the portion of the plan year of the Old Welfare Plan ending on the date such Company Employee's participation in the corresponding New Welfare Plan begins to be taken into account under such New Welfare Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to such employee and his or her eligible beneficiaries and dependents for the applicable plan year as if such amounts had been paid in accordance with such New Welfare Plan.

ARTICLE VII

CONDITIONS TO OBLIGATIONS TO CLOSE

7.1 *Conditions to Purchaser's Obligation to Close.* Purchaser's obligation to consummate the purchase of the Shares on the terms specified herein shall be subject to the satisfaction or waiver on or prior to the Closing Date of all of the following conditions:

(a) Representations, Warranties and Covenants of Seller.

(i) The representations and warranties of Seller contained in this Agreement shall be true and correct in all respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date (except for representations and warranties expressly made as of an earlier date, in which case as of such date or time), except for such failures to be true and correct which, without regard to any materiality qualifications in such representations and warranties, would not, individually or in

the aggregate, result in a material adverse effect on the business or operations of the Company and the Subsidiaries, taken as a whole. For purposes of this Section 7.1(a), the term "material" shall mean in relation to a matter which is quantifiable in monetary terms, an impact which can reasonably be expected to be in an amount greater than \$300,000 individually or in the aggregate.

(ii) The covenants and Agreements of Seller to be performed on or before the Closing Date in accordance with this Agreement shall have been duly performed in all material respects. In addition and notwithstanding the foregoing, the covenants contained in the Notes to Schedule 2.13B must be performed in full prior to Closing.

(iii) Purchaser shall have received at the Closing a certificate dated the Closing Date and validly executed on behalf of Seller by an officer of Seller to the effect that the conditions specified in clauses (i) and (ii) of this Section 6.1(a) have been satisfied.

(b) HSR Waiting Period. Any waiting periods applicable to the transactions contemplated by this Agreement under applicable United States antitrust or trade regulation laws and regulations, including, without limitation, under the HSR Act, shall have expired or been terminated.

(c) No Injunction. At the Closing Date, (i) there shall be no statute, ordinance, rule, regulation, injunction, writ, judgment, judicial decision, order or decree of any nature of any Governmental Entity that is in effect that restrains, prohibits, prevents, delays, makes illegal or otherwise interferes with the consummation of the transactions contemplated by this Agreement; and (ii) no action or proceeding before any Governmental Entity shall have been instituted to restrain or prohibit Purchaser's acquisition of the Shares or that challenges, or seeks damages or other relief in connection with, the transactions contemplated herein.

(d) Governmental Entity Approval. Any required consent, waiver, approval or authorization by any Governmental Entity of the transactions contemplated by this Agreement shall have been obtained.

(e) Counsel Opinion. Seller's counsel shall have delivered an opinion in substantially the form attached hereto as Exhibit B to Purchaser and Purchaser's counsel, addressed to Purchaser and Purchaser's lender.

(f) Transition Services Agreement. The Company and Seller shall have executed and delivered a Transition Services Agreement in substantially the form attached hereto as Exhibit C.

7.2 Conditions to Seller's Obligation to Close. Seller's obligation to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction on or prior to the Closing Date of all of the following conditions:

(a) Representations, Warranties and Covenants of the Company and Purchaser.

(i) The representations and warranties of the Company and Purchaser contained in this Agreement shall be true and correct in all material respects on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date (except for representations and warranties expressly made as of an earlier date, in which case as of such date or time).

(ii) The covenants and agreements of the Company and Purchaser to be performed on or before the Closing Date in accordance with this Agreement shall have been duly performed in all material respects.

(iii) Seller shall have received at the Closing a certificate dated the Closing Date and validly executed on behalf of Purchaser by an officer of Purchaser to the effect that the conditions specified in clauses (i) and (ii) of this Section 6.2(a) have been satisfied.

(b) HSR Waiting Periods. Any waiting periods applicable to the transactions contemplated by this Agreement under applicable United States antitrust or trade regulation laws and regulations, including, without limitation, under the HSR Act, shall have expired or been terminated.

(c) No Injunction. At the Closing Date, (i) there shall be no statute, ordinance, rule, regulation, injunction, writ, judgment, judicial decision, order or decree of any nature of any Governmental Entity that is in effect that restrains, prohibits, prevents, delays, makes illegal or otherwise interferes with the consummation of the transactions contemplated by this Agreement; and (ii) no action or proceeding before any Governmental Entity shall have been instituted to restrain or prohibit Purchaser's acquisition of the Shares or that challenges, or seeks damages or other relief in connection with, the transactions contemplated herein.

(d) Governmental Entity Approval. Any required consent, waiver, approval or authorization by any Governmental Entity of the transactions contemplated by this Agreement shall have been obtained, and such approval shall not require or be conditioned upon any requirement that Seller or any of its Affiliates provide any undertaking or agreement, or take or refrain from taking any other action, which, in Seller's reasonable judgment, would, individually or in the aggregate, adversely affect the continuing business of Seller or any of its Affiliates.

ARTICLE VIII

TERMINATION

8.1 *Termination.* This Agreement may be terminated at any time prior to the Closing by:

- (a) The mutual written consent of Seller and Purchaser;
- (b) Either Seller or Purchaser if the Closing has not occurred by the close of business on December 31, 2001, provided the failure to consummate the transactions contemplated by this Agreement did not result from the willful failure by the party seeking termination of this Agreement to fulfill any undertaking or commitment provided for herein that is required to be fulfilled prior to the Closing;
- (c) Either Seller or Purchaser if the other shall have breached or failed to perform any of its respective representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.1(a) or 7.2(a), as applicable, and (ii) cannot be or has not been cured within 30 days after the giving of written notice to Purchaser or Seller, as applicable (and, specifically, the parties acknowledge that if Purchaser cannot obtain financing for any reason other than a material breach hereof by Seller, and if, as a result, Purchaser cannot pay the Purchase Price at Closing, the failure to pay the Purchase Price will constitute a breach of this Agreement by Purchaser, and provided, that if Purchaser fails to deliver the Deposit, this Agreement shall terminate if Seller has not received the Deposit on or before 5:00 p.m. on the 12th Business Day after the execution and delivery hereof by all parties without liability of any type on the part of Purchaser);
- (d) Either Seller or Purchaser in the event that any Law of any Governmental Entity becomes effective (and final and nonappealable) permanently restraining, enjoining or otherwise prohibiting or making illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement, upon notification of the non-terminating party by the terminating party;
- (e) By Seller within 10 Business Days after the execution and delivery hereof if Seller, in its sole discretion, determines the approval of the transaction contemplated hereby by any utility regulatory body is either necessary or desirable;
- (f) By Purchaser within 10 Business Days after the execution and delivery hereof if Purchaser, in its sole discretion, determines the relationship after the Closing with Laclede Gas Company will likely not be acceptable to Purchaser; or
- (g) By Purchaser within 10 Business Days after the execution and delivery hereof if Purchaser, in its sole discretion, is not satisfied with either Schedule 2.13 (a)(ii) or Schedule 2.16(b).

8.2 *Procedure and Effect of Termination.* In the event of termination of this Agreement by either or both of Seller and Purchaser pursuant to Section 8.1, written notice thereof shall forthwith be given by the terminating party to the other party hereto, and this Agreement shall thereupon terminate and become void and have no effect, and the transactions contemplated by this Agreement shall be abandoned without further action by the parties hereto, except that the provisions of Section 4.1(a) and this Section 8.2 shall survive the termination of this Agreement; provided, however, that such termination shall not relieve any party hereto of any liability for any willful breach of this Agreement, except as otherwise provided herein. In the event Purchaser terminates this Agreement pursuant to Section 8.1(c) as a result of a breach or failure to perform by Seller, the Deposit (and all interest earned thereon) will be returned to Purchaser. In the event Seller terminates this Agreement pursuant to Section 8.1(c) as a result of a breach or failure to perform by Purchaser, Section 1.3 shall govern. If Seller terminates this Agreement pursuant to Section 8.1(b) as a result of the failure of the condition to Seller's obligation to consummate the transactions contemplated by this Agreement set forth in Section 7.2(d) to be satisfied, and if such failure is due to the imposition by a Governmental Entity in connection with any required consent, waiver, approval or authorization of a requirement or condition that does not either (a) require Seller or any of its Affiliates to dispose of any assets or modify or cease any business or businesses or operating practice (including without limitation any limitation on prices or rates) or (b) otherwise result in an adverse effect, cost or damage on Seller and its Affiliates reasonably determined by Seller to be equal to or greater than \$1 million in the aggregate, or for which monetary damages cannot reasonably be measured, then Seller shall reimburse Purchaser's reasonable out-of-pocket costs (including attorneys' fees and bank commitment fees) incurred in connection with this Agreement and the transactions contemplated hereby, not to exceed \$1.5 million and return the Deposit (and all interest earned thereon). Notwithstanding the preceding sentence or anything else in this Agreement to the contrary, in the event that the condition to Seller's obligation to consummate the transactions contemplated by this Agreement set forth in Section 7.2(d) is not satisfied due to the imposition by a Governmental Entity in connection with any required consent, waiver, approval or authorization of a requirement or condition that results in an adverse effect, cost or damage on Seller and its Affiliates reasonably determined by Seller to be less than \$1 million, such condition shall be deemed satisfied for all purposes under this Agreement if Purchaser agrees to pay Seller, by wire transfer of immediately available funds together with the Purchase Price, the amount of such adverse effect, cost or damage. If this Agreement is terminated as provided herein, all filings, applications and other submissions made pursuant hereto shall, to the extent practicable, be withdrawn from the agency or other persons to which they were made by the party making such filing, application or other submission.

ARTICLE IX

INDEMNIFICATION; SURVIVAL

9.1 *Indemnification by Purchaser.* Subject to the provisions of this Article IX, Purchaser shall indemnify and hold harmless Seller and its Affiliates and their respective directors, officers, and employees from and against any and all Damages (as hereinafter defined) incurred by Seller and its Affiliates in connection with (a) a breach of any representation or warranty made by Purchaser hereunder or in any schedule, exhibit or other document attached to

or delivered pursuant to this Agreement, (b) any failure by Purchaser (or, following the Closing, the Company) to perform any covenant or other agreement hereunder, and (c) any action, suit, proceeding or claim incident to any of the foregoing. As used in this Agreement, "Damages" shall mean claims, liabilities, damages (including incidental and consequential damages), penalties, judgments, assessments, losses, costs and expenses, including reasonable attorneys' fees and expenses, incurred by the party seeking indemnification under this Agreement, net of (i) any insurance proceeds which such party actually receives in respect of such matter and (ii) any indemnity payments which such party receives from parties other than the party against whom such claim is asserted under this Agreement.

9.2 *Indemnification by Seller.* Subject to the provisions of this Article IX, Seller shall indemnify and hold harmless Purchaser and its Affiliates and their respective directors, officers and employees from and against any and all Damages incurred by Purchaser or its Affiliates in connection with (a) a breach of any representation or warranty made by Seller or the Company hereunder or in any schedule, exhibit or other document attached to or delivered pursuant to this Agreement, (b) any failure by Seller (or, prior to the Closing, the Company) to perform any covenant or agreement hereunder, (c) all Damages and all fines, penalties, interest and refunds which may be imposed by or required by any governmental or regulatory body or court as a result of any amounts charged by the Company prior to Closing to its customers being deemed by such governmental or regulatory body to be in excess of amounts which could legally be charged by the Company, (d) the Grynberg and Quinque lawsuits set forth on Schedule 2.10 hereto, (e) breach of the covenants set forth in the Notes to Schedule 2.13B, (f) the Environmental claims disclosed in Schedule 2.16(b) and (g) any action, suit, proceeding or claim incident to any of the foregoing.

9.3 *Indemnification Procedure.* The party or parties making a claim for indemnification under this Article IX shall be, for the purposes of this Agreement, referred to as the "Indemnified Party" and the party or parties against whom such claims are asserted under this Article IX shall be for the purposes of this Agreement, referred to as the "Indemnifying Party". From and after the Closing, the Company and the Subsidiaries shall be deemed an Affiliate of Purchaser for the purposes of this Article IX. All claims by any Indemnified Party under this Article IX shall be asserted and resolved as follows:

(a) In the event that (i) any claim, demand or proceeding is asserted or instituted by any person other than the parties to this Agreement or their Affiliates which could give rise to Damages for which an Indemnifying Party could be liable to an Indemnified Party under this Agreement (such claim, demand or proceeding, a "Third Party Claim") or (ii) any Indemnified Party under this Agreement shall have a claim to be indemnified by any Indemnifying Party under this Agreement which does not involve a Third Party Claim (such claim, a "Direct Claim"), the Indemnified Party shall with reasonable promptness send to the Indemnifying Party a written notice specifying the nature of such claim, together with information reasonably available to the Indemnified Party with respect to such claim (a "Claim Notice"), provided that a delay in notifying the Indemnifying Party shall not relieve the Indemnifying Party of its obligations under this Agreement except to the extent that (and only to the extent that) such failure shall have caused actual material prejudice to the Indemnifying Party.

(b) In the event of a Third Party Claim, the Indemnifying Party shall be entitled to appoint counsel of the Indemnifying Party's choice (who must be reasonably acceptable to the Indemnified Party) at the expense of the Indemnifying Party to represent the Indemnified Party and any others the Indemnifying Party may reasonably designate in connection with such claim, demand or proceeding (in which case the Indemnifying Party shall not thereafter be responsible for the fees and expenses of any separate counsel retained by any Indemnified Party except as set forth below). Notwithstanding an Indemnifying Party's election to appoint counsel to represent an Indemnified Party in connection with a Third Party Claim, an Indemnified Party shall have the right to employ separate counsel, and the Indemnifying Party shall bear the reasonable fees, costs and expenses of such separate counsel if, and only if, (i) the use of the counsel selected by the Indemnifying Party to represent the Indemnified Party would present such counsel with a conflict of interest or (ii) the Indemnifying Party shall not have employed counsel to represent the Indemnified Party within thirty (30) days after notice of the institution of such Third Party Claim. If requested by the Indemnifying Party, the Indemnified Party agrees to cooperate, at the Indemnifying Party's expense, with the Indemnifying Party and its counsel in contesting any claim, demand or proceeding, or, if appropriate and related to the claim, demand or proceeding in question, in making any counterclaim against the person asserting the Third Party Claim, or any cross-complaint against any person. No Third Party Claim may be settled or compromised by the Indemnified Party without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. In the event any Indemnified Party settles or compromises or consents to the entry of any judgment with respect to any Third Party Claim without seeking to obtain the prior written consent of the Indemnifying Party, each Indemnified Party shall be deemed to have waived all rights against the Indemnifying Party for indemnification under this Article IX. No Third Party Claim may be settled or compromised by the Indemnifying Party without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed, unless the Indemnified Party receives a complete release and is not otherwise adversely (either currently or prospectively) affected by such release.

(c) In the event of a Direct Claim, the Indemnifying Party shall notify the Indemnified Party within 30 Business Days of receipt of a Claim Notice whether or not the Indemnifying Party disputes such claim. If the Indemnifying Party does not provide written notice providing in reasonable detail its reason for disputing a Direct Claim in such 30-day period, then the Indemnifying Party shall be deemed to accept the validity of the Direct Claim and all amounts claimed therein by the Indemnified Party and shall pay such amounts to the Indemnified Party promptly.

(d) From and after the delivery of a Claim Notice under this Agreement, at the reasonable request of the Indemnifying Party, each Indemnified Party shall grant the Indemnifying Party and its representatives all reasonable access to the books, records and properties of such Indemnified Party and upon reasonable notice to the extent reasonably related to the matters to which the Claim Notice relates. All such access shall be granted during normal business hours and shall be granted under conditions which will not unreasonably interfere with the business and operations of such

Indemnified Party. The Indemnifying Party will not, and shall require that its representatives do not, use (except in connection with such Claim Notice) or disclose to any third party other than the Indemnifying Party's representatives (except as may be required by applicable Law of any Governmental Entity) any information obtained pursuant to this Section 9.3.

9.4 *Survival.* Subject to Section 5.6, the representations and warranties of the parties contained in this Agreement shall survive the Closing and remain enforceable until 18 months after the Closing (e.g., if the Closing occurs on June 30, 2001, then the representations and warranties will expire on December 31, 2002); except that the representations and warranties of the parties contained in Sections 2.1, 2.2, 2.3, 2.25, 3.1, 3.2 and 3.3 shall not be subject to a contractual limitation period; the representations and warranties contained in Sections 2.13 and 2.16 shall expire on the fifth anniversary of the Closing Date. No claim for indemnity under this Article IX for any breach of a representation or warranty may be brought unless the appropriate Claim Notice shall have been delivered to the Indemnifying Party prior to the expiration of the survival period.

9.5 *Purchaser's Indemnification Limitation.* Except as otherwise provided herein, Seller's obligation to indemnify Purchaser for breaches of representations or warranties by Seller (or any action, suit, proceeding or claim incident to such breaches) as provided in Section 9.2 shall not become effective until the aggregate of all Damages sustained by Purchaser as described in Section 9.2 shall have exceeded \$50,000 (the "Basket") (Damages pursuant to Section 9.2(d) and 9.2(e) are not included in the Basket and are indemnified from the first dollar). If the total amount of Damages sustained by Purchaser as described in Section 9.2 exceeds the Basket then Purchaser shall be entitled to assert claims under this Article IX for indemnification for breaches of representations or warranties by Seller (or any action, suit, proceeding or claim incident to such breaches) for the amount of such Damages in excess of the Basket; provided that Seller's obligation under this Article IX shall not exceed \$5 million in the aggregate except for claims under Sections 2.1, 2.2, 2.3, 2.10, 2.11, 2.12, 2.13, 2.25, 2.26, 9.2(c), 9.2(d), 9.2(e) and Article V for which Purchaser shall receive first dollar recovery for all Damages up to the Final Adjusted Purchase Price. Indemnification pursuant to this Article IX shall be Purchaser's exclusive remedy for any Damages arising after the Closing under this Agreement either in contract, tort, or otherwise.

9.6 *Seller's Indemnification Limitation.* Except as otherwise provided herein, Purchaser's obligation to indemnify Seller for breaches of representation or warranties by Purchaser (or any action, suit, proceeding or claim incident to such breaches) as provided in Section 9.1 shall not become effective until the aggregate of all Damages sustained by Seller as described in Section 9.1 shall have exceeded \$50,000. If the total amount of Damages sustained by Seller as described in Section 9.1 exceeds \$50,000, then Seller shall be entitled to assert claims under this Article IX for indemnification for breaches of representations or warranties by Purchaser (or any action, suit, proceeding or claim incident to such breaches) for the amount of such excess; provided that Purchaser's obligation under this Article IX shall not exceed \$5 million in the aggregate except for claims under Sections 3.1, 3.2 and 3.3 for which Seller shall receive first dollar recovery for all Damages up to the Final Adjusted Purchase Price.

Indemnification pursuant to this Article IX shall be Seller's exclusive remedy for any Damages arising after the Closing under this Agreement either in contract, tort, or otherwise.

ARTICLE X

MISCELLANEOUS

10.1 *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

10.2 *Governing Law; Jurisdiction and Forum; Waiver of Jury Trial.* This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri without reference to the choice of law principles thereof.

(a) Each of Seller and Purchaser irrevocably submits to the jurisdiction the federal court sitting in the Western District of Missouri in any action arising out of or relating to this Agreement, and hereby irrevocably agrees that all claims in respect of such action may be heard and determined in such Missouri state or federal court. Each of Seller and Purchaser hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties further agree, to the extent permitted by law, that final and unappealable judgment against any of them in any action or proceeding contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.

(b) To the extent that Purchaser or Seller has or hereafter may, acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, each of Purchaser and Seller hereby irrevocably waives such immunity in respect of its obligations with respect to this Agreement.

(c) Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any action, suit or proceeding arising out of or relating to this Agreement. Each party certifies that it has been induced to enter into this Agreement or instrument by, among other things, the mutual waivers and certifications set forth above in this Section 10.2.

10.3 *Entire Agreement.* This Agreement (including agreements incorporated herein and the Confidentiality Agreement) and the schedules and exhibits hereto contain the entire agreement between the parties with respect to the subject matter hereof and there are no agreements, understandings, representations or warranties between the parties other than those set forth or referred to herein. Except for Sections 9.1 and 9.2, which are intended to benefit, and

to be enforceable by, any of the Indemnified Parties, this Agreement is not intended to confer upon any person not a party hereto (and their successors and assigns) any rights or remedies hereunder.

10.4 *Expenses.* Except as set forth in this Agreement, whether or not the transactions contemplated this Agreement are consummated, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such costs and expenses.

10.5 *Notices.* All notices and other communications to be given to any party hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered by hand, courier or overnight delivery service or three days after being mailed by certified or registered mail, return receipt requested, with appropriate postage prepaid, or when received in the form of a telegram or facsimile, receipt confirmed, and shall be directed to the address or facsimile number set forth below (or at such other address or facsimile number as such party shall designate by like notice):

If to Seller:

UtiliCorp United Inc.
20 West Ninth St.
Kansas City, MO 64105
Attention: General Counsel
Fax No.: (816) 783-5175

If to Purchaser:

Gateway Pipeline Company, Inc.
7662 Davis Peak Road
Littleton, CO 80127
Attention: David Ries
Fax No.: (303) 933-6895

With a copy to:

Bryan Cave LLP
3500 One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105
Attention: James P. Pryde, Esq.
Fax No.: (816) 374-3300

10.6 *Successors and Assigns.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; provided, however, that no party hereto will assign its rights or delegate any or all of its obligations under this Agreement without the express prior written consent of each other party

hereto; provided, further, however, that Purchaser may assign its rights hereunder to any lender to Purchaser.

10.7 *Headings; Definitions.* The section and article headings contained in this Agreement are inserted for convenience of reference only and will not affect the meaning or interpretation of this Agreement. All references to Sections or Articles contained herein mean Sections or Articles of this Agreement unless otherwise stated. All capitalized terms defined herein are equally applicable to both the singular and plural forms of such terms.

10.8 *Amendments and Waivers.* This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Either party hereto may, only by an instrument in writing, waive compliance by the other party hereto with any term or provision of this Agreement on the part of such other party hereto to be performed or complied with. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. Except as otherwise expressly provided herein, no failure to exercise, delay in exercising or single or partial exercise of any right, power or remedy by any party, and no course of dealing between the parties, shall constitute a waiver of any such right, power or remedy.

10.9 *Schedules.* The disclosure or inclusion of any matter or item on any Schedule to the Seller Disclosure Schedule shall not be deemed an acknowledgment or admission that any such matter or item is required to be disclosed. Seller and the Company shall not be prejudiced in any manner whatsoever by, and no presumptions shall be created by virtue of, any disclosure of any matter in the Seller Disclosure Schedule which is not expressly required to be disclosed under this Agreement.

10.10 *Severability.* If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions of this Agreement shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.

10.11 *Interpretation.* For the purposes of this Agreement, "to Seller's knowledge" shall mean the actual knowledge of the persons identified on Schedule 10.11 of the Seller Disclosure Schedule after inquiry. The phrase "including" shall be deemed to be followed by "without limitation." In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement. For purposes of this Agreement, the word "person" shall be broadly construed to include individuals, corporations, partnerships (of whatever kind), limited liability companies, trusts, associations, any other types of entities, or any group or combination of any of the foregoing.

10.12 *Specific Performance.* The parties hereto agree that irreparable damage would occur in the event that any party fails to consummate the transactions contemplated by this Agreement in accordance with the terms of this Agreement and that the parties shall be entitled

to specific performance in such event, in addition to any other remedy or law or in equity. The parties hereto also agree that Purchaser's rights under Sections 4.15 and 4.16 are special and unique and that any violation thereof would not be adequately compensated by money damages, and Seller hereby grants Purchaser the right to specifically enforce (including injunctive relief where appropriate) the terms of Sections 4.15 and 4.16.

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of each of the parties by their duly authorized representatives as of the date first above written.

GATEWAY PIPELINE COMPANY, INC.

By: 
Title: President

UTILICORP PIPELINE SYSTEMS, INC.

By: 
Title: President

UTILICORP UNITED INC.

By: 
Title: Sr. Vice-President

Exhibit List

- A. Release
- B. Seller's opinion of counsel
- C. Transition Service Agreement

RELEASE

THIS RELEASE is entered into as of [•], 2001, by UtiliCorp United Inc., a Delaware corporation ("UCU") in favor of UtiliCorp Pipeline Systems, Inc., a Delaware corporation ("UPL"), Missouri Pipeline Company, a Delaware corporation ("MPC"), and Missouri Gas Company, a Delaware corporation ("MGC").

WHEREAS, MPC and MGC are wholly owned subsidiaries of UPL; and

WHEREAS, UPL is a wholly owned subsidiary of UCU; and

WHEREAS, UCU has agreed to sell all of the issued and outstanding shares of capital stock of UPL to Gateway Pipeline Company, Inc., a Delaware corporation ("Gateway"), pursuant to that certain Stock Purchase Agreement, dated February [•], 2001, by and among UCU, Gateway, and UPL (the "Stock Purchase Agreement"); and

WHEREAS, it is a condition to Gateway's obligation to close the transactions contemplated by the Stock Purchase Agreement that UtiliCorp execute and deliver this Release to Gateway;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, UtiliCorp hereby agrees as follows:

1. *Release.* From and after the date of the closing of the transactions contemplated by the Stock Purchase Agreement (the "Closing Date"), UCU, on behalf of itself and all entities controlled by UCU, hereby releases and forever discharges UPL (including TransMississippi Pipeline Company, which merged into UPL on June 30, 1999), MPC, MGC, and each of their directors, officers, shareholders, and employees from all liabilities, actions, causes of action, claims, and demands whatsoever, whether based upon statute or common law, and whether known or unknown, arising prior to the Closing Date.

2. *Exclusions.* For the avoidance of doubt, the release granted in Section 1 above shall not apply to obligations accruing (a) under the Stock Purchase Agreement, (b) under the Transition Services Agreement entered into on the date hereof by UCU and Gateway in connection with the closing of the transactions contemplated by the Stock Purchase Agreement, (c) on and after the Closing Date under the contracts that were entered into before the Closing Date by UPL, MPC, or MGC on the one hand and UCU or any entity controlled by UCU on the other hand and that are listed in the Seller's Disclosure Schedule (as defined in the Stock Purchase Agreement).

3. *Governing Law.* This Release shall be governed by and construed in accordance with the laws of the State of Missouri without reference to the choice of law principles thereof.

IN WITNESS WHEREOF, this Release has been signed on behalf of UCU by its duly authorized representative as of the date first above written.

UtiliCorp United Inc.

Name: _____
Title: _____

[UtiliCorp Letterhead]

[•], 2001

Gateway Pipeline Company, Inc.
7662 Davis Peak Road
Littleton, CO 80127
Attention: David Ries

[Address of Gateway's Lender]

Re: UtiliCorp United Inc. and UtiliCorp Pipeline Systems, Inc.

Dear Mr. Ries

The Office of the General Counsel of UtiliCorp United Inc., a Delaware corporation ("UtiliCorp"), has acted as counsel for UtiliCorp and UtiliCorp Pipeline Systems, Inc., a Delaware corporation ("UPL"), in connection with the Stock Purchase Agreement dated as of February [•], 2001 (the "Agreement") among UtiliCorp, UPL, and Gateway Pipeline Company, Inc. ("Gateway"). Except as otherwise indicated herein, capitalized terms used but not defined herein have the meanings ascribed to them in the Agreement.

We, as counsel to UtiliCorp and UPL, are rendering this opinion letter to Gateway, its counsel, Bryan Cave LLP, and its lender, [insert name of lender], under Section 7.1(e) of the Agreement.

The documents we have examined in rendering this opinion letter, and upon which we have relied, are the following:

- (a) the Agreement;
- (b) the Release signed by UtiliCorp is favor of UPL on [•], 2001 (the "Release");
- (c) the Transition Services Agreement dated [•], 2001 between UtiliCorp and Gateway (together with the Release and the Agreement the "Transaction Documents");
- (d) UtiliCorp's Certificate of Incorporation and Bylaws, and all amendments thereto;
- (e) UPL's Certificate of Incorporation and Bylaws, and all amendments thereto, and UPL's stock record and minute books;

- (f) . MPC's Certificate of Incorporation and Bylaws, and all amendments thereto, and MPC's stock record and minute books; and
- (g) MGC's Certificate of Incorporation and Bylaws, and all amendments thereto, and MGC's stock record and minute books.

In addition, we have examined the originals, or copies certified to our satisfaction, of such other corporate records of UtiliCorp, UPL and its Subsidiaries, certificates of public officials and of the officers of UtiliCorp, UPL and its Subsidiaries, and agreements, instruments, and other documents as we have deemed necessary as a basis for the opinions expressed below. As to questions of fact material to such opinions, we have relied upon certificates of public officials and of the officers of UtiliCorp, UPL and its Subsidiaries and upon representations of UtiliCorp and UPL in the Agreement, without independent investigation or verification.

In making such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with the originals of all documents submitted to us as copies. We also have assumed that Gateway has (a) satisfied those legal requirements that are applicable to it under the Transaction Documents to the extent necessary to make the Transaction Documents enforceable against Gateway and (b) complied with all legal requirements pertaining to its status as such status relates to its rights to enforce the Transaction Documents against UtiliCorp and UPL.

Our opinions are limited to the law of the State of Missouri, the General Corporation Law of the State of Delaware and the Federal law of the United States, and we do not express any opinion herein concerning any other law.

Based upon and subject to the other paragraphs hereof, we are of the opinion that:

1. Each of UtiliCorp, UPL and each Subsidiary is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware and is duly qualified as a foreign corporation in Missouri, and has the requisite corporate power to carry on its business as presently conducted.
2. The execution, delivery and performance by UtiliCorp of the Transaction Documents are within its corporate powers and have been duly authorized by all requisite corporate action on the part of UtiliCorp.
3. The Transaction Documents have been duly executed and delivered by UtiliCorp and constitute the legal, valid and binding obligations of UtiliCorp and are enforceable against UtiliCorp in accordance with their terms.
4. The execution and delivery of the Transaction Documents, the sale of the Shares and the fulfillment of and compliance with the terms and provisions of the Transaction Documents by UtiliCorp do not (i) violate any of the provisions of the Certificate of Incorporation or By-Laws of UtiliCorp, UPL or any Subsidiary, (ii) to our knowledge, violate any applicable statute, rule or

regulation; or (iii) violate any existing obligation of UtiliCorp, UPL or any Subsidiary under any judgment, ruling, writ, injunction, decree or other court order known to us, which is now applicable to UtiliCorp, UPL or any Subsidiary or any of their respective material properties or assets.

5. No authorization, consent or approval of, or filing by UtiliCorp, UPL or any Subsidiary with, any governmental body or authority is necessary for the sale of the Shares or the consummation of the transactions contemplated by the Transaction Documents except as disclosed in Schedule 2.4 of the Agreement.
6. UPL's authorized stock consists of 1,000 shares of Common Stock, \$1.00 par value per share, of which 1,000 shares are issued and outstanding. Immediately prior to the consummation of the transactions described in the Agreement, UtiliCorp was the sole registered owner of the Shares and UPL was the sole registered owner of the outstanding stock of each Subsidiary. All of the Shares and all of the stock of each Subsidiary have been duly authorized and validly issued and are fully paid and non-assessable. To our knowledge, there are no contracts, subscriptions, options, warrants, commitments, agreements or rights of any kind to anyone other than Gateway to acquire any stock of UPL or any of its Subsidiaries.

We hereby confirm that there are no actions or proceedings known to us that are pending or overtly threatened in writing against UtiliCorp, UPL or any of its Subsidiaries before any court, governmental agency or arbitrator that seeks to enjoin or otherwise relates to the Transaction Documents.

The opinions expressed herein are subject to the following:

- A. We have assumed for purposes of this opinion that (i) any certifications dated prior to the Closing Date remain true as of the Closing Date; (ii) each certificate of a public official is accurate, complete and authentic and all official public records are accurate and complete; (iii) there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence; (iv) the conduct of the parties to the Transaction Documents has complied with any requirement of good faith, fair dealing and conscionability; (v) there are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of the Transaction Documents.
- B. We have not made any independent investigation or inquiry concerning the business or financial condition of UtiliCorp, UPL or either Subsidiary or concerning the operation, management, use or other dealings with the property of UtiliCorp, UPL or either Subsidiary.
- C. Our opinions as to enforceability are subject to (i) the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium, fraudulent transfer or fraudulent conveyance and other similar laws affecting creditor's

rights generally and judicially developed doctrines relevant to any of the foregoing laws, such as substantive consolidation of entities; (ii) limitations imposed by equitable doctrines, including without limitation, limitations upon the specific enforceability of provisions of the Transaction Documents, concepts of materiality, reasonableness (including commercial reasonableness of the sale or disposition of collateral), good faith and fair dealing, and the availability of injunctive relief or other equitable remedies (regardless of whether considered in a proceeding in equity or at law); and (iii) judicial discretion regarding the determination of damages and entitlement to attorneys' fees and other costs. Enforceability of certain provisions purporting to waive the benefits of statutory provisions or constitutional or common law rights or providing for indemnification, exculpation or release may be limited or otherwise affected by limitations based on statutes, case law or public policy. The opinions in this letter do not include any opinion as to the enforceability of (a) any waiver of jury trial; (b) any choice of law provision; (c) any choice of forum or choice of venue provision; (d) a remedy under certain circumstances where another remedy has been elected; (e) the right of a creditor to use force or cause a breach of the peace in enforcing rights; (f) any power of attorney; (g) the provisions of the Transaction Documents which release, exculpate or exempt a party from, or require indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves (I) gross negligence, recklessness, willful misconduct or unlawful conduct or (II) negligence to the extent the provisions are insufficiently explicit; (h) the balance of the Transaction Documents, where part of the Transaction Documents may be unenforceable under circumstances in which the unenforceable portion is an essential part of the agreed upon exchange.

- D. In connection with the opinions expressed in paragraphs 4(ii) and 5 above, we have with your permission relied on the opinions of [insert names of regulatory counsel], copies of which are attached.
- E. When an opinion is based on our knowledge, the opinion or statement means only that we have no actual knowledge to the contrary and does not indicate or imply any investigation or inquiry on our part. For this purpose, "we" means only those attorneys within UtiliCorp's Office of the General Counsel who have done substantive work on this opinion letter.

This opinion is limited to the matters specifically stated in this letter, and no further opinion is to be implied or may be inferred beyond the opinions specifically stated herein. Unless otherwise stated herein, we have made no independent investigation regarding factual matters. This opinion is based solely on the state of the law as of the date of this opinion, and we specifically disclaim any obligation to monitor any of the matters stated in this opinion or to advise the persons entitled to rely on this opinion of any change in law or fact after the date of this opinion which might affect any of the opinions stated herein. This opinion is rendered solely for the benefit of Gateway, its counsel, and its lender in connection with the Agreement, and may not be released to or relied upon by any other person or for any other purpose without our prior written consent.

Very truly yours,

Leslie J. Parrette, Jr.
General Counsel, UtiliCorp United Inc.

TRANSITIONAL SERVICES AGREEMENT

THIS TRANSITIONAL SERVICES AGREEMENT is entered into as of [•], 2001, by and between **UtiliCorp United Inc.**, a Delaware corporation ("Seller"), and **Gateway Pipeline Company, Inc.**, a Delaware corporation (the "Company").

WHEREAS, Seller owns all of the issued and outstanding shares of capital stock (the "Shares") of UtiliCorp Pipeline Systems, Inc., a Delaware corporation ("UPL"); and

WHEREAS, the Company desires to purchase and Seller desires to sell the Shares on the terms and conditions set forth in the Stock Purchase Agreement dated February __, 2001 (the "Stock Purchase Agreement"); and

WHEREAS, in connection with the sale and purchase of the Shares, Purchaser desires that Seller provide certain transitional services to the Company (the "Services"), and Seller has agreed to provide the Services, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

ARTICLE I

THE SERVICES

1.1 *The Services.* Seller shall provide or cause to be provided to the Company or its subsidiaries, Missouri Pipeline Company ("MPC") and Missouri Gas Company ("MGC"), the Services set forth in Schedule 1.1(a). The Company shall provide or cause to be provided to Seller or its subsidiary, Omega Pipeline Company ("Omega"), the Services set forth in Schedule 1.1(b). The party providing or causing to be provided the Services hereunder shall be referred to herein as the "Service Provider."

1.2 *Service Parameters.* The Service Provider shall provide the Services only to the extent and under the personnel availability conditions that such Services are provided immediately prior to the date this Agreement is executed. Furthermore, the Services will be available only for purposes of supporting the conduct of business substantially in the manner it was conducted immediately prior to the date this Agreement is executed.

1.3 *Impracticability.* The Service Provider shall not be required to provide any Service to the extent the performance of such Service (a) becomes impracticable as a result of a cause or causes outside the reasonable control of the Service Provider, (b) would require the Service Provider to violate any applicable laws, rules or regulations, or (c) would result in the breach of any agreement or other applicable contract.

1.4 *Additional Resources.* In providing the Services, the Service Provider shall not be obligated to (a) hire any additional employees, (b) maintain the employment of any specific employee, or (c) purchase, lease or license any additional equipment or materials.

ARTICLE II

TERM AND TERMINATION

2.1 *Term.* The Services shall commence on the date this Agreement is executed and continue for a period of one year.

2.2 *Termination.* The performance of any Service may be terminated by the party receiving the Service (the "Service Recipient") at any time by providing 20-days prior written notice to the Service Provider. Furthermore, this Agreement or the performance of any Service may be terminated by the mutual written consent of the parties.

ARTICLE III

COMPENSATION

3.1 *Charges For Services.* The Service Recipient will reimburse the Service Provider for all direct and indirect costs, including out-of-pocket expenses, incurred by the Service Provider in providing the Services, plus an administration fee equal to 2% of such costs.

3.2 *Payment Terms.* The Service Provider shall bill the Service Recipient monthly for all charges pursuant to this Agreement. Such bills shall be accompanied by reasonable documentation supporting such charges. The Service Recipient shall pay the Service Provider for all Services provided hereunder within 15 days after receipt of an invoice therefor. Late payments shall bear interest at the lesser of 18% per annum or the maximum rate allowed by law.

ARTICLE IV

GENERAL OBLIGATIONS; STANDARD OF CARE

4.1 *Performance Standards.* The Service Provider shall use its reasonable commercial efforts to provide the Services in accordance with its policies, procedures, and practices in effect immediately prior to the date this Agreement is executed and to exercise the same degree of care and skill as it exercises in performing similar services for itself.

4.2 ***DISCLAIMER OF WARRANTIES.*** EXCEPT AS OTHERWISE SET FORTH HEREIN, THE SERVICE PROVIDER MAKES NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES OR OTHER DELIVERABLES PROVIDED BY IT HEREUNDER.

4.3 *Indemnification by the Service Recipient.* The Service Recipient shall indemnify and hold harmless the Service Provider from and against any and all liabilities that arise out of, or result from the provision of the Services by the Service Provider in accordance with this Agreement, other

than liabilities arising from the gross negligence or willful misconduct of the Service Provider or its agents or employees.

4.4 *Good Faith Cooperation.* The parties will use good faith efforts to cooperate with each other in all matters relating to the provision and receipt of the Services.

ARTICLE V

RELATIONSHIP BETWEEN THE PARTIES

The relationship between the parties established under this Agreement is that of independent contractors, and neither party shall be deemed an employee, agent, partner, or joint venturer of or with the other. The Service Provider will be solely responsible for the payment of any employment-related taxes, insurance premiums, or employment benefits in respect of the performance of the Services by the Service Provider personnel under this Agreement.

ARTICLE VI

SUBCONTRACTORS

The Service Provider may engage one or more subcontractors to perform all or any portion of its duties under this Agreement, provided that the Service Provider remains responsible for the performance of each such subcontractor, and the charges for the Services delegated to a subcontractor shall be the lesser of (a) the amount charged by the subcontractor or (b) the amount that would have been payable to the Service Provider under Article III above if the Service Provider had provided such Services.

ARTICLE VII

FORCE MAJEURE

The Service Provider will be excused for any failure or delay in performing any of its obligations under this Agreement if such failure or delay is caused by Force Majeure. For the avoidance of doubt, "Force Majeure" means any circumstance or event beyond the reasonable control of the party relying upon such event or circumstance, including, without limitation: any act of God; any accident, explosion, fire, ice, earthquake, lightning, tornado, hurricane, or other severe weather condition or calamity; any civil disturbance, labor dispute, or labor or material shortage; any sabotage or acts of terrorism; any acts of a public enemy, uprising, insurrection, civil unrest, war, or rebellion; or any action or restraint by court order or public or governmental authority or lawfully established civilian authorities.

ARTICLE VIII

MISCELLANEOUS

8.1 *Entire Agreement.* This Agreement and the Schedules attached hereto constitute the entire agreement between the parties with respect to the subject matter hereof and thereof and shall supersede all prior written and oral and all contemporaneous oral agreements and understandings with respect to the subject matter hereof and thereof.

8.2 *Governing Law.* This Agreement shall be governed and construed and enforced in accordance with the laws of the State of Missouri as to all matters, regardless of the laws that might otherwise govern under the principles of conflicts of laws applicable thereto.

8.3 *Interpretation.* The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

8.4 *Notices.* Any notice, demand, offer, request, or other communication required or permitted to be given by either party pursuant to the terms of this Agreement shall be in writing and shall be deemed effectively given the earlier of (a) when received, (b) when delivered personally, (c) one business day after being delivered by facsimile (with receipt of appropriate confirmation), (d) one business day after being deposited with a nationally recognized overnight courier service or (e) four days after being deposited in the U.S. mail, First Class with postage prepaid, and in each case addressed to the attention of the other party's Corporate Secretary at the address of its principal executive office or such other address as a party may request by notifying the other in writing.

8.5 *Nonassignability; Third-Party Beneficiaries.* The Company may not, directly or indirectly, in whole or in part, whether by operation of law or otherwise, assign or transfer this Agreement, without Seller's prior written consent, to any entity other than UPL, MPC or MGC, and any attempted assignment, transfer or delegation without such prior written consent shall be voidable at the sole option of Seller. This Agreement shall be binding upon and inure to the benefit of each party hereto and their respective legal representatives and permitted successors and assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

8.6 *Severability.* If any term or other provision of this Agreement is determined by a nonappealable decision by a court, administrative agency or arbitrator to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to either party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

8.7 *Failure Or Indulgence Not Waiver; Remedies Cumulative.* No failure or delay on the part of either party hereto in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or of any other right. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

8.8 *Amendment.* No change or amendment will be made to this Agreement except by an instrument in writing signed on behalf of each of the parties hereto.

8.9 *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

IN WITNESS WHEREOF, the parties have signed this Transitional Services Agreement effective as of the date first set forth above.

UTILICORP UNITED INC.

By: _____
Title: _____

GATEWAY PIPELINE COMPANY, INC.

By: _____
Title: _____

SCHEDULE 1.1(a)

SERVICES PROVIDER BY SELLER

Seller shall provide the following Services to the Company:

- (a) 24-hour remote surveillance control (SCADA) services, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement;
- (b) The daily administration of nominations, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement;
- (c) Engineering services, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement; and
- (d) Any other service mutually agreed to by Seller and the Company.

SCHEDULE 1.1(b)

SERVICES PROVIDED BY THE COMPANY

The Company shall provide to Seller (a) the services provided by UPL, MPC, or MGC to or for the benefit of Omega prior to the closing of the transactions contemplated by the Stock Purchase Agreement and (b) any other services mutually agreed to by Seller and the Company.

SCHEDULE 1.1(a)

SERVICES PROVIDED BY SELLER

Seller shall provide the following Services to the Company:

- (a) 24-hour remote surveillance control (SCADA) services, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement;
- (b) The daily administration of nominations, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement;
- (c) Engineering services, as provided before the closing of the transactions contemplated by the Stock Purchase Agreement; and
- (d) Any other service mutually agreed to by Seller and the Company.

SCHEDULE 1.1(b)

SERVICES PROVIDED BY THE COMPANY

The Company shall provide to Seller (a) the services provided by UPL, MPC, or MGC to or for the benefit of Omega prior to the closing of the transactions contemplated by the Stock Purchase Agreement and (b) any other services mutually agreed to by Seller and the Company.



SCHEDULE 1.5(a)
WORKING CAPITAL ACCOUNTS

	EXAMPLE 12/31/2000
	<u>TOTAL</u>
<i>Current Assets</i>	
Cash and Cash Equivalents	
Working Funds	\$150.00
Accounts Receivable, Net	
Customer Accounts Receivable	576,402.66
Other Accounts Receivable	0.00
Prepayments and Other	
Notes Receivable	
City of Cuba, MO (expires May 2001)	6,559.29
Inventory and Supplies	0.00
Total Current Assets	<u>\$583,111.95</u>
<i>Current Liabilities</i>	
Accounts Payable	\$50.00
Accrued Liabilities	
Other Accrued Liabilities	
Accrued Payroll*	8,176.00
Accrued Taxes	
Accrued Property Taxes**	88,451.28
Total Current Liabilities	<u>96,677.28</u>
NET WORKING CAPITAL	<u>\$486,434.67</u>

* Accrued Payroll represents current payroll and payroll taxes payable at closing for hours worked prior to closing. Seller is responsible for all payroll benefits accrued prior to closing and will retain all operating reserves associated with the payment of such benefits.

**Accrued Property Taxes will be the pro-rata portion of property taxes payable in December 2001 for the number of days Seller holds Company prior to Closing compared to 365 days. The Estimated Purchase Price Certificate will reflect an accrued property tax value equal to accruals consistent with property tax payments made in calendar year 2000.

SELLER'S DISCLOSURE SCHEDULE

Stock Purchase Agreement
UtiliCorp United Inc.,
UtiliCorp Pipeline Systems, Inc.,
and
Gateway Pipeline Company, Inc.

February 1, 2001

This is the "Seller's Disclosure Schedule" referred to in the Stock Purchase Agreement, dated as of February 1, 2001 (the "Agreement") between UtiliCorp United Inc., a Delaware corporation (the "Seller"), UtiliCorp Pipeline Systems, Inc. (the "Company"), a Delaware corporation, and Gateway Pipeline Company, Inc., a Delaware corporation (the "Purchaser"). This Seller's Disclosure Schedule is part and parcel of the Agreement.

Capitalized terms not defined herein have the meanings ascribed to them in the Agreement. The disclosures in this Seller's Disclosure Schedule are made in connection with the representations and warranties of the Seller and certain covenants of the Seller contained in the Agreement without taking into consideration any standard of materiality applicable to such representations, warranties or covenants. Accordingly, no disclosure made herein shall (i) constitute an admission or determination that any fact or matter so disclosed is material to the business, properties, assets, liabilities, condition (financial or otherwise) or results of operations of the Seller or (ii) be deemed to modify in any respect the standard of materiality applicable to any representation, warranty, covenant or other provision contained in the Agreement.

SCHEDULE 2.1(a)

1. Missouri Pipeline Company, a Delaware corporation.
2. Missouri Gas Company, a Delaware corporation.

SCHEDULE 2.4

1. The approval of, or the waiver of any approval right by, the Iowa Utilities Board.
2. The approval of, or the waiver of any approval right by, the Missouri Public Service Commission.

SCHEDULE 2.5

Portions of the pipeline owned and operated by the Company or its Subsidiaries may not be in compliance with Laws relating to pipeline depth.

SCHEDULE 2.9

None

SCHEDULE 2.10

Condemnation proceeding of Missouri Pipeline Company versus Arla E. Reed and Susan G. Reed in Franklin County Circuit Court; Case No. CV 191-1336CC. Seller agrees that if this case is not settled or otherwise resolved prior to the Closing Date, the Purchase Price shall be reduced by \$15,000.

The Company is a named defendant in Grynberg v UtiliCorp, et al, also know as the "Natural Gas Qui Tam Litigation." This case is part of a large Multi-District Litigation proceeding in Federal Court in Wyoming. Plaintiff Jack Grynberg has brought suit on behalf of the United States under the Federal False Claims Act against several hundred companies in the natural gas industry. Plaintiff alleges that the defendants regularly and repeatedly undermeasure the volume and heating content of natural gas produced on federal and Indian lands, thereby underpaying the royalties due the federal government. Although the case has been pending for several years, it is still in its early procedural stages. All defendants filed motions to dismiss the case. Those motions were argued on March 17, 2000, and have not been ruled on by the court. No discovery has taken place.

The Company is also a named defendant in Quinque v UtiliCorp, et al. In this case plaintiffs have alleged a nationwide class action on behalf of all royalty owners, overriding royalty owners, and working interest owners of every non-federal gas well in the country since 1974. Defendants include approximately 235 companies in the natural gas industry. As in the Grynberg cases, plaintiffs allege the defendants have undermeasured all natural gas produced from these wells. The case was originally filed in state court in Stevens County, Kansas. The case was immediately removed to Federal Court, then transferred to the same Wyoming Multi-District Litigation as the Grynberg cases. In the meantime, however, plaintiffs have filed a motion to remand the case to state court in Kansas. The Wyoming Federal Judge has granted that motion and it now appears the case will be remanded back to state court in Kansas.

SCHEDULE 2.12(a)

Interconnect Agreements

See attached list.

Operational Balance Agreements

See attached list.

Transportation Contracts

See attached list.

Franchises, Licenses, Royalty or Other Agreements Respecting or Restricting Intellectual Property Rights.

1. Licenses for Scada software packages Intellusion, Genesis, and Bristol Babcock Accol are held by the Company or its Subsidiaries and such licenses will continue to be held by the Company or its Subsidiaries following the Closing.
2. Licenses for existing office software packages (*i.e.*, Excel, Word, Powerpoint) are held by Seller and are not being transferred or assigned to Purchaser in this transaction.
3. The Company and the Subsidiaries use AutoCad software, the licenses to which are held by Seller and are not being transferred or assigned to Purchaser in this transaction.

Agreements Made Other Than in the Ordinary Course of the Company's or Any Subsidiary's Business

1. Reimbursement agreement dated June 1, 1995 with the City of Cuba, Missouri for repayment of the costs incurred by Missouri Gas Company for the provision and installation of city gate facilities, with final payment due on May 15, 2001. See attached agreement.
2. Postage Meter – St. Peters Office
3. Copier – St. Peters Office
4. Drinking Water Service – St. Peters Office
5. Nitrogen and Test Gas Bottles
6. See attached list of discount letters and agreements.

Agreements with Any Affiliate of the Company, Except Agreements Among Only the Company and Any of its Subsidiaries

See the attached list of transportation contracts referenced above which includes agreements with affiliates.

Interconnect Agreements

Missouri Pipeline - Panhandle Eastern	Interconnect Letter signed: <u>November 28, 1989</u> <u>Panhandle Eastern: John A. Alholm, Vice President</u> <u>Missouri Pipeline Company: Tom M. Taylor, President</u>
Missouri Pipeline - Fidelity Natural Gas	June 16, 1992 <u>MPC: Tom M. Taylor</u> <u>Fidelity: John Davis</u>
Missouri Pipeline - Laclede Gas	August 14, 1996 <u>MPC: Richard C. Kreul</u> <u>Laclede Gas: Kenneth J. Neises</u>
Missouri Pipeline - Union Electric / Winfield	October 17, 1992 <u>MPC: Richard C. Kreul</u> <u>U. E. : William J. Carr</u>
Missouri Pipeline - Union Electric / Route N	July 14, 1999 <u>MPC: Richard C. Kreul</u> <u>Ameren U.E.: Senior Vice President</u>
Missouri Gas Co. - City of Waynesville	February 10, 1994 <u>MGC: Richard C. Kreul</u> <u>City of Waynesville: Bill Randall</u>
Missouri Gas Co. - City of St. Robert	July 30, 1993 <u>MGC: Richard C. Kreul</u> <u>City of St. Robert: Donald Scott</u>
Missouri Gas Co. - City of Cuba	April 23, 1993 <u>MGC: Richard C. Kreul</u> <u>City of Cuba: Ray Mortimeyer</u>
Missouri Gas Co. - City of St. James	July 10, 1992 <u>MGC: Tom M. Taylor</u> <u>City of St. James: Nelson Hart</u>
Missouri Gas Co. -Omega for Fort Leonard Wood	July 29, 1993 <u>MGC: Richard C. Kreul</u> <u>Omega Pipeline: Phil L. Miller</u>
Missouri Gas Co - City of Rolla	August 22, 1994 <u>MPC: Richard C. Kreul</u> <u>MoPub: Michael Apprill</u>
Missouri Gas Co. - City of Rolla and Salem	September 1, 1996 <u>MPC: Richard C. Kreul</u> <u>MoPub: Harry F. Ono</u>

Operational Balance Agreements

Missouri Pipeline - Fidelity/Sullivan	July 23, 1992 <u>MPC: Tom M. Taylor</u> <u>Fidelity: Kenneth Matzdoff</u>
Missouri Pipeline - Laclede Natural Gas	November 8, 1989 <u>MPC: Tom M. Taylor</u> <u>Laclede Gas: Robert C. Jaudes</u>
Missouri Pipeline - Panhandle Eastern	June 27, 1997 <u>MPC: Dolin Argo, Director Business Operations</u> <u>PEPL: John Coppers, Director, Marketing Operations</u>

Prepared: June 5, 2000

File name: Word/Interconnect Agreement and OBA Agreement Lists

NON-PROPRIETARY

**MISSOURI PIPELINE COMPANY
TRANSPORTATION CONTRACTS**

NON-PROPRIETARY

NON-PROPRIETARY

**MISSOURI GAS COMPANY
TRANSPORTATION CONTRACTS**

NON-PROPRIETARY

NON-PROPRIETARY

UPL DISCOUNTS

NON-PROPRIETARY