MORRISON, HECKER, CURTIS, KUDER & PARRISH

1700 BRYANT BUILDING
1102 GRAND AVENUE
KANSAS CITY, MISSOURI 64106-2370
(816) 842-5910

WASHINGTON, D.C.
OVERLAND PARK, KANSAS

TELEX 466886
TELECOPIER (816) 474-4208

DALLAS, TEXAS
WICHITA, KANSAS

December 15, 1989

FILED

DEC 18 1989

PUBLIC SERVICE COMMISSION

Mr. Harvey G. Hubbs, Secretary
Missouri Public Service Commission
301 West High Street, Fifth Floor
Jefferson City, MO 65102

FEDERAL EXPRESS

Re: Trigen-Kansas City Energy District Corporation
Case No. HA-90-5

Dear Mr. Hubbs:

Enclosed are an original and 14 copies of the Response by Trigen-Kansas City District Corporation to the Staff's recommendation in the referenced matter.

Very truly yours,

MORRISON, HECKER, CURTIS, KUDER & PARRISH

George E. Rider

GER/smh
Enclosures
cc: Mr. Thomas R. Casten
Ms. Martha S. Hoggarty
Ms. Mary Ann Young
Kansas City Power & Light Company
(Attention: Mark English)
The Kansas Power & Light Company
(Attention: Michael Pendergast)
Mr. Jeremiah D. Finnegan

MEMORANDUM

To: Missouri Public Service Commission Official Case Files Case No. HM-90-4 and Case No. HA-90-5

From: Trigen-Kansas City District Energy Corporation

Subject: Response of Trigen-Kansas City District Energy Corporation to Staff's Recommendation in Case No. HM-90-4 and Case No. HA-90-5; Kansas City Power & Light Company and Trigen-Kansas City District Energy Corporation

Date: December 15, 1989

On December 8, 1989, the Staff made its recommendations with regard to disposition of this case; and solicited comments and responses from the parties of record with regard to the proposed disposition for purposes of determining the nature and extent of the hearing to be held on December 19th. The Staff's alternative recommendations were for the Commission to either (i) approve purchase of the steam system by Trigen-Kansas City District Energy Corporation ("Trigen"), but require Trigen to continue utilizing KCPL's rates and rejection of Trigen's request regarding individual contracts, or (ii) authorize Trigen's purchase of the steam system and grant a conditional certificate of public convenience and necessity utilizing Trigen's proposed rates, with Staff to conduct a review of the reasonableness of rates and rules and regulations after 18 months, but deferring action on requested treatment of individual contracts.

As requested by the Staff, these comments are filed on behalf of Trigen. The first suggested alternative is not acceptable to Trigen. The record in companion Case No. HM-90-4 clearly establishes that the KCPL steam system has been unprofitable for an extended period of time. Acquisition of the steam system upon terms which necessitate the use of KCPL's rates does not present a financially viable option which will allow Trigen to complete the purchase.

The second suggested option provides the basic framework for positive resolution of Trigen's application, subject to certain necessary additional findings. Trigen is willing to acquire the system and accept the condition that its proposed rates and rules and regulations are "interim" and will be reviewed by Staff at the end of 18 months to determine their reasonableness. However, Trigen believes it is important and necessary that the Commission act positively with regard to Trigen's request to determine the ability of the steam system operator to enter into long-term contracts (i.e., three years or longer) and contracts with customers outside of the certificated service area, without necessity for prior review and approval by the Commission. Such issues need to be

16.

addressed in advance of completing the purchase of the steam system by Trigen, since positive resolution of these questions directly impacts the expected agreements with the two largest prospective customers of the steam system, i.e., KCPL and National Starch and Chemical Corporation. Trigen cannot complete the acquisition of the steam system without confirmation that it may enter into and perform such proposed agreements.

In view of the foregoing, Trigen plans to present evidence and testimony at the hearing on Tuesday which will establish Trigen's qualifications for operating the steam system, the public necessity for continued operation of the system, and the rationale for treating long-term customer contracts and contracts with customers located outside the certificated area on a basis that is different than steam sold pursuant to Trigen's tariff rates.

Respectfully submitted,

MORRISON, HECKER, CURTIS, KUDER & PARRISH

George Rider

George E. Rider
Attorneys for Trigen-Kansas City District Energy Corporation

GER/smh
T8006\M0046LTR.GER