

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

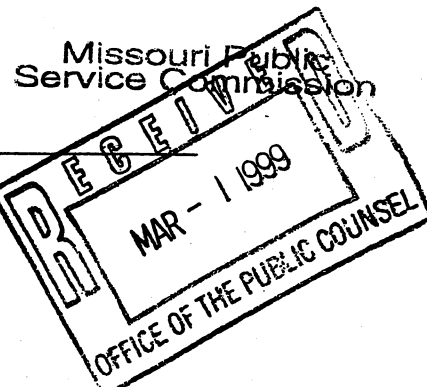
FILED

MAR - 1 1999

In the Matter of the Application of )  
UtiliCorp United Inc. under §32(k) of )  
the Public Utilities Holding Company )  
Act of 1935 Concerning a Proposed )  
Power Sales Agreement Between )  
MEP Pleasant Hill, L.L.C. and )  
UtiliCorp United Inc. d/b/a Missouri )  
Public Service. )

Case No.

EM-94-369



APPLICATION

COMES NOW UtiliCorp United Inc. ("UtiliCorp"), d/b/a Missouri Public Service ("MPS"), pursuant to §32(k) of the Public Utility Holding Company Act of 1935 ("PUHCA"), 4 CSR 240-2.060(1) and 4 CSR 240-2.080 and in support of its Application to the Missouri Public Service Commission ("Commission") for an order with respect to a Power Sales Agreement ("PSA") between UtiliCorp and MEP Pleasant Hill, L.L.C. ("MEPPH"), states as follows:

1. UtiliCorp is a Delaware corporation, in good standing in all respects, with its principal office and place of business at 20 West Ninth, Kansas City, Missouri 64105. UtiliCorp is authorized to conduct business in Missouri through its MPS operating division and, as such, is engaged in providing electrical and natural gas utility service in its service areas subject to the jurisdiction of this Commission as provided by law. UtiliCorp's Certificate of Incorporation and Amended Certificate of Authority of a Foreign Corporation have been filed in Commission Case No. EM-87-6 and said documents are incorporated herein by reference, collectively, as Appendix 1 hereto, and made a part hereof for all purposes.

2. MEPPH is a limited liability company organized under and by virtue of the laws of the State of Delaware, in good standing in all respects, with its principal office and place of business at

10750 350 Highway, Kansas City, Missouri 64138. A certified copy of MEPPH's Certificate of Registration to transact business in the State of Missouri is attached hereto as Appendix 2, and made a part hereof for all purposes. MEPPH is a subsidiary of UtiliCorp.

3. All communications, notices, orders and decisions with respect to this Application and proceeding should be addressed to:

Gary Clemens  
Manager Regulatory Services  
UtiliCorp United Inc.  
10700 E. 350 Highway  
Kansas City, MO 64138  
(816) 936-8634

James C. Swearengen  
Paul A. Boudreau  
Brydon, Swearengen & England P.C.  
312 E. Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102-0456  
(573) 635-7166

4. In connection with its Missouri jurisdictional electrical operations which it conducts through MPS, UtiliCorp has entered into certain contracts pursuant to which it purchases wholesale electric power. Specifically, UtiliCorp has contracted with Union Electric Company (now AmerenUE) for 115 megawatts of capacity and with Associated Electric Cooperative for 190 megawatts of capacity. In addition, UtiliCorp has contracted with Kansas City Power & Light Company for 90 megawatts of capacity. These contracts, which collectively represent 395 megawatts of capacity, will, by their terms, expire over a period of the next 26 months.

5. Accordingly, UtiliCorp will be required to have in place other capacity to meet its projected needs by the year 2000. To accomplish this, UtiliCorp has entered into a competitive

bidding process pursuant to which it issued a Request for Proposal ("RFP") on May 22, 1998, for both annual and seasonal purchased power capacity. A copy of the RFP is attached hereto as Appendix 3 and made a part hereof for all purposes. This RFP was forwarded to Staff and the Office of the Public Counsel ("OPC") for comment under integrated resource plan ("IRP") format on August 24, 1998.

6. The eight (8) proposals received in response to the RFP were opened on July 6, 1998, and were thereafter subjected to an internal review and evaluation by UtiliCorp and an independent third-party review and evaluation by the engineering consulting firm of Burns & McDonnell. These proposals were also forwarded to Staff and OPC under the IRP on August 24, 1998. The reviews and evaluations were provided to Staff and OPC on February 8, 1999. The objective of these evaluations was to determine the power supply option, or combination of options, which, when combined with UtiliCorp's existing resources, would result in the lowest total cost of power supply during the period of June 1, 2001, to May 31, 2005.

7. UtiliCorp has determined the successful (i.e., lowest cost) proposal to be the bid submitted by MEPPH. Accordingly, UtiliCorp has negotiated with MEPPH the terms of a PSA which will provide for 320 to 500 megawatts of capacity over a four (4) year term commencing June 1, 2001. Copies of the PSA, and an executive summary thereof, are attached hereto as Appendix 4 and Appendix 5, respectively, and made a part hereof for all purposes.

8. In order to protect against abusive affiliate transactions, subsection 32(k) of the PUHCA prohibits an electric utility, such as UtiliCorp, from entering into a purchase power agreement with an affiliated EWG unless every state commission having jurisdiction over the retail rates of the electric utility makes certain specific determination with respect to the agreement. Thus, it will be

necessary for the Commission to determine that it has sufficient regulatory authority, resources and access to books and records of UtiliCorp and any relevant affiliate or subsidiary such that it may exercise its duties under subsection 32(k) to determine that the proposed PSA (1) will benefit consumers; (2) does not violate any applicable state law (including, where applicable, least cost planning); (3) would not provide MEPPH any unfair competitive advantage by virtue of its affiliation with UtiliCorp; and (4) is in the public interest.<sup>1</sup> The PUHCA requires that the Commission make these findings with respect to the PSA before MEPPH may apply to the FERC for approval of the PSA. In fact, the Commission's order is a necessary exhibit to any application filed with the FERC.

9. Once Commission approval is obtained, MEPPH will file with the FERC a request for certification as an exempt wholesale generator ("EWG") and a request for approval of the PSA under applicable provisions of the PUHCA and the Federal Power Act. Shortly after obtaining such FERC approvals, MEPPH will commence with the construction of a 500 MW combined cycle combustion turbine generation plant in Cass County, Missouri, near the town of Pleasant Hill (the "Project") which Project will be operated by MEPPH to meet its contractual obligations under the PSA. MEPPH is not and will not be an "electrical corporation" as that term is defined at §386.020(15), RSMo 1998, inasmuch as it will sell electric power exclusively at wholesale and, thus, will not be engaged in the sale of electric power at retail to the general public. *See, State ex rel. M.O. Danciger v. Public Service Commission*, 205 S.W. 36 (Mo. 1918). MEPPH will be regulated by the FERC with respect to wholesale energy rates.

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<sup>1</sup>See, 15 U.S.C. §79z-5a(k).

10. A certified copy of the Resolutions of UtiliCorp's Board of Directors authorizing the PSA with MEPPH and the filing of this Application is attached hereto as Appendix 6, and made a part hereof for all purposes.

11. The Commission has broad statutory authority over the determination of retail rates by electrical corporations, including UtiliCorp, pursuant to Chapters 386 and 393, RSMo. The Commission's existing rules and regulations permit it to examine the books and records of UtiliCorp. Furthermore, the Commission, its Staff and the Office of the Public Counsel may examine the books, accounts, contracts and records of MEPPH as required for the effective discharge of the Commission's regulatory responsibilities affecting the provision of electric service by MPS. In addition, the Commission has a large staff of professional accountants, engineers, economists, attorneys, financial analysts and management specialists to advise it in this regard. Thus, the Commission has both the authority and resources to make the determinations required by the PUHCA as set forth in paragraph 8.

12. The PSA will ensure a steady, affordable and reliable source of electric power for distribution by MPS to its electric utility customers. Without the capacity which will be provided under the terms of the PSA, UtiliCorp will be unable to meet its projected capacity needs beginning in the year 2001. Therefore, it is essential that the projected energy needs of MPS customers are adequately and securely provided for.

13. The PSA does not violate any applicable state law and, without limitation, it does not conflict, in any way, with UtiliCorp's IRP obligations. UtiliCorp's RFP has complied in all respects with its IRP protocol.

14. The PSA will not provide MEPPH with any unfair competitive advantage by virtue of

its affiliation with UtiliCorp. As explained above, MEPPH's successful bid was the result of an arms' length competitive bidding process and MEPPH was supplied with no more information and granted no greater accommodation than was provided to any other respondent to the RFP. The eight (8) bids received were thoroughly examined not only by UtiliCorp but by an independent third party. Finally, the terms of the PSA are the result of an extensive arms' length negotiation between representatives of MEPPH and UtiliCorp each of which were represented and advised by separate counsel.

15. UtiliCorp understands that an order containing the findings required by the PUHCA with respect to the PSA shall in no way be binding on the Commission or any party to a future rate case to contest the ratemaking treatment to be afforded the PSA.

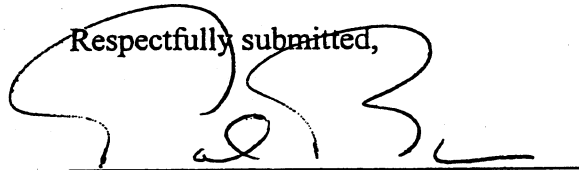
16. For the reasons aforesaid, the terms of the PSA are in the public interest.

17. It is imperative that MEPPH commence by the end of July of 1999 with the construction of the involved combustion turbine generation plant which will be located near Pleasant Hill, Missouri. The inability to obtain the necessary State and Federal regulatory approvals quickly may significantly impede UtiliCorp's ability to have in place the necessary capacity by the year 2001. Accordingly, UtiliCorp respectfully requests that the Commission issue an order approving this Application by May 1, 1999.

WHEREFORE, UtiliCorp respectfully requests that the Commission issue an order, no later than May 1, 1999: (A) specifically determining that the Commission has sufficient regulatory authority, resources and access to books and records of UtiliCorp and MEPPH to exercise its duties under subsection 32(k) of PUHCA to ensure that the proposed PSA (i) benefits consumers, (ii) does not violate any state law, (iii) does not provide MEPPH with any unfair competitive advantage by

virtue of its affiliation with UtiliCorp and (iv) is in the public interest; (B) authorizing UtiliCorp to enter into, execute and perform in accordance with the terms and conditions of the proposed Power Service Agreement by and between MEPPH and UtiliCorp; (C) authorizing UtiliCorp to enter into, execute and perform in accordance with the terms of all documents reasonably necessary and incidental to the performance of the transactions which are the subject of this Application; and (D) granting such other authority as may be just and proper under the circumstances.

Respectfully submitted,

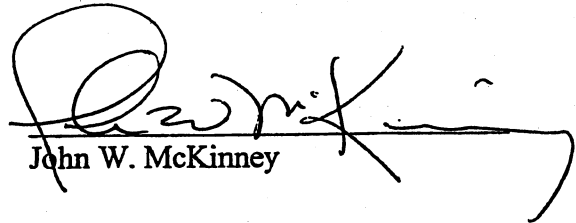


James C. Swearngen #21510  
Paul A. Boudreau #33155  
BRYDON, SWEARENGEN & ENGLAND P.C.  
P.O. Box 456  
Jefferson City, MO 65102-0456  
(573) 635-7166

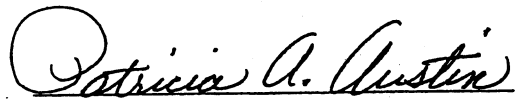
Attorneys for UtiliCorp United Inc., d/b/a Missouri  
Public Service

STATE OF MISSOURI     )  
                                  )  
COUNTY OF JACKSON    )     SS

I, John W. McKinney, of lawful age, being first duly sworn upon my oath, state that I am the Vice President-Regulatory Services of UtiliCorp United Inc.; that I am authorized to execute this document on behalf of UtiliCorp United Inc.; and that the facts set forth in the foregoing are true to the best of my knowledge, information and belief.

  
John W. McKinney

Subscribed and sworn to before me this 10th day of February, 1999.

  
Notary Public

My Commission Expires:  
PATRICIA A. AUSTIN  
Notary Public - State of Missouri  
Commissioned in Jackson County  
My Commission Expires: Dec. 12, 1999

\_\_\_\_\_  
(SEAL)



Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 1st day of March, 1999, to:

The Office of the Public Counsel  
Truman Building, Room 250  
P.O. Box 7800  
Jefferson City, MO 65102-7800

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a smaller 'B' and a horizontal line extending to the right.

# APPENDIX 1

## INCORPORATED BY REFERENCE

# STATE OF MISSOURI



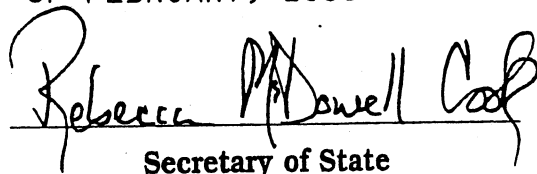
**Rebecca McDowell Cook**  
**Secretary of State**

CORPORATION DIVISION  
CERTIFICATE OF CORPORATE RECORDS

MEP PLEASANT HILL, LLC

I, REBECCA McDOWELL COOK, SECRETARY OF STATE OF THE STATE OF MISSOURI AND KEEPER OF THE GREAT SEAL THEREOF, DO HEREBY CERTIFY THAT THE ANNEXED PAGES CONTAIN A FULL, TRUE AND COMPLETE COPY OF THE ORIGINAL DOCUMENTS ON FILE AND OF RECORD IN THIS OFFICE.

IN TESTIMONY WHEREOF, I HAVE SET MY HAND AND IMPRINTED THE GREAT SEAL OF THE STATE OF MISSOURI, ON THIS, THE 23RD DAY OF FEBRUARY, 1999.

  
Secretary of State



# STATE OF MISSOURI



**Rebecca McDowell Cook**  
**Secretary of State**

## CERTIFICATE OF REGISTRATION FOREIGN LIMITED LIABILITY COMPANY

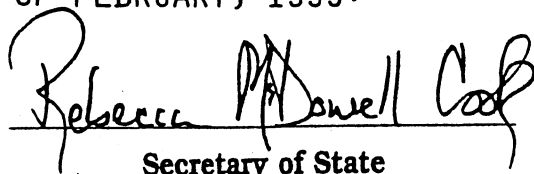
WHEREAS,  
MEP PLEASANT HILL, LLC

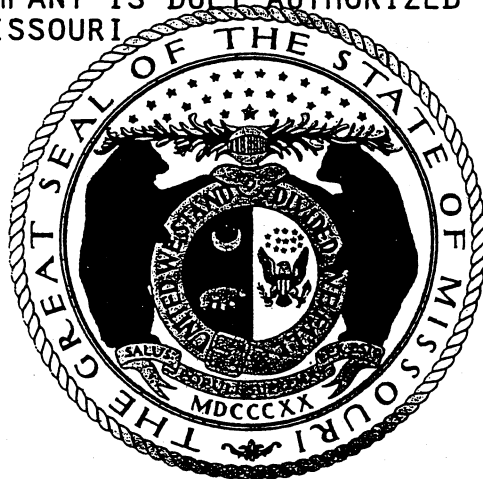
USING IN MISSOURI THE NAME  
MEP PLEASANT HILL, LLC

AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE  
HAS FILED WITH THIS STATE ITS APPLICATION FOR REGISTRATION AND  
WHEREAS THIS APPLICATION FOR REGISTRATION CONFORMS TO THE  
MISSOURI LIMITED LIABILITY COMPANY ACT;

NOW, THEREFORE, I, REBECCA MCDOWELL COOK, SECRETARY OF STATE,  
STATE OF MISSOURI, BY VIRTUE OF AUTHORITY VESTED IN ME BY LAW,  
DO CERTIFY AND DECLARE THAT ON THE 18TH DAY OF FEBRUARY, 1999,  
THE ABOVE FOREIGN LIMITED LIABILITY COMPANY IS DULY AUTHORIZED  
TO TRANSACT BUSINESS IN THE STATE OF MISSOURI  
AND IS ENTITLED TO ANY RIGHTS GRANTED  
LIMITED LIABILITY COMPANIES.

IN TESTIMONY WHEREOF, I HAVE SET MY  
HAND AND IMPRINTED THE GREAT SEAL OF  
THE STATE OF MISSOURI, ON THIS, THE  
18TH DAY OF FEBRUARY, 1999.

  
Secretary of State



\$105.00



STATE OF MISSOURI

Rebecca McDowell Cook, Secretary of State
P.O. Box 778, Jefferson City, MO 65102

Corporation Division

FILED

FEB 18 1999

Application for Registration of a Foreign
Limited Liability Company

(Submit in duplicate with registration fee of \$105.00)

(1) The name of the foreign limited liability company is:

MEP Pleasant Hill, LLC

Signature of Rebecca McDowell Cook, Secretary of State

(2) The name under which the foreign limited liability company will conduct business in Missouri is (must contain "limited company", "limited liability company", "LC", "LLC", "L.C.", or "L.L.C.") (must be filled out if different from name in line (1)):

MEP Pleasant Hill, LLC

(3) The foreign limited liability company was formed under the laws of Delaware on the date of (state or jurisdiction)

January 28, 1999, and is to dissolve on January 28, 2029 (month/date/year or event)

(4) The purpose of the foreign limited liability company or the general character of the business it proposes to transact in this state is:

To engage in any and all lawful activities which foreign limited liability companies may perform in the State of Missouri.

(5) The name and address of the limited liability company's registered agent in Missouri is (this line must be completed and include a street address):

C T Corporation System, 120 South Central Avenue, Clayton, Mo 63105

Name Address City/State/Zip

The Secretary of State is appointed agent for service of process if the foreign limited liability company fails to maintain a registered agent. No failure to maintain a registered agent constitutes grounds to cancel the registration of the foreign limited liability company.

(6) The address of the registered office in the jurisdiction organized. If none required, then the principal office address of the foreign limited liability company is: c/o The Corporation Trust Company,

1209 Orange Street, Wilmington, DE 19801

Name Address City/State/Zip

(7) For tax purposes, is the limited liability company considered a corporation? yes no X

In affirmation thereof, the facts stated above are true.

Signature of John K. Brungardt

Authorized signature (please sign and print name)

John K. Brungardt

Authorized signature (please sign and print name)

Authorized signature (please sign and print name)

**Request for Proposals**  
for  
**Resource Specific**  
**Capacity & Energy**  
for  
**Missouri Public Service**

**Issued: May 22, 1998**

## A. General

UtiliCorp Energy Group is issuing this Request For Proposal (RFP) on behalf of Missouri Public Service (MPS), a division of UtiliCorp United Inc. (UCU).

MPS is an integrated electric and gas utility located in western Missouri and is a member of the Southwest Power Pool and the MOKAN power pool.

The following RFP is for both annual and seasonal **Resource Specific Capacity and Energy** resources. Financially firm energy proposals will not be accepted.

**Resource Specific** means the successful bidder must state the actual power supply resource(s) that will provide the capacity and energy requested. The resource(s) need not be stated in the proposal; however, the resource(s) must be named and listed in any contract which may result from this solicitation.

This RFP is not a contract. Any contract(s) which may result from this RFP shall be in accordance with mutually agreeable, specific terms and conditions developed between UtiliCorp and the successful bidder(s). In addition, any contract(s) resulting from this RFP shall be subject to the approval of all regulatory bodies having jurisdiction.

UtiliCorp reserves the right to reject any or all proposals at its sole discretion.

Proposals shall be marked confidential and three copies shall be sent to Kiah Harris at the following address. Proposals must be received no later than 5:00p.m. C.D.S.T., July 3, 1998.

Kiah Harris  
Manager, Business Analysis and Consulting  
Burns & McDonnell  
9400 Ward Parkway  
Kansas City, MO 64114

## B. Contract Capacities and Periods

Proposals are requested for the seasonal and annual capacity amounts shown in Table 1. Note that UCU may purchase less than the amounts shown in Table 1.

Proposals for contract periods beginning June 1, 2002 or later must include a buyout option. The price of the option shall be stated in \$/MW-mo.

Note that while the annual capacity amounts represent the total resource need, the amounts listed under the three headings are not mutually exclusive. For example, assuming that appropriate proposals are submitted, UCU may

elect to purchase one of the following or similar portfolios to meet the needs of MPS from 6/1/2000 - 5/31/2001, each of which would satisfy the total need of 325 MW:

- 100 MW of Jun-May capacity, 50 MW of Oct-May capacity and 175 MW of Jun-Sep capacity; or,
- 325 MW of Jun-Sep capacity and 75 MW of Oct-May capacity; or,
- 325 MW of Jun-May capacity.

**Table 1: MPS Capacity Need**

<u>Contract Period</u>		<u>Capacity Amount (MW)</u>		
<u>From</u>	<u>To</u>	<u>Seasonal Capacity</u>		<u>Annual Capacity</u>
		<u>Jun-Sep</u>	<u>Oct-May</u>	<u>Jun-May</u>
6/1/2000	5/31/2001	Up to 325	Up to 75	Up to 325
6/1/2001	5/31/2002	Up to 500	Up to 250	Up to 500
6/1/2002	5/31/2003	Up to 575	Up to 300	Up to 575
6/1/2003	5/31/2004	Up to 650	Up to 350	Up to 650

**C. Point(s) of Delivery**

The point(s) of delivery shall be the interconnection point(s) of the MPS transmission system with the Eastern Interconnection.

**D. Capacity Pricing**

Capacity price at the point(s) of delivery **must** be stated in \$/MW-mo, fixed for the applicable contract term. Proposals in which the capacity price varies in each month of the contract period are acceptable.

**E. Energy Pricing**

Bidders are encouraged to submit creative pricing proposals. The energy price must be for energy delivered at the Point(s) of Delivery. Energy prices may be fixed or based on regionally recognized indices. The energy pricing methodology must enable UtiliCorp to determine the energy price prior to submitting a purchase schedule per Section H below.

Bidders may propose a variety of energy pricing methodologies which may include, but are not limited to, the following elements:



On peak/off peak price  
Monthly price  
Resource heat rate

Constant price  
Index price  
Resource variable O&M costs

The bidder shall provide any formula(s) used to calculate the energy price. The bidder shall include the values of any constants and a definition of all variables which make up the formula(s).

#### **F. Buyout Option**

A buyout option price must be provided for each contract period beginning on or after June 1, 2002. The pricing of the option shall be stated in \$/MW-mo applicable to those months remaining in the contract period subsequent to exercising the option.

#### **G. Transmission**

The successful bidder shall provide firm transmission service from the proposed resource(s) to the Point(s) of Delivery.

#### **H. Scheduling**

Proposals which allow hourly schedule changes are preferred; however, UCU will consider any and all scheduling proposals. Bidders shall state what scheduling requirements are proposed. At a minimum, proposed requirements on the following items must be included in bidders proposal:

- Resource Start up costs, if applicable
- Minimum purchase schedule
- Minimum load factor & measuring period
- Maximum load factor & measuring period
- Minimum schedule block
- Initial schedule submittal procedure
- Subsequent schedule change procedure
- Energy Block Requirements (ie: 7x24, 5x16, etc.)

#### **I. Availability**

Bidders **must** state and define the guaranteed availability level for the resource(s) that will provide the capacity and energy proposed.

The successful bidder **will be required** to reimburse UtiliCorp any incremental cost incurred to acquire replacement capacity and energy due to the bidder's failure to meet its availability guarantees.

Bidders shall provide the proposed maintenance schedule for unit contingent resource(s).

## **J. Contact**

For additional information regarding this RFP, contact Frank A. DeBacker as follows:

Ph: (816) 936-8639  
Fax: (816) 936-8695  
E-mail: [fdebacke2@utilicorp.com](mailto:fdebacke2@utilicorp.com)

# APPENDIX 4

**HIGHLY CONFIDENTIAL**

# APPENDIX 5

**HIGHLY CONFIDENTIAL**

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HIGHLY  
CONFIDENTIAL

RECEIPT COPY

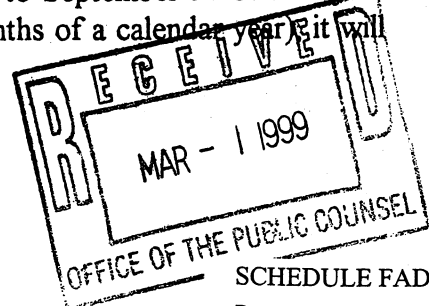
Missouri Public  
Service Commission

EXECUTIVE SUMMARY

The Power Sales Agreement (PSA) is a unit sale contract between MEPPH and MPS. The basic premise is that MEPPH is selling some or all of the output of a particular unit to MPS.

The principal features of the PSA are as follows:

- 1. The power plant.** The power plant will consist of two combustion turbines, each with a nominal net capacity of 160 MW, a heat recovery steam generator, and a steam turbine. The latter two components add approximately 230 MW when the station is operating in combined cycle mode. The capacity payment covers the cost of interconnection with MPS (but not system reinforcements on MPS's side of the meter), with a possible adjustment if the cost of these facilities exceeds \$2 million, and covers the cost of a connection, directly or through a local distribution company, with an interstate gas pipeline.
- 2. Reserved capacity.** MEPPH is committed to provide, and MPS is committed to purchase, 320 MW from the two combustion turbines operating in simple cycle from June 1, 2001 to September 30, 2001, at a price of \$5.70 per kilowatt-month (\$/kW-mo.). The plant will then be taken off line for some or all of the remainder of 2001 to add the additional equipment so that it can begin operating in combined cycle mode on January 1, 2002. Beginning on that date, MEPPH is to provide and MPS is to purchase 200 MW in each month until the expiration of the contract on May 31, 2005 at a price of \$5.90/kW-mo. In addition, MEPPH is to provide, and MPS is to purchase, an additional 300 MW during the summer periods covered by the PSA (April 1 to September 30 in 2002, 2003, and 2004, and April 1 to May 31 in 2005) at a price of \$7.50/kW-mo.
- 3. Energy.** Natural gas will be converted into electricity for a charge of \$1.25 per MWh (in 1998 dollars indexed to the U.S. Department of Commerce Producer Price Index). An appendix to the PSA guarantees MPS that the heat rates will not exceed certain guaranteed low levels, and the benefit of lower actual heat rates is passed through to MPS. The contract heat rates will be adjusted for part-load operation (which is less efficient).
- 4. Availability; energy from other sources.** If MEPPH does not provide equivalent availability of 94% for each of the Summer Period (April 1 to September 30 of each year during the contract term) and Winter Period (the other months of a calendar year) it will



have to make a payment to MPS that effectively reduces its capacity payments proportionally (that is, by the ratio of actual equivalent availability to 94%, times the applicable capacity payment, which is weighted in the case of the Summer Period to reflect the different prices for the 200 MW block and the 300 MW block). Forced Outages, Scheduled Maintenance Outages, and Planned Outages (maintenance outages for a short period on short notice to take care of a problem) all count against the 94%, but force majeure outages (whether affecting MEPPH or MPS) and outages due to MPS's failure to supply fuel are excluded from the calculation. No Scheduled Maintenance Outages are allowed between June 1 and September 30 in any year. At any time (that is, whether to provide energy according to MPS's schedule or to achieve the Commercial Operation Date in either simple cycle or combined cycle mode), MEPPH can provide energy from sources other than the facility, so long as MPS has sufficient capacity to accept the energy at the alternate delivery point. If MEPPH's decision to use an alternative source imposes a cost from gas suppliers or transporters on MPS, MEPPH must reimburse such cost.

**5. Option to purchase option to terminate or reduce capacity.** This title is not a typographical error. MPS will have the ability to purchase, within 30 days of executing this Agreement by making a fixed lump-sum payment, any one of four alternatives which will give MPS the right to purchase an option to reduce its contractual obligations to purchase some or all of the capacity (and associated energy) covered by this Agreement (this is the option to purchase an option). The four alternatives are different dates in the future on which MPS must decide whether or not to purchase the option to reduce its contractual obligations. MPS may purchase any of the alternatives for a portion of capacity less than the Contract Capacity, the cost determined on a pro rata basis. MPS is not obligated to purchase any of the above alternatives. The termination option provides the opportunity for MPS to purchase for \$0.90 per kW month the option to reduce its contractual obligations covered by this Agreement. If the Termination Option is elected MPS agrees to pay the Project Company \$0.90 per kW month for each of the 36 months commencing from June 1, 2002 to May 31, 2005 for the right to terminate the Agreement or to reduce its purchase obligation by blocks of twenty-five (25) MW for the Summer Period and ten (10) MW for the Winter Period. MPS agrees to pay the \$0.90 per kW month fee irrespective of whether it chooses to exercise the Termination Option. The termination and capacity reduction option may be exercised only on June 1, 2002, June 1, 2003 or June 1, 2004 and shall be exercised by MPS by written notice not later than March 1 preceding the June 1 at which the termination or capacity reduction becomes effective. Should MPS elect to terminate its purchase of any portion of contracted capacity, the remaining \$0.90 per kW month of future payments will be accelerated to the June 1 on which the termination is effective.

If MPS does not elect any of the four alternatives listed above, the Project Company agrees to price such an option at any future date if so requested in writing by MPS.

6. **Emergency scheduling.** If an emergency occurs on the MPS system due to a generator outage at a time when MPS has scheduled less than the full contract capacity for the period (320 MW, 200 MW, or 500 MW), MPS can require MEPPH to ramp up (or withdraw from an alternative spot purchaser) such unutilized capacity in time to meet the requirements of the Southwest Power Pool (31 to 59 minutes).

7. **Force Majeure.** The definition of force majeure is conventional. Equipment failure is a force majeure event only if it results from another force majeure event. A force majeure event affecting either party will postpone the milestone dates in the contract (other than the end of the contract term), except that MPS can terminate if MEPPH is more than a year late in achieving the Commercial Operation Date due to force majeure (18 months in the case of damage to certain major pieces of equipment). MPS can also terminate under the same circumstances for a force majeure outage of 12 or 18 months after the Commercial Operation Date. MPS will continue to make capacity payments to MEPPH if MPS cannot accept energy from MEPPH due to a force majeure event affecting MPS, and will continue to make capacity payments to MEPPH during the shorter of 120 days or the "deductible" period under MEPPH's business interruption insurance during MEPPH force majeure outages.

8. **Dispute Resolution.** The contract calls for arbitration to resolve disputes unless the subject matter is under the primary jurisdiction of the Missouri Public Service Commission or the Federal Energy Regulatory Commission.

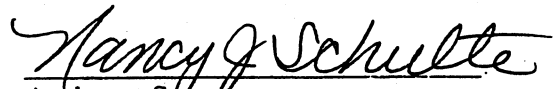
9. **Interconnection Agreement.** There will be a separate interconnection agreement between the parties.

10. **Damages.** Both parties waive incidental and consequential damages, and each party indemnifies the other against third-party claims.

CERTIFICATE

I, Nancy J. Schulte, hereby certify that I am Assistant Secretary of UtiliCorp United Inc. (the "Company") and custodian of the records and seal of such Company; that the attached resolutions are full, true and correct copies of resolutions adopted at a regular meeting of the Board of Directors of said Company on November 2, and November 3, 1999 and said resolutions are in full force and effect and have not been amended or revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of said Company this 16th day of February, 1999.

  
Assistant Secretary



## RESOLUTIONS

### Missouri Combined Cycle Project Pleasant Hill, Mo.

WHEREAS, the Company has caused to be established MEP Investments, LLC. ("MEP") to engage in merchant energy activities, including the purchase and sale of power and construction of power plants; and

WHEREAS, MEP has submitted the lowest qualifying bid in connection with the construction of a 500 MW gas fired combined cycle "F" class generating facility (the "Project") to be located in Pleasant Hill, Missouri to sell power to Missouri Public Service ("MPS") pursuant to a power purchase agreement (the "Purchase Agreement"); and

WHEREAS, MEP now proposes to enter into construction and engineering contracts for the construction of the Project and enter into the Purchase Agreement with MPS; be it

RESOLVED, the Board approves the award of the Project to MEP subject to the terms and conditions set forth in the original request for proposal; and

RESOLVED FURTHER, that MEP is authorized to proceed with the project financing, acquisition, construction and operation of a gas fired generating facility to be located on land currently held on behalf of MEP in Pleasant Hill, Missouri, at development costs of approximately \$224 million, (subject to adjustment); and

RESOLVED FURTHER, that in connection with the development of the Project, MEP is authorized to negotiate, execute and deliver such equipment agreements, construction agreements, engineering agreements, architects' agreements, consulting agreements, financing agreements, security agreements, fuel supply agreements, transport agreements, and other agreements and documents (collectively, the "Contracts") generally as may be necessary or appropriate for the purpose of constructing the Project; and

RESOLVED FURTHER, that the President, Chief Executive Officer or any vice president be, and each of them hereby is, authorized to negotiate, execute and deliver, on behalf of the Company, the Purchase Agreement upon substantially the terms set forth in the bid, with such changes in form or substance as the officer executing the same shall approve, such approval to be conclusively evidenced by her or his signature thereon; and

RESOLVED FURTHER, that to facilitate the development of the Project, said officers be, and each of them hereby is, authorized to determine whether the Company should participate as a coparty with MEP in any of the Contracts, or provide other support to MEP with regard to the Contracts; and

RESOLVED FURTHER, that the Company provide interim financing to MEP for the development of the Project, in such amounts and forms (as debt or equity) and upon such terms as said officers shall determine to be necessary or advisable, consistent with the intent of these resolutions; and

RESOLVED FURTHER, that the Company coordinate with MEP in the obtaining of all necessary permits and approvals, including regulatory approvals from federal, state and local governments, as may be required or appropriate for the purpose of carrying out the foregoing transactions; and

RESOLVED FURTHER, that said officers are further authorized to take such further action and to execute such additional agreements or instruments and to delegate said authority as may be necessary or appropriate in connection with carrying out the transactions contemplated by the foregoing resolutions.