UTILICORP UNITED INC.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of the Joint Application of UtiliCorp United Inc. and St. Joseph Light & Power Company for authority to merge St. Joseph Light & Power Company with and into UtiliCorp United Inc. and, in connection therewith, certain other related transactions	)))))))	Case No. EM-2000-292

UtiliCorp United Inc. and St. Joseph Light & Power Company Merger

Direct Testimony

October 19, 1999

Exhibit No.:
Issues: Merger Transaction
Witness: Robert K. Green
Sponsoring Party: UtiliCorp United Inc.
Case No.:

Before the Public Service Commission
of the State of Missouri

Direct Testimony

of

Robert K. Green

October 19, 1999

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI
DIRECT TESTIMONY OF ROBERT K. GREEN
ON BEHALF OF UTILICORP UNITED INC.

CASE NO.

INTRODUCTION

Q. What is your name and position at UtiliCorp United Inc. ("UtiliCorp")?

A. My name is Robert K. Green, and I am the President and Chief Operating Officer of UtiliCorp. I have held this position since 1996.

Q. What is your educational and professional background?

A. I have a B.S. in engineering from Princeton University and a law degree from Vanderbilt University. I was a financial analyst with Shearson Lehman in 1984; attorney with Blackwell, Sanders, Matheny, Weary, and Lombardi, 1987-88; Assistant Division Counsel, Missouri Public Service ("MPS"), 1988; Division Counsel, MPS, 1989; Vice President Administration, MPS, 1989-1990; Senior Vice President, Operations, MPS, 1990; President, MPS, 1991-1992; Executive Vice President, UtiliCorp United, 1993-1996.

Q. Have you previously testified before the Missouri Public Service Commission ("Commission")?

A. Yes.

Q. What is the purpose of your testimony in this proceeding?

A. My testimony is focused on three areas:

1. Background information about UtiliCorp and its strategy.

2. Description of the merger transaction with St. Joseph Light & Power Company ("SJLP").

3. Basic information about the proposed regulatory plan and the importance of receiving a merger approval order from the Commission that provides UtiliCorp with a reasonable opportunity to recover the acquisition premium.

UTILICORP'S BACKGROUND AND ITS BUSINESS STRATEGY

Q. Can you describe UtiliCorp?

A. UtiliCorp is an international electric and natural gas company with more than 4.5 million customers across the United States, and Canada, the United Kingdom, New Zealand, and Australia. UtiliCorp is headquartered in Kansas City, Missouri and operates regulated electric and gas utilities in eight states, Canada, New Zealand, and Australia and through its Aquila Energy ("Aquila") subsidiary markets natural gas and electricity across most of North America. In 1998, Aquila was ranked the second-largest wholesale marketer of natural gas in the U.S. and the third-largest marketer of electricity.

Q. In general terms, what is UtiliCorp's strategy?

A. UtiliCorp's stated vision is to be the leading multi-national energy solutions provider. To achieve this vision, UtiliCorp has focused its actions to achieve three strategic objectives: world class manager of energy networks and production assets; leading energy merchant; and globalization of the network and merchant businesses. As I will explain later in my testimony, the UtiliCorp globalization objective has enabled our company to operate in a substantially different regulatory paradigm.

Q. How long has this been UtiliCorp's strategy?

A. While the words describing the strategy have changed over time, the focus has remained constant. UtiliCorp initiated its growth strategy in 1984 and has been very successful in executing this strategy. As President of UtiliCorp, I believe it is extremely important to our customers, to our employees, and to our shareholders that UtiliCorp continue to grow its operations but to never lose focus on the importance of efficiently operating the businesses we already own. We must continue to focus our time and energy improving the basic performance drivers of our operations.

Q. Is UtiliCorp unique in its vision and strategy?

A. The vision and strategy might not be unique, but we consider our ability to execute unique. UtiliCorp has been successful in acquiring and integrating a series of utility businesses, both domestic and abroad, and capitalizing on changes in the regulatory environment to build value-adding businesses.

Q. Please describe the current status of the domestic utility merger and acquisition activity.

A. The domestic merger and acquisition business has become extremely active and competitive. In fact, there have been over 70 utility mergers announced during the past decade, with more than a dozen announced during the past 6-8 months. By way of contrast, when UtiliCorp initiated its growth strategy in 1984, it appeared that very few utilities saw a benefit in acquiring other utilities. As the utility industry continued to transition into a competitive environment however, more utilities and nonutility companies started recognizing the benefits of growth and UtiliCorp saw negotiated transactions being displaced by bidding processes. On several occasions, UtiliCorp has found itself at a disadvantage in those processes because it could not create sufficient synergies in acquiring noncontiguous utilities to compete with bids from contiguous

utilities. We also found that major mergers were very difficult, time consuming, and expensive to consummate. A good example was UtiliCorp's proposed merger with Kansas City Power & Light Company ("KCPL").

Q. Are your saying that UtiliCorp is no longer interested in merging with another company of comparable size?

A. Not at all. However, our focus on domestic acquisitions has become basically two fold: first, we are interested in utilities that are in the mid-continent region where we currently own and operate utilities and have the platform to realize economies of scale, and second, we are interested in assets that enhance our ability to become a leading energy merchant such as the Katy Storage facility in Texas and the electric combined cycle generation plant now under construction in Cass County, Missouri by UtiliCorp's Aquila Merchant Energy Partner business.

Q. What do you mean by "platform to realize economies?"

A. UtiliCorp witness, Steve Pella, provides details about the utility platform. In general, when UtiliCorp first started its acquisition strategy, it would leave the acquired utility intact with its own management, its own systems, its own operational procedures, etc. In other words, UtiliCorp preserved the local utility's identity. In 1994, with industry restructuring on the horizon, UtiliCorp adopted a different operational paradigm and created a centralized utility platform for operations that created economies while maintaining a focus on customer service. For example, UtiliCorp's utility operations benchmark O&M costs and customer satisfaction to make sure we maintain the appropriate balance.

MERGER TRANSACTION

Q. What was your personal role in the proposed merger with SJLP?

A. First, conceptually, I was an advocate of pursuing the consolidation of smaller Missouri utilities into a more significant regional utility. This form of consolidation of Missouri utilities provides not only a more efficient and reliable utility network, but also preserves jobs and creates a sound and stable economic development environment for the state. While the general pattern of acquisitions and mergers has tended to be multi-state, the Commission has the unique opportunity in connection with this transaction to create benefits that can be focused on Missouri residents. Second, specifically, I reviewed the SJLP merger feasibility analysis and after consulting with UtiliCorp's CEO, recommended taking the proposed transaction to the UtiliCorp Board of Directors for approval.

Q. Please describe, generally, how the proposed merger will take place.

A. The merger will take place in accordance with the terms of the Merger Agreement which is Schedule RG-1 to my testimony. Generally speaking, when the conditions of the Merger Agreement are satisfied, SJLP will be merged into UtiliCorp. To accomplish this, each share of SJLP common stock will convert into $23.00 of UtiliCorp common stock. The UtiliCorp common stock will be valued based on the average trading price for UtiliCorp's common stock during the 20 trading days ending on the fifth trading day prior to the closing date. Cash will be paid for any fractional share of UtiliCorp common stock to which a SJLP shareholder would otherwise be entitled. The number of shares of UtiliCorp common stock each SJLP shareholder will receive will be adjusted for any stock dividend, stock split, reclassification or other similar change relating to UtiliCorp's

common stock. UtiliCorp will also assume SJLP's existing debt obligations in the approximately amount of $80 million.

Q. What happens upon closing of the merger?

A. Upon the closing of the merger, by operation of law, UtiliCorp, the surviving corporation, will possess all rights, privileges, powers and franchises of a public and private nature which UtiliCorp and SJLP possessed immediately prior to the merger, including all certificates of convenience and necessity now held by the constituent companies.

Q. How many SJLP and UtiliCorp shares are outstanding?

A. As of December 31, 1998, SJLP had approximately 8.2 million weighted average common shares outstanding and UtiliCorp had approximately 80 million weighted average common shares outstanding. The UtiliCorp weighted average number of common shares outstanding have been adjusted for the split in shares that occurred earlier this year.

Q. Will UtiliCorp issue common stock in connection with this transaction?

A. Yes. Based upon the number of shares outstanding, the amount of equity that UtiliCorp will need to issue in order to exchange shares of its common stock for SJLP's stock is estimated to be $190 million. This taken together with the indebtedness of SJLP to be assumed by UtiliCorp, brings the total cost for UtiliCorp to merge with SJLP to approximately $270 million. This results in a premium of approximately $92 million.

Q. Is the merger subject to any conditions?

A. Yes. The merger is subject to various closing conditions, including, without limitation, the receipt of required SJLP shareholder approval, which was obtained on June 16, 1999, and the receipt of all necessary governmental approvals on terms which would not give

rise to a material adverse effect on the financial condition, income, assets, business, or prospects of the business operations presently owned or operated by SJLP or a material adverse effect on the business, properties, assets, liabilities (contingent or otherwise), financial condition, results of operations or prospects of UtiliCorp and its subsidiaries, taken as a whole, or on the ability of UtiliCorp to perform its obligations under or to consummate the transactions contemplated by the Merger Agreement, other than effects caused by changes resulting from conditions affecting the electric industry or gas utility industries generally. The merger is also subject to making of all necessary governmental filings, including filings with state utility regulators in Missouri, Iowa, Colorado, Minnesota and West Virginia and with the Federal Energy Regulatory Commission ("FERC"), the Securities and Exchange Commission ("SEC") and the Federal Trade Commission ("FTC").

Q. What is the status of these required approvals?

A. Applications for approval have been filed in Iowa, Colorado, Minnesota, and West Virginia. Orders approving the merger have been received from both Colorado Public Utilities Commission and West Virginia Public Service Commissions, and the Minnesota Department of Public Service has recommended approval. UtiliCorp has agreed to delay the process in Iowa in order to provide a copy of this Missouri filing to the Iowa Office of Consumer Advocate. The Iowa Utilities Board has a statutory 120 day decision requirement for mergers. We anticipate having all required state approvals except Missouri by year-end 1999. The federal filings are being prepared and will be filed within the next few weeks.

Q. Once the merger is closed, how will the SJLP properties be operated by UtiliCorp?

A. The SJLP properties will be operated as a part of UtiliCorp's Missouri operations, but as a distinct retail energy distribution unit. The SJLP retail distribution unit will consist of the present SJLP service territory and will continue to have its own rates for both the electric and gas operations. From the standpoint of the customers of SJLP, the change should be seamless and transparent. Service will continue at the same high level of performance. Customers of UtiliCorp and SJLP will benefit from the merged company's cost savings and from the ability to offer effective and efficient utility service. The cost savings summarized by UtiliCorp witness Vern Siemek will benefit customers in the form of a lower cost of service with the continued focus on quality customer service that customers of both companies enjoy today. The benefits that will flow through our regulatory plan, as discussed by UtiliCorp witness John McKinney, will benefit the communities served by the merged company by making business in the service area more competitive and by attracting new business.

Q. How does the utility platform relate to the proposed merger with SJLP?

A. Once the merger closes, the UtiliCorp operational platform will be used to integrate operations and create benefits for both SJLP and MPS customers and UtiliCorp shareholders.

Q. How will the Board of Directors of UtiliCorp be impacted by this merger?

A. The current Directors of UtiliCorp will continue to serve as the Board of Directors of UtiliCorp. To ensure continued high quality service, UtiliCorp will establish and maintain an Advisory Board for a period of three years following the closing date. The Advisory Board shall be comprised of up to nine persons designated by SJLP and

selected from among the present directors of SJLP. This Advisory Board will meet at least quarterly and shall review and consult with UtiliCorp in regards to business operations of UtiliCorp in the SJLP's current service area including reviewing and making recommendations with respect to the civic, charitable and business and customer development activities of UtiliCorp in SJLP current service area.

Q. What was the general process and analysis that UtiliCorp used to develop the price to offer for SJLP stock?

A. The development of the offer price was based upon five factors: ① the competitive bid process ② market multiples; ③ discounted cash flow valuations; ④ protective language in the merger agreement; and ⑤ likely benefit to both SJLP and UtiliCorp customers and UtiliCorp shareholders. During the process, we developed a forecast for SJLP which included the estimated cost of the transaction and the net savings.

Q. Can you briefly summarize the analysis?

A. The basic financial analysis supported an offer price of $22 - $23 per SJLP share.

Q. Did UtiliCorp compare its potential offer price to any industry norms?

A. Yes we did. The average multiples for industry M&A transactions announced during the past 14 months prior to UtiliCorp's final bid were as follows: 2.1 x book value; 27% premium over current stock price, and 18.2 x next year's estimated EPS. Applying these multiples to the SJLP transaction:

	Industry Norm	SJLP Value	Estimated Value per Share
Market-to-Book Value	2.1 x	11.76	24.70
Current Stock Price	27%	17.125	21.75
Next Year's EPS	18.2 x	1.34	24.39

UtiliCorp's actual $23.00 offer price results in multiples that approximate industry norms:

	Industry	UtiliCorp Offer
Multiple of Book Value	2.1 x	1.96 x
Premium over Current Stock Price	27%	34.3%
Multiple of Next Year's EPS	18.2 x	17.2 x

The premium paid compared to SJLP's stock price at time of final bid is somewhat higher than industry norms, but the drop in SJLP's stock price following the preliminary bids provides some explanation of that differential. Restating this benchmark based upon the SJLP stock price at the preliminary bid time gives a 29% premium over stock price, only slightly higher than the industry norm of 27%.

Q. Do you consider industry norms determining factors in making a decision on pricing or indicative reference points?

A. Industry norms are only indicative reference points. The real evaluation is determined through detailed cash flow and earnings valuation.

Q. Were other utilities or companies involved in the bidding process for SJLP.

A. Yes. UtiliCorp was initially told that six to ten other utilities were sent information memorandums and that all were considered viable strategic bidders.

Q. How would you characterize the price paid for SJLP?

A. The $23.00 per share is a fair and reasonable price which was finalized through an arm's length, competitive bidding process. This price provides benefits to all stakeholders and is comparable to industry norms.

Q. Can you briefly describe the relationship between the price paid for SJLP stock and the acquisition premium concept?

A. Yes. The shareholders of SJLP or, indeed any business must be offered a sufficient incentive to consider being acquired by another company. The incentive usually takes the form of an offer to the shareholders of a premium above the market value of their stock. The premium, typically known as an "acquisition premium" or "acquisition adjustment," results when utility property is purchased for an amount in excess of book value. If a company bidding for a utility cannot realize significant savings through the integration of operations, it cannot provide the necessary incentive or premium for the shareholders to sell and thus become the successful bidder in the process. Furthermore, if the bidding company is successful but then cannot recover the premium in the regulatory process, then the shareholders of the acquiring company bear the entire risk and cost for developing the savings for the acquired company's customers. In other words, without some mechanism to recover the acquisition premium, the shareholders of the acquiring company have no incentive to close the transaction.

Q. In establishing its bid price and making its decision to acquire SJLP, did UtiliCorp assume any specific action by the Commission with respect to recovery of the acquisition premium?

A. Yes we did. We assumed that the Commission would provide UtiliCorp with a reasonable opportunity to recover the acquisition premium.

Q. How would this occur?

A. UtiliCorp believed there were several options available to the Commission but that two were the most likely: first, direct recovery of the acquisition adjustment in rates by including the premium in rate base and cost of service treatment of the amortization; second and alternatively, allowing UtiliCorp to retain a reasonable share of the savings

created by the merger and thereby indirectly recover the premium cost helping to mitigate the financial impact of the acquisition adjustment on the company's books and records.

Q. Why did UtiliCorp make this assumption?

A. UtiliCorp found that the Commission had articulated a standard for premium recovery in its Case No. EM-91-213 (September 24, 1991) and its Case No. WR-95-204, SR-95-206 (November 21, 1995). In EM-91-213, the Commission stated that it "did not wish to discourage companies from actions which produce economies of scale and savings which can benefit ratepayers and shareholders alike."

As UtiliCorp completed its bid analysis, we felt confident that we could present a case to the Commission that clearly demonstrated benefits to both ratepayers and shareholders alike.

In WR-95-205/SR-95-206, the order stated: "The Commission finds that, on a policy basis, it is not necessarily opposed to consideration of acquisition adjustment ...." The Commission went on to state again "that it does not wish to discourage companies from actions which produce economies of scale and savings which can benefit ratepayers and shareholders alike." UtiliCorp was very encouraged about the prospect of premium recovery by the policy position articulated by the Commission in these cases.

Q. After announcing the transaction, did you find any other insights that helped confirm your opinion that UtiliCorp would have a reasonable opportunity to recover the premium?

A. Yes. In April, 1999, Commission Staff witness, Mark Oligschlaeger, in Case No. EM-97-515, made several references to a Staff policy on this issue (page 18, line 5-7): "The Staff believes that it is good policy to allow shareholders some opportunity to retain

benefits from mergers and acquisitions, as well as other actions undertaken that have the potential to increase efficiency and productivity."

Q. What is your understanding of Staff's preferred method to allow shareholders some opportunity to obtain benefits from mergers and acquisitions?

A. The Staff has clearly stated its preference in the Western/KCPL merger and in prefiling meetings with our company. The Staff prefers using traditional regulatory lag approaches, such as rate freezes. The Staff has also expressly stated that it does not support the direct recovery of acquisition premiums in rates.

Q. How is UtiliCorp proposing to achieve a reasonable opportunity to recover the acquisition premium?

A. UtiliCorp is proposing the combination of a traditional regulatory lag mechanism – a five year rate freeze for SJLP – with a subsequent partial premium in rate base and cost of service treatment of the amortization.

Q. What do you mean by partial premium in rate base?

A. Mr. McKinney describes the specifics of the proposal but basically UtiliCorp is proposing that after the five year rate freeze, UtiliCorp will have a rate case and include only 50% of the unamortized acquisition premium balance in rate base. At that time, all of the synergies that had been achieved in the previous 5 years will flow through the cost of service. UtiliCorp is guaranteeing the SJLP customers that the combination of partial rate base treatment of the premium and the synergy flow-through will create at least a $1.6 million reduction in the revenue requirement. Mr. Siemek's testimony provides the details on how this minimum guarantee was developed.

Q. Earlier in your testimony, you stated that you believe that the Staff is philosophically against recovery of the premium in rate base. Why is UtiliCorp challenging this Staff position?

A. While we initially considered a regulatory plan based on a shared synergies concept, UtiliCorp strongly believes that when merged companies can demonstrate that the transaction is in the best interest of the customers and in the public interest of the State of Missouri, rate base treatment of the premium is justified. Mr. McKinney goes into detail in his testimony about why our company has this philosophical belief. While we would have preferred to avoid the conflict with the Staff, we felt it was important to have the issue directly addressed by the Commission. As I explain later in my testimony, given today's environment, other state commissions are addressing premium recovery on a case by case basis.

Q. Does UtiliCorp's proposal to recover part of the acquisition premium in rates mark a departure from past comments by UtiliCorp not to seek such recovery?

A. Yes, but only to the extent that UtiliCorp seeks to recover part of the premium in this docket. However, it has always been and continues to be UtiliCorp's position that Missouri ratepayers would not be adversely or detrimentally affected by our merger and acquisition strategy. That is just as true today as it was 15 years ago. Seeking premium recovery is not inconsistent with this position.

Q. Please explain.

A. Prior to entering into the merger agreement with SJLP, we carefully considered the pros and cons of this merger, including the effect on Missouri ratepayers. Mr. Siemek's testimony sets forth specific synergies produced by this transaction. Clearly, the benefits

from this transaction exceed the costs, including the premium cost. In other words, there is no detriment from premium recovery if the benefits exceed the costs.

Q. What causes you to believe UtiliCorp should recover part of the acquisition premium today?

A. To not recover the premium would create a barrier to the changes developing in our industry. The industry is changing dramatically as it transitions into a more competitive environment. It is important, as Mr. Steinbecker has testified, for smaller utilities to combine and create a stronger operation to compete more effectively in a competitive environment.

Q. Are other state public service commissions addressing premium recovery?

A. Yes.

Q. Can you cite some examples?

A. Yes. Massachusetts is a good example. Prior to 1994, merger proposals in Massachusetts that envisioned an acquisition premium had been regarded as per se impermissible. After years of denying the cost of acquisition premiums, in 1994 the Massachusetts Department of Telecommunications and Energy changed its long-standing policy and now will allow recovery of the premium on a case by case basis when denying recovery of that premium would prevent consummation of a merger that would otherwise be in the public interest. Mr. McKinney cites other state examples in his direct testimony.

Q. Has UtiliCorp addressed premium recovery in any of its other jurisdictions?

A. Yes. First, when we acquired WestPlains Energy, we reserved the right to request recovery of the acquisition premium. The Kansas Commission order stated:

> "The Commission has determined that the existence of cost savings and synergies is an important consideration in acquisition proceedings. Pursuant to the terms of the S&A, the determination of the level of the acquisition premium and the regulatory treatment of the premium will be deferred. UtiliCorp is bound not to seek recovery of the premium beyond the level of savings generated by the acquisition."

UtiliCorp has not had a rate case in Kansas since the 1991 acquisition of WestPlains Energy but is currently in a proceeding where the recovery of the premium is being addressed.

Second, we acquired Minnegasco's Nebraska properties in 1993 and in the 1996 rate cases for Rate Areas II and III we requested premium recovery. The following decisions were issued:

> "The Rate area Two II Negotiating Team and Peoples agree that Peoples will recognize in its rate base one-third of the $8,636,790 of the acquisition adjustment paid for Minnegasco assets to be amortized over twenty (20) years. For the purpose of any subsequent rate proceedings occurring prior to the time said acquisition adjustment is fully amortized, Peoples may include the annual amortization expense related to the full acquisition adjustment amount as a legitimate operating expense and such expense will be considered to be just and reasonable. One-third of the unamortized balance will be included in the rate base [emphasis added]."

> "The Rate Area Utility Consultant, Special Counsel, Rate Area Three Negotiating Team and Peoples agree that Peoples will amortize $8,098,945 of the acquisition adjustment paid for Minnegasco assets over 10 years. The unamortized portion of the acquisition adjustment shall not be included in Peoples' rate base. For the purpose of any subsequent rate proceedings occurring prior to the time said acquisition adjustment is fully amortized, Peoples may include the annual amortization expense related to the acquisition adjustment amount as a legitimate operating expense and such expense will be considered to be just and reasonable [emphasis added]."

Q. Is this regulatory plan proposal the only acceptable model?

A. Not necessarily. UtiliCorp is very willing to consider other models that create comparable win-win situations for both customers and shareholders. We believe the

proposed model accomplishes this goal and also addresses the Commission concern of not discouraging "companies from actions which produce economies of scale and savings which can benefit ratepayers and shareholders alike."

Q. Has UtiliCorp taken steps to reduce transaction and transition costs related to this acquisition?

A. Yes. UtiliCorp did not use an investment bank for the transaction which saved approximately $2-3 million. UtiliCorp also did not hire a "synergy specialist" but instead relied upon operations personnel for the initial synergy determination and employee teams from UtiliCorp and SJLP to refine that analysis. Finally, UtiliCorp is not using any external witnesses in this case in order to minimize the incremental costs of the transaction.

Q. Did UtiliCorp consider other regulatory plans?

A. Yes. UtiliCorp is very intrigued by a unique regulatory compact model that UtiliCorp has experienced with its Australian electric acquisition. When UtiliCorp acquired the first privatized electric utility in Australia in 1995, the government authorized the company to implement a five-year incentive regulation model based upon a "CPI-X" formula where CPI is the Consumer Price Index and where X is a predetermined productivity factor.

Q. What happens after the initial five year period?

A. The government will reset rates but is adopting a very creative approach to gradually change – either increase or decrease -- rates in order to continue providing an incentive to utilities to create additional efficiencies. This method has been characterized as a "roof truss" or glide path adjustment which is contrasted with the traditional practice in the United States of making "cliff" adjustments.

Q. Can you briefly describe what you mean by a "glide path" model of regulation?

A. The basic principle is that regulated businesses must be confident that they will be rewarded for their efforts in achieving efficiency improvements in their operations in both current and future price reviews. The Regulator General recognized that utilities should be allowed to retain all gains achieved within the first price control period and that the revenue requirement for the next price control period should reflect an appropriate sharing between customers and shareholders of the efficiency improvements achieved by the utilities in the previous regulatory period. The sharing is achieved by using a glide path rate adjustment.

Q. Is this concept complicated to implement?

A. No. The diagram below explains how the concept works.

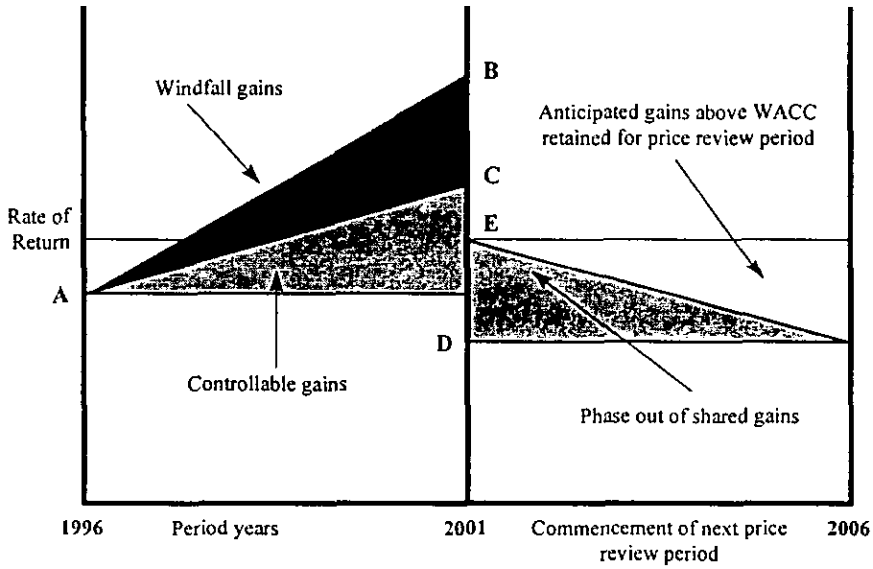
The result is illustrated by Figure 1 which characterizes the price determination in terms of a single dimension: a distribution licensee's rate of return. It should be noted that this represents a considerable simplification of the many different steps that are involved in deriving a revenue or price determination.

Figure 1 depicts six different potential observations on the profitability – expressed here as a rate of return – of a distribution licensee, as described below.

- 'A' represents the benchmark rate of return used for the initial determination;
- 'B' is the rate of return actually earned during the final year of the first price control period;

- 'C' represents the rate of return which would be earned, after (notional) adjustment for profits due to windfall gains, i.e., the difference between B and C is that element of profit attributable to developments external to the licensee;

Figure 1: Phase-out of Controllable Gains (or Losses)



- 'D' represents the estimated level of the weighted average cost of capital to be used for the second price control period, which in this illustrative example is shown as being less than the allowed rate of return established for the first revenue determination;
- 'E' is the benchmark rate of return for the first year of the second price review determination, once the efficiency carry-over for controllable gains has been built into the future revenue requirement. That rate is shown as declining to D over the period 2001-5;

- The horizontal line from E is intended to illustrate that the licensee could earn returns above the declining rate from E to D by achieving further efficiency gains above the regulatory benchmark during the period 2001-5. In practice the slope of the dotted line could be increasing or decreasing.

Q. How would this concept apply to this merger?

A. By simply modifying the glide path to reference synergies, the same concept could be used.

Q. Why has the Australian government implemented this nontraditional method of regulation?

A. The government was striving to incent utilities during the privatization process to develop operating efficiencies. Rather than looking at short term actions to control utility earnings through annual rate reviews, the Australian government adopted a unique long term approach. With the potential threat of annual earnings investigations removed and a long term understanding of how the rates would eventually be adjusted, the utilities were focused on creating value for all stakeholders.

Q. Why didn't UtiliCorp introduce this model as part of this merger application?

A. We had two concerns. First, we were concerned that introducing this new form of nontraditional regulation might significantly delay approval of this transaction. Given the potential employee turnover at SJLP, we could not risk adversely impacting operations by extending the approval time. Second, it is our understanding that the Commission does not have the statutory authority to approve incentive regulation models except on a short term, experimental basis and UtiliCorp would need a longer term, permanent approval.

Q. Did you consider any other options?

A. Yes. We knew that the recovery of the acquisition premium was going to be the most significant issue in this application. Therefore, we briefly considered the possibility of transferring the generation assets of both MPS and SJLP, and their prorata share of the acquisition premium, into an EWG. This action would place the burden of recovering a significant portion of the acquisition premium on the merchant capabilities of the EWG.

Q. Why did UtiliCorp only briefly consider this concept?

A. We immediately encountered a problem with property taxes. It is our understanding that EWG's would be locally assessed at a lower rate than the current state assessed utility generators. Also, the property taxes paid by the EWG would go to the specific county where the plant operates rather than being spread across the counties in MPS's service territory based upon a "pole mile" formula. Given the "not detrimental to the public interest" standard for merger approval in Missouri, UtiliCorp concluded that an EWG proposal would jeopardize the transaction.

Q. Is UtiliCorp going to attempt to remedy both incentive regulation and tax barriers to more creative approaches to merger transactions?

A. Yes. In fact, UtiliCorp would like to work with the Commission to jointly address these issues in the 2000 Missouri Legislature.

Q. Do you have any final comments about this transaction?

A. Yes. The merger of SJLP and UtiliCorp and eventually The Empire District Electric Company is an extremely unique opportunity. This Commission has the opportunity to combine three low cost, privately owned electric utilities in the State of Missouri into an even stronger, more operationally efficient utility. The resulting synergies can only be

created if these utilities are consolidated with the customers gaining the benefits. This intra-Missouri consolidation also preserves jobs in the state which would no doubt be lost if a non-Missouri based utility or company were involved. Finally, the disciplined growth strategy of UtiliCorp will continue to provide opportunities to enhance economic development in Missouri and the career advancement of all employees, as evidenced by our announcement earlier this year to create UtiliCorp's energy trading headquarters in downtown Kansas City and adding approximately 200 new jobs to the Missouri economy.

Q. Does this conclude your testimony?

A. Yes.

AGREEMENT AND PLAN OF MERGER

Dated as of March 4, 1999

between

UTILICORP UNITED INC.

and

ST. JOSEPH LIGHT & POWER COMPANY

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ARTICLE IX
MISCELLANEOUS

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this "Agreement") dated as of March __, 1999 between UtiliCorp United Inc., a Delaware corporation ("UCU"), and St. Joseph Light & Power Company, a Missouri corporation (the "Company").

RECITALS:

WHEREAS, the Boards of Directors of UCU and the Company deem it advisable and in the best interests of each corporation and its respective stockholders that UCU and the Company enter into a strategic business combination in order to advance the long-term business interests of UCU and the Company, and have therefore approved this Agreement, the Merger (as hereinafter defined) and the other transactions contemplated by this Agreement; and

WHEREAS, the combination of UCU and the Company shall be effected by the terms of this Agreement through a transaction in which the Company will merge with and into UCU, with UCU as the surviving corporation, and the common stockholders of the Company will become stockholders of UCU; and

WHEREAS, it is intended that, for federal income tax purposes, the Merger shall qualify as a reorganization under the provisions of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "Code");

WHEREAS, it is intended that the Merger shall be recorded for financial accounting purposes as a pooling of interests; and

WHEREAS, UCU and the Company desire to make certain representations, warranties, covenants and agreements in connection with this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth below, the parties agree as follows:

ARTICLE I
The Merger

Section 1.01. *The Merger.* (a) Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time (as hereinafter defined), the Company shall be merged (the "Merger") with and into UCU in accordance with the Missouri General and Business Corporation Law (the "MGBCL") and the General Corporation Law of the State of Delaware (the "DGCL"), whereupon the separate existence of the Company shall cease, and UCU shall continue as the surviving corporation (the "Surviving Corporation").

(b) Upon the terms and subject to the conditions of this Agreement, the closing of the Merger (the "Closing") shall take place at 10:00 a.m. on a date to be specified by the parties (the "Closing Date"), which date shall be no later than the second business day after satisfaction of the conditions set forth in Article VII, at the offices of Sidley & Austin, One First National Plaza, Chicago, Illinois 60603, unless another time, date or place is agreed to in writing by the parties hereto.

(c) Upon the Closing, the Company and UCU will file (i) articles of merger with the Secretary of State of the State of Missouri and make all other filings or recordings required by the MGBCL in connection with the Merger and (ii) a certificate of merger with the Secretary of State of the State of Delaware and make all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective at such time as the certificate of merger is duly filed with the Secretary of State of the State of Delaware or at such later time as is agreed to by UCU and the Company and specified in the certificate of merger (the "Effective Time").

(d) The Merger shall have the effects set forth in Section 351.458 of the MGBCL and Section 259 of the DGCL.

Section 1.02. *Certificate of Incorporation and Bylaws of the Surviving Corporation.* The certificate of incorporation and bylaws of UCU as in effect immediately prior to the Effective Time shall be the certificate of incorporation and bylaws of the Surviving Corporation.

Section 1.03. *Directors and Officers of the Surviving Corporation.* The directors of UCU immediately prior to the Effective Time shall be the initial directors of the Surviving Corporation, each to hold office in accordance with the certificate of incorporation and bylaws of the Surviving Corporation, and the officers of UCU immediately prior to the Effective Time shall be the initial officers of the Surviving Corporation, in each case until their respective successors are duly elected or appointed.

Section 1.04. *Advisory Board.* The Surviving Corporation (and any successor or assign of the Surviving Corporation) shall maintain an advisory board (the "Advisory Board"), for a period of three years following the Closing Date. The Advisory Board shall be comprised of up to nine persons designated in writing by the Company and selected from among the present directors of the Company on or prior to the Closing Date ("Company Designees"). Company Designees shall not be subject to removal without cause by the Surviving Corporation absent their consent, and any vacancy on the Advisory Board which arises after the Effective Time which the Advisory Board chooses to fill shall be filled by a person selected by majority vote of the remaining Company Designees and approved by UCU, which approval shall not be unreasonably withheld (and such replacement person shall be deemed a "Company Designee" for all purposes hereunder). The Advisory Board shall meet no less frequently than quarterly, and shall review and consult with the Surviving Corporation with respect to the business operations of the Surviving Corporation in the Company's current service area (including reviewing and making recommendations consistent with Section 6.17 with respect to the civic, charitable and business and customer development activities of the Surviving Corporation in such area). Company Designees shall each receive an annual fee of $15,600 for serving on the Advisory Board, and shall be reimbursed for reasonable out-of-pocket expenses incurred in connection with their service on the Advisory Board. The Surviving Corporation shall provide to Company Designees indemnification rights to the same extent as provided to UCU's officers and directors under UCU's Certificate of Incorporation and Bylaws.

ARTICLE II
Conversion of Capital Stock

Section 2.01. *Conversion of Capital Stock.* As of the Effective Time, by virtue of the Merger and without any action on the part of the holder of any securities of the Company or UCU:

(a) *Cancellation of Treasury Stock and UCU Owned Stock.* Each share of common stock, without par value, of the Company ("Company Common Stock") that is owned by the Company as treasury stock and each share of Company Common Stock that is owned by UCU or any of its wholly owned Subsidiaries shall be canceled and retired and shall cease to exist, and no shares of UCU Common Stock (as hereinafter defined) or other consideration shall be delivered in exchange therefor. For purposes of this Agreement, "Subsidiary" means, with respect to any Person, any corporation or other organization, whether incorporated or unincorporated, of which directly or indirectly at least 50% of the securities or other interests having by their terms ordinary voting power to elect a majority of the Board of Directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; provided, however, that, for purposes of Article III only, the term "Subsidiary" shall not include the entities set forth in Section 2.01(a) of the Company Disclosure Schedule (as

hereinafter defined). For purposes of this Agreement, "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a trust or any other entity or organization, including a Governmental Authority (as hereinafter defined).

(b) *Conversion of Company Common Stock.* Subject to Section 2.02, each issued and outstanding share of Company Common Stock (other than shares to be canceled pursuant to Section 2.01(a) or fractional shares for which cash will be paid pursuant to Section 2.02(e) and other than Dissenting Shares (as defined in Section 2.03)), shall be converted into the right to receive the number of shares (the "Merger Consideration") of duly authorized, validly issued, fully paid and nonassessable shares of common stock, par value $1.00 per share, of UCU ("UCU Common Stock") determined by dividing $23.00 by the Average UCU Share Price (as hereinafter defined). For purposes of this Agreement, the "Average UCU Share Price" means the average of the per share daily closing prices of the UCU Common Stock as reported on the NYSE Composite Tape for the 20 consecutive trading days ending on the fifth trading day prior to the Closing Date. All such shares of Company Common Stock, when so converted, shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any such shares shall cease to have any rights with respect thereto, except the right to receive (i) certificates representing the number of whole shares of UCU Common Stock into which such shares have been converted, (ii) certain dividends and other distributions in accordance with Section 2.02(c) and (iii) cash in lieu of fractional shares of UCU Common Stock in accordance with Section 2.02(e).

(c) *Adjustment to Merger Consideration.* If, prior to the Effective Time, UCU shall declare a stock dividend or other similar distribution of shares of UCU Common Stock or securities convertible into shares of UCU Common Stock, or effect a stock split, reclassification, recapitalization, stock combination or other change with respect to the UCU Common Stock, the Merger Consideration shall be appropriately adjusted to reflect such dividend, distribution, stock split, reclassification, recapitalization, stock combination or other change.

Section 2.02. *Exchange of Certificates.* The procedures for exchanging outstanding shares of Company Common Stock for UCU Common Stock pursuant to the Merger shall be as follows:

(a) *Exchange Agent.* Prior to or at the Effective Time, UCU shall deposit with an exchange agent as may be designated by UCU and reasonably acceptable to the Company (the "Exchange Agent"), for the benefit of the holders of shares of Company Common Stock, for exchange in accordance with this Section 2.02, certificates representing the shares of UCU Common Stock issuable pursuant to Section 2.01 in exchange for outstanding shares of Company Common Stock and shall deposit cash in an amount required to be paid pursuant to subsections (c) and (e) of this Section 2.02 (such shares of UCU Common Stock and cash being hereinafter referred to as the "Exchange Fund").

(b) *Exchange Procedures.* As soon as reasonably practicable after the Effective Time, the Exchange Agent shall mail to each holder of record of a certificate or certificates which immediately prior to the Effective Time represented outstanding shares of Company Common Stock (each a "Certificate" and, collectively, the "Certificates") whose shares were converted into shares of UCU Common Stock pursuant to Section 2.01, (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as UCU and the Company may reasonably specify) and (ii) instructions for use in effecting the surrender of the Certificates in exchange for certificates representing shares of UCU Common Stock. Upon surrender of a Certificate for cancellation to the Exchange Agent, together with such letter of transmittal, duly executed, the holder of record of such Certificate shall be entitled to receive in exchange therefor (x) a certificate or certificates representing that whole

number of shares of UCU Common Stock which such holder has the right to receive pursuant to the provisions of this Article II in such denominations and registered in such names as such holder may request in accordance with the instructions set forth in such letter of transmittal and (y) a check representing the amount of cash in lieu of fractional shares, if any, which such holder has the right to receive pursuant to the provisions of this Article II, after giving effect to any required withholding tax, without interest. In the event of a transfer of ownership of shares of Company Common Stock which is not registered on the transfer records of the Company, a certificate representing the proper number of shares of UCU Common Stock, together with a check for the cash to be paid in lieu of fractional shares, if any, without interest, and unpaid dividends and distributions since the Effective Time, if any, without interest, may be issued to such transferee if the Certificate representing such shares of Company Common Stock held by such transferee is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and to evidence that any applicable stock transfer taxes have been paid.

(c) *Distributions with Respect to Unexchanged Shares.* Notwithstanding any other provisions of this Agreement, no dividends or other distributions declared or made after the Effective Time with respect to any shares of UCU Common Stock having a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate, and no cash payment in lieu of fractional shares shall be paid to any such holder, until the holder of such Certificate shall surrender such Certificate as provided in this Section 2.02. Subject to the effect of applicable laws, following surrender of any such Certificate, there shall be paid to the holder of the certificates representing whole shares of UCU Common Stock issued in exchange therefor, without interest, (i) at the time of such surrender, the amount of any cash payable in lieu of a fractional share of UCU Common Stock to which such holder is entitled pursuant to subsection (e) of this Section 2.02 and the amount of dividends or other distributions with a record date after the Effective Time previously paid with respect to such whole shares of UCU Common Stock, less the amount of any withholding taxes which may be required thereon, and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to surrender and a payment date subsequent to surrender payable with respect to such whole shares of UCU Common Stock, less the amount of any withholding taxes which may be required thereon.

(d) *No Further Ownership Rights in Company Common Stock.* All shares of UCU Common Stock issued upon the surrender for exchange of shares of Company Common Stock in accordance with the terms hereof (including any cash paid pursuant to this Article II) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Company Common Stock, subject, however, to the Surviving Corporation's obligation to pay any dividends or make any other distributions with a record date prior to the Effective Time which may have been declared or made by the Company on such shares of Company Common Stock on or prior to the date hereof and which remain unpaid at the Effective Time, and there shall be no further registration of transfers on the stock transfer books of the Surviving Corporation of the shares of Company Common Stock which were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Surviving Corporation for any reason, they shall be canceled and exchanged as provided in this Section 2.02.

(e) *No Fractional Shares.* No certificate or scrip representing fractional shares of UCU Common Stock shall be issued upon the surrender for exchange of Certificates, and such fractional share interests will not entitle the owner thereof to vote or to exercise any rights of a stockholder of UCU. Notwithstanding any other provision of this Agreement, each holder of shares of Company Common Stock exchanged pursuant to the Merger who would otherwise have been entitled to receive a fraction of a share of UCU Common Stock (after taking into account all Certificates delivered by such holder) shall receive, in lieu thereof, cash (without interest) in an

amount equal to such fractional part of a share of UCU Common Stock multiplied by the Average UCU Share Price.

(f) *Termination of Exchange Fund.* Any portion of the Exchange Fund which remains undistributed to the stockholders of the Company for one year after the Effective Time shall be delivered to UCU, and any stockholders of the Company who have not previously complied with this Section 2.02 shall thereafter look only to UCU for payment of their claim for shares of UCU Common Stock, any cash in lieu of fractional shares of UCU Common Stock and any dividends or distributions with respect to UCU Common Stock, none of which shall bear interest.

(g) *No Liability.* The Surviving Corporation shall not be liable to any holder of shares of Company Common Stock or UCU Common Stock, as the case may be, for such shares (or dividends or distributions with respect thereto) of UCU Common Stock or cash from the Exchange Fund delivered to a public official as required by any applicable abandoned property, escheat or similar law. If any Certificates shall not have been surrendered prior to seven years after the Effective Time (or immediately prior to such earlier date on which any shares of UCU Common Stock, any dividends or distributions with respect thereto, or any cash in lieu of fractional shares in respect of such Certificate would otherwise escheat to or become the property of, or otherwise become deliverable to, any Governmental Authority), any such shares, dividends or distributions or cash in respect of such Certificate shall, to the extent permitted by applicable laws, become the property of UCU, free and clear of all claims or interest of any Person previously entitled thereto.

(h) *Missing Certificates.* In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact and the providing of an appropriate indemnity or surety bond by the Person claiming such Certificate to be lost, stolen or destroyed, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate the shares of UCU Common Stock, dividends and distributions and cash in lieu of fractional shares deliverable in respect thereof pursuant to this Agreement, less the amount of any withholding taxes that may be required thereon and without interest.

Section 2.03. *Dissenting Shares.* (a) "Dissenting Shares" means any shares of Company Common Stock held by any holder who objects to the Merger and who, by reason of the Merger, becomes entitled to payment of the fair value of such shares under Section 351.455 of the MGBCL. Any holders of Dissenting Shares shall be entitled to payment for such shares only to the extent permitted by and in accordance with the provisions of the MGBCL; provided, however, that if, in accordance with the MGBCL, any holder of Dissenting Shares shall have withdrawn or lost or otherwise have failed to perfect such right to payment of the fair value of such shares, such shares shall thereupon be deemed to have been converted into and to have become exchangeable for, as of the Effective Time, the right to receive the consideration provided in this Article II.

(b) The Company shall give UCU (i) prompt notice of any written objections to the Merger and any written demands for the payment of the fair value of any shares of Company Common Stock, withdrawals of such demands, and any other instruments served pursuant to Section 351.455 of the MGBCL received by the Company and (ii) the opportunity to participate in all negotiations and proceedings with respect to such demands under the MGBCL. The Company shall not voluntarily make any payment with respect to any demands for payment of fair value and shall not, except with the prior written consent of UCU, settle or offer to settle any such demands.

ARTICLE III
Representations and Warranties of the Company

The Company represents and warrants to UCU that the statements contained in this Article III are true and correct, except as set forth in the disclosure schedule delivered by the Company to UCU prior to execution of this Agreement (the "Company Disclosure Schedule") or as otherwise expressly contemplated by this Agreement. For purposes of this Agreement, "Company Material Adverse Effect" means a material adverse effect (i) on the business, properties, assets, liabilities (contingent or otherwise), financial condition, results of operations or prospects of the Company and its Subsidiaries, taken as a whole, or (ii) on the ability of the Company to perform its obligations under or to consummate the transactions contemplated by this Agreement, other than effects caused by changes resulting from conditions affecting the electric utility or gas utility industries generally.

Section 3.01. *Organization and Power; Regulation as a Public Utility.* (a) Each of the Company and its Subsidiaries is a corporation, partnership or other entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, and has the requisite corporate or other power and authority and governmental approvals to own, lease and operate its properties and to carry on its business as now being conducted, except where the failure to be in good standing or have such power, authority or approvals would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. Each of the Company and its Subsidiaries is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified or licensed and in good standing would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. The Company Disclosure Schedule contains a list of all of the Subsidiaries of the Company and all other entities in which the Company or any of its Subsidiaries has an aggregate equity investment in excess of $200,000.

(b) Neither the Company or any of its Subsidiaries is a "holding company," a "subsidiary company" or an "affiliate" of any public utility holding company within the meaning of Section 2(a)(7), 2(a)(8) or 2(a)(11) of the Public Utility Holding Company Act of 1935, as amended ("PUHCA"), respectively. The Company is regulated as a public utility in the State of Missouri and in no other state.

Section 3.02. *Corporate Authorization.* The execution and delivery by the Company of this Agreement, and the consummation by the Company of the transactions contemplated hereby, are within the Company's corporate powers and, except as set forth in the next succeeding sentence of this Section 3.02, have been duly authorized by all necessary corporate action. The affirmative vote of two-thirds of the outstanding shares of Company Common Stock (the "Company Stockholders' Approval") is the only vote of any class or series of the Company's capital stock necessary to approve and adopt this Agreement and the transactions contemplated by this Agreement. This Agreement has been duly executed and delivered by the Company and, subject to the receipt of the approval described in the immediately preceding sentence constitutes a legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar laws affecting creditors' rights generally from time to time in effect and to general principles of equity, regardless of whether in a proceeding at equity or at law).

Section 3.03. *Governmental Authorization.* The execution and delivery by the Company of this Agreement, and the consummation by the Company of the transactions contemplated hereby, require no action by or in respect of, or filing with, any federal, state or local government or any court, administrative agency or commission or other governmental agency or authority, whether domestic or foreign (a "Governmental Authority"), other than (i) the filings of articles of merger with respect to the Merger with the Missouri Secretary of State and a certificate of merger with respect to the Merger

with the Delaware Secretary of State: (ii) compliance with any applicable requirements of the Federal Energy Regulatory Commission ("FERC") and of the utility regulatory commission of Missouri (the "Company Required Statutory Approvals"); (iii) compliance with any applicable requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act"); (iv) compliance with any applicable requirements of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "Securities Act"); (v) compliance with any applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (the "Exchange Act"); (vi) compliance with any other applicable securities laws; (vii) compliance with any environmental, health or safety law or regulation requiring any notification, disclosure or approval in connection with the Merger; (viii) actions or filings which, if not taken or made, would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect; and (ix) filings and notices not required to be made or given until after the Effective Time.

Section 3.04. *Non-Contravention.* The execution and delivery of this Agreement by the Company does not, and the consummation of the transactions contemplated hereby will not, (i) conflict with, or result in any violation or breach of any provision of the articles of incorporation or bylaws of the Company; (ii) result in (A) any violation or breach of, or constitute (with or without notice or lapse of time, or both) a default (or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any material benefit) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, contract or other agreement, instrument or obligation to which the Company or any of its Subsidiaries is a party or by which any of them or any of their properties or assets may be bound or (B) the creation of any Lien upon any of the properties or assets of the Company or any of its Subsidiaries; or (iii) subject to the consents, approvals, orders, authorizations, filings and registrations contemplated by Section 3.03, violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Company or any of its Subsidiaries or any of their respective properties or assets, except in the case of clause (ii) for any such violations, breaches, defaults, terminations, cancellations, accelerations or creations of Liens which would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. For purposes of this Agreement, "Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset.

Section 3.05. *Capitalization.* (a) The authorized capital stock of the Company consists of 25,000,000 shares of Company Common Stock, 4,000,000 shares of Cumulative Preferred Stock, without par value ("Company Preferred Stock"), and 2,000,000 shares of Preference Stock, without par value ("Company Preference Stock"). As of January 1, 1999, (i) 8,146,927 shares of Company Common Stock were issued and outstanding, (ii) 1,105,821 shares of Company Common Stock were held in the treasury of the Company, (iii) 447,884 shares of Company Common Stock were reserved for issuance pursuant to the Company Employee Plans and the Company Benefit Arrangements (each as hereinafter defined), (iv) 8,146,927 shares of Company Common Stock were available for issuance under the Rights Agreement dated as of September 19, 1996 between the Company and Harris Trust and Savings Bank (the "Rights Agreement"), (v) 326,811 shares of Company Common Stock were reserved for issuance under the Automatic Dividend Reinvestment and Optional Cash Payment Plan (the "DRIP"), (vi) no shares of Company Preferred Stock were issued and outstanding or reserved for issuance, and (vii) no shares of Company Preference Stock were issued and outstanding or reserved for issuance. No change in such capitalization has occurred since such date except as permitted and contemplated by Section 5.01(d). Section 3.05 of the Company Disclosure Schedule sets forth a complete and accurate list of all Company Stock Options and Company Restricted Stock Awards outstanding on the date hereof. All outstanding shares of the Company Common Stock are, and all shares of Company Common Stock, subject to issuance as specified above, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, shall be, duly authorized, validly issued, fully paid and nonassessable, and not subject to any preemptive right. There

are no obligations, contingent or otherwise, of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any shares of Company Common Stock or the capital stock of any of the Company's Subsidiaries or make any investment (in the form of a loan, capital contribution or otherwise) in any such Subsidiary. All of the outstanding shares of capital stock of, or other equity interests in, each of the Company's Subsidiaries have been duly authorized and validly issued and are fully paid and nonassessable and, except for director's qualifying shares, are owned directly or indirectly by the Company, free and clear of all Liens and free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such shares or other equity interests).

(b) Except as set forth in Section 3.05(a), there are no equity securities of any class of the Company, or any security exchangeable into or exercisable for such equity securities, issued, reserved for issuance or outstanding. Except as set forth in Section 3.05(a), there are no options, warrants, securities, calls, rights, commitments or agreements of any character to which the Company or any of its Subsidiaries is a party or by which any of them are bound obligating the Company or any of its Subsidiaries to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock of the Company or any of its Subsidiaries or obligating the Company or any of its Subsidiaries to grant, extend, accelerate the vesting of or enter into any such option, warrant, equity security, call, right, commitment or agreement. There are no voting trusts or other agreements or understandings with respect to the shares of capital stock of the Company to which the Company is a party.

Section 3.06. *Reports and Financial Statements.* (a) The Company has filed all required reports, schedules, forms, statements and other documents with the Securities and Exchange Commission (the "SEC") since December 31, 1993 (the "Company SEC Reports").

(b) As of its filing date, each Company SEC Report filed pursuant to the Exchange Act did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except to the extent that such statements have been modified or superseded by a later filed Company SEC Report.

(c) Each Company SEC Report that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act as of the date such registration statement or amendment became effective did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except to the extent that such statements have been modified or superseded by a later filed Company SEC Report.

(d) The consolidated financial statements (including, in each case, any related notes) contained in the Company SEC Reports complied as to form in all material respects with the applicable published rules and regulations of the SEC with respect thereto, were prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved (except as may be indicated in the notes to such financial statements or, in the case of unaudited statements, as permitted for presentation in Quarterly Reports on Form 10-Q), and fairly presented in all material respects (subject in the case of unaudited statements to normal, recurring audit adjustments) the consolidated financial position of the Company and its Subsidiaries as at the respective dates and the consolidated results of its operations and cash flows for the respective periods indicated. The audited balance sheet of the Company as of December 31, 1998 is referred to herein as the "Company Balance Sheet".

(e) Since December 31, 1993 each of the Company and its Subsidiaries has made all required filings with the FERC and any appropriate state public utilities commission, except for such filings as would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect.

Section 3.07. *No Undisclosed Liabilities.* The Company and its Subsidiaries do not have any liabilities or obligations of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than:

(a) liabilities or obligations which would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect;

(b) liabilities or obligations disclosed or provided for in the Company Balance Sheet or in the notes thereto;

(c) liabilities or obligations under this Agreement or incurred in connection with the transactions contemplated by this Agreement; or

(d) liabilities or obligations incurred since December 31, 1998 in the ordinary course of business consistent with past practices.

Section 3.08. *Litigation.* (a) There is no action, suit, investigation or proceeding pending against, or to the knowledge of the Company, threatened against or affecting, the Company or any of its Subsidiaries or any of their respective properties before any Governmental Authority or arbitrator which, individually or in the aggregate, would be reasonably expected to have a Company Material Adverse Effect.

(b) There is no judgment, decree, injunction, or order of any Governmental Authority or arbitrator applicable to the Company or any of its Subsidiaries which, individually or in the aggregate, would be reasonably expected to have a Company Material Adverse Effect.

Section 3.09. *Absence of Certain Changes or Events.* Since the date of the Company Balance Sheet, except as contemplated by or as disclosed in this Agreement, the Company and its Subsidiaries have conducted their businesses only in the ordinary course and in a manner consistent with past practice and, since such date, there has not been (a) any Company Material Adverse Effect or any event or development (including in connection with the Merger) that would, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (b) any event that would, individually or in the aggregate, reasonably be expected to prevent or materially delay the performance of this Agreement by the Company, or (c) any action taken by the Company or any of its Subsidiaries during the period from the date of the Company Balance Sheet through the date of this Agreement that, if taken during the period from the date of this Agreement through the Effective Time, would constitute a breach of Section 5.01.

Section 3.10. *Compliance with Laws; No Default.* (a) (i) Neither the Company nor any of its Subsidiaries is in violation of or has violated or failed to comply with any statute, law, ordinance, regulation, rule, judgment, decree, order, writ, injunction, permit or license or other authorization or approval of any Governmental Authority or arbitrator applicable to its business or operations, except for violations and failures to comply that would not, individually or in the aggregate, be reasonably expected to result in a Company Material Adverse Effect and (ii) the Company and its Subsidiaries have all permits, licenses, franchises and other governmental authorizations, consents, approvals, and exemptions necessary to conduct their businesses as presently conducted and which are material to the operation of such businesses.

(b) Each material agreement, contract or commitment to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries are bound or to which any of their respective properties are bound ("Company Material Contracts") is a valid, binding and enforceable obligation of the Company or such Subsidiary and in full force and effect, except where the failure to be valid, binding and enforceable and in full force and effect would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. None of the Company or any of its Subsidiaries is in default or violation of any term, condition or provision of (i) its

respective articles of incorporation or by-laws or similar organizational documents or (ii) any Company Material Contract, except in the case of clause (ii) for any defaults or violations that would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. None of the Company or any of its Subsidiaries is subject to any agreement, whether written or oral, materially restricting the ability of the Company or any of its Subsidiaries to compete in any business activity.

Section 3.11. *Taxes.* (a) Each of the Company and its Subsidiaries has timely filed (or has had timely filed on its behalf) or will file or cause to be timely filed, all material Tax Returns (as hereinafter defined) required by applicable law to be filed by it prior to or as of the Effective Time, and all such material Tax Returns are, or will be at the time of filing, complete in all material respects.

(b) Each of the Company and its Subsidiaries has paid (or has had paid on its behalf) or, where payment is not yet due, has established (or has had established on its behalf and for its sole benefit and recourse) or will establish or cause to be established in accordance with generally accepted accounting principles on or before the Effective Time an adequate accrual for the payment of, all material Taxes (as hereinafter defined) due with respect to any period ending prior to or as of the Effective Time.

(c) The federal income Tax Returns of the Company and its Subsidiaries have been examined and settled with the Internal Revenue Service (the "IRS") (or the applicable statutes of limitation for the assessment of federal income Taxes for such periods have expired) for all years through 1994.

(d) There are no material Tax claims pending against the Company or any of its Subsidiaries and the Company does not know of any threatened claim for material Tax deficiencies or any basis for such claims, no material issues have been raised in writing in any examination by any taxing authority with respect to the Company or any of its Subsidiaries which, by application of similar principles, reasonably could be expected to result in a material proposed deficiency for any other period not so examined, and there is not now in force any waiver or agreement by the Company or any of its Subsidiaries for the extension of time for the assessment of any material Tax, nor has any such waiver or agreement been requested in writing by any taxing authority. Neither the Company nor any of its Subsidiaries has any liability with respect to any material United States federal, state, local, foreign or other Taxes of any corporation or entity other than the Company and its Subsidiaries.

(e) No transaction contemplated by this Agreement is subject to withholding under Section 1445 of the Code.

(f) To the knowledge of the Company, neither the Company nor any of its Subsidiaries has taken any action or failed to take any action, which action or failure would result in the failure of the Merger to qualify as a "reorganization" within the meaning of Section 368(a) of the Code.

(g) Neither the Company nor any of its Subsidiaries has filed with the IRS, or will file with the IRS prior to the Effective time, a statement consenting to the recognition of gain on the disposition of its "subsection (f) assets" under Section 341(f) of the Code.

(h) Neither the Company nor any of its Subsidiaries has made in the last three years, or will make prior to the Effective Time, any changes in accounting method to which Section 481(a) of the Code may apply.

(i) Neither the Company nor any of its Subsidiaries has made during the last three years, or will make prior to the Effective Time, an election to have a stock purchase treated as an asset purchase under Section 338 of the Code.

(j) "Taxes" shall mean any and all taxes, charges, fees, levies or other assessments, including income, gross receipts, excise, real or personal property, sales, withholding, social security, retirement, unemployment, occupation, use, goods and services, service use, license, value added, capital, net worth, payroll, profits, withholding, franchise, transfer and recording taxes, fees and charges, and any other

taxes, assessments or similar charges imposed by the IRS or any taxing authority (whether domestic or foreign including any state, county, local or foreign government or any subdivision or taxing agency thereof (including a United States possession)) (a "Taxing Authority"), whether computed on a separate, consolidated, unitary, combined or any other basis; and such term shall include any interest whether paid or received, fines, penalties or additional amounts attributable to, or imposed upon, or with respect to, any such taxes, charges, fees, levies or other assessments. "Tax Return" shall mean any report, return, document, declaration or other information or filing required to be supplied to any Taxing Authority or jurisdiction (foreign or domestic) with respect to Taxes, including any information return, any claim for refund, any amended return, any documents with respect to or accompanying payments of estimated Taxes, or with respect to or accompanying requests for the extension of time in which to file any such report, return, document, declaration or other information.

Section 3.12. *Intellectual Property.* (a) The Company and its Subsidiaries own, or are licensed or otherwise possess legally enforceable rights and are otherwise legally entitled to use, all patents, trade secrets, trademarks, trade names, service marks, copyrights and mask works, all applications for and registrations of such patents, trademarks, trade names, service marks, copyrights and mask works, and all processes, formulae, methods, schematics, technology, know-how, computer software programs or applications and tangible or intangible proprietary information or material that are necessary to conduct the business of the Company and its Subsidiaries as currently conducted (the "Company Intellectual Property Rights") except to the extent that the failure to have such rights would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect.

(b) Neither the Company nor any of its Subsidiaries is or will be as a result of the execution and delivery of this Agreement, or the performance of its obligations under this Agreement, in breach of any license, sublicense or other agreement relating to the Company Intellectual Property Rights or any license, sublicense or other agreement pursuant to which the Company or any of its Subsidiaries is authorized to use any third party patents, trademarks or copyrights, including software, which are used in the manufacture of, incorporated in, or form a part of any product of the Company or any of its Subsidiaries, except for breaches which, individually or in the aggregate, would not be reasonably expected to have a Company Material Adverse Effect.

(c) All patents, registered and common law trademarks, service marks and copyrights held by the Company or any of its Subsidiaries which are material to the business of the Company and its Subsidiaries are valid and enforceable. Neither the Company nor any of its Subsidiaries (i) has been sued in any suit, action or proceeding which involves a claim of infringement of any patent, trade secret, trademark, service mark or copyright or the violation of any trade secret or other proprietary right of any third party or (ii) has any knowledge that the manufacturing, importation, marketing, licensing, sale, offer for sale, or use of any of its products infringes any patent, trademark, service mark, copyright, trade secret or other proprietary right of any third party, which infringement, individually or in the aggregate, would be reasonably expected to have a Company Material Adverse Effect.

Section 3.13. *Environmental Matters.* (a) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect:

(i) no notice, demand, request for information, request for an investigation, notice of violation, citations, summons, claim, complaint or order has been received by, or, to the Company's knowledge, is pending or threatened by any Person against, the Company or any of its Subsidiaries nor has any material penalty been assessed or, to the Company's knowledge, is pending or threatened against the Company or any of its Subsidiaries with respect to any matters relating to the Company or any of its Subsidiaries and relating to or arising out of Environmental Laws (as hereinafter defined);

(ii) no property now or previously owned, leased or operated by the Company or any of its Subsidiaries nor any property to which the Company or any of its Subsidiaries has, directly or indirectly, transported or arranged for the transportation of any Hazardous Substance is listed or, to the Company's knowledge, proposed for listing on any federal, state, local or foreign list of sites requiring investigation or cleanup;

(iii) to the Company's knowledge, no Hazardous Substance has been discharged, emitted, released or is present at any property now or previously owned, leased or operated by the Company or any of its Subsidiaries in a manner that violated, or that is required to be investigated, remediated or removed pursuant to, Environmental Laws;

(iv) there are no liabilities of or relating to the Company or any of its Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, arising under or relating to Environmental Laws; and

(v) the Company and its Subsidiaries have or have applied for all permits or licenses necessary to operate their facilities in material compliance with Environmental Laws and are currently in material compliance with Environmental Laws.

(b) For purposes of this Agreement, the following terms shall have the meanings set forth below:

(i) "Environmental Laws" means any applicable federal, state, local and foreign statutes, laws, judicial decisions, regulations, rules, codes, injunctions, permits, licenses, approvals, agreements or governmental restrictions, each as in effect on or prior to the Closing Date, relating to protection of the environment or human health and safety or to the manufacture, use, treatment, storage, disposal or handling of, or to emissions, discharges or releases of, pollutants, contaminants, wastes or other hazardous substances into the environment.

(ii) "Hazardous Substance" means any pollutant, contaminant, waste or chemical or any toxic, radioactive, ignitable, corrosive or otherwise hazardous substance, waste, or material, including without limitation petroleum, its derivatives, byproducts and other hydrocarbons, which in any event is regulated under Environmental Laws.

Section 3.14. *Employee Benefits and Labor Matters.* (a) The Company Disclosure Schedule contains a list identifying each "employee benefit plan" (as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 ("ERISA")), which is subject to any provision of ERISA and is maintained, administered or contributed to by the Company and covers any employee or former employee of the Company or any of its Subsidiaries or under which the Company or any of its Subsidiaries has any liability (referred to collectively herein as the "Company Employee Plans"). Copies of such plans (and, if applicable, related trust agreements and insurance contracts) and all amendments thereto have been made available to UCU together with the summary plan description, the most recent annual report (Form 5500 including, if applicable, Schedule B thereto) prepared in connection with any such plan and the most recent actuarial valuation report prepared in connection with any such plan. The only Company Employee Plans which individually or collectively would constitute an "employee pension benefit plan" (as defined in Section 3(2) of ERISA) are identified as such in the list referred to above.

(b) No "accumulated funding deficiency" (as defined in Section 412 of the Code) has been incurred with respect to any Company Employee Plan subject to Title IV of ERISA, whether or not waived. No "reportable event" (within the meaning of Section 4043 of ERISA) and no event described in Section 4041, 4042, 4062 or 4063 of ERISA has occurred in connection with any Company Employee Plans other than any event which would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. No condition exists and no event has occurred that could constitute grounds for involuntary termination by the Pension Benefit Guaranty Corporation of any Company Employee Plans other than any such terminations that would not, individually or in the

aggregate, be reasonably expected to have a Company Material Adverse Effect. The Company does not have, as of the execution of this Agreement, and will not have, as of the Closing Date, any obligation to contribute to a multiemployer pension plan covered under Title IV of ERISA. The value of the assets of each Company Employee Plan that is subject to Title IV of ERISA equaled or exceeded the present value of the "benefit liabilities" (as defined in Section 4001(a)(16) of ERISA) of each such Company Plan as of the end of the plan year preceding execution of this Agreement, using the Company Employee Plan assumptions used for funding purposes in effect for such plan year. Neither the Company nor any Company ERISA Affiliate has any material unsatisfied liability under Title IV of ERISA in connection with the termination of, or complete or partial withdrawal from, any plan covered or previously covered by Title IV of ERISA. Nothing done or omitted to be done and no transaction or holding of any asset under or in connection with any Company Employee Plan has or will make the Company or any of its Subsidiaries or any officer or director of the Company or any of its Subsidiaries subject to any liability under Title I of ERISA or liable for any tax pursuant to Section 4975 of the Code that would, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect. For purposes of this Section, "Company ERISA Affiliate" means any other Person which, together with the Company, would be treated as a single employer under Section 414 of the Code.

(c) Each Company Employee Plan that is intended to be qualified under Section 401(a) of the Code has received a determination letter from the IRS that it is so qualified and, to the knowledge of the Company, is so qualified and has been so qualified during the period since its adoption. To the knowledge of the Company, each trust created under any such Company Employee Plan is exempt from tax under Section 501(a) of the Code and, to the knowledge of the Company, has been so exempt since its creation. The Company has made available to UCU the most recent determination letter of the IRS relating to each such Company Employee Plan. The Company and all ERISA Affiliates have performed all obligations required to be performed by them with respect to the Company Employee Plans, and each Company Employee Plan has been maintained in substantial compliance with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations, including, but not limited to, ERISA and the Code, which are applicable to such Company Employee Plan, excluding any instances of non-compliance that would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect.

(d) The Company Disclosure Schedule contains a list of each employment, severance or other similar contract, arrangement or policy and each plan or arrangement (whether written or oral) providing for insurance coverage (including any self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, retirement benefits or for deferred compensation, profit sharing, bonuses, stock options, stock appreciation or other forms of incentive compensation or post-retirement insurance, compensation or benefits which is not a Company Employee Plan, is entered into, maintained or contributed to, as the case may be, by the Company and covers any employee or former employee of the Company or any of its Subsidiaries. Such contracts, plans and arrangements as are described above, copies or descriptions of all of which have been furnished previously to UCU, are referred to collectively herein as the "Company Benefit Arrangements". Each Company Benefit Arrangement has been maintained in substantial compliance with its terms and with the requirements prescribed by any and all statutes, orders, rules and regulations that are applicable to such Company Benefit Arrangement, excluding any instances of non-compliance that would not, individually or in the aggregate, be reasonably expected to have a Company Material Adverse Effect.

(e) All contributions and other payments required to be made by the Company or any of its Subsidiaries pursuant to any Company Employee Plan or Company Benefit Arrangement have been timely made or reflected on the Company's financial statements.

(f) Since January 11, 1999, there has been no amendment to, written interpretation or announcement (whether written or oral) by the Company or any of its Affiliates relating to, or change in employee participation or coverage under, any Company Employee Plan or Company Benefit Arrangement.

(g) The execution of, and the performance of the transactions contemplated in, this Agreement will not (either alone or upon the occurrence of any additional or subsequent events) constitute an event under any Company Employee Plan or Company Benefit Arrangement that will or may result in any payment (whether of severance pay or otherwise), acceleration, forgiveness of indebtedness, vesting, distribution, increase in benefits or obligation to fund benefits with respect to any current or former employee, director or consultant of the Company or any of its Subsidiaries, or result in the triggering or imposition of any restrictions or limitations on the right of UCU, the Company or any of its Subsidiaries to amend or terminate any Company Employee Plans and receive the full amount of any excess assets remaining or resulting from such amendment or termination, subject to applicable taxes. There is no contract, agreement, plan or arrangement covering any employee or former employee of the Company or any of its Subsidiaries that, individually or in the aggregate, could give rise to the payment of any amount that would not be deductible pursuant to the terms of Sections 162(m) or 280G of the Code. Any Company Employee Plan that is an "employee welfare benefit plan" (as defined in Section 3(1) of ERISA), including any such plan covering former employees of the Company or any of its Subsidiaries, may be amended or terminated at any time without liability. Except for the five individual Employment Agreements identified in Section 3.14(d) of the Company Disclosure Schedule, the Company's 1994 and 1998 Long-Term Incentive Plans, the Supplemental Executive Retirement Plan, and the severance programs identified in Item 8 of Section 5.01 of the Company Disclosure Schedule, there are no plans, policies or agreements providing for severance pay or severance benefits.

(h) No work stoppage, labor strike or slowdown against the Company or any of its Subsidiaries is pending or threatened. Neither the Company nor any of its Subsidiaries is involved in or threatened with any labor dispute or grievance which, individually or in the aggregate, has had or would be reasonably expected to have a Company Material Adverse Effect. To the knowledge of the Company there is no organizing effort or representation question at issue with respect to any employee of the Company or any of its Subsidiaries. No collective bargaining agreement to which the Company or any of its Subsidiaries is or may be a party is currently under negotiation or renegotiation and no existing collective bargaining agreement is due for expiration, renewal or renegotiation within the one year period after the date hereof; provided, that both of the Collective Bargaining Agreements dated August 1, 1996 with Local Union No. 695 of the International Brotherhood of Electrical Workers ("IBEW") are scheduled to expire on July 31, 1999, and UCU agrees between the date of this Agreement and the Effective Time the Company shall be permitted to, at the Company's option, negotiate and execute new collective bargaining agreements with IBEW on terms and conditions which shall be determined by the Company in its sole discretion in consultation with UCU.

Section 3.15. *Transactions with Affiliates.* Since the date of the Company's last proxy statement prior to the date of this Agreement, there have been no transactions, agreements, arrangements or understandings between the Company or its Subsidiaries, on the one hand, and the Company's Affiliates (other than wholly-owned Subsidiaries of the Company) or other Persons, on the other hand, that would be required to be disclosed under Item 404 of Regulation S-K under the Securities Act. For purposes of this Agreement, "Affiliate", when used with respect to any Person, means any other Person directly or indirectly controlling, controlled by, or under common control with such Person. As used in the definition of "Affiliate," the term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

Section 3.16. *Information Supplied.* The information supplied by the Company for inclusion in the registration statement on Form S-4 or any amendment or supplement thereto pursuant to which shares of UCU Common Stock issuable in the Merger will be registered with the SEC (the "Registration Statement") shall not at the time the Registration Statement is declared effective by the SEC contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The information supplied by the Company for inclusion in the proxy statement/prospectus or any amendment or supplement thereto (the "Proxy Statement") to be sent to the stockholders of the Company in connection with their meeting to consider this Agreement and the Merger (the "Company Stockholders' Meeting") shall not, on the date the Proxy Statement is first mailed to the stockholders of the Company or at the time of the Company Stockholders' Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 3.17. *Opinion of Financial Advisor.* The financial advisor of the Company, Morgan Stanley & Co. Incorporated, has delivered to the Company a written opinion dated the date of this Agreement to the effect that the Merger Consideration to be received in the Merger is fair from a financial point of view to the common stockholders of the Company. The Company has delivered to UCU a copy of such opinion.

Section 3.18. *Finders' Fees.* Except as provided in the engagement agreement between the Company and Morgan Stanley & Co. Incorporated, a copy of which has been provided to UCU, no investment banker, broker, finder, other intermediary or other Person is entitled to any investment banking, broker's, finder's or similar fee or commission from the Company or any of its Subsidiaries upon consummation of the transactions contemplated by this Agreement.

Section 3.19. *Takeover Statutes.* The Board of Directors of the Company has approved the Merger and this Agreement, and such approval is sufficient to render inapplicable to the Merger, this Agreement and the transactions contemplated by this Agreement the provisions of Section 351.459 of the MGBCL. To the best of the Company's knowledge, no other "fair price", "moratorium", "control share acquisition" or other similar anti-takeover statute or regulation enacted under state or federal laws in the United States (each, a "Takeover Statute") applicable to the Company or any of its Subsidiaries is applicable to the Merger or the other transactions contemplated hereby.

Section 3.20. *Rights Agreement.* The Company has amended the Rights Agreement to (i) render the Rights Agreement inapplicable to the Merger and the other transactions contemplated by this Agreement and (ii) provide that UCU shall not be deemed an Acquiring Person (as defined in the Rights Agreement), the Distribution Date (as defined in the Rights Agreement) shall not be deemed to occur and the rights issuable pursuant to the Rights Agreement (the "Rights") will not separate from the shares of Company Common Stock, as a result of entering into this Agreement or consummating the Merger and the other transactions contemplated hereby, and, except as otherwise provided herein, such amended Rights Agreement may not be further amended by the Company without the prior written consent of UCU; provided, that in no event shall any such amendment survive termination of this Agreement.

Section 3.21. *Pooling of Interests.* Neither the Company nor any of its Subsidiaries has taken any action or failed to take any action which action or failure would jeopardize the treatment of the Merger as a pooling of interests for financial accounting purposes; provided, that solely for purposes of this Section 3.21 the term "Subsidiaries" shall include the entities listed in Section 2.01(a) of the Company Disclosure Schedule.

Section 3.22. *Year 2000.* The Company has initiated a review and assessment of the Year 2000 Problem (as hereinafter defined), has developed a plan for addressing the Year 2000 Problem on a

timely basis and has to date implemented such plan, except where the Company's failure to do so is not reasonably likely to have a Company Material Adverse Effect. Except as would not reasonably be expected to have a Company Material Adverse Effect, to the knowledge of the Company, none of the assets or equipment owned or utilized by the Company or any of its Subsidiaries will fail to perform because of, or due in any way to, a Year 2000 Problem. To the knowledge of the Company based on responses to written inquiries made by the Company or otherwise based on information brought specifically to the attention of the Company, no vendor, supplier or customer of the Company or any of its Subsidiaries is reasonably expected to experience a Year 2000 Problem that, individually or in the aggregate, could constitute a Company Material Adverse Effect. The term "Year 2000 Problem" means the material inability of any hardware, software or process to recognize and correctly calculate dates on and after January 1, 2000, or the failure of computer systems, products or services to perform any of their intended functions in a proper manner in connection with data containing any date on or after January 1, 2000.

Section 3.23. *Insurance.* The Company and each of its Subsidiaries is, and has been continuously since January 1, 1995, self-insured (consistent with customary practices in the electric and gas utility industry) or insured with financially responsible insurers in such amounts and against such risks and losses as are customary in all material respects for companies conducting the business as conducted by the Company and its Subsidiaries during such time period. Neither the Company nor any of its Subsidiaries has received any notice of cancellation or termination with respect to any insurance policy of the Company or any of its Subsidiaries.

ARTICLE IV
Representations and Warranties of UCU

UCU represents and warrants to the Company that the statements contained in this Article IV are true and correct, except as set forth in the disclosure schedule delivered by UCU to the Company prior to the execution of this Agreement (the "UCU Disclosure Schedule") or as otherwise expressly contemplated by this Agreement. For purposes of this Agreement, "UCU Material Adverse Effect" means a material adverse effect (i) on the business, properties, assets, liabilities (contingent or otherwise), financial condition, results of operations or prospects of UCU and its Subsidiaries, taken as a whole, or (ii) on the ability of UCU to perform its obligations under or to consummate the transactions contemplated by this Agreement, other than effects caused by changes resulting from conditions affecting the electric utility or gas utility industries generally.

Section 4.01. *Organization and Power; Regulation as a Public Utility.* (a) Each of UCU and its Subsidiaries is a corporation, partnership or other entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, and has the requisite corporate or other power and authority and governmental approvals to own, lease and operate its properties and to carry on its business as now being conducted, except where the failure to be in good standing or have such power, authority or approvals would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect. Each of UCU and its Subsidiaries is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensing necessary, except where the failure to be so duly qualified or licensed and in good standing would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect.

(b) Neither UCU nor any of its Subsidiaries is a "holding company," a "subsidiary company" or an "affiliate" of any public utility holding company within the meaning of Section 2(a)(7), 2(a)(8) or 2(a)(11) of PUHCA, respectively. As of the date hereof, UCU and its Subsidiaries are regulated as public utilities in the States of Colorado, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska,

South Dakota and West Virginia and in no other state, the province of British Columbia, Canada, and in no other province of Canada, and the country of New Zealand.

Section 4.02. *Corporate Authorization.* The execution and delivery by UCU of this Agreement, and the consummation by UCU of the transactions contemplated hereby, are within the corporate powers of UCU and have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by UCU and constitutes a legal, valid and binding agreement of UCU enforceable against UCU in accordance with its terms (subject to applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar laws affecting creditors' rights generally from time to time in effect and to general principles of equity, regardless of whether in a proceeding at equity or at law). The shares of UCU Common Stock issued pursuant to the Merger, when issued in accordance with the terms hereof, will be duly authorized, validly issued, fully paid and nonassessable and free of preemptive rights.

Section 4.03. *Governmental Authorization.* The execution and delivery by UCU of this Agreement, and the consummation by UCU of the transactions contemplated hereby, require no action by or in respect of, or filing with, any Governmental Authority other than (i) the filing of articles of merger with respect to the Merger with the Missouri Secretary of State, a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which UCU is qualified to do business; (ii) compliance with any applicable requirements of the FERC or requirements of the utility regulatory commissions of the jurisdictions in which UCU is regulated as a public utility (the "UCU Required Statutory Approvals"); (iii) compliance with any applicable requirements of the HSR Act; (iv) compliance with any applicable requirements of the Securities Act; (v) compliance with any applicable requirements of the Exchange Act; (vi) compliance with any other applicable securities laws; (vii) compliance with any environmental, health or safety law or regulation requiring any notification, disclosure or approval in connection with the Merger; (viii) actions or filings which, if not taken or made, would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect; and (ix) filings and notices not required to be made or given until after the Effective Time.

Section 4.04. *Non-Contravention.* The execution and delivery of this Agreement by UCU does not, and the consummation of the transactions contemplated hereby will not, (i) conflict with, or result in any violation or breach of any provision of the certificate of incorporation or bylaws of UCU, (ii) result in any violation or breach of, or constitute (with or without notice or lapse of time, or both) a default (or give rise to a right of termination, cancellation or acceleration of any obligation or loss of any material benefit) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, lease, contract or other agreement, instrument or obligation to which UCU or any of its Subsidiaries is a party or by which any of them or any of their properties or assets may be bound, or (iii) subject to the consents, approvals, orders, authorizations, filings and registrations contemplated by Sections 4.02 and 4.03, violate any order, writ, injunction, decree, statute, rule or regulation applicable to UCU or any of its Subsidiaries or any of their respective properties or assets, except in the case of clause (ii) for any such violations, breaches, defaults, terminations, cancellations or accelerations which would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect.

Section 4.05. *Capitalization.* (a) As of the date hereof, the authorized capital stock of UCU consists of 200,000,000 shares of UCU Common Stock, 20,000,000 shares of Class A Common Stock, par value $1.00 per share ("UCU Class A Stock"), and 10,000,000 shares of Preference Stock, without par value ("UCU Preference Stock"). As of January 1, 1999, (i) 62,405,409 shares of UCU Common Stock were issued and outstanding, (ii) 1,367,026 shares of UCU Common Stock were held in the treasury of UCU or by Subsidiaries of UCU, (iii) 9,014,406 shares of UCU Common Stock were reserved for issuance pursuant to UCU employee plans and UCU benefit arrangements, (iv) no shares of UCU Class A Stock were issued and outstanding and (v) no shares of UCU Preference Stock were

issued and outstanding. All outstanding shares of UCU Common Stock are, and all shares of UCU Common Stock subject to issuance as specified above, upon issuance on the terms and conditions specified in the instruments pursuant to which they are issuable, shall be, duly authorized, validly issued, fully paid and nonassessable.

(b) Except as set forth in Section 4.05(a), as of the date hereof, there are no equity securities of any class of UCU, or any security exchangeable into or exercisable for such equity securities, issued, reserved for issuance or outstanding. As of the date hereof, there are no voting trusts or other agreements or understandings with respect to the shares of capital stock of UCU to which UCU is a party.

Section 4.06. *Reports and Financial Statements.* (a) UCU has filed all required reports, schedules, forms, statements and other documents with the SEC since December 31, 1993 (the "UCU SEC Reports").

(b) As of its filing date, each UCU SEC Report filed pursuant to the Exchange Act did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except to the extent that such statements have been modified or superseded by a later filed UCU SEC Report.

(c) Each UCU SEC Report that is a registration statement, as amended or supplemented, if applicable, filed pursuant to the Securities Act as of the date such registration statement or amendment became effective did not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, except to the extent that such statements have been modified or superseded by a later filed UCU SEC Report.

(d) The consolidated financial statements (including, in each case, any related notes) contained in the UCU SEC Reports complied as to form in all material respects with the applicable published rules and regulations of the SEC with respect thereto, were prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved (except as may be indicated in the notes to such financial statements or, in the case of unaudited statements, as permitted for presentation in Quarterly Reports on Form 10-Q), and fairly presented in all material respects (subject in the case of unaudited statements to normal, recurring audit adjustments) the consolidated financial position of UCU and its Subsidiaries as at the respective dates and the consolidated results of its operations and cash flows for the periods indicated. The audited balance sheet of UCU as of December 31, 1998 is referred to herein as the "UCU Balance Sheet".

(e) Since December 31, 1993, UCU and each of its Subsidiaries has made all required filings with the FERC and any appropriate state public utilities commission, except for such filings as would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect.

Section 4.07. *No Undisclosed Liabilities.* UCU and its Subsidiaries do not have any liabilities or obligations of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than:

(a) liabilities or obligations which would not, individually or in the aggregate, be reasonably expected to have a UCU Material Adverse Effect;

(b) liabilities or obligations disclosed or provided for in the UCU Balance Sheet or in the notes thereto;

(c) liabilities or obligations under this Agreement or incurred in connection with the transactions contemplated by this Agreement; or

(d) liabilities or obligations incurred since December 31, 1998 in the ordinary course of business consistent with past practices.

Section 4.08. *Litigation.* (a) There is no action, suit, investigation or proceeding pending against, or to the knowledge of UCU, threatened against or affecting, UCU or any of its Subsidiaries or any of their respective properties before any Governmental Authority or arbitrator which, individually or in the aggregate, would be reasonably expected to have a UCU Material Adverse Effect.

(b) There is no judgment, decree, injunction, or order of any Governmental Authority or arbitrator applicable to UCU or any of its Subsidiaries which, individually or in the aggregate, would be reasonably expected to have a UCU Material Adverse Effect.

Section 4.09. *Absence of Certain Changes or Events.* Since the date of the UCU Balance Sheet, except as contemplated by or as disclosed in this Agreement, UCU and its Subsidiaries have conducted their businesses only in the ordinary course and in a manner consistent with past practice and, since such date, there has not been (a) any UCU Material Adverse Effect or any event or development (including in connection with the Merger) that would, individually or in the aggregate, reasonably be expected to have a UCU Material Adverse Effect, (b) any event that would, individually or in the aggregate, reasonably be expected to prevent or materially delay the performance of this Agreement by UCU, or (c) any action taken by UCU or any of its Subsidiaries during the period from the date of the UCU Balance Sheet through the date of this Agreement that, if taken during the period from the date of this Agreement through the Effective Time, would constitute a breach of Section 5.02.

Section 4.10. *Compliance with Laws: No Default.* (a) Neither UCU nor any of its Subsidiaries is in violation of or has violated or failed to comply with any statute, law, ordinance, regulation, rule, judgment, decree, order, writ, injunction, permit or license or other authorization or approval of any Governmental Authority or arbitrator applicable to its business or operations, except for violations and failures to comply that would not, individually or in the aggregate, be reasonably expected to result in a UCU Material Adverse Effect and (b) UCU and its Subsidiaries have all permits, licenses, franchises and other governmental authorizations, consents, approvals and exemptions necessary to conduct their businesses as presently conducted and which are material to the operation of such businesses.

Section 4.11. *Information Supplied.* Except for information supplied by the Company as to which no representation is made, the Registration Statement will not, at the time it is declared effective or upon the filing of any post-effective amendment related thereto, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The information supplied by UCU for inclusion in the Proxy Statement to be sent to the stockholders of the Company in connection with the Company Stockholders' Meeting will not, on the date the Proxy Statement is first mailed to the stockholders of the Company or at the time of the Company Stockholders' Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 4.12. *Finders' Fees.* No investment banker, broker, finder, other intermediary or other Person is entitled to any investment banking, broker's, finder's or similar fee or commission from UCU or any of its Subsidiaries upon consummation of the transactions contemplated by this Agreement.

Section 4.13. *Reorganization.* Neither UCU nor any of its Subsidiaries has taken any action or failed to take any action which action or failure would result in the failure of the Merger to qualify as a "reorganization" within the meaning of Section 368(a) of the Code.

ARTICLE V
Conduct of Business

Section 5.01. *Conduct of the Company*. The Company agrees that from the date hereof until the Effective Time, except as set forth in the Company Disclosure Schedule or as otherwise expressly contemplated by this Agreement or with the prior written consent of UCU, the Company and its Subsidiaries shall conduct their business in the ordinary course consistent with past practice and shall use their reasonable best efforts to preserve intact their business organizations and relationships with third parties and to keep available the services of their present officers and employees (subject to ordinary and customary retirements). Without limiting the generality of the foregoing, from the date hereof until the Effective Time, except as set forth in the Company Disclosure Schedule or as expressly contemplated by this Agreement, without the prior written consent of UCU, the Company will not, and will not permit any of its Subsidiaries to:

(a) adopt or propose any change in its articles of incorporation or bylaws or equivalent documents;

(b) amend any term of any outstanding security of the Company or any of its Subsidiaries;

(c) merge or consolidate with any other Person;

(d) issue, sell, pledge, dispose of, grant, transfer, lease, license, guarantee, encumber, or authorize the issuance, sale, pledge, disposition, grant, transfer, lease, license, guarantee or encumbrance of, (i) any shares of capital stock of the Company or any of its Subsidiaries (other than the issuance of shares by a wholly owned Subsidiary of the Company to the Company or another wholly owned Subsidiary of the Company), or securities convertible or exchangeable or exercisable for any shares of such capital stock, or any options, warrants or other rights of any kind to acquire any shares of such capital stock or such convertible or exchangeable securities, or any other ownership interest of the Company or any of its Subsidiaries or (ii) except in the ordinary course of business and in a manner consistent with past practice, any property or assets (including, without limitation, by merger, consolidation, spinoff or other dispositions of stock or assets) of the Company or any of its Subsidiaries, except in the case of either clause (i) or (ii), (A) the issuance of Company Common Stock to directors and employees of the Company pursuant to the Company Stock Plans (as hereinafter defined) upon the exercise by directors of Company Stock Options set forth and identified in Section 3.05 of the Company Disclosure Schedule and the vesting of Company Restricted Stock Awards set forth and identified in Section 3.05 of the Company Disclosure Schedule, (B) the award of director stock options or Company Restricted Stock Awards (as hereinafter defined) to employees, in each case under existing Company Stock Plans (as hereinafter defined) or under plans providing for the grant of Company Restricted Stock Awards in the ordinary course of business consistent with past practice or in connection with promotions or new employee hires in the ordinary course of business and consistent with past practice, provided that such awards shall not exceed, in the aggregate, the amounts set forth in Section 5.01 of the Company Disclosure Schedule, (C) the issuance of Company Common Stock pursuant to the DRIP in the ordinary course of business and consistent with past practice and (D) pursuant to contracts or agreements in force at the date of this Agreement, but only to the extent set forth in Section 5.01 of the Company Disclosure Schedule;

(e) create or incur any material Lien on any material asset other than in the ordinary course of business and consistent with past practice;

(f) make any material loan, advance or capital contributions to or investments in any Person other than loans, advances or capital contributions to or investments in wholly owned Subsidiaries of the Company made in the ordinary course and consistent with past practice;

(g) enter into any agreement with respect to the voting of its capital stock or declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock except for (i) dividends paid by any direct or indirect wholly owned Subsidiary of the Company to the Company or to any other direct or indirect wholly owned Subsidiary of the Company in the ordinary course and consistent with past practice, and (ii) the regular quarterly cash dividends of $.25 per share of the Company Common Stock, subject to increase as determined annually in a manner consistent with past practice; provided, that, the Company may, in consultation with UCU, adjust its ordinary dividend record date and payment date schedule for its regular quarterly cash dividend on Company Common Stock such that the Company's dividend record and payment dates shall correspond to UCU's ordinary dividend record and payment dates for quarterly cash dividends on UCU Common Stock, it being understood that the Company may pay to holders of Company Common Stock a pro-rated dividend payment at or about the time such adjustment occurs to account for any delay in the payment of dividends resulting from such adjustment.

(h) reclassify, combine, split, subdivide or redeem, purchase or otherwise acquire, directly or indirectly, any of its capital stock;

(i) acquire (including, without limitation, by merger, consolidation, spinoff or acquisition of stock or assets) any interest in any Person or any division thereof (other than a wholly owned Subsidiary) or any assets, other than acquisitions of assets in the ordinary course of the Company's regulated utility business and consistent with past practice, (ii) incur any indebtedness for borrowed money or guarantee such indebtedness of another Person, or issue or sell any debt securities or warrants or other rights to acquire any debt security of the Company or any of its Subsidiaries, except for indebtedness for borrowed money incurred in the ordinary course of the Company's regulated utility business and consistent with past practice or in connection with transactions otherwise permitted under this Section 5.01, (iii) terminate, cancel, waive any rights under or request any material change in, or agree to any material change in, any Company Material Contract or, except in connection with transactions permitted under this Section 5.01(i), enter into any contract or agreement material to the business, results of operations or financial condition of the Company and its Subsidiaries, taken as a whole, in either case other than in the ordinary course of the Company's regulated utility business and consistent with past practice, (iv) make or authorize capital expenditures, during any fiscal year in excess of 110% of the aggregate amount budgeted by the Company for such fiscal year as disclosed to UCU by the Company for capital expenditures, except for unplanned capital expenditures due to emergency conditions, unanticipated catastrophic events, extreme weather, and unscheduled unit outages or (v) enter into or amend any contract, agreement, commitment or arrangement that, if fully performed, would not be permitted under this Section 5.01(i);

(j) take any action with respect to accounting policies or procedures, other than actions in the ordinary course of business and consistent with past practice or except as required by changes in generally accepted accounting principles;

(k) make any material Tax election or take any position on any Tax Return filed on or after the date of this Agreement or adopt any method therefor that is inconsistent with elections made, positions taken or methods used in preparing or filing similar Tax Returns in prior periods;

(l) except as may be required by the contractual commitments or corporate policies with respect to severance or termination pay in existence on the date hereof and described in Section 5.01 of the Company Disclosure Schedule, (i) increase the compensation payable or to become payable to its officers or employees (except for increases in the ordinary course of business and consistent with past practice in salaries or wages of officers or employees of the Company or any of its Subsidiaries), (ii) establish, adopt, enter into or amend any collective bargaining, bonus,

profit sharing, thrift, compensation, employment, termination, severance or other plan, agreement, trust, fund, policy or arrangement for the benefit of any director, officer or employee, except as contemplated by this Agreement (including without limitation, Section 3.14 hereof) or to the extent required by applicable law or the terms of a collective bargaining agreement, (iii) increase the benefits payable under any existing severance or termination pay policies or employment or other agreements or (iv) take any affirmative action to accelerate the vesting of any stock based compensation;

(m) subject to applicable law (i) make any filing to change its rates or the services it provides on file with the FERC or any applicable state utility commission, or (ii) effect any agreement, commitment, arrangement or consent with the FERC or any applicable state utility commission; provided, however, that the Company may, in consultation with UCU, continue to process its present rate proceeding before the Missouri Public Service Commission in any manner in which it may, with the advice of its regulatory counsel, deem appropriate; without limiting the foregoing, any consent of UCU sought by the Company hereunder shall not be unreasonably withheld;

(n) take any action that, individually or in the aggregate, would reasonably be expected to result in a material breach of this Agreement or make any representation and warranty of the Company hereunder untrue in any material respect at, or as of any time prior to, the Effective Time;

(o) enter into a new line of business or make any material change in the line of business in which it engages as of the date of this Agreement; or

(p) agree or commit to do any of the foregoing.

Section 5.02. *Conduct of UCU.* UCU agrees that from the date hereof until the Effective Time, except as set forth in Section 5.02 of the UCU Disclosure Schedule or as otherwise expressly contemplated by this Agreement, UCU will not, without the prior written consent of the Company, take any action, or agree to take any action, that would, individually or in the aggregate, reasonably be expected to (i) result in any material breach of any provision of this Agreement; (ii) make any representation or warranty of UCU hereunder untrue in any material respect at, or as of any time prior to, the Effective Time or (iii) have a material adverse effect on the interests of holders of the Company Common Stock.

Section 5.03. *Pooling of Interests; Reorganization.* During the period from the date of this Agreement through the Effective Time, unless the other parties hereto shall otherwise agree in writing: (i) neither the Company nor any of its Subsidiaries shall take or fail to take any action which action or failure would result in the failure of the Merger to qualify as a pooling of interests for financial accounting purposes and (ii) none of UCU, the Company or any of their respective Subsidiaries shall take or fail to take any action which action or failure would result in the failure of the Merger to qualify as a reorganization within the meaning of Section 368(a) of the Code or would cause any of the representations and warranties set forth in the Company Tax Certificate (as hereinafter defined) or the UCU Tax Certificate (as hereinafter defined) to be untrue or incorrect in any material respect.

ARTICLE VI
Additional Agreements

Section 6.01. *No Solicitation.* (a) The Company agrees that, from and after the date hereof, it shall not, nor shall it permit any of its Subsidiaries to, nor shall it authorize or permit any officer, director or employee or any investment banker, attorney, accountant, agent or other advisor or representative of the Company or any of its Subsidiaries (collectively, the "Representatives" of the Company and its Subsidiaries) to, (i) solicit, initiate or knowingly encourage the submission of any Takeover Proposal (as hereinafter defined), (ii) enter into any agreement with respect to a Takeover

Proposal or (iii) participate in any discussions or negotiations regarding any proposal that constitutes, or may reasonably be expected to lead to, any Takeover Proposal; provided, however, that if at any time prior to receipt of the Company Stockholders' Approval the Board of Directors of the Company determines in good faith, after consultation with outside counsel and financial advisors that failing to take such action could reasonably be expected to be a breach of its fiduciary duties to the Company's stockholders under applicable law, and subject to providing prior written notice of its decision to take such action to UCU, the Company may in response to a Takeover Proposal made after the date of this Agreement which was not solicited by it or its Representatives and which did not otherwise result from a breach of this Section 6.01: (x) furnish information with respect to the Company to any person pursuant to a customary confidentiality agreement (as determined by the Company after consultation with outside counsel) and (y) participate in discussions, investigations and/or negotiations regarding such Takeover Proposal. For all purposes of this Agreement, "Takeover Proposal" means any proposal or offer to acquire, directly or indirectly, in one transaction or a series of related transactions, 20% or more of the shares of Company Common Stock outstanding or of the shares of any material Company Subsidiary (whether, in either case, by purchase, merger, consolidation, share exchange, business combination or other similar transaction) or 20% or more of the assets of the Company or any material Company Subsidiary, other than the Merger or the transactions contemplated by Section 6.01(a) of the Company Disclosure Schedule. The Company immediately upon execution of this Agreement shall cease and cause to be terminated all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could reasonably be expected to lead to, any Takeover Proposal, subject to the Company's rights pursuant to this Section 6.01.

(b) The Board of Directors of the Company shall promptly recommend the adoption and approval of this Agreement and the Merger in accordance with Section 6.03, and, except as set forth in this Section 6.01, neither the Board of Directors of the Company nor any committee thereof shall (i) withdraw or modify, or propose publicly to withdraw or modify, the approval or recommendation by such Board of Directors or such committee of the Merger or this Agreement; (ii) approve or recommend, or propose publicly to approve or recommend, any Takeover Proposal or (iii) cause the Company to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, an "Acquisition Agreement") related to any Takeover Proposal. Notwithstanding the foregoing, if at any time prior to receipt of the Company Stockholders' Approval the Board of Directors of the Company determines in good faith, after consultation with its outside counsel and financial advisors, that failure to do one or more of the following could reasonably be expected to be a breach of its fiduciary duties to the Company, the Board of Directors of the Company may (x) withdraw or modify its approval or recommendation of the Merger and this Agreement (but only at a time prior to receipt of the Company Stockholders' Approval), (y) approve or recommend a Superior Proposal or (z) terminate this Agreement (and concurrently with or after such termination, if it so chooses, cause the Company to enter into an Acquisition Agreement with respect to the Superior Proposal), but in each of the cases of clause (y) or (z), only at a time prior to receipt of the Company Stockholders' Approval and only at a time that is after the third business day following receipt of written notice advising UCU that the Board of Directors of the Company has received a Takeover Proposal that constitutes a Superior Proposal, specifying the material terms and conditions of such Superior Proposal and identifying the person making such Superior Proposal. For all purposes of this Agreement, "Superior Proposal" means a bona fide proposal made by a third party not affiliated with the Company to acquire, directly or indirectly, for consideration consisting of cash and/or securities, more than 50% of the shares of Company Common Stock then outstanding (whether pursuant to a tender or exchange offer, a merger, a share exchange or other business combination) or all or substantially all of the assets of the Company and otherwise on terms which the Board of Directors of the Company determines in good faith (based on the written advice of an independent financial advisor, which may include Morgan Stanley & Co. Incorporated) to be more favorable to the Company and its stockholders than the Merger (taking into account any changes to the financial and other

contractual terms of this Agreement proposed by UCU in response to such proposal and all other relevant financial and strategic considerations, including relevant legal, financial, regulatory and other aspects of the proposal, the third party making such proposal, the conditions and prospects for completion of such proposal, the strategic direction and benefits sought by the Company and any changes to this Agreement proposed by UCU in response to such proposal).

(c) Nothing contained in this Section 6.01 shall prohibit the Company from taking and disclosing to its stockholders a position contemplated by Rules 14d-9 and 14e-2 promulgated under the Exchange Act or from making any disclosure to the Company's stockholders if, in the good faith judgment of the Board of Directors of the Company, after consultation with outside counsel, such disclosure is required under applicable law; provided that no such position shall be taken or disclosed in a manner that is inconsistent with the provisions of Sections 6.01(a) or (b).

Section 6.02. *Proxy Statement; Registration Statement.* (a) As promptly as practicable after the execution of this Agreement, UCU and the Company shall cooperate in preparing and filing with the SEC the Proxy Statement and the Registration Statement (in which the Proxy Statement will be included). UCU and the Company shall use their reasonable best efforts to cause the Registration Statement to become effective under the Securities Act as soon after such filing as practicable. The Proxy Statement shall include the recommendation of the Board of Directors of the Company in favor of approval and adoption of this Agreement and the Merger, except to the extent the Board of Directors of the Company shall have withdrawn or modified its approval or recommendation of this Agreement and the Merger as permitted by Section 6.01(b). The Company shall use reasonable best efforts to cause the Proxy Statement to be mailed to its stockholders as promptly as practicable after the Registration Statement becomes effective.

(b) UCU and the Company shall make all necessary filings with respect to the Merger and the transactions contemplated thereby under the Securities Act and the Exchange Act and applicable state blue sky laws and the rules and regulations thereunder. No filing of, or amendment or supplement to, the Registration Statement or the Proxy Statement will be made by UCU without providing the Company the opportunity to review and comment thereon. UCU will advise the Company, promptly after it receives notice thereof, of the time when the Registration Statement has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the UCU Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Proxy Statement or the Registration Statement or comments thereon and responses thereto or requests by the SEC for additional information. If at any time prior to the Effective Time any information relating to UCU or the Company, or any of their respective affiliates, officers or directors, should be discovered by UCU or the Company which should be set forth in an amendment or supplement to any of the Registration Statement or the Proxy Statement, so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other party hereto and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by law, disseminated to the stockholders of UCU and the Company.

Section 6.03. *Company Stockholders' Meeting.* The Company shall duly call, give notice of, convene and hold the Company Stockholders' Meeting and, through its Board of Directors, will recommend to its stockholders adoption and approval of this Agreement and the Merger, except to the extent that the Board of Directors of the Company shall have withdrawn or modified its approval or recommendation of this Agreement and the Merger as permitted by Section 6.01(b). The Company will use reasonable best efforts to hold the Company Stockholders' Meeting as soon as practicable after the date hereof. Except to the extent that the Board of Directors of the Company shall have withdrawn or

modified its approval or recommendation as aforesaid, the Company will use reasonable best efforts to solicit from its stockholders proxies in favor of this Agreement and the Merger.

Section 6.04. *Access to Information.* Upon reasonable notice and subject to applicable law and other legal obligations, the Company shall, and shall cause each of its Subsidiaries to, afford to the officers, employees, accountants, counsel and other representatives of UCU, access, during normal business hours during the period prior to the Effective Time, to all properties, books, contracts, commitments and records of the Company and its Subsidiaries and, during such period, each of the Company and UCU shall, and shall cause each of its Subsidiaries to, furnish promptly to the other (a) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of federal securities laws and (b) all other information concerning its business, properties and personnel as such other party may reasonably request. Unless otherwise required by law, the parties will hold any such information which is non-public in confidence in accordance with the Confidentiality Agreement dated as of November 25, 1998 between UCU and the Company (the "Confidentiality Agreement"). No information or knowledge obtained in any investigation pursuant to this Section 6.04 shall affect or be deemed to modify any representation or warranty contained in this Agreement or the conditions to the obligations of the parties to consummate the Merger.

Section 6.05. *Notices of Certain Events.* (a) UCU and the Company shall promptly notify each other of:

(i) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement; and

(ii) any notice or other communication from any Governmental Authority in connection with the transactions contemplated by this Agreement.

(b) the Company shall promptly notify UCU of any actions, suits, claims, investigations or proceedings commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting the Company or any of its Subsidiaries which, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 3.08 or which relate to the consummation of the transactions contemplated by this Agreement.

(c) UCU shall promptly notify the Company of any actions, suits, claims, investigations or proceedings commenced or, to its knowledge, threatened against, relating to or involving or otherwise affecting UCU or any of its Subsidiaries which, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 4.08 or which relate to the consummation of the transactions contemplated by this Agreement.

Section 6.06. *Appropriate Action; Consents; Filings.* (a) (i) Subject to the terms and conditions of this Agreement and except to the extent that (x) the Board of Directors of the Company shall have withdrawn or modified its approval or recommendation of this Agreement or the Merger as permitted by Section 6.01(b) or (y) the Board of Directors of UCU shall have withdrawn or modified its recommendation of the approval of the issuance of shares of UCU Common Stock in the Merger, UCU and the Company shall use their reasonable best efforts to (A) take, or cause to be taken, all reasonable actions, and do, or cause to be done, all reasonable things, necessary, proper or advisable under applicable laws to consummate the Merger and the other transactions contemplated by this Agreement as promptly as practicable, (B) obtain from any Governmental Authority any consents, licenses, permits, waivers, approvals, authorizations or orders required to be obtained or made by UCU and the Company or any of their Subsidiaries, or to avoid any action or proceeding by any Governmental Authority (including, without limitation, those in connection with the HSR Act), in connection with the authorization, execution and delivery of this Agreement and the consummation of

the transactions contemplated herein, and (C) make all necessary filings, and thereafter make any other required submissions, with respect to this Agreement and the Merger required under applicable public utility laws and regulations, the Securities Act, the Exchange Act and any other applicable law; provided that UCU and the Company shall cooperate with each other in connection with the making of all such filings, including providing copies of all such documents to the non-filing party and its advisors prior to filing and, if requested, accepting all reasonable additions, deletions or changes suggested in connection therewith. UCU and the Company shall furnish to each other all information required for any application or other filing to be made pursuant to the rules and regulations of any applicable law in connection with the transactions contemplated by this Agreement. Subject to the terms and conditions of this Agreement and except to the extent that (x) the Board of Directors of the Company shall have withdrawn or modified its approval or recommendation of this Agreement or the Merger as permitted by Section 6.01(b) or (y) the Board of Directors of UCU shall have withdrawn or modified its recommendation of the approval of the issuance of shares of UCU Common Stock in the Merger, UCU and the Company shall not take any action, or refrain from taking any reasonable action, the effect of which would be to delay or impede the ability of UCU and the Company to consummate the transactions contemplated by this Agreement.

(ii) Each of the parties hereto agrees to use its reasonable best efforts, and shall cause each of its respective Subsidiaries to cooperate and to use their respective reasonable best efforts, to obtain any government clearances required for the consummation of the transactions contemplated hereby (including through compliance with the HSR Act), to respond to any government requests for information, and to contest and resist any action, including any legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any decree, judgment, injunction or other order (whether temporary, preliminary or permanent) that restricts, prevents or prohibits the consummation of the Merger or any other transactions contemplated by this Agreement, including, without limitation, by pursuing all reasonably available avenues of administrative and judicial appeal and all reasonably available legislative action. Each of the parties hereto also agrees to take any and all of the following actions to the extent necessary to obtain the approval of any Governmental Authority with jurisdiction over the enforcement of any applicable laws regarding the Merger: entering into negotiations; providing information; substantially complying with any second request for information pursuant to the HSR Act; making proposals; entering into and performing agreements or submitting to judicial or administrative orders; selling or otherwise disposing of, or holding separate (through the establishment of a trust or otherwise) particular assets or categories of assets, or businesses of UCU, the Company or any of their respective Subsidiaries; and withdrawing from doing business in a particular jurisdiction. The parties hereto will consult and cooperate with one another, and consider in good faith the views of one another, in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or in behalf of any party thereto in connection with proceedings under or relating to the HSR Act or any state antitrust or fair trade law. Each party shall promptly notify the other party of any communication to that party from any Governmental Authority in connection with any required filing with, or approval or review by, such Governmental Authority in connection with the Merger and permit the other party to review in advance any proposed communication to any Governmental Authority. Neither party shall agree to participate in any meeting with any Governmental Authority in respect of any such filings, investigation or other inquiry unless it consults with the other party in advance and, to the extent permitted by such Governmental Authority, gives the other party the opportunity to attend and participate thereat. Notwithstanding any other provision of this Agreement, in connection with seeking any such approval of a Governmental Authority, without the other party's prior written consent neither party shall, and neither party shall be required to take any action (e.g., commit to any divestiture transaction, agree to sell or hold separate, before or after the Effective Time, any of UCU's or the Company's businesses, product lines, properties or assets, or agree to any changes or restrictions in the operation of such businesses, product lines, properties or assets) if, in UCU's reasonable judgment, such action would,

individually or in the aggregate, be unreasonably burdensome to UCU, the Company or any of their respective divisions, Subsidiaries or other businesses.

(b) (i) UCU and the Company shall give, or shall cause their respective Subsidiaries to give, any notices to third parties, and use, and cause their respective Subsidiaries to use, reasonable efforts to obtain any third party consents (A) necessary, proper or advisable in order to consummate the transactions contemplated by this Agreement or (B) required, individually or in the aggregate, to prevent a UCU Material Adverse Effect or a Company Material Adverse Effect from occurring prior to or after the Effective Time.

(ii) In the event that either party shall fail to obtain any third party consent described in Section 6.06(b)(i) above, such party shall use all reasonable best efforts, and shall take any such actions reasonably requested by the other party hereto, to minimize any adverse effect upon UCU and the Company, their respective Subsidiaries, and their respective businesses resulting, or which could reasonably be expected to result after the Effective Time, from the failure to obtain such consent.

Section 6.07. *Public Disclosure.* UCU and the Company shall consult with each other before issuing any press release or otherwise making any public statement with respect to the Merger or this Agreement or the transactions contemplated hereby and shall not issue any such press release or make any such public statement without the consent of the other party (which consent shall not be unreasonably withheld or delayed), except as may be required by law, court process or by stock exchange rules.

Section 6.08. *Reorganization.* UCU and the Company shall each use its reasonable best efforts to cause the Merger to be treated as a reorganization within the meaning of Section 368(a) of the Code, and UCU and the Company shall use their reasonable best efforts to obtain the opinion of their respective counsel referred to in Sections 7.02(c) and 7.03(c).

Section 6.09. *Affiliates.* Within 30 days of the date hereof, the Company will provide UCU with a list of those Persons who are in the Company's reasonable judgment, "affiliates" of the Company within the meaning of Rule 145 under the Securities Act or under any applicable accounting rules ("Rule 145 Affiliates"), which list shall be updated on or prior to the Closing Date. The Company shall use its reasonable best efforts to deliver or cause to be delivered to UCU on or prior to the Closing Date from each of the Rule 145 Affiliates, an executed letter agreement, in the form attached hereto as Exhibit A.

Section 6.10. *Listing of Stock.* UCU shall use its reasonable best efforts to cause the shares of UCU Common Stock to be issued in the Merger to be approved for listing on the NYSE on or prior to the Closing Date, subject to official notice of issuance.

Section 6.11. *Indemnification of Directors and Officers.* (a) To the fullest extent permitted by law, from and after the Effective Time, all rights to indemnification as of the date hereof in favor of the employees, agents, directors and officers of the Company and its Subsidiaries with respect to their activities as such prior to the Effective Time, as provided in their respective articles of incorporation and by-laws in effect on the date thereof, or otherwise in effect on the date hereof, shall survive the Merger and shall continue in full force and effect for a period of not less than six years from the Effective Time.

(b) After the Effective Time, the Surviving Corporation shall, to the same extent and on the same terms and conditions provided for in the Company's articles of incorporation and bylaws, in each case as of the date of this Agreement, to the fullest extent permitted under applicable law, indemnify and hold harmless, each present and former director, officer, employee or agent of the Company and each Subsidiary of the Company (collectively, the "Indemnified Parties") against all costs and expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages, liabilities and settlement amounts paid in connection with any claim, action, suit, proceeding or investigation (whether

arising before or after the Effective Time), whether civil, administrative or investigative, arising out of or pertaining to any action or omission in their capacity as a director, officer, employee or agent (including serving on the board of directors or similar governing body of a third party at the request of, or as a designated director) of the Company or any of its Subsidiaries, in each case occurring before the Effective Time (including the transactions contemplated by this Agreement); provided, however, that the Surviving Corporation shall not be liable for any settlement effected without its written consent (which consent shall not be unreasonably withheld).

(c) Prior to the Effective Time, the Company shall have the right to obtain and pay for in full a "tail" coverage directors' and officers' liability insurance policy ("D&O Insurance") covering a period of not less than six years after the Effective Time and providing coverage in amounts and on terms consistent with the Company's existing D&O Insurance. In the event the Company is unable to obtain such insurance, the Surviving Corporation shall maintain the Company's D&O Insurance for a period of not less than six years after the Effective Time (provided that the Surviving Corporation may substitute therefor policies of at least the same coverage containing terms and conditions which are substantially equivalent with respect to matters occurring prior to the Effective Time and provided further that if the existing D&O Insurance expires or is canceled during such period, the Surviving Corporation shall use its reasonable best efforts to obtain substantially similar D&O Insurance); provided, however, that the Surviving Corporation shall not be required to expend in any year an amount in excess of 200% of the annual aggregate premiums currently paid by the Company for such insurance, and provided, further, that if the annual premiums of such insurance coverage exceed such amount, the Surviving Corporation shall be obligated to obtain a policy with the best coverage available, in the reasonable judgment of the Board of Directors of the Surviving Corporation, for a cost not exceeding such amount.

(d) This Section 6.11 is intended to benefit (and shall be enforceable by) the Indemnified Parties and their respective heirs, executors and personal representatives and shall be binding on the successors and assigns of the Surviving Corporation.

Section 6.12. *Company Stock Options and Restricted Stock Awards; Acknowledgment with Respect to Company Stock Plans.* (a) At the Effective Time, all rights with respect to outstanding options to purchase shares of Company Common Stock (the "Company Stock Options") granted under any plan or arrangement providing for the grant of options to current or former officers, directors, employees or consultants of the Company (the "Company Stock Plans"), whether or not then exercisable, shall be converted into and become rights with respect to UCU Common Stock, and UCU shall assume each Company Stock Option in accordance with the terms of the Company Stock Plan under which it was issued and any stock option or similar agreement by which it is evidenced. From and after the Effective Time, (i) each Company Stock Option assumed by UCU shall be exercised solely for shares of UCU Common Stock; (ii) the number of shares of UCU Common Stock subject to each Company Stock Option shall be equal to the number of shares of Company Common Stock subject to such Company Stock Option immediately prior to the Effective Time multiplied by the Merger Consideration and (iii) the per share exercise price under each Company Stock Option shall be adjusted by dividing the per share exercise price under such Company Stock Option by the Merger Consideration and rounding to the nearest cent (each, as so adjusted, an "Adjusted Option"); provided, that the terms of each Company Stock Option shall, in accordance with its terms, be subject to further adjustment as appropriate to reflect any stock split, stock dividend, recapitalization or other similar transaction subsequent to the Effective Time; and, provided, further, that the number of shares of UCU Common Stock that may be purchased upon exercise of any Adjusted Option shall not include any fractional share and, upon exercise of such Adjusted Option, a cash payment shall be made for any fractional share based upon the closing price of a share of UCU Common Stock on the NYSE on the last trading day of the calendar month immediately preceding the date of exercise.

(b) The adjustments provided herein with respect to any Company Stock Options that are "incentive stock options" as defined in Section 422 of the Code shall be and are intended to be effected in a manner which is consistent with Section 424(a) of the Code.

(c) At the Effective Time, all restricted stock awards ("Company Restricted Stock Awards") granted by the Company under a Company Stock Plan, whether or not then vested, shall be converted into UCU Common Stock. The number of shares of UCU Common Stock into which each Company Restricted Stock Award shall be converted shall be equal to the number of shares of Company Common Stock subject to such Company Restricted Stock Award immediately prior to the Effective Time multiplied by the Merger Consideration; except that in lieu of any fractional share of UCU Common Stock resulting from such conversion, the holder of the Company Restricted Stock Award shall be entitled to cash (without interest) in an amount equal to such fractional part of a share of UCU Common Stock multiplied by the Average UCU Share Price.

(d) As soon as practicable following the Effective Time, UCU shall prepare and file with the SEC a registration statement on Form S-8 (or another appropriate form) registering a number of shares of UCU Common Stock equal to the number of shares subject to the Adjusted Options (or shall cause such Adjusted Options to be deemed options issued pursuant to a UCU stock option plan for which shares of UCU Common Stock have previously been registered pursuant to an appropriate registration form). Such registration statement shall be kept effective (and the current status of the initial offering prospectus or prospectuses required thereby shall be maintained) for at least as long as any Adjusted Options remain outstanding.

(e) Except as otherwise contemplated by this Section 6.12 and except to the extent required under the respective terms of the Company Stock Options or other applicable agreements, all restrictions or limitations on transfer with respect to Company Stock Options awarded under the Company Stock Plans, to the extent that such restrictions or limitations shall not have already lapsed, shall remain in full force and effect with respect to such options after giving effect to the Merger and the assumption of such options by UCU as set forth above.

(f) UCU acknowledges that the consummation of the Merger will constitute a "change in control" as such term is defined in the Company Stock Plans.

Section 6.13. *Benefits Continuation: Severance.* (a) *Comparable Benefits.* In addition to UCU's obligations under the next sentence, for not less than one year following the Effective Time, UCU shall maintain, or cause its Subsidiaries to maintain (i) for the benefit of employees of the Company and its Subsidiaries as of the Closing Date ("Affected Employees"), and except as otherwise set forth in Item 2 of Section 6.13 of the Company Disclosure Schedule, benefit plans that offer, in the aggregate, benefits that are comparable to those provided under the Company Benefit Arrangements and the Company Employee Plans (other than the plans referred to in (ii) of this Section 6.13(a)) as in effect on the date hereof; and (ii) a supplemental executive retirement plan and a deferred compensation plan for the benefit of those Affected Employees who are covered by such plans on the date hereof that on an individual basis are no less favorable than the supplemental executive retirement plan and deferred compensation plan maintained by the Company in effect on the date hereof (it being understood, however, that both (i) and (ii) of this Section 6.13(a) are subject to any reserved right to amend or terminate any Company Benefit Plan, Company Benefit Arrangement or other severance or contractual obligation; provided that any such amendment or termination shall not reduce or modify UCU's obligations as set forth in this Section 6.13). In addition to, and not in limitation of, UCU's obligations under the preceding sentence, provided that the amendments to the severance programs described in Item 8 of Section 5.01 of the Company Disclosure Schedule are made, UCU agrees to comply with all obligations for severance pay and other severance benefits identified in Item 1 of Section 6.13 of the Company Disclosure Schedule, according to their terms (and without modification). So long as and to the extent required by applicable law, and so long as the UtiliCorp United Inc. Employee Health Care

Plan or a successor plan sponsored by UCU exists. UCU will provide access to and funding for health and life benefits to existing retirees of the Company as of the Closing Date and any Affected Employee who retires within one year of the Closing Date (and who meets the eligibility requirements of the Company's retiree health care and life plans) which are, in the aggregate, at least comparable to the benefits currently available to such retirees, with premium payments to be determined in accordance with the cost sharing ratio currently in effect with respect to the Company's retiree health care and life benefits; provided, however, that UCU may modify the funding, the cost sharing ratio and the premiums, all in accordance with past practice of the Company and if and to the extent UCU's share of the costs of providing access to health care and life benefits to the retirees is not recovered for cost of service in rates.

(b) *Honoring the Company Employee Plans and Accrued Vacation; Outplacement Services.* UCU shall comply with the terms of all the Company Employee Plans and other contractual commitments in effect immediately prior to the Effective Time between the Company or its Subsidiaries and Affected Employees or former employees of the Company or its Subsidiaries ("Former Employees") (subject to any reserved right to amend or terminate any Company Benefit Plan, Company Benefit Arrangement or other severance or contractual obligation; provided that any such amendment or termination shall not reduce or modify UCU's obligations as set forth in this Section 6.13. Without limiting the generality of the foregoing, UCU shall honor all vacation, holiday, sickness and personal days accrued by Affected Employees and, to the extent applicable, Former Employees as of the Effective Time. UCU shall provide independent outplacement consulting services to any executive or managerial employee of the Company who is terminated within three years after the Effective Time, which services shall be similar to those made available by the Company to such persons prior to the Effective Time.

(c) *Participation in Benefit Plans.* Employees and, to the extent applicable, Former Employees, shall be given credit for all service with the Company and its Subsidiaries (or service credited by the Company or such Subsidiaries) under all employee benefit plans and arrangements currently maintained by UCU or any of its Subsidiaries in which they are or become participants for purposes of eligibility, vesting and level of participant contribution and benefit accruals (but subject to an offset, if necessary, to avoid duplication of benefits) to the same extent as if rendered to UCU or any of its Subsidiaries. UCU shall waive or cause to be waived any preexisting condition limitation applicable to an Affected Employee or, to the extent applicable, a Former Employee other than any limitation already in effect with respect to an employee that has not been satisfied as of the Closing Date under the similar Company Employee Plan or Company Benefit Arrangement, other than any limitation already in effect with respect to an employee that has not been satisfied as of the Effective Time under the similar Company Employee Plan or Company Benefit Plan. UCU agrees to recognize (or cause to be recognized) the dollar amount of all expenses incurred by Affected Employees or, to the extent applicable, Former Employees, during the calendar year in which the Effective Time occurs for purposes of satisfying the calendar year deductibles and co-payment limitations for such year under the relevant benefit plans of UCU and its Subsidiaries. UCU acknowledges and agrees that on or prior to the Effective Time, the Company will fund "rabbi trusts" for the benefit of each individual officer of the Company who participates in the Company's Supplemental Executive Retirement Plan. The aggregate amount of such funding shall not exceed $2,033,000.

(d) No provision in this Section 6.13 shall be deemed to constitute an employment contract between the Surviving Corporation and any individual, or a waiver of the Surviving Corporation's right to discharge any employee at any time, with or without cause.

(e) UCU agrees to use reasonable efforts to make available to each Person who shall be a Company employee at the Effective Time and shall thereafter, during the eighteen months following the Effective Time, be displaced as a result of the Merger, the opportunity to participate in the job opportunity employment placement programs offered by UCU to its current employees.

Section 6.14. *Confidentiality Agreement.* The parties hereto agree that the Confidentiality Agreement shall be hereby amended to provide that any provision therein which in any manner would be inconsistent with this Agreement or the transactions contemplated hereby shall terminate as of the date hereof. The parties further agree that the Confidentiality Agreement shall terminate as of the Effective Time.

Section 6.15. *Takeover Statutes.* If any Takeover Statute is or may become applicable to the Merger, each of UCU and the Company shall take such actions as are necessary so that the Merger and the other transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms contemplated hereby and otherwise act to eliminate or minimize the effects of any Takeover Statute on the Merger and such other transactions.

Section 6.16. *Rights Agreement.* The Company shall coordinate with UCU the timing of the redemption of the Rights or the termination of the Rights Agreement, but such redemption or termination shall in any event take place before the Effective Time.

Section 6.17. *Charitable and Economic Development Support.* The parties agree that provision of charitable contributions and community support in the service area of the Company serves a number of important goals. For a period of at least five years following the Effective Time, the Surviving Corporation shall provide charitable contributions and community support within the service area of the Company at levels substantially comparable to and no less than the levels of charitable contributions and community support provided by the Company and its Subsidiaries within the Company's service area within the two-year period immediately prior to the Effective Time.

Section 6.18. *Treatment of DRIP.* The Company shall take the necessary action to either (i) terminate the DRIP not less than two months prior to the Effective Time, or (ii) cause the DRIP to be administered only as an "open market" purchase plan (i.e., shares issuable under the DRIP would be purchased in the open market) during the two months prior to the anticipated Effective Time.

Section 6.19. *Real Estate Transfer Taxes.* The Surviving Corporation shall pay all state or local real property transfer, gains or similar Taxes, if any (collectively, the "Transfer Taxes"), attributable to the transfer of the beneficial ownership of the Company's and its Subsidiaries' real properties, and any penalties or interest with respect thereto, payable in connection with the consummation of the Merger. Prior to the Effective Time, the Company shall cooperate with UCU in the preparation of any returns that will be filed with respect to the Transfer Taxes, including supplying in a timely manner a complete list of all real property interests held by the Company and its Subsidiaries and any information with respect to such properties that is reasonably necessary to complete such returns. The portion of the consideration allocable to the real properties of the Company and its Subsidiaries shall be determined by UCU in its reasonable discretion. The stockholders of the Company (who are intended third-party beneficiaries of this Section 6.19) shall be deemed to have agreed to be bound by the allocation established pursuant to this Section 6.19 in the preparation of any return with respect to the Transfer Taxes.

Section 6.20. *Assumption of Debt Obligations.* The Company and UCU shall cooperate with one another to cause the Surviving Corporation to expressly assume, at the Effective Time, any indebtedness of the Company which requires express assumption of the Company's obligations as set forth in Section 3.04 of the Company Disclosure Schedule.

ARTICLE VII
Conditions to Merger

Section 7.01. *Conditions to Each Party's Obligations.* The respective obligations of each party to this Agreement to consummate the Merger and the transactions contemplated hereby shall be subject to the satisfaction of the following conditions:

(a) *Company Stockholders' Approval.* The Company Stockholders' Approval shall have been obtained.

(b) *Waiting Periods; Approvals.* The waiting period applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated and all other consents and approvals required under applicable laws or material agreements shall have been obtained, except that neither party shall be required to take any action (e.g., commit to any divestiture transaction, agree to sell or hold separate, before or after the Effective Time, any of UCU's or the Company's businesses, product lines, properties or assets, or agree to any changes or restrictions in the operation of such businesses, product lines, properties or assets) if, in UCU's reasonable judgment, such action would, individually or in the aggregate, be unreasonably burdensome to UCU, the Company or any of their respective divisions, Subsidiaries or other businesses.

(c) *No Injunctions or Restraints.* No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal or regulatory restraint shall prohibit the consummation of the Merger.

(d) *Registration Statement.* The Registration Statement shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order.

(e) *Listing of Stock.* The shares of UCU Common Stock to be issued in the Merger (including shares of UCU Common Stock issued or issuable in respect of Company Stock Options and Company Restricted Stock Awards) shall have been approved for listing on the NYSE, subject to official notice of issuance.

Section 7.02. *Additional Conditions to Obligations of UCU.* The obligation of UCU to consummate the Merger and the transactions contemplated hereby shall be subject to the satisfaction of the following additional conditions, any of which may be waived in writing exclusively by UCU:

(a) *Representations and Warranties.* The representations and warranties of the Company set forth in this Agreement that are qualified by the Company Material Adverse Effect shall be true and correct as of the Closing Date and the representations and warranties that are not so qualified, taken together, shall be true and correct in all material respects, in each case as though made on and as of the Closing Date (except to the extent any such representation or warranty expressly speaks as of an earlier date); and UCU shall have received a certificate signed on behalf of the Company by the chief executive officer of the Company to such effect.

(b) *Performance of Obligations.* The Company shall have performed in all material respects each material obligation and agreement and shall have complied in all material respects with each material covenant required to be performed and complied with by it under this Agreement at or prior to the Effective Time; and UCU shall have received a certificate signed on behalf of the Company by the chief executive officer of the Company to such effect.

(c) *Tax Opinion.* UCU shall have received a written opinion from Blackwell Sanders Peper Martin LLP, counsel to UCU, to the effect that the Merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, such counsel may require and rely upon reasonable representations and certificates of UCU (including, without limitation, representations contained in a certificate of UCU (the "UCU

Tax Certificate")), substantially in the form of Exhibit B, and the Company (including, without limitation, representations contained in a certificate of the Company (the "Company Tax Certificate")), substantially in the form of Exhibit C; and UCU and the Company agree that, to the extent they can truthfully do so, they will make such representations and deliver such certificates.

(d) *Statutory Approvals.* The Company Required Statutory Approvals and the UCU Required Statutory Approvals shall have been obtained, such approvals shall have become Final Orders (as defined below), and none of such approvals or Final Orders shall require or be conditioned upon any requirement that any of the Company, UCU or the Surviving Corporation provide any undertaking or agreement, or change or dispose of any assets or business operations, or take or refrain from taking any other action, which, in UCU's reasonable judgment, would cause, individually or in the aggregate, either (i) a UCU Material Adverse Effect, or (ii) a material adverse effect on the financial condition, income, assets, business, or prospects of the business operations presently owned and operated by the Company. A "Final Order" means action by the relevant regulatory authority which has not been reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which any waiting period prescribed by law before the transactions contemplated hereby may be consummated has expired, and as to which all conditions to the consummation of such transactions prescribed by law, regulation or order have been satisfied.

(e) *Company Material Adverse Effect.* No Company Material Adverse Effect shall have occurred and there shall exist no fact or circumstance which is reasonably likely to have a Company Material Adverse Effect.

(f) *Accounting Treatment.* Each of UCU and the Company shall have a received a copy of an opinion of (i) Arthur Andersen LLP, in form and substance reasonably satisfactory to UCU, addressed to the Company, to the effect that the Company is an entity that may be a party to a business combination that will qualify as a pooling of interests under generally accepted accounting principles, and (ii) Arthur Andersen LLP, in form and substance reasonably satisfactory to UCU, addressed to UCU, to the effect that the Merger will qualify as a pooling of interests under generally accepted accounting principles; provided, however that if UCU, in its sole and exclusive discretion, determines at any time not to account for the Merger as a pooling of interests thereby causing this condition not to be satisfied, or if pooling of interests accounting is unavailable due solely to any action taken by UCU on or prior to the Effective Time (including prior to the date of this Agreement), this provision shall not be relied upon by UCU as a reason for failing to consummate the Merger.

Section 7.03. *Additional Conditions to Obligations of the Company.* The obligation of the Company to effect the Merger is subject to the satisfaction of each of the following additional conditions, any of which may be waived in writing exclusively by the Company:

(a) *Representations and Warranties.* The representations and warranties of UCU set forth in this Agreement that are qualified by the UCU Material Adverse Effect shall be true and correct as of the Closing Date and the representations and warranties that are not so qualified, taken together, shall be true and correct in all material respects, in each case as though made on and as of the Closing Date (except to the extent any such representation or warranty expressly speaks as of an earlier date); and the Company shall have received a certificate signed on behalf of UCU by the chief executive officer of UCU to such effect.

(b) *Performance of Obligations.* UCU shall have performed in all material respects each material obligation and agreement and shall have complied in all material respects with each material covenant required to be performed or complied with by it under this Agreement at or prior to the Effective Time; and the Company shall have received a certificate signed on behalf of UCU by the chief executive officer of UCU to such effect.

(c) *Tax Opinion.* The Company shall have received a written opinion from Sidley & Austin, counsel to the Company, to the effect that the Merger will be treated for federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, such counsel may require and rely upon reasonable representations and certificates of UCU (including, without limitation, representations contained in the UCU Tax Certificate) and the Company (including, without limitation, representations contained in the Company Tax Certificate); and UCU and the Company agree that, to the extent they can truthfully do so, they will make such representations and deliver such certificates.

(d) *UCU Material Adverse Effect.* No UCU Material Adverse Effect shall have occurred and there shall exist no fact or circumstance which is reasonably likely to have a UCU Material Adverse Effect.

ARTICLE VIII
Termination

Section 8.01. *Termination.* This Agreement may be terminated at any time prior to the Effective Time by written notice by the terminating party to the other party, whether before or after approval of the matters presented in connection with the Merger by the stockholders of the Company:

(a) by mutual written consent of UCU and the Company; or

(b) by either UCU or the Company, if the Effective Time shall not have occurred on or before December 31, 2000 (the "Initial Termination Date"); provided, however, that if on the Initial Termination Date the conditions to the Closing set forth in Section 7.01(b) shall not have been fulfilled but all other conditions to the Closing shall have been fulfilled or shall be capable of being fulfilled, then the Initial Termination Date shall be extended to December 31, 2001; and provided, further, that the right to terminate the Agreement under this Section 8.01(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur; or

(c) by either UCU or the Company, if a court of competent jurisdiction or other Governmental Authority shall have issued a final, nonappealable order, decree or ruling, or taken any other action, having the effect of permanently restraining, enjoining or otherwise prohibiting the Merger; or

(d) by either UCU or the Company if, at the Company Stockholders' Meeting (including any adjournment or postponement thereof), the requisite vote of the stockholders of the Company in favor of this Agreement and the Merger shall not have been obtained; or

(e) by UCU, if a breach of or failure to perform any representation, warranty, covenant or agreement on the part of the Company set forth in this Agreement shall have occurred which would cause the conditions set forth in Sections 7.02(a) or 7.02(b) not to be satisfied, and such breach or failure shall not have been remedied within 45 business days after receipt by the Company of notice in writing from UCU specifying the nature of such breach and requesting that it be remedied or UCU shall not have received within such 45 business-day period adequate assurance of a cure of such breach; or

(f) by UCU, if the Board of Directors of the Company (i) shall not have recommended or shall have withdrawn or modified its recommendation of this Agreement and the Merger or (ii) shall have approved or recommended a Takeover Proposal, other than the Merger; or

(g) by UCU, if the Company or any of its Affiliates shall have knowingly breached the covenant contained in Section 6.01; or

(h) by the Company in accordance with Section 8.01(b); provided, that it has complied with the notice provisions thereof; or

(i) by the Company, if a breach of or failure to perform any representation, warranty, covenant or agreement on the part of UCU set forth in this Agreement shall have occurred which would cause the conditions set forth in Sections 7.03(a) or 7.03(b) not to be satisfied, and such breach or failure shall not have been remedied within 45 business days after receipt by UCU of notice in writing from the Company, specifying the nature of such breach and requesting that it be remedied or the Company shall not have received within such 45 business-day period adequate assurance of a cure of such breach.

Section 8.02. *Effect of Termination.* In the event of termination of this Agreement pursuant to Section 8.01, there shall be no liability or obligation on the part of UCU, the Company, or their respective officers, directors, stockholders or Affiliates, except as set forth in Section 8.03 and except to the extent that such termination results from the wiilful breach by a party of any of its representations, warranties, covenants or agreements contained in this Agreement; provided that the provisions of Sections 8.02, 8.03, 9.02 and 9.07 of this Agreement and the Confidentiality Agreement shall remain in full force and effect and survive any termination of this Agreement.

Section 8.03. *Fees and Expenses.* (a) Except as set forth in this Section 8.03, all fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby, except for the Taxes described in Section 6.19 which will be paid by the Surviving Corporation, shall be paid by the party incurring such expenses, whether or not the Merger is consummated; provided, however, that UCU and the Company shall share equally all fees and expenses, other than attorneys' and accounting fees and expenses, incurred in relation to the printing and filing of the Proxy Statement (including any related preliminary materials) and the Registration Statement (including financial statements and exhibits) and any amendments or supplements thereto.

(b) If this Agreement is terminated by UCU pursuant to Section 8.01(e) or by the Company pursuant to Section 8.01(i), the non-terminating party shall reimburse the other party for all reasonable costs and expenses incurred by it in connection with this Agreement and the transactions contemplated hereby, including without limitation, fees and expenses of counsel, financial advisors, accountants, actuaries and consultants and the terminating party's share of all printing and filing fees. Such amounts shall be payable only upon due presentation by the terminating party of a written summary of such expenses, in reasonable detail, within 30 days after the date of termination, and in no event shall the aggregate amount payable under this Section 8.03(b) exceed $750,000.

(c) If this Agreement is terminated by UCU pursuant to Section 8.01(f) or Section 8.01(g), the Company shall pay to UCU a termination fee of $6.5 million in cash within five business days after such termination.

(d) If this Agreement is terminated by the Company pursuant to Section 8.01(h), the Company shall pay to UCU a termination fee of $6.5 million in cash within five business days after such termination.

(e) If this Agreement is terminated by either UCU or the Company pursuant to Section 8.01(d), the Company shall pay to UCU a termination fee of $1 million in cash within five business days after such termination, and in addition, (i) if a Takeover Proposal shall have been made (other than a Takeover Proposal made solely prior to February 16, 1999) prior to the date of the Company Stockholders' Meeting and (ii) if within 18 months of such termination the Company shall enter into an Acquisition Agreement providing for a Takeover Proposal, the Company shall pay to UCU an additional termination fee of $5.5 million in cash within five business days after the execution of such Acquisition Agreement.

Section 8.04. *Amendment.* This Agreement may be amended by the parties hereto, by action taken or authorized by their respective Boards of Directors, at any time before or after approval of the matters presented in connection with the Merger by the stockholders of the Company, but, after any such approval, no amendment shall be made which by law requires further approval by such stockholders without such further approval. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.

Section 8.05. *Extension; Waiver.* At any time prior to the Effective Time, either party hereto may, to the extent legally allowed, (i) extend the time for the performance of any of the obligations or other acts of the other party hereto contained herein, (ii) waive any inaccuracies in the representations and warranties of the other party hereto contained herein or in any document delivered pursuant hereto and (iii) waive compliance with any of the agreements or conditions of the other party hereto contained herein. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in a written instrument signed on behalf of such party.

ARTICLE IX
Miscellaneous

Section 9.01. *Nonsurvival of Representations, Warranties and Agreements.* None of the representations, warranties, covenants and agreements in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time, except for Section 6.11, 7.02(c) and 7.03(c) and the other covenants and agreements which, by their terms, are to be performed after the Effective Time. Except as otherwise provided in Section 8.02, the Confidentiality Agreement shall survive the execution and delivery of this Agreement but shall terminate and be of no further force and effect as of the Effective Time.

Section 9.02. *Notices.* All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally, telecopied (which is confirmed) or mailed by registered or certified mail (return receipt requested) to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to UCU, to:

UtiliCorp United Inc.
20 West Ninth Street
Kansas City, Missouri 64105
Attention: Richard C. Green, Jr.
Facsimile: (816) 467-3595

with a copy to:

Blackwell Sanders Peper Martin LLP
2300 Main, Suite 1000
Kansas City, Missouri 64108
Attention: Robin V. Foster, Esq.
Facsimile: (816) 983-8080

(b) if to the Company, to:

St. Joseph Light & Power Company
520 Francis Street
St. Joseph, Missouri 64502-0998
Attention: Terry F. Steinbecker
Facsimile: (816) 387-6332

with a copy to:

Sidley & Austin
One First National Plaza
Chicago, Illinois 60603
Attention: Wilbur C. Delp, Jr., Esq.
Facsimile: (312) 853-7036

Section 9.03. *Interpretation.* When a reference is made in this Agreement to a section, such reference shall be to a Section of this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation."

Section 9.04. *Disclosure Schedules.* Any item disclosed in the UCU Disclosure Schedule or the Company Disclosure Schedule, under any specific Section number thereof or disclosed in reference to any specific Section hereof, shall be deemed to have been disclosed by UCU or the Company, as appropriate, for all purposes of this Agreement in response to other Sections of either the UCU Disclosure Schedule or the Company Disclosure Schedule, as the case may be, to the extent that such disclosure is specifically cross-referenced to such other Section(s).

Section 9.05. *Counterparts.* This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and shall become effective when the counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart.

Section 9.06. *Entire Agreement: Third Party Beneficiaries.* This Agreement (including the documents and the instruments referred to herein) (i) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and (ii) except as provided in Sections 1.04 and 6.11 and this Section 9.06, is not intended to confer upon any Person other than the parties hereto any rights or remedies hereunder.

Section 9.07. *Governing Law.* This Agreement shall be governed and construed in accordance with the laws of the State of Missouri without regard to any applicable conflicts of law rules. Each party hereto irrevocably and unconditionally consents and submits to the jurisdiction of the courts of the State of Missouri and of the United States of America located in the State of Missouri for any actions, suits or proceedings arising out of or relating to this Agreement and the transactions contemplated hereby, and further agrees that service of any process, summons, notice or document by U.S. registered or certified mail to the party at the address specified in Section 9.02, shall be effective service of process for any action, suit or proceeding brought against such party in any such court. Each party hereto hereby irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this agreement or the transactions contemplated hereby, in the courts of the State of Missouri located in Kansas City, Missouri or the United States of America located in Kansas City, Missouri, and hereby further irrevocably and unconditionally waives and agrees

not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. If any provision of this Agreement is held to be unenforceable for any reason, it shall be modified rather than voided, if possible, in order to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Agreement shall be deemed valid and enforceable to the extent possible.

Section 9.08. *Assignment.* Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by either party hereto (whether by operation of law or otherwise) without the prior written consent of the other party, and any attempted assignment thereof without such consent shall be null and void. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

IN WITNESS WHEREOF, UCU and the Company have caused this Agreement to be signed by their respective officers thereunto duly authorized as of the date first written above.

UTILICORP UNITED INC.

By: /s/ RICHARD C. GREEN, JR.
Name: Richard C. Green, Jr.
Title: Chairman and Chief Executive Officer

ST. JOSEPH LIGHT & POWER COMPANY

By: /s/ TERRY F. STEINBECKER
Name: Terry F. Steinbecker
Title: President and Chief Executive Officer