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August 11, 2000

Mr. Dale Hardy Roberts
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED²
AUG 11 2000
Missouri Public
Service Commission

RE: UtiliCorp United Inc. d/b/a Missouri Public Service - Case No. GT-2001-61

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of UtiliCorp's Response to OPC Motion to Suspend. Please stamp the enclosed extra copy "filed" and return same to me.

Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

Dean Cooper by Rg
Dean L. Cooper

DLC/rhg
Enclosures
cc: Office of the Public Counsel

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED

AUG 11 2000

**Missouri Public
Service Commission**

In the Matter of Missouri Public Service,)
a Division of UtiliCorp United Inc.'s)
Tariff Designed to Establish an)
Experimental Small Volume Aggregation)
Program in Missouri.)

Case No. GT-2001-61

RESPONSE TO OPC MOTION TO SUSPEND

Comes now UtiliCorp United Inc. ("UtiliCorp") d/b/a Missouri Public Service ("MPS"), and, in response to the Office of the Public Counsel's ("OPC") Motion to Suspend and Request for Establishment of Procedural Schedule and Hearing, states to the Missouri Public Service Commission ("Commission") as follows:

1. On July 20, 2000, MPS filed proposed tariffs with the Commission for the purpose of establishing an experimental small volume aggregation program. The OPC, on August 1, 2000, filed its Motion to Suspend and Request for Establishment of Procedural Schedule and Hearing. Thereafter, on August 3, 2000, the Commission issued its Notice Establishing Time in Which to Respond in which it directed that any response to the OPC's motion must be filed on or before August 11, 2000.

2. MPS expressly responds to the questions raised by the OPC as follows:

A. Does the proposal have adequate provisions to protect from harm residential customers who are not eligible for the program and other small customers who do not choose to take advantage of the aggregation option?

1. If the proposed program goes into effect MPS may no longer be able to procure gas supplies as economically for its remaining bundled service customers since there will be a decline in buying power and diversity of customer loads as small and medium-sized commercial customers move to aggregation service and are no longer part of the pool of customers for whom MPS is currently purchasing regulated gas supplies.

UtiliCorp Response: There are 722 small volume firm customers eligible (consuming over 500 Mcf annually) to transport under this program. This represents only 13 percent of the 5,519 customers in the MPS general service class in 1998. The eligible customers consumed approximately one Bcf of gas in 1998, compared to MPS's total 1998 volumes of about five Bcf. If ten percent of the eligible customers participate in the program, the associated volumes would represent only about two percent of MPS's total annual volumes. This program is small enough that gas buying power and load diversity will not be materially affected.

2. The proposed program requires aggregators (marketers or energy sellers) to purchase certain balancing services from MPS and to make monthly cash-out payments to MPS in order to protect MPS from suffering any financial harm due to additional costs that may be imposed upon MPS when it allows additional customers to purchase gas directly from alternative suppliers. The proposed program gives aggregators the option to purchase certain other services from MPS. The MPS charges for these optional services are designed to compensate MPS for certain gas supply and back office expenses that it will incur to provide them. MPS has proposed that the revenues from one of these services (mandatory daily balancing service) be passed back to ratepayers through the PGA/ACA mechanism. OPC believes the revenues from all of the other gas supply-related services (e.g. the daily out of balance charge, monthly cash-out charge, monthly balancing service, aggregation pooling service, and operational balancing agreement revenue) that will be offered on a mandatory or voluntary basis to aggregators should also be passed back to ratepayers through the PGA/ACA mechanism to ensure that ratepayers, as well as shareholders, are held harmless from incurring additional gas supply expenses that would be reflected in the costs that are recovered through the PGA/ACA mechanism. Not passing through the revenues from charges for new services that are offered with this proposed program would also allow the Company to earn new sources of regulated revenues from newly established services without considering all relevant factors in a rate case.

UtiliCorp Response: When UtiliCorp designed its aggregation program in Kansas, it added employees to administer the program, provide balancing services, and deal with marketer and end-user questions. The expansion of these services into Missouri will require additional man hours and cost. UtiliCorp should recover these costs or the Company will not be motivated to not participate.

UtiliCorp's expected revenues from these services should be relatively minor. For example, if ten percent of the eligible customers opted to aggregate, about 100,000 Mcf would be transported, and the total annual revenue from the daily balancing service would be about \$75,000. The revenue will be totally credited to ratepayers through the ACA. All other proposed charges would be relatively small in relation to the balancing service fees. Contrary to OPC's assertions, this program will not result in substantial sources of new regulated income for UtiliCorp.

The following list describes the treatment of each type of revenue described in the tariff:

- 1) End-user charge. This replaces the monthly customer charge paid by sales customers if they received service under the general service tariff. It is retained by MPS as part of its revenue requirement.
- 2) Delivery charge. This is similar to the delivery charge paid by sales customers. The first three step rates have been reduced reflect a sharing of aggregation charge revenue.
- 3) Aggregation charge. This monthly charge is 4 cents per Mcf delivered to each pool to cover the administration of the program. This has been shared with the ratepayers through negotiation with Staff. To accomplish a sharing, the first three steps of the MPS Delivery Charge have been reduced by one cent. The effect is to refund 3 of the 4 cent charge to ratepayers for most of the Mcf's delivered.
- 4) Daily balancing charge. This is a 7.5 cent per Mcf monthly fee to pay for a daily balancing service. All of this revenue is credited to a system ACA account.
- 5) Daily out of balance charge. These charges apply to customers served by pipelines that balance each day. All revenue from these scheduling penalties is credited to a system ACA account.
- 6) Monthly cash-out charge. Customers are required to "cash out" or balance receipts

and deliveries. All revenues from these cash-outs are credited to a system ACA account.

7) Unauthorized delivery charge. If any penalties are charged by interstate pipelines to MPS because marketers or end-users are significantly out of balance, then this provision allows MPS to pass those penalties along to the marketer that caused the problem. Any revenues of this kind are to be credited to a system ACA account.

8) Monthly balancing service charge. This is an optional service that allows marketers a wider tolerance window for balancing and cash-outs. The price is negotiated because the terms will depend upon the individual needs of marketers. The revenue from this service is expected to be relatively insignificant, but would be credited to a system ACA account.

9) Aggregation pooling service. This is an optional service that allows marketers to aggregate customers over a broader geographic area for balancing. The price is negotiated because the terms will depend upon the individual needs of marketers. The revenue from this service is expected to be relatively insignificant, but would be retained by MPS.

10) Billing service charge. This is an optional service that marketers may select if they want MPS to bill end-users. The \$1.15 per bill charge is to be retained by MPS because MPS has shown that the actual cost is about \$1.159 per bill, so it is an expense recovery not a profit item.

On these bases, the only charges or sources of revenue to UtiliCorp/MPS would be the aggregation pooling service and the billing service. Both charges are intended to reimburse UtiliCorp/MPS for work such as aggregation administration and end-user balancing that is not performed for the current general service. It is doubtful that any substantial cost reductions would inure to UtiliCorp/MPS's benefit, even if many of the eligible customers participated in this program. As a result, it is fair and appropriate for some revenue to pass to the Company. If ten percent of the eligible customers participated in the program and their marketers selected the billing

service option, the billing service charges to UtiliCorp/MPS would be less than \$1,000 per year. If every marketer negotiated the aggregated pooling service for ten percent of the eligible customers (less than ten percent of eligible customers are expected to participate in the program) the total revenue to the Company would be less than \$3,800. The Company expects this service to be used infrequently. As a result, the potential revenues to the Company are relatively insignificant, but should be approved in recognition of the additional expenses that will be incurred.

3. MPS has submitted a revised PGA tariff sheet (Sheet No. 36) that causes revenues collected as a result of performing daily balancing service to be credited to the respective ACA account. Public Counsel believes these revised sheets should be further revised to reflect revenues collected from the proposed aggregation program in the following areas: daily out of balance charges, monthly cash-out charges, monthly balancing service revenue, aggregation pooling service revenue, and operational balancing agreement revenue. For example, if the Company collects revenues under the monthly cashout charge provision for underages, it is charging the aggregator for gas that the aggregator's customers used but did not pay for. The gas received by these end users for which they did not pay will be paid for by bundled service customers through the PGA charge. Therefore, these underage revenues need to be included as offsetting revenues in the PGA calculation. Otherwise, bundled service customers would no longer be paying cost based rates since MPS would be retaining revenues from the sale of gas that has been paid for by its bundled service customers.

UtiliCorp Response: The previous response contains a description of the treatment of each type of charge.

4. MPS has submitted revised PGA tariff sheets (Sheet No. 43 and 44) that cause the ACA, Refund, TOP, and TC factors to stop applying to end-users taking service under the Experimental SVTS-A schedule after the effective date of the Company's scheduled winter 2001 filing. This provision would create inequities between bundled service customers and aggregation service customers; this would be especially true for those customers that do not begin taking aggregation service until the second year of the proposed program. For those customers, the ACA, Refund, TOP, and TC factors would not apply for any amount of time after they moved to aggregation service. This is wrong since these customers would be relieved of the obligation that other customers have to make up for under-recoveries of PGA costs in future ACA periods. Any under-recoveries that are not collected from departing aggregation service customers would be left to be recovered by the remaining bundled service customers unless the Company is willing to commit that

it would not seek future recovery of under-recoveries associated with the prior bundled service usage of departing aggregation service customers.

UtiliCorp Response: This provision was suggested by the Commission Staff as a reasonable way to assure that customers that elect to transport will not be relieved of ACA and related charges that are incurred this year, but will not be added to the ACA until the next year. The Company is not willing to forfeit under-recoveries in order to support this experimental program. The proposed language provides a reasonable period to recover most under-recoveries, but in the event some amounts are not recovered, the general system would be asked to pay those amounts in later ACA filings. It should be noted that the general system will also receive a subsidy when a customer elects to leave this program and return to general service. In that situation, the reverse of OPC's concerns would occur - the customer will pay the then-current ACA, even though the customer has not been using system gas during the period when the ACA charges were incurred.

B. Does the proposed program create a level playing field among potential new gas suppliers, including the distribution Company's gas marketing affiliate?

1. This question is important since this is the first program in Missouri that will allow small customers to choose to procure their gas supplies from the competitive marketplace. UCU's gas marketing affiliate is expected to aggressively compete to provide gas supply service to small customers in Missouri, just as UCU's marketing affiliate has done in Kansas where UCU already has a similar program in place. Certain revisions to the proposed program are necessary to ensure that a level playing field will exist between UtiliCorp's marketing affiliates and aggregators that are not affiliated with UtiliCorp.

UtiliCorp Response: UtiliCorp has only one remaining marketing affiliate, Energy One Ventures (EOV). This entity deals primarily with farm irrigation customers and larger industrial customers. In Kansas, EOV works primarily with irrigation and large industrial customers whose load profiles and usage are substantially different than the typical Missouri commercial customer. There is no reason to exclude or penalize UtiliCorp's marketing affiliate from these programs unless there is

some proof of preferences or discrimination.

2. The Commission's newly enacted Marketing Affiliate Transactions rule (4 CSR 240-40.016) contains nondiscrimination standards that can help insure that the marketing affiliate of a distribution company will not have an unfair advantage over other competitive gas suppliers. This rule states that "a regulated gas corporation is prohibited from giving any customer using its marketing affiliate preference with respect to any tariff provisions that provide discretionary waivers." This very important rule provision will be nearly impossible to enforce, however, since the proposed tariff contains at least a dozen items where the distribution company has discretion in how the tariff is applied. Despite the numerous opportunities that the proposed tariff would provide for MPS to favor its marketing affiliate, the tariff contains no requirements for the distribution company to track and record the instances where discretion has been exercised. This deficiency could be remedied by adding the following after (3) (d) in the program evaluation section of the tariff: "(e) The number of instances where MPS exercised discretion in applying each of the following provisions of this tariff: B. (receipt point definition), C.4., D.3.(1), D.3.(2), D.4., E.2., E.3., F.3. 3rd par., F.6., F.14., F.16., F.18., F.22."

UtiliCorp Response: The paragraphs referred to provide MPS limited opportunities for discretion, but *not* in a manner that would result in preferential treatment of an affiliate. A description of each item is described below, with the "discretionary" language italicized:

1. B. (Receipt point definition). "...If the Company can, operationally, contractually, and without adversely affecting the service to its other end-users, permit aggregator to use a receipt point not physically connected through Company facilities to the delivery point(s), Company may waive the receipt point restriction." (Emphasis added). This phrase does not provide a substantial opportunity for MPS or UtiliCorp to create an affiliate preference. It is intended to create flexibility for deliveries to locations that might not otherwise be eligible for aggregation.
2. C.4. No such paragraph exists; assume D.4. "Security: Aggregator shall provide Company with security for aggregator's performance hereunder in the form of a letter of credit or a performance bond in the amount of \$250,000.00 no later than ten (10) days prior to the date gas first flows to one or more of aggregator's end-users. Company reserves the right to

periodically review the sufficiency of said security and, if deemed necessary as a prudent business practice, may require an increase in such amount." (Emphasis added) This phrase is intended to prevent marketer defaults similar to the recent problems in Georgia. MPS has no motivation to prevent marketers from aggregating customers, nor in discriminating against smaller marketers. Any preferential treatment of an affiliate would need to be disclosed under the affiliate rule reporting requirements, and would be easily disclosed by other marketers.

3. D.3.(1). No such paragraph exists; assume E.4(a). "... For pipelines that have no published daily index, an appropriate surrogate for ADIP will be used." (Emphasis added.) We are uncertain whether this is the paragraph OPC suggests will create an improper use of discretion. MPS knows of no other alternatives that would allow cash-outs when a daily pricing index is not available.

4. D.3.(2). See point 3 above.

5. D.4. See point 2 above.

6. E.2. Assume F.2: "Aggregation Pooling Service: An aggregator may combine a group of end-users situated behind multiple town border stations (TBS) and served by a common pipeline with the same balancing provisions and the same interstate pipeline operational zone. The charge, in addition to the Aggregation Charge set out in Section E of this service, shall be negotiated between the parties." (Emphasis added.) If the aggregator purchases this service, the aggregated pools will be considered as one aggregated pool for the purposes of calculating daily out-of-balance charges and monthly balancing; however, during Critical and OFO Days nominating and balancing will be required by the affected receipt and delivery points. This service is available for a minimum term of one (1) year." This service is intended to provide an opportunity to marketers to pool end-users that would

otherwise not be eligible for aggregation. Factors such as the complexity of the balancing calculations for each end-user will determine the charge. Any preferential treatment of a UtiliCorp affiliate would need to be reported under the affiliate rule reporting requirements. There is no need for separate reporting here.

7. E.3 . “Actual daily delivery quantities shall be used to determine the out-of-balance condition for end-users with recording equipment or telemetry. Estimated daily delivery quantities shall be used to determine the out-of-balance condition for end-users without recording equipment or telemetry, or where such equipment malfunctions. Estimated daily delivery quantities shall be determined based on available data, including nominated quantities, meter readings, end-user load characteristics, actual weather conditions and other information.”

(Emphasis added) If MPS does not estimate volumes for end-users without tele-metering, there will be no data available for balancing. This discretion is a necessary trade-off so that tele-metering is not required. The costs of tele-metering would make it financially impractical for end-users of this small size to transport. If UtiliCorp provided preferential treatment to its affiliate’s end-users, the differences would eventually show up when regular meter readings are conducted. As a result, no preferences should ever occur under this provision.

8. F.3, 3rd paragraph. Assume G3.3. “Notwithstanding any provision to the contrary herein, Company may fully or partially curtail service to transportation service end-users when, in Company's opinion, curtailment or interruption is necessary to protect the delivery of gas to general system customers with higher priority uses, or to protect the integrity of its system. Company shall allocate, as equitably as practicable, the capacity that is available, taking into consideration priority of use of other factors it deems necessary to ensure public health and safety.” (Emphasis added.) These provisions are essential to the operation of the system during

critical periods. In critical periods, curtailments usually affect larger end-users, not the small volume participants of this program. The potential for preferential treatment should never occur. If extreme conditions exist that require curtailment down to this level of customer, UtiliCorp's Gas Supply personnel will have significant issues to contend with, and should not be burdened with reporting requirements of this kind.

9. F.6. Assume G3.3. Failure to Comply: If aggregator or end-user fail to comply with or perform any of the obligations of its part, the Company shall have the right to give end-user written notice of the Company's intention to terminate the transportation service on account of such failure. The Company shall then have the right to terminate such transportation service after the expiration of five days after the giving said notice, unless the aggregator or end-user shall make good such failure. (Emphasis added.) This language is necessary to prevent marketers or end-users from operationally "gaming" the system to the detriment of the general system. Any such preferential treatment would still be reportable under the affiliate rule reporting requirements, so an additional reporting requirement here would be duplicative.

10. F.14. Assume G.14. The Company shall have the right, in its sole discretion, to reject or change any nomination that it deems is being made in order to take unfair advantage of any tariff provision, including, but not limited to, monthly cash outs. (Emphasis added.) In an aggregation program, it is possible for marketers to submit delivery nominations so that the marketer financially benefits. This provision is intended to stop such abuses. The language is specific enough to make it clear that preferential treatment would be identifiable. No additional reporting is necessary.

11. F.16 Assume G.16. Company shall have the right, but not the obligation, to enter into an OBA with any party delivering gas into the Company's system. Company shall, on a

nondiscriminatory basis, determine which supplies necessitate an OBA with an aggregator. (Emphasis added.) OBA's are usually critical day contracts between an interstate pipeline and the utility. This language could not lead to a preference since an affiliate would not be involved in an OBA.

12. F.18. Assume G.17. Operational Flow Order Penalty: Aggregators who fail to deliver to Company for the account of end-user(s) specified operational flow ordered quantities of gas shall be billed appropriate "Unauthorized Delivery" charges. Aggregators who repeatedly fail to deliver to Company specified operational flow order quantities of gas will not be permitted to continue transportation service. (Emphasis added.) This language would not refer to an affiliate.

13. F.22. No such paragraph.

3. One of the important provisions of the proposed tariff is the requirement that the aggregator accept a specified amount of pipeline capacity for each end-user that an aggregator serves. This provision is important because it ensures that new entrants will be able to procure the resources needed to serve their customers and because it protects captive ratepayers who will still be charged for gas procurement through PGA rates. There is some question, however, whether new suppliers will be able to optimize use of the assigned capacity on certain pipelines unless some storage is assigned along with the capacity. The proposed formula for assigning capacity also needs to be examined further. This formula makes simplifying assumptions that gas is only used Monday through Friday and ignores the load diversity that will exist among the end users that are part of an aggregator's pool of end-users. Both of these factors tend to create a potentially excessive upward bias in the amount of pipeline capacity that is assigned to an aggregator.

UtiliCorp Response: MPS does not have storage to assign with the capacity. The formula for assigning capacity fairly reflects the load characteristics of the end-users. The inclusion of seven day usage data would not materially impact the assignment amounts. The assertion that load characteristics should be considered to allow offsetting of loads might be viable for larger customers, but not for customers in the small volume class. For this experimental program, MPS prefers the

simpler proposed formula.

C. Do the proposed tariff, and other documents that will be used to implement the program possess sufficient clarity and internal consistency to ensure that the program would operate in the manner intended?

1. The tariff sheets that have been filed by MPS to implement this program have numerous flaws including: lack of clarity and internal inconsistencies, that, if left uncorrected will hinder the implementation of this program and the ability of this program to achieve the following objectives: (1) introduce competitive supply options to smaller customers in a manner that maximizes the opportunity of smaller customers to realize benefits and (2) create an experimental program that can be used as an example in Missouri of how competition can work to the benefit of both customers choosing new suppliers and new suppliers themselves without adversely affecting customers that continue to receive bundled gas service.

UtiliCorp Response: No specific problems were identified.

2. The proposed tariff fails to clearly delineate the responsibilities that aggregators and end users would have in the proposed program. For example, the Availability section (section D.1. on Sheet No. 32.9) states that "service under this rate schedule is available to aggregators who cause gas to be delivered to individually metered, non-residential end users whose individual annual usage is anticipated not to exceed 150,000 Ccf" while the Terms and Conditions section on Sheet No. 32.14 states that "the following terms apply to aggregators and end users where applicable, taking service under Company's Transportation Rate Schedules." Furthermore, Sheet No. 32.9 contains monthly charges for distribution service that are applicable to end-users, not aggregators. The availability section needs to be changed to reflect that both aggregators and end users will be served under the proposed tariff.

UtiliCorp Response: MPS has attempted to draft a tariff that defines the relationship between marketer and utility, so that relatively small and perhaps unsophisticated end-users can work with a marketer, not the utility. The goal is to create a system where MPS and 5-10 marketers work for the end-user's benefit without the need for direct contact for gas purchasing between MPS and the end-user. This goal needs to be balanced against the general presumptions in commercial law that transported gas is purchased by the marketer for the end-user's account, and the end-user retains title and responsibility for balancing. This implies that the end-user would remain responsible for penalties and balancing charges, even though the marketer is primarily responsible for balancing.

To recognize this conflict and still draft the tariff in terms that would allow the marketer to be the only contact with MPS, the term “aggregator and end-users where applicable” was used.

3. The proposed tariff refers to “service agreements in Section G. 13 on Sheet No. 32.18. When OPC sent MPS a Data Request (DR No. 503) asking for a copy of this service agreement, the Company’s response stated that “the final draft of the aggregation tariff should not refer to this agreement; this reference relates to a contract drafted for use in another state.” Clearly, the proposed tariff still has flaws remaining, even after UtiliCorp made significant efforts to remedy some of the flaws in the prior draft of the proposed aggregation service tariff that were identified in PUBLIC COUNSEL’S MOTION TO SUSPEND AND REQUEST FOR ESTABLISHMENT OF PROCEDURAL SCHEDULE AND HEARING in Case No. GT-2001-2.

UtiliCorp Response: UtiliCorp’s Kansas transportation program includes a Marketer Agreement for aggregated transportation service and an End-User Agreement for transportation services between the Company and a single end-user. Prior drafts of this tariff filing incorrectly contained a reference to an End-User Agreement. This filing does not contain such a reference. OPC has apparently confused the reference to the Kansas End-User Agreement with the Missouri End-User Verification form, which is used to confirm that customers have selected a marketer and agree to the release of usage data.

D. Does the program have sufficient protections for small unsophisticated consumers that are choosing a competitive gas supplier for the first time?

1. MPS has proposed that its new aggregation service be made available to all small consumers in its Missouri service territory except for residential customers. Public Counsel does not oppose an experimental program with this widespread availability, but we strongly recommend that the Commission not approve such a widely available program without insuring that small customers are not unduly limited in their ability to return to bundled service if they are unsatisfied with their first experience at choosing a competitive gas provider. UtiliCorp’s response to OPC DR No. 523 indicated that “end-users can return to sales service at the end of the one-year contract term.” This is an unduly restrictive provision for small unsophisticated customers that are making their first attempt to purchase a formerly regulated service from a new competitive provider. While some limits on switching between bundled and unbundled service may be necessary, the severe limitation proposed by UtiliCorp is unreasonable.

UtiliCorp Response: The tariff contains limited entry dates for several reasons. First, UtiliCorp learned in its Kansas aggregation program that marketers will attempt to lure customers away from other marketers. It is somewhat easy for a marketer to demonstrate gas cost savings because it is difficult to provide an apples-to-apples comparison of costs. In the early stages of this aggregation program, MPS prefers to limit frequent changes of marketers so that these types of sales practices are eliminated. Second, the limitation on entry to and exit from the program simplifies the administration of aggregation pools. MPS does not have the ability to provide estimates of participation in the program, and prefers to simplify administration during the two-year program.

2. As written, the shutoff definition in the proposed tariff allows customers (end users) to be shut-off if their aggregator fails to pay MPS for the services (e.g. daily balancing service) that MPS provides to the aggregator. Customers should not be shut-off by their distribution company for the failure of their aggregator to fulfill their obligations to the distribution company. MPS is requiring aggregators to post a performance bond of at least \$250,000. This bond should be sufficient to protect the distribution company from harm in the event that it needs to provide gas to end users whose aggregators are not fulfilling their obligations to the distribution company.

UtiliCorp Response: In the event a marketer withholds payment of a bill, MPS will find it difficult to recover amounts due. Performance bonds are intended to provide protection for catastrophic financial failures, not payment defaults. The shutoff feature in the tariff is similar to provisions in other states in which UtiliCorp provides transportation service. This is an appropriate remedy and provides a legitimate motivation to pay amounts that are due. The language also reflects the presumption under the Uniform Commercial Code that transport gas is owned by the end-user and the charges by MPS for transportation of that gas ultimately are the responsibility of the end-user because the marketer acts as an agent, not a principal in these transactions.

3. The proposed tariff also fails to ensure that customers can unconditionally return to bundled service by stating on Sheet No. 32.8 that "if an end-user wishes to

return to firm sales service, Company shall accept the end-user as a firm sales customer, **provided the capacity needed also returns with the end-user.**" (emphasis added) This provision appears to allow the Company to refuse service to an end-user that wants to return to bundled service but has no pipeline capacity to bring with him. This could occur if the capacity that was assigned to the end user when he switched to aggregation service was contained in a contract that expired before the end-user chose to return to bundled service.

UtiliCorp Response: This issue is not within MPS's control. The only reasons a customer could not return to sales service after leaving this aggregation program would be if that end-user (1) released or (2) did not renew the interstate pipeline capacity that has been assigned to it. Once a customer leaves firm general service for transportation under this program, it is permanently assigned pipeline capacity. In those areas where capacity is constrained, MPS would have no ability to obtain additional capacity once a customer leaves general service. If the end-user sells or releases this capacity to another entity, MPS would have no way (in an area where capacity is sold out) to help this customer if it chose to return to sales service. Similarly, if a customer did not renew its capacity contract with an interstate pipeline, MPS could not guarantee that it could obtain enough capacity to serve the customer. In all other situations, MPS will welcome the return of the customer to sales service. End-users need to understand that this is one of, if not the single greatest risk of this program, and it should be clearly communicated to each end-user as part of the education process.

E. The proposed tariff references other key documents that contain key terms and conditions for implementing the program that Public Counsel believes should be included as a part of the tariff that implements the proposed program.

1. These other documents include: the Marketer Agreement (Aggregation Pool definition on Sheet No. 32.5), Operational Balancing Agreement (Sheet No. 32.19), Service Agreements (G.13. on Sheet No. 32.18), Aggregation Pooling Service Agreement (Sheet No. 32.13), and the End-User Verification Form (G.22 on Sheet No. 32.19). Public Counsel has reviewed these documents and believes that they should be filed as part of the tariff since they contain additional operational details for the program that are not contained in the program.

UtiliCorp Response: Each of the agreements referred to has been supplied to Staff and OPC. The OPC has also been given access to the Company's website, where current versions of all the agreements are provided to interested marketers and end-users. Copies of some actual agreements from UtiliCorp's Kansas aggregation program have also been supplied. There is no need to complicate the tariff by incorporating these documents, and they should not be included as tariff sheets because in an experimental program, there is a high probability that the agreements/forms will be revised. There is also no benefit to inclusion of the documents, since most of the relevant terms are set forth in the tariff.

2. MPS and other Missouri regulated gas and electric utilities have numerous tariffs which contain contracts and agreements similar to the agreements that MPS will use to implement this program. MPS itself has tariffs on file with the Commission that include its Electric Economic Development Rider (Sheet No. 45), its Electric Voluntary Load Reduction Rider (Sheet No. 74), its Gas Large Volume Firm Sales Service Contract (Sheet No. 6), Gas Large Volume Interruptible Sales Service Contract (Sheet No. 13), and its Transportation Gas Contract (Sheet No. 29).

UtiliCorp Response: The agreements referred to in this note are all between MPS and a direct MPS customer. The forms that OPC suggests should be included in this tariff all relate to services or processes involving gas marketers.

3. Many of the contract and agreement documents for this program prominently display the name and logo of UtiliCorp's unregulated affiliate, Energy One. A gas distribution Company should not be allowed to promote its unregulated affiliate within the core documents that the distribution company uses to implement a program where the distribution company's unregulated affiliate is expected to compete against unaffiliated competitors.

UtiliCorp Response: Energy One is *not* the name or logo of an unregulated UtiliCorp affiliate. The Energy One brand name is owned by UtiliCorp's regulated businesses and does not refer to any of UtiliCorp's unregulated businesses. Several years ago the brand name was owned by a joint venture in which UtiliCorp was a partner, but that venture was subsequently dissolved, and the brand name rights were transferred to UtiliCorp.

F. The proposed tariff contains numerous new charges to aggregators and end users that need to be analyzed to determine MPS's basis for the proposed charges and to ensure that the Company is not attempting to put rates in place for new or modified services without the consideration of all relevant factors.

1. There is a monthly aggregation charge of .004 per Ccf, a mandatory daily balancing charge of \$.0075 per Ccf per month, non-critical day balancing charges, critical day balancing charges, monthly cash-out charges, billing service charges of \$1.15 per month per end user service point, delinquent payment charges for end users of 18% per year, and security posting requirements of \$250,000 per aggregator. OPC has received some information from the Company in an effort to determine the cost basis for these charges. While the Company has provided support for some of the charges, the information supplied regarding some charges has raised additional questions. OPC is currently waiting for additional information that has been requested from the Company regarding some of these charges.

2. In a recent case (Docket No. 00-UTCG-336-RTS) before the Kansas Commerce Commission (KCC), UtiliCorp proposed volumetric charges for aggregation service, including the same .004 per Ccf charge for basic aggregation service that it has proposed in Missouri. The reasonableness of this proposed charge was disputed by both the KCC Staff and an intervenor. The KCC's order considered this issue and stated the following: "the evidence presented was vague, unclear, and lacking in the type of specificity that would be necessary to support the proposed charges. The cost explanation provided by UtiliCorp was not persuasive. UtiliCorp's cost claims were effectively criticized by Mountain Energy and Staff, and the skepticism of those parties appears to be reasonable. The Commission concludes that UtiliCorp has not met its burden of establishing an adequate basis for the charges, and the proposal, as filed, is not accepted by the Commission." Clearly, this Commission should allow the reasonableness of a charge, found to be unacceptable by the Commission in a neighboring jurisdiction, to be further scrutinized by suspending the proposed tariff.

UtiliCorp Response: OPC has quoted only a portion of the testimony of Mr. Joe Williams, a staff member of the Kansas Corporation Commission. Mr. Williams worked closely with UtiliCorp over

the last four years to refine UtiliCorp's Kansas transportation program, including the aggregation service. In UtiliCorp's 2000 gas rate case, several types of aggregation were proposed to allow (a) aggregation behind multiple receipt points, and (b) aggregation behind multiple town border stations. UtiliCorp proposed a step rate increase, so that if marketers opted for more complex aggregation services, the volumetric rate would increase. Mr. Williams did not take issue with the 4 cent basic aggregation rate, which is what would be charged in Missouri. His concerns related to the proposed step rate, which was intended to increase the charge to marketers as they attempt to aggregate customers in different geographic areas or under conditions that would have made it more complex to administer. MPS's proposed 4 cent aggregation fee is reasonable and remains in effect in Kansas.

3. The monthly cash-out provision provides non-symmetrical treatment for overages and underages. Underage charges include charges for both the gas commodity and "pipeline transportation charges at 100 percent load factor, plus fuel" while overage charges only include charges for the gas commodity. There is no apparent reason for this lack of symmetry.

UtiliCorp Response: This provision reflects that fact that when a marketer shorts MPS's system by delivering more gas than it has purchased, UtiliCorp's Gas Supply department must purchase additional supplies that include fuel transportation charges. When a marketer delivers less gas to end-users than it purchases, the surplus gas remains in the system. No fuel charges are credited because the gas is retained in the system. This asymmetrical treatment is necessary to prevent marketers from using the system for storage.

4. The proposed tariff assesses fairly high penalties to those aggregators who are out of balance on critical days or on days when the Company declares an operational flow order. The reason for assessing penalties on these days to aggregators who are in an underage condition is apparent, but there does not appear to be any good reason for assessing penalties to aggregators who are in an overage condition on these days. Such a penalty would, in fact, appear to be counterproductive since it would encourage aggregators to avoid overages on days when these overages could enhance the reliability of the distribution system and possibly save on gas procurement expenses that are collected from captive customers through the PGA.

UtiliCorp Response: The proposed penalties mirror the penalties charged to MPS by the PEPL and Williams pipelines.

G. The proposed tariff lacks crucial elements of reporting requirements and an evaluation plan that would be necessary to determine whether and how the program should be continued at the end of the experimental period.

1. Reporting requirements should include the following additional items: (1) documentation of each instance where MPS exercised discretion in the application of provisions in the proposed tariff, (2) summary reports showing the amount of pipeline capacity assigned to the end users in each aggregator's pool, (3) summary reports showing the degree to which aggregators are out of balance on a daily and monthly basis, and (4) summary reports on the revenues generated from the Company's daily and monthly balancing activities and the disposition of these revenues.

UtiliCorp Response: Documentation of discretionary actions is a subjective term that can lead to unnecessary work. MPS is willing to provide annual reports summarizing end-user and marketer participation, aggregation and pooling data and revenue data. Information relating to capacity releases and balancing is already part of the Company's ACA filing. The Company's primary concern relating to reporting is that the Gas Supply employees responsible for system operation during critical days should not be burdened with reporting requirements. The Company suggests that all information relating to program evaluation would best be supplied as part of the Company's ACA filings.

2. In addition to the above reporting requirements, reports should be provided to OPC and Staff on the number of end users served by each aggregator and the volumes for each of the aggregator's end users.

UtiliCorp Response: This information is acceptable and would best be supplied as part of the semi-annual PGA filing.

H. Despite changes made by the company in response to problems identified in PUBLIC COUNSEL'S MOTION TO SUSPEND AND REQUEST FOR ESTABLISHMENT OF PROCEDURAL SCHEDULE AND HEARING in Case No. GT-2001-2, the proposed tariff still contains the following provision that simply does

not make any sense. Section E.2. on Sheet No. 32.11 specifies that “aggregators shall be exempted from daily out-of-balance charges, except during a critical day or when an operational flow order is imposed.” However, despite this exemption provision, Section E.3.a. on the same page proceeds to set forth the daily balancing charges that will apply on normal (non-critical days).

UtiliCorp Response: Aggregators using the daily balancing service are exempt from the daily balancing charges because the service is intended to provide a window or range of tolerance during non-critical periods. On critical days when supplies are particularly short, or when an operational flow order is imposed, the pipeline penalties charged to MPS for imbalances increase dramatically. In those instances, if a marketer’s imbalances lead to penalties, those penalties will be charged, on a pro-rata basis, to the marketers that caused the problem. This treatment is intended to prevent subsidization by the general system.

The language in Section E.3.a provides the daily balancing charge for non-critical days. When this tariff was originally drafted, there was some uncertainty whether the daily balancing service should be mandatory for customers with telemetering. A balancing service or telemetering was needed to avoid imbalance issues that would impact the general system. If telemetering was available, the “non-critical day” daily balancing charges would have applied. The references to these charges could be withdrawn from this tariff, but MPS assumes that at some point marketers will request an opportunity to make the balancing service non-mandatory. MPS has retained the charge language for several reasons: (1) so that all parties will understand what charges will apply if, in the future, the daily balancing service is not mandatory, and (2) so that the Commission will have an opportunity to conclude that these charges were considered in the planning of this program to protect the general system from non-critical day balancing issues.

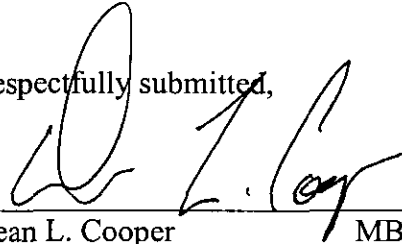
WHEREFORE, MPS requests a Commission order:

- a) approving MPS’s tariffs designed to establish an experimental small volume

aggregation program (Tariff No. 200100065) with an effective date of September 1, 2000; and,

b) granting such further relief as may be necessary which is consistent with the relief requested herein.

Respectfully submitted,



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ATTORNEYS FOR UTILICORP UNITED INC.
D/B/A MISSOURI PUBLIC SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 11th day of August, 2000, to all parties of record.

