Attachment 1

LAW OFFICES

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NEW ORLEANS
OVERLAND PARK
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July 15, 2002

VIA FACSIMILE & REGULAR MAIL

40312982
Superfund

David L. Wornson, Esq.
Attorney, Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319

Re: Council Bluffs Former Manufactured Gas Plant (FMGP)

Dear Mr. Wornson:

On behalf of Aquila, Inc. ("Aquila"), formerly known as UtiliCorp United Inc., this responds to your letter of April 24, 2002. Thank you for your consideration in extending the time for this response to July 15, 2002. UtiliCorp United Inc. changed its name to Aquila on March 18, 2002.

The Department specifically requested that Aquila provide a description of the ownership and corporate history with respect to this site. In your letter of April 24, 2002, you state that, "[b]ased on some preliminary research of corporation history, Aquila, Inc. appears to be the successor to the Peoples Natural Gas Company, Northern Natural Gas Company and Council Bluffs Gas Company all of which owned and operated the FMGP." This is not correct.

On September 13, 1985, Aquila purchased the assets of the Peoples Natural Gas division of HNG/InterNorth, Inc. HNG/InterNorth, Inc. changed its name to Enron Corp. on April 10, 1986. A copy of the relevant portions of the 1985 Asset Purchase Agreement is enclosed. (Tab A). Aquila purchased only certain assets of a corporation that continued in existence for many years following the purchase. It is well settled that a corporation that purchases the assets of another corporation assumes no liability for the transferring corporation's debts and liabilities, unless specific language in the agreement or an established exception to the general rule applies. *See, e.g., Pancratz v. Monsanto Co.*, 547 N.W.2d 198, 200 (Iowa 1996).

The specific language of the 1985 Asset Purchase Agreement excludes MGP-related liabilities from the specific liabilities assumed by Aquila. The Specified Liabilities that Aquila agreed to assume under the terms of the 1985 Asset Purchase Agreement are set out in Schedule M of the Agreement. The Specified Liabilities do not include MGP liabilities.

In addition, the Agreement included certain indemnity obligations, and the parties executed an Assumption Agreement. *See* § 4.6(b) (Indemnification by Buyer) and Exhibit 6 (Form of Buyer's Assumption Agreement) (Tab A). In both the Indemnification and the Assumption Agreement Aquila agreed only to indemnify the Seller (Enron) for "liabilities or obligations with respect to all lawsuits, claims, demands, actions or suits, losses, costs or damages ***that are not recorded as liabilities on Seller's accounting books and records at Closing*** . . . . ."

MGP-related liabilities were included as liabilities in Enron's records as of the time of the closing of the 1985 transaction, as evidenced by Schedule J to the 1985 Asset Purchase Agreement. Schedule J lists litigation and other liabilities and specifically includes "Manufactured Gas Plant Sites." As "Manufactured Gas Plant Sites" were included in Enron's records at Closing as a liability, the indemnification and Assumption Agreement do not apply to those liabilities.

Therefore, Aquila disagrees with the Department's statements that it is a "successor" to Peoples Natural Gas Company, a division of InterNorth, Northern Natural Gas Company, and Council Bluffs Gas Company; that it is a "primary responsible party" for conducting further remedial response; or that it is a successor to an actual "operator" of the Council Bluffs FMGP. Neither Aquila nor any of its predecessors, operated the Council Bluffs MGP or caused the existence of a hazardous condition at the site.

Pursuant to Iowa Statute Section 455B.392, a party is only liable to the state or any other person for cleanup costs that are incurred "as a result of the failure of the person to clean up a hazardous substance involved in a hazardous condition ***caused by that person***." (emphasis added) The Iowa Supreme Court has held that, in light of this language, any order by the Department "requiring implementation of a remedial action plan to abate or eliminate the soil or groundwater contamination must be limited to the extent of contamination caused by each" party. *Blue Chip Enterprises v. Iowa Dep't of Nat. Res.*, 528 N.W.2d 619, 624 (Iowa 1995).

In addition to requesting further "remedial response," the Department in its April 24, 2002 letter mentions further site investigation. As the current owner of a portion of the former MGP property, Aquila will work cooperatively with the Department and looks forward to further discussions. However, Aquila already has performed extensive investigation and characterization of the site under an Administrative Order on Consent

dated September 30, 1993 with EPA Region VII. Therefore, Aquila questions whether additional investigation and characterization of the site is necessary or helpful for the ultimately responsible parties to prepare a response.

If there is additional investigation or characterization that the Department would like to perform, in light of the fact that Aquila has no liability for ultimate cleanup costs because it never operated the MGP, Aquila urges the Department to involve the parties primarily responsible at this stage. To aid the Department, Aquila provides below its research regarding the operational and corporate history of the Council Bluffs FMGP.

On October 10, 1889, the property was sold by George F. Wright to the Council Bluffs Gas Light Company. *See October 10, 1889 Warranty Deed from George F. Wright and wife Ellen E. and Joel Eaton, unmarried to The Council Bluffs Gas & Electric Light Company* (Tab B). On October 10, 1889, the MGP property was transferred to the Council Bluffs Gas & Electric Light Company. *See October 10, 1889 Warranty Deed from George F. Wright and wife Ellen E. and Joel Eaton, unmarried to The Council Bluffs Gas & Electric Light Company* (Tab B). The Council Bluffs Gas & Electric Light Company was liquidated in bankruptcy in 1898, and the property was transferred in that year by the Master Commissioner to Frank T. True. *See December 17, 1898 Master's Deed from Lewis W. Ross, Master Commissioner to Frank T. True* (Tab C). On January 4, 1899, Frank and Anna True deeded the property to Council Bluffs Gas & Electric Company. *See January 4, 1899 Special Warranty Deed from Frank T. True and wife Anna C. to The Council Bluffs Gas & Electric Company* (Tab D).

From 1899 through 1928, the MGP was operated by predecessors to the Omaha Public Power District ("OPPD"). On November 13, 1900, the Citizens Gas & Electric Company was incorporated in New Jersey. *See Moody's Public Utility Manual* (hereinafter "*Moody's*"), 1922 (Tab E). On December 24, 1900, the Council Bluffs Gas & Electric Company leased the MGP property to Citizens Gas & Electric Company of Council Bluffs for a period of 99 years. *See December 24, 1900 lease from Council Bluffs Gas & Electric Company to Citizens Gas & Electric Company, Council Bluffs* (Tab F).

In 1903, the Omaha Electric Light & Power Company acquired control of both Citizens Gas & Electric Company of Council Bluffs and of New Omaha, Thomson-Houston Electric Light Company. *See Moody's, 1914* (Tab G); *See also* Omaha Public Power District's web site at www.oppd.com/whoweare/earlyyrs.htm. On January 15, 1904, Council Bluffs Gas & Electric Company deeded the MGP property to Citizens Gas & Electric Company of Council Bluffs. *See January 15, 1904 Deed from Council Bluffs Gas & Electric Company to Citizens Gas and Electric Company* (Tab H). At that same time, the Council Bluffs Gas & Electric Company was merged into Citizens Gas & Electric Company of Council Bluffs. *See Moody's, 1922* (Tab E).

On April 23, 1917, the Nebraska Power Company was incorporated as the successor to the Omaha Electric Light & Power Company, the parent company of Citizens Gas & Electric Company of Council Bluffs. *See Moody's, 1918* (Tab I). The Nebraska Power Company continued to operate Citizens Gas & Electric Company of Council Bluffs as its subsidiary.

On June 1, 1928, the Citizens Gas & Electric Company sold the MGP property to Council Bluffs Gas Company. This was an asset purchase that did not provide for the assumption of any liabilities by the purchaser, Council Bluffs Gas Company. *See June 1, 1928 Agreement between Citizens Gas & Electric Company of Council Bluffs and Council Bluffs Gas Company* (Tab J). Subsequent to that sale, the Citizens Gas & Electric Company changed its name to Citizens Power & Light Company. *See Moody's, 1945* (Tab K). On June 1, 1937, the Citizens Power & Light Company was merged into the Nebraska Power Company. *See Moody's, 1945* (Tab K).

On December 26, 1944, the Omaha Electric Committee, Inc. purchased all of the outstanding stock of the Nebraska Power Company. In 1945, the OPPD was formed, and in 1946 the OPPD purchased the Nebraska Power Company from the Omaha Electric Committee. *See Omaha Public Power District v. O'Malley*, 216 F.2d 764, 767 (8th Cir. 1954). In that transaction, OPPD "assumed and agreed to pay all of the obligations of the Nebraska Power Company." *Id.*

From 1928 through 1932, when MGP operations ceased, the plant was operated by the Council Bluffs Gas Company. During this period of time, the Council Bluffs Gas Company initially was controlled by Union Utilities Inc. *See Moody's, 1929* (Tab L). On October 1, 1929, all of the stock of the Council Bluffs Gas Company was transferred to Lone Star Gas Corporation. *See Moody's, 1944* (Tab M). Lone Star Gas Company was incorporated on December 11, 1942, as the successor to Lone Star Gas Corporation. *See Moody's, 1944* (Tab M). Lone Star Gas Company changed its name to ENSERCH Corporation on October 10, 1975. In 1997, ENSERCH Corporation merged with Texas Utilities, which changed its name to TXU Corp. in 1999. *See* www.txucorp.com/about/history.com.

In addition to the owners and operators described above, two other potentially responsible parties exist. First, at the time that Nebraska Power Company was incorporated in 1917 to be the successor to Omaha Electric Light & Power, Nebraska Power Company was owned and controlled by American Power & Light Company. *Moody's, 1928* (Tab N). American Power & Light Company was a subholding company subsidiary of Electric Bond & Share Company. *See American Power and Light Co. v. Securities and Exchange Comm'n*, 141 F.2d 606 (1st Cir. 1944). The court in this case found that "it is clear and undisputed that Bond & Share controls American . . .; and that such control pervades the whole of these subholding company systems in a most

comprehensive manner. *Id.* at 615. American Power & Light Company was dissolved in 1946. In 1968, Electric Bond & Share Company changed its name to Ebasco Industries, Inc. In 1969, Ebasco Industries was merged into Boise Cascade Corporation.

Also, in the late 1960s the Iowa Department of Transportation ("IDOT") obtained a right of way through the site for construction of Highway 192. In the early 1970s, during the construction of the highway, it appears that IDOT may have punctured an underground gasholder. (Tab O).

As mentioned, Aquila looks forward to future discussion and encourages the Department to involve the parties responsible for MGP operations at this stage.

Please feel free to contact me with any questions.

Very truly yours,

Jane E. Schilmoeller

Jane E. Schilmoeller

JES:pjh
Enclosures (via regular mail)

cc: Michael Leat
Ivan Vancas
Tracy Peterson
Gene Russell
Bob Beck
Ed Clement

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AGREEMENT TO NEGOTIATE

WHEREAS, InterNorth, Inc. ("Seller") and UtiliCorp United Inc. ("Buyer") have this date entered into a Purchase Agreement whereby Seller shall sell and Buyer shall buy the assets of Peoples Natural Gas Company ("PNG"), an unincorporated division of Seller;

WHEREAS, the Purchase Agreement requires as a condition precedent to Closing that all required state regulatory commission approvals and other specified approval be obtained;

WHEREAS, some but not all of the required approvals may have been obtained by April 1, 1986; and

WHEREAS the Parties desire to cause Closing on all Purchased Assets in jurisdictions that have received the necessary approvals;

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, the Parties agree as follows:

1. That each respective Party will negotiate in good faith to supplement by amendment (the "Amendment") the Purchase Agreement to provide for a partial Closing, if necessary, as of April 1, 1986 with respect to those Purchased Assets situated in jurisdictions wherein no approvals are required or wherein the requisite approvals have been obtained.

2. That the Amendment shall contain provisions for allocation of Purchase Price, revenues, earnings, use of personnel, operations of the Purchased Assets until such time as Closing with respect to all of the Purchased Assets has occurred and such other terms as the Parties may mutually agree upon.

3. That, upon execution of the Amendment, the termination date set forth in Section 7.11(b) shall be amended to January 1, 1987 from April 1, 1986.

4. That nothing in this Agreement shall require the Parties to agree upon the Amendment notwithstanding the obligation herein to negotiate in good faith for the Amendment.

5. This Agreement shall be interpreted in accordance with the laws of the State of Nebraska.

6. The terms defined in the Purchase Agreement of even date herewith between Seller and Buyer and otherwise not defined herein are being used as defined terms.

DATED this 13th day of September, 1985.

SELLER
INTERNORTH, INC.

ATTEST:

DEPUTY CORPORATE SECRETARY

By

BUYER
UTILICORP UNITED INC.

By

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AGREEMENT

THIS AGREEMENT, dated as of September ___, 1985, entered into by and among InterNorth, Inc., a Delaware corporation, d/b/a HNG/InterNorth, having an office at 2223 Dodge Street, Omaha, Nebraska 68102 (herein "Seller"), and UtiliCorp United Inc., a Missouri corporation, having an office at 10700 350 Highway, Kansas City, Missouri 64138 (herein "Buyer").

WITNESSETH:

PART ONE:

SUBJECT MATTER OF THE AGREEMENT: DEFINITION AND RULES OF CONSTRUCTION

1.1 Subject Matter. The subject matter of this Agreement is (i) the sale to Buyer of the assets of Seller's Peoples Natural Gas Division (hereafter "PNG") which is engaged in the business of purchasing and reselling natural gas in the states of Minnesota, Iowa, Nebraska, Kansas, Colorado, South Dakota and Michigan; (ii) the sale to Buyer of all the issued outstanding capital stock of PeopleService, Inc., a Delaware corporation (hereafter "PSI"); (iii) the execution and delivery of a certain agreement not to compete; (iv) the execution and delivery of a certain service agreements by and between Seller and Buyer

(c) Other Agreements. References herein to any agreement or other instrument shall, unless the context otherwise requires (or the definition thereof otherwise specifies), be deemed references to the same as it may from time to time be changed, amended or extended.

PART TWO:

PURCHASED ASSETS, CAPITAL STOCK AND PURCHASE PRICE

2.1 Sale of Purchased Assets and Capital Stock. Subject to the conditions and provisions of this Agreement, Seller shall sell, assign, transfer, convey and deliver to Buyer and Buyer shall purchase, acquire and accept on the Closing Date, all of Seller's right, title and interest in and to the Purchased Assets including the tradename "Peoples Natural Gas Company" and the Capital Stock. Further Specified Other Assets shall be transferred to Buyer and Buyer shall assume Specified Liabilities.

2.2 Transfer of Purchased Assets. Seller shall deliver to Buyer at the Closing:

(a) Instruments of Conveyance and Transfer. General and specific bills of sale, endorsements, assignments, deeds and other good and sufficient instruments of transfer and conveyance for the purpose of vesting its title to the Purchased Assets in Buyer and assigning various contractual rights to Buyer, including without limitation:

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1985, Balance Sheet attached as Schedule D, plus a Non Compete Payment of $15,000,000 plus the Capitalization of PSI (collectively the "Purchase Price"). The Net Assets shall be the sum of Net Plant plus Current Assets plus Specified Other Assets plus Specified Other Current Assets minus Specified Liabilities. The Purchase Price shall be allocated among the properties comprising the Purchased Assets as part of a closing memorandum unless Buyer and Seller are unable to agree on such allocation in which case no such memorandum shall be prepared.

2.6 Agreement Not to Compete. Seller shall execute and deliver to Buyer at Closing an agreement not to compete in the form of Exhibit 9 hereto.

2.7 Assumption of Liabilities and Obligations. Buyer shall execute and deliver to Seller at Closing an assumption agreement in the form of Exhibit 6 hereto.

2.8 Administration Service Agreement and Service Agreements. The Parties shall execute and cause delivery at Closing an administration service agreement and service agreements in the form of Exhibits 7 and 8 hereto.

2.9 Payment of Purchase Price. Payment of the Purchase Price shall be made as follows:

(a) Closing Payment. On the Closing date Buyer shall pay to Seller the estimate of the Purchase Price less the amount received by Seller pursuant to the Earnest Money Agreement ("Closing Payment"). Such estimate shall be determined jointly within 5 days prior to the Closing Date

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by a representative designated by Buyer and a representative designated by Seller. A statement setting forth such estimate and signed by both representatives shall be delivered to Buyer and Seller as soon as such estimate is made. The estimate shall include estimates of Net Plant, Current Assets, Specified Other Assets, Specified Other Current Assets, Specified Liabilities as of the Closing Date and Capitalization and supported by a list of correct descriptions (including backup documents to the extent available). For purposes of valuing inventory, each category of inventory shall be valued in accordance with generally accepted accounting principles consistently applied by PNG except for gas stored underground (Account No. 164.12), liquefied petroleum gas (Account No. 151.13), materials and supplies (Account No 154.23) and miscellaneous parts which shall be valued at fair market value.

(b) Delivery of Balance Sheets. At least 15 days prior to the Adjustment Date, Buyer shall cause the delivery to Seller of the Balance Sheet and the PSI Balance Sheet which shall be prepared with Seller's participation and will make available to Seller (to the extent not previously made available) supporting documentation containing the updated lists and complete description of all Net Plant, Current Assets, Specified Other Assets, Specified Liabilities, Specified Other Current Assets and Capitalization as of the Balance Sheet Date. As soon as practical after the Balance Sheet and the PSI Balance Sheet

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have been delivered to Seller, a representative designated by Buyer and a representative designated by Seller shall calculate the amount due Buyer or Seller, as the case may be, on the Purchase Price after taking into account the Closing Payment and the payment made pursuant to the Earnest Money Agreement. A statement setting forth such calculation and signed by both representatives shall be delivered to Buyer and Seller as soon as such calculation is made. Buyer shall be permitted to review the accounts of the balance sheet set forth in Schedule D.

(c) Resolution of Disputes. Should Buyer or Seller dispute any portions of the Purchase Price, provided for under Section 2.5 including the accounts set forth in the balance sheet set forth in Schedule D, and such dispute cannot be resolved by the Parties, such dispute shall, at the earliest practicable date, be referred by either or both of the Parties to a nationally recognized independent public accounting firm (the "Accounting Firm"), selected by Arthur Andersen & Co., along with workpapers, schedules and calculations related to the matter in dispute. Within 25 days after receipt of all materials related to the matter in dispute, the Accounting Firm shall issue a letter report as to the proper amount of the matter in dispute. Such determination by the Accounting Firm shall be conclusive as to all matters referred. Any fees and expenses incurred in

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consideration, execute and deliver such other instruments of sale, transfer, conveyance and assignment and take such other action as the Party making the request may require more effectively to transfer, convey and assign to and vest in Buyer, all right, interest and title of Seller to the Purchased Assets.

4.5 Sales, Use and Transfer Taxes. Buyer shall pay all sales, use and transfer taxes that may be due in connection with the transaction and hereby indemnifies Seller for any claim, including interest and penalties made against Seller for such taxes.

4.6 Indemnification.

(a) By Seller.

(1) From and after the Closing, Seller shall fully and promptly pay, perform, discharge, defend, indemnify and hold harmless Buyer, any Affiliate of Buyer and their respective directors, officers and employees from all claims, demands, actions or suits, losses, costs or damages and expenses (including reasonable attorney fees) made against or incurred by Buyer, its Affiliates and their respective directors, officers and employees resulting from all liabilities or obligations arising out of any operations conducted, commitments made, taxes due or unpaid or any action taken or omitted with respect to (i) claims for or awards of punitive or similar damages arising out

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of the conduct of PNG prior to Closing; (ii) claims for or awards of amounts which, in whole or in part, have been included in a rate case, for expense and/or rate base treatment as appropriate with an appropriate regulatory commission or municipality and for which final regulatory approval has been given or received but only to the extent that Seller has received payment or reimbursement prior to Closing for such claim or award and to the extent that the Purchase Price has not been reduced by Specified Liabilities as set forth in Schedule M; (iii) claims or awards insured by a party not an Affiliate of the Seller only to the extent that there is actual dollar coverages and no retrospective premium adjustment or properly reserved for by Seller (Seller's Account Nos. 228.13, 228.23, and 228.24) prior to Closing on the books of Seller; (iv) federal and state income tax obligations and liabilities applicable to the period prior to Closing; and (v) the sale of the Purchased Assets and the Capital Stock to the extent any of the foregoing results in a breach by the Seller of any representation, warranty, or covenant made in the Agreement.

(2) Notwithstanding Section 4.6(a)(1), from and after Closing, Seller shall pay all reasonable costs and expenses, including attorney fees, reasonably

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incurred by Buyer to purchase or condemn easement rights (except for costs associated with assignments of Indian tribal grants of right of way) if (i) such rights were to have been assigned under this Agreement, but which Seller ultimately was unable to convey good and marketable title thereto for any reason, and (ii) such rights were used in, and necessary for, the operation of the Purchased Assets as of the Closing Date; provided, however, that in no event shall Seller's obligation to indemnify under this subparagraph (2) mature or become effective unless Buyer first shall have applied diligently and legitimately in the course of a general rate case for expense and/or rate base treatment, as appropriate, of such costs and expenses before the appropriate public service commission or municipality, and unless such treatment shall have been denied by final order of the appropriate commission or municipality.

(b) By Buyer. Except for any obligation of Seller under Section 4.6(a) and in addition to Buyer's assumption of all Specified Liabilities, from and after Closing, to the extent that Seller is not indemnified or held harmless by a party who is not a Party to this Agreement who is financially responsible, Buyer shall fully and promptly pay, perform, discharge, defend, indemnify and hold harmless Seller, any Affiliate of Seller and its respective directors, officers and employees from all claims, demands,

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actions or suits, losses, costs or damages and expenses that are not recorded as liabilities on Seller's accounting books and records at Closing (including reasonable attorney's fees) and that are made against or incurred by Seller, its Affiliates and their respective directors, officers and employees resulting from all liabilities or obligations arising out of any operations conducted, commitments made, taxes due or unpaid except for federal or state income tax obligations or liabilities applicable to the period prior to Closing or any action taken or omitted with respect to (i) the Purchased Assets (including the business operations, transactions or conduct of the business directly or indirectly related thereto) whether such obligations or liabilities arise before or arise after Closing; and (ii) the sale of the Purchased Assets and the Capital Stock to the extent any of the foregoing results in a breach by the Buyer of any representation, warranty, or covenant in this Agreement.

(c) Notice of Claim. Promptly following the receipt by the Buyer of any claim, demand, action or suit, loss, cost, damage or expense, which is subject to the provisions of Section 4.6 ("Action"), Buyer shall give written notice of such Action to Seller hereto accompanied by copies of any written documentation with respect thereto received by Buyer and stating the basis upon which indemnification is

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being sought pursuant to this Agreement. Following receipt of notice of an Action by Seller, the Seller shall notify Buyer in the same manner. Such notice shall constitute a claim for indemnification hereunder (the "Claim").

(d) Defense of Action. Seller or Buyer, as the case may be, shall have the right at its option, to compromise or defend, at its own expense and with its own counsel, any Action with respect to which they receive a Claim. The Party making the Claim shall have the right, at its option, to participate in the settlement or defense of any such Action, with its own counsel and at its own expense, but the recipient of the Claim shall have the right to control such settlement or defense. The Parties agree to cooperate in any such defense or settlement and to give each other reasonable access to all information relevant thereto. The Parties will similarly cooperate in the prosecution of any claim or lawsuit against any third party. In the event that the recipient of a Claim fails to notify the Party making the Claim of its intent to take any action within 20 days after receipt of a Claim, the Party making the Claim without waiving any rights to indemnification hereunder may defend such Action and shall have the right to enter into any good faith settlement thereof without the prior written consent from the recipient of the Claim.

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(a) The mutual written consent of Seller and Buyer; or

(b) Should Closing fail to occur on or before April 1, 1986; provided, however, that Seller at its sole election may extend the said April 1, 1986 termination date by up to eight (8) additional months; provided further, however, that any termination pursuant to this Section 7.11(b) shall not relieve either Party of any liability to the other Party for its willful breach of the provisions hereof occurring before such termination, it being understood and agreed that, if all of the conditions to a Party's obligations set forth in Part Five have been satisfied or waived by the Closing Date, the failure of such Party to perform such of its obligations as would be required to close on such date shall be deemed to be a willful breach by such Party.

7.12 Survival on Termination. The obligations set forth in Sections 4.2 and 4.3(b) shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have entered into the Agreement as of the date first hereinabove written.

SELLER
INTERNORTH, INC. d/b/a
HNG/INTERNORTH

Attest:

By _____
Deputy Corporate Secretary

By _____

BUYER
UTILICORP UNITED INC.

Attest:

By _____
Assistant Secretary

By _____

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SCHEDULE J

LITIGATION

(1) PNG v. N-ReN
- Minnesota District Court, Case No. 96196
- Suit was filed on August 12, 1983
- This is a suit for breach of contract against a large volume firm customer in Minnesota. This customer owes Peoples approximately $1 million.
- Peoples has reached agreement to settle the case for $250,000. The settlement will involve monthly payments and interest at 9%. Peoples has prepared and forwarded to N-ReN's counsel a draft of a Settlement Agreement. Two letters and several phone calls to N-ReN's counsel have gone unanswered.

(2) Manchester Pipeline Co. v. Peoples
- Federal District Court in Oklahoma City, Case No. CIV-85-758
- Suite was filed on March 28, 1985
- This is a suit claiming breach of contract as a result of Peoples' negotiations to buy a package of gas from Oklahoma for Peoples' KPL System. Demand is for $6,220,231, plus punitive damages.
- Settlement discussions are continuing. The depositions scheduled for July 25 were cancelled under the belief a settlement would be reached soon.

(3) Mabel Dornack/Richard Fryer v. Peoples
- District Court, Olmstead County, Minnesota
- Filed August 17, 1984
- Richard Fryer, the homeowner, filed this action claiming damages exceeding $50,000 to his rental property as a result of an explosion and fire which occurred on January 18, 1984. His aunt, Mabel Dornack, died as a result of injuries received in the fire and her estate now claims damages of approximately $75,000. Settlement evaluations and discussions are continuing.

(4) Spinett v. PNG
- District Court, Dodge Co., MN.
- Filed August 24, 1981
- $243,000 verdict vs. PNG for its share of $347,750 damages for negligence claims after fire damage. Peoples' motions for new trial or JNOV were argued on March 8, 1985, and were denied April 22, 1985. Peoples' has decided to take an appeal of this verdict.

(5) Joshua Akans v. InterNorth
- U.S. District Court, District of Kansas
- Filed January 6, 1981
- This wrongful death action alleges that Peoples was negligent in inspecting or failing to inspect the plaintiff's residence and gas appliances when service was initiated in November 1978. Plaintiff's parents and sister died as a result of carbon monoxide poisoning, and plaintiff's claims to have suffered residual brain damage. Plaintiff's proffered pretrial conference order claims damages in the amount of $11,235,587, including $5,000,000 in punitive damages. Discovery is nearly completed and a trial date will be set within the near future.

(6) Consolidated Storage, Inc. v. Peoples, et al.
- District Court, Reno County, Kansas
- Filed March 25, 1985
- The petition alleges that Peoples breached gas sale contract express or implied warranties of merchantability and fitness which caused an explosion on or about February 24, 1983, resulting in property damages of $75,655.18. The petition was originally filed in October 1984 against Caterpillar Tractor and others. Peoples has placed an answer on file denying the claim and raising as a defense certain contractual indemnification language. Favorable testimony was elicited during depositions and there is a good possibility Peoples will be released from the suit.

(7) James A. Neely v. Peoples (New)
- U.S. District Court, Southern District of Iowa, Western Division
- Filed May 6, 1985
- Plaintiff, a black, has filed a class action, alleging that his discharge from employment as a service specialist was racially motivated. Plaintiff claims lost wages and benefits and injunctive relief. The Council Bluffs Human Relations Department, Iowa Civil Rights Commission, and Equal Employment Opportunity Commission previously issued findings of no probable cause. Plaintiff failed to appear for his deposition set for August 9, 1985. The deposition will be reset in the near future.
- Local cousel: Bob Broom
- Plaintiff's counsel: Jarve Garrett / Alfonzo Whitaker

(8) Bonnie Hanson, et al. v. InterNorth, Inc., Peoples and Northern
- District Court, Pine County, Minnesota
- Filed October 17, 1983
- Wrongful death and property damage action arising from an explosion and fire at a residence in Pine City, Minnesota on November 14, 1980. The house was occupied by Mrs. Violet Yost, who was badly injured and died the same day. Plaintiff Hanson is trustee for Mrs. Yost's heirs. Seven other plaintiffs in the case are owners of property damaged by the explosion. The suit seeks unspecified damages "in excess of $50,000." Petition alleges, among other things, that Peoples was negligent in installing a gas dryer and in failing to inspect and maintain gas appliances in the house. Discovery is proceeding.
- Local counsel: Paul Schweiger
- Plaintiff's counsel: Clint Grose

(9) Marlin Oil Company v. Peoples
- U.S. District Court, Denver
- Filed February 1985
- The plaintiff, a producer in the Clyde Field in Colorado, claims $8 million--$4 million in compensatory damages and $4 million in punitive damages--for Peoples' asserted failure to honor take-or-pay obligations under a gas purchase contract.

  Peoples filed a motion for partial summary judgment to eliminate the punitive damages claim, which appears not to be allowable in contract cases under Colorado law. It is anticipated that the case will not come to trial either in 1985 or 1986.

  The interpretation of well-testing performed early in June supports Peoples' conclusion that no deficiency payments accrued in 1985 or earlier. The test results and interpretation have been conveyed to counsel for Greeley Gas Company ("Greeley"). Greeley, purchaser of our Lamar District, has agreed to take responsibility for the compensatory damages and Peoples has agreed to take responsibility for any punitive damages.

  Peoples has offered $100,000 to settle the case and Greeley has informally indicated to Marlin a willingness to offer $200,000. Marlin's informal demand has risen to $1.25 million from $750,000.
- Plaintiff's attorney: Gregory Stutz, Denver
- Peoples' attorney: Tom Stifler, Colorado Springs

(10) The Hanna Mining Company v. Peoples and Erie Mining Company and Hibbing-Taconite Joint Venture v. InterNorth

- District Court of St. Louis County, Minnesota
- Filed April 1985 and June 1985
- These suits are companions to the taconite refund case (see below). Hanna seeks damages of $3.1 million for asserted overcharges during the period 1-1-75 through 2-28-81. In response to Peoples' motions to dismiss and for partial summary judgment, the Court ruled in late June that damages, if any, were only recoverable for the period after 3-8-79, barring 4 years' worth of the claim. However, the Court concluded over Peoples' objection that a right does exist to sue in court (as opposed to administrative actions only) for the civil wrong of "unreasonable rates."

  Hanna sought discretionary review of the partial summary judgment from the Court of Appeals. On August 6, such review was granted.

  In reaction to the Supreme Court's decision in the taconite refund case, Hanna amended its complaint to claim damages for asserted overcharges during the period 3-1-81 to 2-9-82.

  At the end of June, Erie-Hibbing sued in the same Court for asserted overcharges for the period 6-30-79 to 2-9-82, which includes the time spent involved in the taconite refund case. No specific amount is asked.

  Peoples' answers to the Erie complaint and Hanna's amended complaint were filed with the Court on July 25. The answers deny liability generally and set up the affirmative defenses of limitation of actions, preemption of remedies, and collateral estoppel.
- Attorney for Hanna: Lawrence G. Acker, Washington, D.C.
- Attorney for Eire: Robert S. Lee, Minneapolis
- Peoples' attorney: Elmer B. Trousdale, St. Paul

(11) Arneson v. Blankenbaker v. Peoples

- U.S. District Court, Denver
- Filed: 1983
- This wrongful death action was tried to a verdict last November. The case arose from a carbon monoxide poisoning incident in Fountain, Colorado on February 10, 1982, that took the life of a young soldier. His survivors sued Peoples and the owners of the apartment complex alleging negligence, and seeking $2 million in damages. The pleadings alleged that a Peoples service specialist failed to replace the doors to the furnace after a routine service call.

The jury found Peoples not negligent. The co-defendants, owners and managers of the apartment building, were found negligent. The verdict amounted to $832,000 with interest.

The verdict exceeded the insurance policy limits of the co-defendants. Their carrier, State Farm, settled the principal case and a bad-faith claim and made demand upon Peoples for payment of $125,000 under a pre-trial settlement and verdict agreement under which Peoples was to contribute 1/3 of any amount up to $375,000. The funds have been forwarded and a request for reimbursement made to Peoples' excess insurance carriers.

Threatened Actions

(1) Explosion of Telephone Exchange Building in Hanlontown, Iowa

- On April 8, 1985, an explosion occurred in Hanlontown, Iowa, completely destroying the Winnebago Cooperative Telephone Company. Damage to the building and contents is currently valued at approximately $200,000. There were no injuries. The reports of the Iowa State Commerce Commission and State Fire Marshall indicate that the most probably cause of the explosion was the escape of natural gas from a 1-1/2" PVC gas main owned by Peoples in the alley east of the phone company building. The reports indicate that the break in the main was most likely the result of stress on the main close to a service line tee connection. A complete investigation was performed on behalf of Peoples by Darryl Isaacson, local counsel in Mason City, Iowa. On July 2, 1985, Mr. Isaacson received a letter from an adjuster representing Federal Rural Electric Insurance. The letter contains a claim that Peoples is "partially" at fault. There is some evidence that the stress fracture of the pipe was a result of recent excavation in the city for water main construction. No formal demand has been made to Peoples.

(2) Illa Jarrard

- A fire occurred at 1902 Avenue F, Council Bluffs, Iowa, on February 9, 1985, claiming the life of Illa Jarrard. Indications are that the fire originated above either of the two furnaces in this duplex structure. Representatives of the estate of Mrs. Jarrard have contacted Peoples requesting records of the gas company. This request has been denied.

(3) Robert T. Cosgriff
- The Cosgriff residence at 27 Scarlet Oaks Road, Council Bluffs, Iowa, was destroyed by fire on March 1, 1984. Mr. Cosgriff's 16-year-old daughter died as a result of injuries she received in the fire. Peoples' investigation indicated that its facilities were sound. However, Mr. Cosgriff has requested an examination of the gas meter used to serve his residence. Peoples has responded indicating that with advance notice Mr. Cosgriff may inspect the meter at Peoples' meter shop.

(4) Blain and Marcella Keiser
Amount of claim: $3,740.00.
Allegation: Insurer of the Keisers alleges Peoples was negligent in servicing a water heater. Peoples denied the claim in May 1985. No further correspondence has been received.

(5) Webster City Products Company
- This customer was refunded $83,355.30 on or about December 6, 1984 for overbilling during the period of April through September 1984. JRT provided management with a memo concerning Peoples obligation to pay interest, and management is considering the customers request for interest on the refund.

(6) Geraldine Engler
- Amount of claim: $897.36
- Allegation: Insurer of Mrs. Englers claims a water heater valve malfunctioned damaging the insured's residence. Peoples has denied the claim.

(7) Alma Ballard
- Peoples received a demand letter on May 8, 1984, on behalf of the estate of Alma Ballard. Mrs. Ballard died on March 5, 1984, allegedly from carbon monoxide poisoning. Peoples denied the claim and have received no response for over one year.

(8) Scott Helgeson
- This residence was destroyed by explosion and fire on December 22, 1983, near Lake Mills, Iowa. Testing of the customer fuel line revealed a crack in the service riser, likely caused by the customer when he replaced a regulator. Peoples denied the claim by Firemens Fund and have heard nothing for over one year.

(9) Wesley Doughman
- Amount of claim: $975.00
- Allegation: Insurer of Mr. Doughman claims Peoples is responsible for water damages from a faulty water heater. Peoples has received no correspondence since December 1984.

(10) John Steen
- This farm-tap customer experienced a fuel line leak resulting in a bill of $5873.59. The customer has refused payment alleging the line was installed with improper materials by a third-party, but should have been discovered by Peoples. A collection action will be filed shortly on behalf of Peoples.

Other Matters

(1) PeopleService Protection Plan
- Peoples has responded to the Kansas Insurance Department's allegation that the PSP appliance service program constitutes the unlawful sale of insurance in the state of Kansas. The Department has concluded that Peoples must inspect appliances or discontinue offering free parts. Peoples is presently reviewing options.

(2) Manufactured Gas Plant Sites
- Mr. Talcott has attended staff meetings regarding potential liability exposure from former manufactured gas plant sites.

Rate and Regulatory

(1) 1984 Iowa Rate Case
- The hearing examiner's proposed decision was issued June 6, 1985. The Rate Department has calculated the result of his ruling would be a $1.6 million increase.
- The Commission has affirmed the hearing examiner's order, rejecting both Peoples' and OCA's appeals. However, the Commission stated in its order that a rate design change may be justified and ordered Peoples to file a new cost-of-service study and proposed tariff revisions by November 18.

(2) 1985 Kansas Rate Case
- Docket No. 147,049-U
- Filed July 1, 1985
- $3.7 million increase requested.
- A decision has been made not to amend the filing to add Lamar or request abrogation of the Cities contract.

Peoples expects both those matters to be resolved soon so that they will not have a substantial effect on the rate case. The auditors have been here for several weeks, and Peoples should soon have a report on changes they propose to the filing.

(3) Iowa Gas Procurement Filing

- The 1985 Gas Procurement and Requirement Forecast was filed July 31. The Commission ordered the addition of several matters not required for last year's forecast, i.e. a survey of furnaces and water heaters in our service territory. The filing will be docketed as a contested case and a hearing held in December for the purpose of evaluating our gas procurement practices.

(4) 1984 Iowa ACA (PGA Reconciliation)

- The Iowa Commission rejected Peoples' September 1 ACA filing, refusing to allow an adjustment to recover $439,000 that went unrecovered during the last PGA year. Peoples requested a hearing, but the Commission denied the request. Peoples then filed a Petition for Judicial Review in Pottawattamie County District Court. At Peoples request, the Court issued a Stay of the Commission's Order pending the outcome of the judicial review proceeding. The District Court ruled in Peoples' favor and remanded the case to the Commission for hearing. However, the Commission has appealed to the Iowa Supreme Court.
- The Supreme Court overruled our motion to dismiss the Commission's appeal. Peoples' brief, in the appeal, will be filed on or before September 18.

(5) 1985 Colorado Make-Whole Case

- Advice Letter No. 384
  Peoples reviewed and assisted with revisions to the advice letter which will accompany the Colorado Make-Whole filing which is planned for September.

(6) Kansas Margin Reduction Tariff

- This tariff, which would allow Peoples to reduce rates to meet competition, has been filed for approval. Peoples expects a hearing to be set where the KCC will consider approval.

(7) Iowa Transportation Tariff

- The large volume transportation tariff for Iowa was approved by the Commission.

(8) Iowa Energy Conservation Mandatory Pilot Projects

- In Re: Peoples Natural Gas Company Pilot Program for Furnace and Boiler Replacement and Renovation. Order issued requiring modification of energy conservation and renovation. The order will be appealed by Peoples. Copy of Order is attached.

(9) 1980 Minnesota Rate Case (Taconite Refund Case)

- Minnesota Public Utilities Commission (on appeal to Minnesota Supreme Court)
- Filed November 30, 1980
- The Minnesota Supreme Court ruled on June 21, 1985, that Peoples should not have been obliged to refund $1.1 million to Hanna Mining, Erie and Hibbing Taconite as a result of non-uniform contract rates charged to them in 1981 and 1982, when interim rates were billed under bond to all other classes. The Court held that the Public Utilities Commission had no implied statutory power to award refunds, finding that refunds are incompatible with the statutory scheme of regulation of utilities in the state and are inconsistent with the statutory objective of permitting the utility an opportunity to earn the revenue requirement approved by the PUC.

  Erie Mining Company petitioned the Supreme Court for rehearing. Peoples filed a response contesting the right to rehearing. On August 13, the Supreme Court summarily denied rehearing. Peoples filed a claim for our court costs, principally for printing the brief and appendix, of $2,004.15. Judgment for the costs was entered in our favor against Hanna and Erie/Hibbing, but not PUC, on August 13.

(10) 1985 Minnesota Rate Case

- Minnesota Public Utilities Commission
- Filed July 25, 1985
- Testimony and exhibits in the new Minnesota rate case were filed. The case proposes a revenue requirement of $159.78 million for a projected test year ending August 31, 1986, an increase of $3.003 million over the current revenue requirement. The case requests an overall rate of return of 13.412%, including a return on equity of 16%. It is based on the adjusted actual InterNorth capital structure (excluding short-term debt incurred for the purchase of Houston Natural Gas Company) of 46.8% equity, 36.7% long-term debt, 12.4% preferred equity, and 4.1% short-term debt.

On July 26 the PUC invited comments on the acceptability of the filing. In response, the Attorney General moved to dismiss for failure to make out a prima facie case, based on the impending sale of the company, announced the same day as the filing. The Department of Public Service reserved judgment on the appropriateness of the case on the same grounds and stated its intention to scrutinize the terms of sale.

Peoples has requested an interim rate increase of $2.184 million to be effective September 20, 1985, subject to refund.

- For Attorney General: Thomas O'Hern/Michael Bradley, St. Paul
- For DPS: James Jarvis/Mary Jo Murray, St. Paul;
- For Erie/Mining: Robert S. Lee, Minneapolis
- For PUC: Karl Sonneman, St. Paul
- For Peoples: Philip Crowley, Co. Bluffs/Elmer Trousdale, St. Paul

LITIGATION LIST

1. Peoples v. Vernon (P-349)
   - 84th Judicial District Court of Hutchinson County, Texas
   - Petition filed 4-23-79
   - Collection case
   - Prayer is $12,900
   - Present Status
     Settlement is being explored with defendant's attorney.

2. Althea Freiburger, Tom and Debbra Clinton v. Peoples (P-266)
   - District Court, Clayton County, Iowa, No. C2092-0683
   - Case commenced: 6-22-83
   - Property damage
   - Prayer is for $45,000.
   - Present Status
     Peoples has counterclaimed against A. Freiburger. Pre-trial conference is set for October 15.

3. Michael and Ann Taylor v. Peoples (P-344)
   - District Court of Martin County, Minnesota
   - Case commenced: 7-29-83
   - Property damage
   - Prayer is $20,224.79
   - Present Status
     Answer filed on 8-30-83. Discovery is continuing.

4. North American Drilling and Exploration, Inc., et al. v. InterNorth, Peoples and Northern (P-431)
   - U.S. District Court, District of Kansas, Case No. 84-1235-T
   - Case commenced: 4-27-84
   - Breach of oral and written contracts to buy gas
   - Prayer is $4.6 million
   - Present Status
     Factual investigation proceeding.

5. Julie Tolo v. InterNorth, Inc. and Peoples (P-430)
   - District Court, La Plata County, Colorado, No. 84-CV-264
   - Case commenced: 7-25-84
   - Carbon monoxide
   - Prayer is $24,000
   - Present Status
     Discovery is continuing.

6. Dennis Edgar v. F. W. Halvorson, Jerome Schultz and Peoples (P-506)
   - District Court, Dodge County, Minnesota
   - Case commenced: 4-5-85
   - Dispute between partners engaged in performing energy audits for Peoples.
   - Present Status
     Discovery is proceeding.

7. Jason LaRue v. Peoples (P-440)
   - District Court of Dubuque County, Iowa
   - Case commenced: 1-24-85
   - Personal injury
   - Prayer is "an unspecified amount"
   - Present Status
     Discovery is proceeding.

8. Peoples v. The Cafaro Company (P-331)
   - District Court, Dubuque County, Iowa
   - Case commenced:
   - Peoples seeks a declaratory ruling.
   - Present Status
     Discovery is proceeding.

9. Robert Rose v. Peoples (P-323 g)
   - Iowa Industrial Commission, No. 722500
   - Case commenced: 5-31-85
   - Workers' compensation claim.
   - Present Status
     Peoples filed an answer on 6-23-85.

10. Ernest Rongish v. Peoples (P-323 a)
    - Iowa Industrial Commission, No. 722399
    - Case commenced: 3-13-85
    - Workers' compensation claim.
    - Present Status
      We have responded to plaintiff's interrogatories and have supplied plaintiff with copies of medical reports and records in our file as required by the Industrial Commission.

11. Monsanto Oil Company v. Peoples (P-332)
    - District Court, Sedgwick County, Kansas, Case No. 85C-2379
    - Case commenced: 7-19-85
    - Prayer is "unspecified damages and unspecified punitive damages."
    - Present Status
      Peoples will file an answer on or before 9-18-85.

12. Arnold Tool & Die Company v. Peoples
    - District Court, Pottawattamie County, Iowa
    - Case commenced: November 1984
    - Property damage
    - Prayer: $75,000
    - Present Status
      Case is inactive by agreement of parties pending issuance of federal investigative report.

Schedule M

Specified Liabilities

General Ledger Acct. No.	Description
229.13	Billings collected subject to refund
229.23	Billings collected subject to refund-offline
237.33	Interest accrued on customer deposits
237.41	Interest accrued on rate refunds
*191.40-191.48	Overrecovered (Underrecovered) purchase gas costs-
235.13	Customer deposits
242.73	Current capital lease obligations
227.13	Noncurrent capital lease obligations
242.23	Exchange gas payable
242.67	Incremental pricing - MSAC
242.75	Accrued vacations
252.13	Customer construction advances

* If item 4 of page 8 Schedule J is ultimately determined subsequent to closing to be adverse to PNG, Seller shall reimburse Buyer without interest the amount of $439,029.00.

EXHIBIT 6

FORM OF BUYER'S ASSUMPTION AGREEMENT

WHEREAS, InterNorth, Inc. ("Seller") and UtiliCorp United Inc., ("Buyer") have entered into an agreement ("Purchase Agreement"), whereby Seller shall sell and Buyer shall buy the assets of Peoples Natural Gas Company ("PNG"), an unincorporated division of Seller; and

WHEREAS, Buyer shall assume certain liabilities and obligations of PNG;

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, Buyer agrees that it shall assume the following obligations and liabilities of PNG and with respect to the Purchased Assets effective on the Closing Date and forever thereafter in accordance with the terms thereof:

LIST OF ASSUMED LIABILITIES

1. All contracts, leases and Authorizations of PNG.

2. All obligations arising from and after the Closing Date under any license agreements of PNG, provided the consent to assignment, if required, for the instrument has been secured.

3. The obligations with respect to employees as set out in 4.2 of the Purchase Agreement.

4. All obligations for matters arising from and after the Closing Date.

5. The Specified Liabilities as set forth in Schedule M.

6. All liabilities or obligations with respect to all lawsuits, claims, demands, actions or suits, losses, costs or damages that are not recorded as liabilities on Seller's accounting books and records at Closing (including reasonable attorney's fees) whether made against or incurred by Seller and its Affiliates and their respective directors, officers and employees arising out of any operations conducted, commitments made, products manufactured, taxes due or unpaid (except for federal and state income tax obligations or liabilities applicable to periods prior to Closing) or any action taken or omitted in respect to the Purchased Assets whether such obligations or liabilities arose before or arise after Closing except that Buyer assumes no obligation or liability (i) with respect to claims that accrue prior to Closing for or awards of punitive or similar damages, (ii) with respect to claims for awards of amounts which, in whole or in

part, have been included in a rate case for expense and/or rate base treatment as appropriate with an appropriate regulatory commission or municipality and for which final regulatory approval has been given or received but only to the extent that the Seller has received payment or reimbursement prior to Closing for such claim or award and to the extent that the Purchase Price has not been reduced by a Specified Liabilities as set forth in Schedule M of the Purchase Agreement; and (iii) with respect to claims or awards insured by a party not an Affiliate of the Seller (only to the extent that there is actual coverage and no retrospective premium adjustment) or properly reserved for on the books of Seller by Seller (Seller's Account Nos. 228.13, 228.23 and 228.24 prior to Closing.

Buyer shall duly perform each and every obligation required by any of the foregoing referenced contracts, licenses, permits, leases, authorizations and all other such obligations referred to above and shall assume all of the liabilities referenced above.

Buyer shall indemnify and hold Seller and its Affiliates, their successors, and assigns, employees, directors and agents harmless from any claim demand, action cause of action, damage, judgment including attorney's fees, relating to or arising out of, in any way, the assumed obligations or liabilities.

This Agreement shall be interpreted in accordance with the laws of the State of Nebraska.

The terms defined in the Purchase Agreement and otherwise not defined herein are being used as defined therein.

This Agreement is effective this _____ day of _____ _____, 1985.

BUYER
UTILICORP UNITED INC.

By _____
[Name and Title]

SELLER
INTERNORTH, INC.

ATTEST:

_____

By _____
[Name and Title]

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part, have been included in a rate case for expense and/or rate base treatment as appropriate with an appropriate regulatory commission or municipality and for which final regulatory approval has been given or received but only to the extent that the Seller has received payment or reimbursement prior to Closing for such claim or award and to the extent that the Purchase Price has not been reduced by a Specified Liabilities as set forth in Schedule M of the Purchase Agreement; and (iii) with respect to claims or awards insured by a party not an Affiliate of the Seller (only to the extent that there is actual coverage and no retrospective premium adjustment) or properly reserved for on the books of Seller by Seller (Seller's Account Nos. 228.13, 228.23 and 228.24 prior to Closing.

Buyer shall duly perform each and every obligation required by any of the foregoing referenced contracts, licenses, permits, leases, authorizations and all other such obligations referred to above and shall assume all of the liabilities referenced above.

Buyer shall indemnify and hold Seller and its Affiliates, their successors, and assigns, employees, directors and agents harmless from any claim demand, action, cause of action, damage, judgment including attorney's fees, relating to or arising out of, in any way, the assumed obligations or liabilities.

This Agreement shall be interpreted in accordance with the laws of the State of Nebraska.

The terms defined in the Purchase Agreement and otherwise not defined herein are being used as defined therein.

This Agreement is effective this _____ day of _____ _____, 1985.

BUYER
UTILICORP UNITED INC.

By _____
[Name and Title]

SELLER
INTERWORTH, INC.

ATTEST:

_____

By _____
[Name and Title]

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Attachment 2

FOR EXECUTION

PURCHASE AGREEMENT

dated as of

September 13, 1985

by and between

INTERNORTH, INC.

d/b/a

HNG/INTERNORTH

as Seller

and

UTILICORP UNITED INC.

as Buyer

for the sale, transportation and delivery to Buyer of natural gas; (v) the execution and delivery of a certain administration service agreement; and (vi) the terms and conditions upon which such transactions will take place.

1.2 Definitions. For purposes of this Agreement, including the Schedules, Exhibits and any supplemental letters referred to herein, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1.2 have the meanings herein assigned to them, and the capitalized terms defined elsewhere in the Agreement by inclusion in quotation marks and parentheses have the meanings so ascribed to them.

(a) "Accumulated Depreciation" shall mean the reserve for accumulated depreciation for gas plant in service (Account No. 108.13), retirement work in progress (Account No. 108.23), other gas plants (Account No. 111.33), gas plant acquisitions adjustment (Account No. 115.13) and non-utility plant (Account No. 122.13).

(b) "Adjustment Date" shall mean 10:00 a.m. local time the later of (i) 105 days after Closing; (ii) 5 days after the Accounting Firm has issued the letter referred to in Section 2.9(c); or such other time and date as the Parties may mutually agree upon in writing.

(c) "Adjusting Payment" means that adjusting payment to be made pursuant to Section 2.9.

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(cc) "PSI Balance Sheet" shall mean the balance sheet of PSI as of the last day of the month preceding the month in which the Closing occurs prepared in accordance with generally accepted accounting principles and practices consistently applied by PSI.

(dd) "Purchased Assets" means the assets described in Schedule A attached hereto.

(ee) "Real Property" means the real property described in Schedule B attached hereto.

(ff) "Specified Other Assets" shall mean those set forth in Schedule L hereto.

(gg) "Specified Other Current Assets" shall mean those set forth in Schedule Q hereto.

(hh) "Specified Liabilities" shall mean those set forth in Schedule M hereto.

(ii) "Tax" means a tax, license, franchise or registration fee, governmental charge, withholding or an assessment of any other nature, including without limitation income, excise, property, sales and franchise taxes imposed by any government or any subdivision, agency or taxing authority thereof and any interest, penalty or addition to tax relating thereto.

(jj) Other Definitions. The following terms have the meanings ascribed to them in the Sections noted:

Term	Section
Accounting Firm	2.9(c)
Action	4.6(c)
Authorizations	3.1(d)

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resolving disputes shall be borne equally by Buyer and Seller.

(d) Adjusting Payment. On the Adjustment Date Buyer shall pay to Seller an amount equal to the Purchase Price, less the Closing Payment, plus interest on such difference at the Prime Rate from the Closing Date to the Adjustment Date; provided, however, that if the Closing Payment exceeds the Purchase Price, an amount equal to the difference shall be paid by Seller to Buyer plus interest thereon at the Prime Rate from the Closing Date to the Adjustment Date.

2.10 Method of Payment. Any amount payable under this Agreement shall be payable in United States dollars and, unless otherwise agreed between the Parties making and receiving such payments, shall be paid in immediately available funds by wire or intrabank transfer, by 11:00 A.M. EST on the date such payment is due to such account as the Party receiving payment may designate three business days prior to such payment date.

PART THREE:

REPRESENTATIONS AND WARRANTIES

3.1 Seller. Seller represents and warrants to the Buyer that:

(a) Organization and Standing of Seller. InterNorth is a corporation and has been duly organized and is validly

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(l) Litigation. Except as set forth in Schedule J of this Agreement, there are no actions, suits or proceedings pending or, to the knowledge of Seller's management, threatened against Seller, or any Affiliate which would materially impact the transactions contemplated by this Agreement before any court or arbitration tribunal or before or by any governmental department, agency or instrumentality. Schedule J lists all material regulatory matters wherein PNG is a named party in an official regulatory proceeding.

(m) PNG Benefit Plans. Schedule K lists the employee or executive compensation or benefit plans or other plans maintained by Seller or PNG which cover employees or executives of PNG ("PNG Benefit Plans").

(n) The Stock. The authorized Capital Stock of PSI consists of 1,000 shares of common stock, par value $10. All of the common stock is validly issued, outstanding, fully paid and nonassessable and registered in the name of the Seller. There do not exist any warrants, options or other rights outstanding for the issue or purchase of shares of Capital Stock or other securities of PSI or any securities convertible into or exchangeable for shares of Capital Stock or other securities of PSI. No dividends of any nature or kind have been declared or are owing on the Capital Stock. PSI has no subsidiaries nor is it a partner

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BUYER'S ASSUMPTION AGREEMENT

WHEREAS, InterNorth, Inc. ("Seller") and UtiliCorp United Inc., ("Buyer") have entered into an agreement ("Purchase Agreement"), whereby Seller shall sell and Buyer shall buy the assets of Peoples Natural Gas Company ("PNG"), an unincorporated division of Seller; and

WHEREAS, Buyer shall assume certain liabilities and obligations of PNG;

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, Buyer agrees that it shall assume the following obligations and liabilities of PNG and with respect to the Purchased Assets effective on the Closing Date and forever thereafter in accordance with the terms thereof:

LIST OF ASSUMED LIABILITIES

1. All contracts, leases and Authorizations of PNG.

2. All obligations arising from and after the Closing Date under any license agreements or permits of PNG, provided the consent to assignment, if required, for the instrument has been secured.

3. The obligations with respect to employees as set out in 4.2 of the Purchase Agreement.

4. All obligations for matters arising from and after the Closing Date.

5. The Specified Liabilities as set forth in Schedule M.

6. All liabilities or obligations with respect to all claims, demands, actions or suits, losses, costs or damages and expenses that are not recorded as liabilities on Seller's accounting books and records at Closing (including reasonable attorney's fees) whether made against or incurred by Seller and its Affiliates and their respective directors, officers and employees resulting from all liabilities or obligations arising out of any operations conducted, commitments made, taxes due or unpaid (except for federal and state income tax obligations or liabilities applicable to periods prior to Closing) or any action taken or omitted in respect to the Purchased Assets whether such obligations or liabilities arose before or arise after Closing except that Buyer assumes no obligation or liability with respect to (i) claims for or awards of punitive or similar damages arising out of the conduct of PNG prior to closing,

(ii) claims for awards of amounts which, in whole or in part, have been included in a rate case for expense and/or rate base treatment as appropriate with an appropriate regulatory commission or municipality and for which final regulatory approval has been given or received but only to the extent that the Seller has received payment or reimbursement prior to Closing for such claim or award and to the extent that the Purchase Price has not been reduced by a Specified Liabilities as set forth in Schedule M of the Purchase Agreement; and (iii) claims or awards insured by a party not an Affiliate of the Seller (only to the extent that there is actual dollar coverages and no retrospective premium adjustment) or properly reserved for by Seller (Seller's Account Nos. 228.13, 228.23 and 228.24 prior to Closing on the books of Seller.

Buyer shall duly perform each and every obligation required by any of the foregoing referenced contracts, licenses, permits, leases, Authorizations and all other such obligations referred to above and shall assume all of the liabilities referenced above.

Buyer shall indemnify and hold Seller and its Affiliates, their successors, and assigns, employees, directors and agents harmless from any claim, demand, action, cause of action, damage, judgment including attorney's fees, relating to or arising out of, in any way, the assumed obligations or liabilities.

This Agreement shall be interpreted in accordance with the laws of the State of Nebraska.

The terms defined in the Purchase Agreement and otherwise not defined herein are being used as defined therein.

This Agreement is effective this 20TH day of December, 1985.

BUYER
UTILICORP UNITED INC.

By Richard C. Green Jr.

Title: President

SELLER
INTERNORTH, INC.

By R. L. Chenard
EXEC. Vice President

ATTEST:

Deputy Corporate Secretary

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Attachment 3

MONTANA
NORTH DAKOTA
MINNESOTA
MICHIGAN
WISCONSIN
SOUTH DAKOTA
WYOMING
NEBRASKA
IOWA
ILLINOIS
MISSOURI
COLORADO
KANSAS
OKLAHOMA
NEW MEXICO
TEXAS
LOUISIANA
Carlton
Wrenshall LNG
Alexandria
Pierz
Poppie Creek
North Branch
Elk River
Hugo
Willow Lake
Carver
Farmington
Faribault
Spencer
Owatonna
La Crescent
Albert Lea
Chatfield
Lake Mills
Spring Green
Ventura
Paullina
Garner LNG
Earlville
Belleville
Waterloo
Homer
Galena
Hubbard
Guthrie Center
Ogden
Fremont
Redfield
Oakland
Redfield Storage
Palmyra
Market Area
Beatrice
Demarc
Clifton
Tescott
Field Area
Bushton
Lyons Storage
Macksville
Cunningham
Sublette
Mullinville
Cunningham Storage
Beaver
Sunray
Pampa
Claude
Plainview
Plains
Brownfield
Gaines Co Crossover
Seminole
Kermit
Spraberry
Bakersfield
Map Key
Northern Natural Gas Company Pipeline
Compressor Station
Liquid Natural Gas ((LNG) Storage
Underground Storage
0 50 100 200
Miles
Northern Natural Gas Company System Map

Attachment 4

52 FERC P 61056 (F.E.R.C.), 1990 WL 317732

FEDERAL ENERGY REGULATORY COMMISSION
**1 Commission Opinions, Orders and Notices

Northern Natural Gas Company, Division of Enron Corporation and Northern Natural Gas Company

Docket No. G-280-001 et al.
Order Approving Abandonment and Issuing Certificate
(Issued July 17, 1990)

*61246 Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

On February 1, 1990, Northern Natural Gas Company, Division of Enron Corp. (Division), and Northern Natural Gas Company (Northern) filed a joint application seeking authority, in effect, to transfer all of Division's assets and operations to Northern in a corporate restructuring. The parties styled the application as one seeking authority, under section 7(c) of the Natural Gas Act (NGA), to amend Division's certificates by substituting Northern as their holder. We are treating the application as one seeking: (1) authority under section 7(b) of the NGA for Division to abandon its facilities and services; and (2) the issuance of a certificate of public convenience and necessity under section 7(c) of the NGA authorizing Northern to acquire and operate the facilities and perform the services. For the reasons discussed below, we will grant the application.

Background

Northern is a wholly owned subsidiary of Enron Corp. that presently has no assets or operations. It was formed to acquire all those of Division, which is a natural gas company subject to Commission jurisdiction under the NGA. Division serves gas markets in Kansas, Nebraska, Iowa, Illinois, South Dakota, Minnesota, Wisconsin, and Michigan. It purchases natural gas supplies from numerous producing areas in the South, West, Midwest, offshore Louisiana and Texas, and Canada, and transports gas through its pipelines to the natural gas markets it serves.

Proposal

As stated, Division proposes to transfer all of its assets and operations to Northern.[1] This includes redesignating Northern as the holder of Division's existing certificates[2] and substituting it as the applicant in Division's pending proceedings.[3] After the proposed restructuring, Northern will own and operate all of the gathering, compression, transmission, storage, and other appurtenant facilities now owned and operated by Division, and Northern will provide all of the services now provided by Division. In essence, Northern will be the successor-in-interest to Division. It will take over all of Division's assets, liabilities, contracts, service agreements, and other legal obligations. It will continue without interruption the identical operations and activities presently performed by Division.

The parties state that they do not want to transfer Division's certificates to Northern until after they have completed the transfer of Division's other assets. They expect this transfer to occur within one year from the date the instant order is issued, and request that Division's certificates not be amended to reflect Northern as the holder until then. They state that they will notify the Commission of the effective date of the transfers. Northern then will adopt Division's existing FERC Gas Tariff and commence operations under it. Both the tariff and the services provided under it will remain unchanged.

**2 The parties assert that this proposed corporate restructuring is consistent with the Commission's policy adopted in Order Nos. 497 and 497-A[4] governing the relationship between a *61247 pipeline and its marketing affiliates.[5] In addition, they submit that establishing a separate legal entity will ensure the pipeline's continued ability to deal directly with, and be accountable directly to, its customers and suppliers. Division and Northern further argue that the proposed restructuring will increase the pipeline's financial efficiency and flexibility, enabling it to attract capital under the most favorable terms available, thus benefiting its ratepayers. Finally, they assert that the proposed restructuring will facilitate an assessment of the

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pipeline's efficiency gains and enable it, through incentive ratemaking, to reduce costs.

Interventions

Notice of the parties' application was published in the *Federal Register* on February 15, 1990 (55 Fed. Reg. 5500). Twelve timely unopposed motions to intervene or notices of intervention were filed.[6] Timely unopposed motions to intervene and timely notices of intervention are granted by operation of Rule 214 of the Commission's regulations.[7] Cibola Corporation and ANR Pipeline Company filed untimely motions to intervene. However, these persons have shown an interest in this proceeding, and their participation, we find, will not delay the proceeding or prejudice the rights of any other party. Accordingly, for good cause shown, we will grant the late motions to intervene. No party protested the application or requested a hearing.

Discussion

Since the facilities and services are in interstate commerce subject to the jurisdiction of the Commission, their abandonment by Division is subject to the requirements of subsection (b) of section 7 of the NGA, while the acquisition and operation of the facilities and performance of the services by Northern are subject to the requirements of subsections (c) and (e) of the same section.

We conclude that the proposed abandonment of the facilities and services by Division, and the concurrent acquisition and operation of the facilities and performance of the services by Northern, are consistent with the public convenience and necessity, and that Northern is willing and able to acquire the assets and perform the services. The proposed transaction is a corporate restructuring that will not result in any change or interruption in service to the public. The restructuring simply will substitute one corporate affiliate for the other as the provider of these services. As such, we find that granting the application is in the public interest.

The certificates to be transferred will remain, after their abandonment by Division and acquisition by Northern, individually in full force and effect, except as amended by this order to redesignate Northern as their holder. Their amendment will not take place until the transfer of Division's other assets is completed. We will require that the parties inform the Commission of the effective date of these transfers. Division will remain the applicant in all proceedings identified as pending in Exhibit E to the parties' application until the restructuring is completed. At that time, Northern will be substituted as the applicant. If any of these pending proceedings has become final by then, the certificates issued therein also will be deemed authorized to be transferred to Northern as the result of this order.

****3** At a hearing held on July 11, 1990, the Commission on its own motion received and made a part of the record in this proceeding all evidence submitted, including the application and exhibits supporting the sought authorizations, and after consideration of the record,

The Commission orders:

(A) Division is authorized to abandon all of its facilities and services, all as more fully described in the application and this order.

(B) A certificate of public convenience and necessity is issued to Northern authorizing it to acquire and operate all of Division's jurisdictional facilities and other jurisdictional assets, and to perform those jurisdictional services presently performed by Division, all as more fully described in the application and this order.

(C) Upon completion of the transfer of Division's facilities to Northern, Division's certificates shall be amended individually to ***61248** redesignate Northern as their holder, and Northern shall be substituted as applicant in all of Division's proceedings then pending before the Commission, all as more fully described in this order.

(D) Division and Northern shall complete the proposed restructuring within one year from the date this order is issued.

(E) Division and Northern shall notify the Commission of the effective date of the abandonment and acquisition within 10

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days thereof.

(F) The certificate issued to Northern and the rights granted thereunder are conditioned upon Northern's compliance with the NGA and all applicable Commission regulations, including the general terms and conditions set forth in Part 154 and in paragraphs (a), (c)(3), and (e) of section 157.20.

(G) The late-filed motions to intervene are granted.

Footnotes

1 We use the term "transfer" here as a convenient way to describe the combined abandonment by Division and acquisition by Northern.

2 Division has approximately 1,100 existing certificates. We do not list them individually here because of their number. They are identified in Exhibit Z-1 to the application. We note, however, that Exhibit Z-1 mistakenly includes several dockets. The following certificates already have been abandoned: CP86-490-000, CP86-633-000, CP86-683-000, CP87-250-000, CP87-376-000, CP87-448-000, CP87-542-000, CP88-33-000, CP88-112-000, CP88-144-000, CP88-304-000, CP88-305-000, CP88-680-000, CP89-592-000, CP89-677-000, CP89-970-000, CP89-1155-000, CP89-1160-000, and CP89-1411-000. Docket No. CP70-69 involves a Presidential Permit, which will be amended in a separate proceeding in Docket No. CP70-69-002, and Docket No. CP70-70 involves a section 3 import/export authorization, which can only be amended by the Department of Energy, Office of Fossil Fuels. Additionally, Docket No. CP89-1985-000 was withdrawn.

3 These 37 pending proceedings are identified in Exhibit E to the parties' application. We note that Exhibit E contains one mistake. Docket No. CP90-318-000 is not a proceeding involving Division.

4 Order No. 497, *FERC Statutes and Regulations* P 30,820 (1988), *reh'g granted in part and denied in part*, Order No. 497-A, *FERC Statutes and Regulations* P 30,868 (1989).

5 In a filing submitted September 8, 1988 in response to the requirements established in Order No. 497, Division identified three marketing affiliates: Enron Gas Marketing, Pacific Atlantic Marketing Inc., and Northern Gas Marketing, Inc.

6 Timely motions to intervene or notices of intervention were filed by: Wisconsin Natural Gas Company, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin), Iowa-Illinois Gas and Electric Company, Metropolitan Utilities District of Omaha, Northern Illinois Gas Company, K N Energy, Inc., Michigan Gas Company, Midwest Gas, a division of Iowa Public Service Company, Michigan Consolidated Gas Company, Peoples Natural Gas Company, El Paso Natural Gas Company, and Northwest Alaskan Pipeline Company.

7 18 C.F.R. §385.214 (1989).

52 FERC P 61056 (F.E.R.C.), 1990 WL 317732

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