

**CASE**

**NUMBER:**

99-225

KY. PUBLIC SERVICE COMMISSION

Index for Case: 1999-00225

AS OF : 12/05/02

CitiPower, L.L.C.

Alternative Rate Filing Adjustment

THE APPLICATION OF CITIPOWER, LLC FOR AN ADJUSTMENT OF RATES PURSUANT TO THE ALTERNATIVE RATE FILING PROCEDURE FOR SMALL UTILITIES

SEQ NBR	Date	Remarks
1	06/03/99	Application.
2	06/03/99	Acknowledgement letter.
3	06/17/99	Order granting request to deviate from 807 KAR 5:076, Section 1.
4	(M) 07/09/99	MOTION TO INTERVENE (E BLACKFORD AG)
5	07/16/99	Order granting motion of the Attorney General for full intervention.
6	(M) 07/16/99	AG REQ FOR INFO (AG E BLACKFORD)
7	(M) 07/19/99	REQUEST TO BE PLACED ON SERVICE LIST (ROBERT BROWN)
8	08/03/99	Data Request Order, response due 8/17/99.
9	(M) 08/05/99	AGREEMENT TO PROTECT RESPONSE TO AG REQ FOR INFO (ROBERT BROWN CITIPOWER LLC)
10	(M) 08/09/99	MOTION TO PROTECT MATERIAL AS CONFIDENTIAL TO AG REQ FOR INFO (CITIPOWER HILL)
11	(M) 08/26/99	MOTION FOR EXTENSION OF TIME TO RESPOND TO PSC REQUEST FOR INFORMATIO (TERESA HILL CITIPOWER LLC)
12	08/30/99	Order granting ext. of time until 9/7/99 to respond to 8/3/99 Order.
13	08/30/99	Letter granting 8/9/99 petition for conf. filed on behalf of Citipower, LLC.
14	(M) 09/07/99	RESPONSE TO PSC ORDER OF AUGUST 13,99 (JANE BRYANT LAWSON CITIPOWER)
15	(M) 09/07/99	RESPONSE TO ORDER OF AUGUST 3,99 FOR RATE FILING (JANE LAWSON CITIPOWER LLC)
16	10/27/99	Data Request Order, response due 11/10/99.
17	(M) 11/05/99	MOTION FOR EXTENSION OF TIME TO RESPOND TO PSC REQ FOR INFORMATION (HILL,CITIPOWER LLC)
18	11/17/99	Order granting motion; responses to 10/27 Order are now due 11/30/99.
19	(M) 12/01/99	RESPONSE TO PSC ORDER OF OCT 27,99 (HEATHER MCCUE CITIPOWER)
20	01/10/00	Letter to David Brock advising that PSC will set up a review of records soon.
21	03/17/00	Order setting hearing 3/29/2000; staff report, comments due 3/27/2000.
22	03/31/00	Final Order approving rates in Appendix A.
23	05/16/00	Reminder letter sent 5/16, tariff due 5/26.
24	(M) 05/16/00	MOTION FOR EXTENSION OF TIME (TERESA HILL CITIPOWER)
25	(M) 05/24/00	RESPONSE TO ORDER OF MARCH 31,00 APPROVING TARIFF (TERESA HILL CITIPOWER)
26	05/31/00	Order granting ext. of time until 6/1/2000 to file revised tariffs.
27	11/21/02	Final Order approving rates



Paul E. Patton, Governor

Janie A. Miller, Secretary  
Public Protection and  
Regulation Cabinet

Thomas M. Dorman  
Executive Director  
Public Service Commission

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602-0615  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

Martin J. Huelsmann  
Chairman

Gary W. Gillis  
Vice Chairman

Robert E. Spurlin  
Commissioner

Honorable Elizabeth E. Blackford  
Assistant Attorney General  
Office of the Attorney General Utility & Rate Intervention Division  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601

CERTIFICATE OF SERVICE

RE: Case No. 1999-00225  
CitiPower, L.L.C.

I, Thomas M. Dorman, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on November 21, 2002.

A handwritten signature in black ink, appearing to read "Thomas M. Dorman", written over a horizontal line.

Executive Director

TD/sa  
Enclosure





Paul E. Patton, Governor

Janie A. Miller, Secretary  
Public Protection and  
Regulation Cabinet

Thomas M. Dorman  
Executive Director  
Public Service Commission

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602-0615  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

Martin J. Huelsmann  
Chairman

Gary W. Gillis  
Vice Chairman

Robert E. Spurlin  
Commissioner

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

CERTIFICATE OF SERVICE

RE: Case No. 1999-00225  
CitiPower, L.L.C.

I, Thomas M. Dorman, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on November 21, 2002.

A handwritten signature in black ink, appearing to read "Thomas M. Dorman", written over a horizontal line.

Executive Director

TD/sa  
Enclosure







Paul E. Patton, Governor

Janie A. Miller, Secretary  
Public Protection and  
Regulation Cabinet

Thomas M. Dorman  
Executive Director  
Public Service Commission

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602-0615  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

Martin J. Huelsmann  
Chairman

Gary W. Gillis  
Vice Chairman

Robert E. Spurlin  
Commissioner

Honorable Robert L. Brown III  
Attorney at Law  
Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

CERTIFICATE OF SERVICE

RE: Case No. 1999-00225  
CitiPower, L.L.C.

I, Thomas M. Dorman, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on November 21, 2002.

A handwritten signature in black ink, appearing to read "Thomas M. Dorman", written over a horizontal line.

Executive Director

TD/sa  
Enclosure



AN EQUAL OPPORTUNITY EMPLOYER M/F/D



Paul E. Patton, Governor

Janie A. Miller, Secretary  
Public Protection and  
Regulation Cabinet

Thomas M. Dorman  
Executive Director  
Public Service Commission

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602-0615  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

Martin J. Huelsmann  
Chairman

Gary W. Gillis  
Vice Chairman

Robert E. Spurlin  
Commissioner

James Curd  
Manager  
CitiPower, L.L.C.  
2122 Enterprise Road  
Greensboro, NC 27408

CERTIFICATE OF SERVICE

RE: Case No. 1999-00225  
CitiPower, L.L.C.

I, Thomas M. Dorman, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on November 21, 2002.

Executive Director

TD/sa  
Enclosure



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

Honorable Elizabeth E. Blackford  
Assistant Attorney General  
Office of the Attorney General  
Utility & Rate Intervention Division  
1024 Capital Center Drive  
Suite 200  
Frankfort, KY 40601

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

Honorable Robert L. Brown III  
Attorney at Law  
Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

James Curd  
Manager  
CitiPower, L.L.C.  
2122 Enterprise Road  
Greensboro, NC 27408

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CITIPOWER, LLC FOR AN )  
ADJUSTMENT OF RATES PURSUANT TO THE ) CASE NO.  
ALTERNATIVE RATE FILING PROCEDURE FOR ) 1999-00225  
SMALL UTILITIES )

and

NOTICE OF GAS COST ADJUSTMENT FILING OF ) CASE NO.  
CITIPOWER, LLC ) 2002-00390

ORDER

On March 31, 2000, the Commission issued its Order in Case No. 1999-00225 approving a rate adjustment for Citipower, LLC ("Citipower"). The rate schedule attached as Appendix A to that Order provided that the first .7 Mcf for residential and commercial customers and the first .8 Mcf for industrial and institutional customers be charged at a rate of \$5.00 and the remaining Mcfs be charged at a volumetric rate. However, during a financial examination of Citipower's records for the year ended December 31, 2001, Commission Staff determined that Citipower had interpreted that Order to mean that it should charge a flat rate per Mcf subject to a \$5.00 minimum charge and that, since March 31, 2000, it has billed its customers accordingly. In order to evaluate the reasonableness of Citipower's billing method, the Commission, on its own motion, hereby reopens Case No. 1999-00225.

The Commission's Order in that case provided for further rate adjustments in accordance with the provisions of Citipower's gas cost adjustment ("GCA") clause. The Commission notes that on October 30, 2002 Citipower filed a GCA application

proposing an effective date of December 1, 2002. That application has been docketed as Case No. 2002-00390. The Commission believes that the issues in Case Nos. 1999-00225 and 2002-00390 are inter-related and can be more efficiently and expeditiously addressed through one consolidated proceeding.

Case No. 1999-00225

A review of the record in Case No. 1999-00225 indicates that the text included in the appendix to the final Order was based on Citipower's response to Item 11 of the Commission's August 3, 1999 data request, wherein it explained why its billing analysis included no minimum bill revenue. In that response, Citipower included a schedule that represented the usage levels, by customer class, that resulted in customers receiving minimum bills. The schedule identified 0.0 to 0.7 Mcf as the level for residential and commercial customers and 0.0 to 0.8 Mcf as the level for industrial and institutional customers. Based on this response, we understood Citipower to be requesting a rate design that included a minimum bill for the first 0.7 or 0.8 Mcf, depending on customer class. However, it appears that Citipower's intention was to have a rate design consisting of a single volumetric rate as evidenced by the text of its response to that same request, which states that, "[t]he small amount of gas used by customers receiving a minimum bill is not charged for, rather, the \$5.00 recovers administrative costs incurred by Citipower in processing the monthly billing." Consistent with that language, Citipower has been charging all Mcf sales at a flat rate, subject to a \$5.00 minimum charge.

Review of the March 17, 2000 Staff Report issued in that case shows the revenue of \$215,750 produced by Citipower's proposed rates was calculated using Citipower's single rate method of billing rather than the two-step volumetric rate design

included in Appendix A of the Commission's March 31, 2000 Order. Taking this into consideration, the Commission finds that Citipower's method of billing and its calculation of customers' bills are reasonable and that the text of Citipower's rate tariffs should be modified to more clearly describe its billing method. The appropriate text changes are included in the Appendix to this Order.

Case No. 2002-00390

Citipower proposes revised rates to pass on its expected change in gas costs to its customers. Its expected gas cost ("ECG") is \$3.0331 per Mcf, a decrease of 1.69 cents per Mcf from the prior EGC of \$3.05. Citipower set out an actual adjustment ("AA") of 1.46 cents per Mcf to collect under-recovered gas costs from May, June and July 2002. The total AA is \$1.1282 per Mcf, which is an increase of 1.46 cents per Mcf from the previous total AA. This total AA includes a previous quarterly AA that will remain in effect for 36 months. These combined adjustments produce a gas cost adjustment of \$4.1613 per Mcf, 0.23 cent Mcf less than the prior rate of \$4.1636. Citipower did not propose a balance adjustment nor a refund adjustment.

After reviewing the records in both cases and being otherwise sufficiently advised, the Commission finds that the rates set forth in the Appendix to this Order are fair, just, and reasonable, in the public interest, and should be approved for service rendered on and after December 1, 2002.

IT IS THEREFORE ORDERED that:

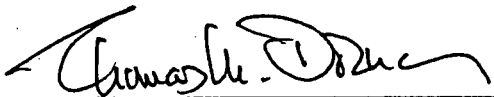
1. The rates in the Appendix to this Order are fair, just, and reasonable, and are effective for service rendered on and after December 1, 2002.

2. Within 20 days of the date of this Order, Citipower shall file with this Commission its revised tariffs setting out the rates and tariff language changes authorized herein.

Done at Frankfort, Kentucky, this 21st day of November, 2002.

By the Commission

ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CONSOLIDATED CASE NOS. 2002-00390 AND  
1999-00225 DATED November 21, 2002.

The following rates and charges are prescribed for the customers served by Citipower, LLC. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

Residential and Commercial

	<u>Base Rate</u>	<u>Gas Cost Recovery Rate</u>	<u>Total</u>
Volumetric Rate	\$6.4592	\$4.1613	\$10.6205

The volumetric rate will apply to all Mcfs sold, subject to a minimum bill of \$5.00. In those cases where the usage applied to the volumetric rate results in an amount less than \$5.00, the customer will be charged the \$5.00 minimum.

Industrial and Institutional

	<u>Base Rate</u>	<u>Gas Cost Recovery Rate</u>	<u>Total</u>
Volumetric Rate	\$5.4592	\$4.1613	\$9.6205

The volumetric rate will apply to all Mcfs sold, subject to a minimum bill of \$5.00. In those cases where the usage applied to the volumetric rate results in an amount less than \$5.00, the customer will be charged the \$5.00 minimum.





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

May 31, 2000

To: All parties of record

RE: Case No. 1999-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in black ink that reads "Stephanie J. Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Honorable Teresa J. Hill  
Counsel for Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CITIPOWER, LLC	)	
FOR AN ADJUSTMENT OF RATES PURSUANT	)	CASE NO.
TO THE ALTERNATIVE RATE FILING PROCEDURE	)	99-225
FOR SMALL UTILITIES	)	

ORDER

Citipower, LLC ("Citipower"), on May 16, 2000, filed a motion requesting an extension of time to file its revised tariff rates. The Commission's Order dated March 31, 2000 stated that this information was due within 30 days of the date of the Order. Citipower requests Commission approval to file its revised tariff rates on or before June 1, 2000. The Commission, being sufficiently advised, HEREBY ORDERS that this motion is granted and Citipower shall file its revised tariff rates on or before June 1, 2000.

Done at Frankfort, Kentucky, this 31st day of May, 2000.

By the Commission

ATTEST:

  
Executive Director

BROWN & HILL, PLLC  
ATTORNEYS AT LAW  
1005 S. MAIN STREET, SUITE 101  
CORBIN, KENTUCKY 40701

ROBERT L. BROWN III  
TERESA J. HILL

(606) 528-3073  
FAX (606) 528-3289

May 15, 2000

RECEIVED  
MAY 16 2000  
PUBLIC SERVICE  
COMMISSION

Hon. Martin Huelsman  
Executive Director  
Kentucky Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

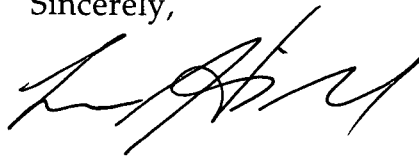
RE: Application of Citipower, LLC, Case No. 99-225

Dear Mr. Huelsman:

Enclosed please find a motion for an extension of time in order to file the revised tariff rates for Citipower, LLC, per the Commission's Order dated March 31, 2000. Although the motion asks for an extension through June 1, 2000, we are hopeful that the revision of tariffs can be filed well before that date.

Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Teresa J. Hill

TJH:bh  
Enclosures

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED  
MAY 16 2000  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

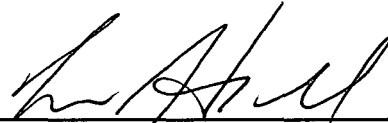
APPLICATION OF CITIPOWER, )  
L. L. C. FOR AN ADJUSTMENT OF )  
RATES PURSUANT TO THE )  
ALTERNATIVE RATE FILING )  
PROCEDURE FOR SMALL UTILITIES )

CASE NO. 99-225

MOTION FOR EXTENSION OF TIME  
TO FILE REVISED TARIFF OF CITIPOWER, LLC

Comes now, Citipower, LLC, the Applicant in the above-styled matter, and respectfully requests an extension to June 1, 2000, to file its Revised Tariff in response to the March 31, 2000, Order by the Kentucky Public Service Commission.

Respectfully Submitted,



\_\_\_\_\_  
BROWN & HILL, PLLC  
1005 S. Main St., S-101  
Corbin, Kentucky 40701  
(606) 528-3073

*Attorney for Applicant, Citipower, LLC*

CERTIFICATE

I hereby certify that the above and foregoing was on the 15<sup>th</sup> day of May, 2000, served by mailing the original and true and exact copies of same, all postage prepaid, addressed for delivery to:

Hon. Martin Huelsman  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

  
BROWN & HILL, PLLC



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
www.psc.state.ky.us  
(502) 564-3940  
Fax (502) 564-3460

**Ronald B. McCloud, Secretary**  
**Public Protection and**  
**Regulation Cabinet**

**Helen Helton**  
**Executive Director**  
**Public Service Commission**

**Paul E. Patton**  
**Governor**

May 16, 2000

Mr. James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Re: Case No. 1999-225  
Filing Requirements

Dear Mr. High:

The Commission entered its final Order in this case on March 31, 2000 approving certain tariff revisions. The Commission ordered CitiPower, L.L.C. to submit revised tariffs no later than April 30, 2000. To date we have not received these tariffs. They must be filed to fully comply with the Commission's Order. Please submit two cover letters referencing the case number along with the original and three copies of the tariffs within ten days from the date of this letter. Blank tariff forms are enclosed for your convenience.

If you have questions concerning completing the forms, please contact our Tariff Branch at (502) 564-3940, extension 252 or 263.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

djw  
Enclosures





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-225  
CITIPOWER, L.L.C.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on March 31, 2000.

See attached parties of record.

*Stephanie Bell*  
Secretary of the Commission

SB/hv  
Enclosure



David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY. 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY. 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY. 40601

Honorable Robert L. Brown  
Honorable Teresa J. Hill  
Counsel for Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY. 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF CITIPOWER, )  
LLC FOR AN ADJUSTMENT OF RATES )  
PURSUANT TO THE ALTERNATIVE ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR )  
SMALL UTILITIES )

O R D E R

On June 3, 1999, Citipower, LLC ("Citipower") applied for an adjustment of its rates for natural gas distribution services pursuant to 807 KAR 5:076, the Alternative Rate Adjustment Procedure for Small Utilities. Intervention was requested by and granted to the Office of the Attorney General ("AG").

Citipower's proposed rates produced additional annual normalized revenue of \$40,466, an increase of 23 percent over Commission Staff's ("Staff") normalized test period revenue from natural gas distribution services of \$174,796. Staff conducted a limited review of Citipower's test period financial records and issued its report on March 17, 2000, which recommended that the Commission grant Citipower an annual revenue requirement from rates of \$215,262, an increase of \$40,466, or 23 percent, based on rates proposed by Citipower in its application.

The Commission's March 17, 2000 Order requested that all parties submit written comments on the Staff Report within 10 days from the date of the Order. Neither Citipower nor the AG filed a response to the Staff Report recommendations within the

prescribed comment period; therefore, the case has been submitted to the Commission for a decision.

The Commission, after considering the evidence of record and being otherwise sufficiently advised, finds that:

1. The recommendations and findings in the Staff Report are reasonable and should be adopted as the Commission's findings and incorporated by reference as if fully set out herein.

2. The rates in Appendix A will produce gross annual natural gas distribution service revenue of \$215,750, including revenues from late payment fees, and are fair, just and reasonable rates for Citipower.

3. In order to assure that Citipower complies with the various recommendations adopted herein in a timely manner, Citipower should file its plan for compliance with the recommendations contained in the Staff Report within 60 days from the issuance of this Order.

4. Citipower should file quarterly reports 45 days after the end of each calendar quarter beginning with the period ending June 30, 2000, to allow the Commission to monitor its compliance with the requirements of this Order. At a minimum, these reports should include a comparative balance sheet, a detailed income statement, and a statement of cash flows.

IT IS THEREFORE ORDERED that:

1. The rates requested by Citipower and recommended by Staff, contained in Appendix A, are approved for service rendered by Citipower on and after the date of this Order.

2. Citipower shall comply with all instructions set out in Findings 3 and 4 as if they were individually so ordered.

3. Within 30 days of the date of this Order, Citipower shall file with the Commission its revised tariffs setting out the rates approved herein, showing their effective date and that they were issued pursuant to this Order.

Done at Frankfort, Kentucky, this 31st day of March, 2000.

By the Commission

ATTEST:

Deputy   
Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 99-225 DATED MARCH 31, 2000

The following rates and charges are prescribed for the customers in the area served by Citipower, LLC. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order.

#### Residential

Minimum Bill:	
0 - .7 Mcf	\$5.00
Volumetric Rate	8.50

#### Commercial

Minimum Bill:	
0 - .7 Mcf	\$5.00
Volumetric Rate	8.50

#### Institutional

Minimum Bill:	
0 - .8 Mcf	\$5.00
Volumetric Rate	7.50

#### Industrial

Minimum Bill:	
0 - .8 Mcf	\$5.00
Volumetric Rate	7.50



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

March 17, 2000

To: All parties of record

RE: Case No. 1999-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

  
Stephanie Bell  
Secretary of the Commission

SB/sh  
Enclosure

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Honorable Teresa J. Hill  
Counsel for Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ALTERNATIVE RATE FILING     )  
OF CITIPOWER, LLC                    )     CASE NO. 99-225

O R D E R

On June 3, 1999, Citipower, LLC ("Citipower") applied for an adjustment of rates pursuant to Administrative Regulation 807 KAR 5:076, the alternative rate filing procedure for small utilities. Having performed a limited financial review of Citipower's operations, Commission Staff has submitted to the Commission a report of its findings and recommendations regarding the proposed rate adjustment. A copy of this report is attached hereto.

IT IS THEREFORE ORDERED that:

1. All parties shall have 10 days from the date of this Order to review the Commission Staff Report and comment upon it.
2. Any party objecting to any finding or recommendation contained in the Commission Staff Report shall file such objections in writing within 10 days of the date of this Order. Parties submitting written objections shall identify each finding and recommendation to which they object and state the basis for their objection.
3. If a party does not submit any objection to the Commission Staff Report within 10 days of the date of this Order, the Commission Staff's findings and recommendations shall be considered accepted by that party.



4. A public hearing on the proposed rate adjustment shall be held in Hearing Room 2 of the Commission's offices at 211 Sower Blvd., Frankfort, Kentucky on March 29, 2000, at 10:00 a.m., Eastern Standard Time.

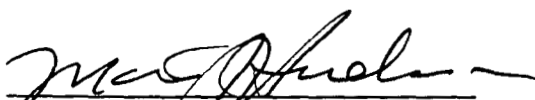
5. Citipower shall cause to be published in a newspaper of general circulation in the area affected by its proposed rate adjustment, no later than March 22, 2000, notice of the purpose, time, place, and date of the hearing.

6. If no objections to the findings and recommendations of the Commission Staff Report are received within 10 days of the date of this Order, the scheduled hearing in this matter shall be canceled and this matter shall stand submitted to the Commission for decision based upon the existing record.

Done at Frankfort, Kentucky, this 17th day of March, 2000.

By the Commission

ATTEST:

  
Executive Director

STAFF REPORT

ON

CITIPOWER, LLC

Case No. 99-225

Preface

On June 3, 1999, Citipower, LLC ("Citipower") filed an application for a rate adjustment pursuant to Administrative Regulation 807 KAR 5:076, the Alternative Rate Filing Procedure for Small Utilities ("ARF"). Staff has determined that the amount of increase produced by the proposed rates is \$40,466, which represents a 23 percent increase over revenues from existing rates. In order to meet the minimum filing requirements for an ARF, a utility must have less than 500 customers or less than \$300,000 in gross annual revenues. During 1998, Citipower met the minimum requirements for an ARF filing.

The Commission Staff performed a limited financial review of Citipower's operations for the test year ending December 31, 1998. The Commission's objective was to reduce the need for additional written data requests, and therefore, decrease the expense to the utility. On January 7, 2000, the Commission issued a letter specifying what information would be needed to assist Commission Staff ("Staff") during the field review. John Williams and Katy Finn of the Commission's Division of Financial Analysis performed the field visit on January 24 to 26, 2000, at the business office of Citipower in Whitley City, Kentucky. Dawn McGee of the Division of Financial Analysis performed a review of Citipower's reported revenues at the office of the Commission.

### Scope

The scope of the review was limited to obtaining information to determine that the operating expenses as reported in Citipower's application for the period ending December 31, 1998 were representative of normal operations, and to gather information to evaluate the pro forma adjustments proposed in Citipower's filing. Expenditures charged to test-year operations were reviewed, including any supporting invoices. Insignificant or immaterial discrepancies were not pursued and are not addressed herein.

### Accounting and Record-Keeping Procedures

The company's accounting records and procedures are subject to the requirements established by the Uniform System of Accounts ("USoA") prescribed for natural gas companies in the Code of Federal Regulations ("CFR"), Title 18, Chapter I, Subchapter F, as well as the financial reporting requirements prescribed by the Kentucky Public Service Commission. Several deviations from the USoA and prescribed practices and procedures were disclosed. We have noted the following exceptions:

#### Plant Records

Plant records presently maintained by the utility are insufficient to determine the historical cost of utility property, plant and equipment. It is imperative that the cost of plant assets be effectively controlled and accurately accounted for, because of the importance of these costs in determining periodic depreciation charges and as a measure of rate base. Staff recommends that a subsidiary plant ledger be maintained with the accounting records to contain a card or sheet for each unit of property, showing

details such as description, location, cost, vendor, date of purchase or installation, estimated salvage value, estimated cost of removal rate and method of depreciation, depreciation accumulated to date, and capitalized repairs, replacements, and improvements. Supplementary information to the plant ledger would include documentation of periodic inventories and periodic appraisals of property, plant, and equipment for insurance purposes.

#### Unauthorized Amounts Charged

From September 23, 1998 through December 31, 1998 Citipower charged hook-up fees, and refundable deposits that were not authorized by the Commission. There are no provisions for these charges in its tariff.<sup>1</sup> KRS 278.160 requires that "each utility shall file with the Commission, within such time and in such form as the Commission designates, schedules showing all rates and conditions for service established by it and collected or enforced." Citipower is advised to cease collection of any unauthorized rate or charge until such time as it is approved in its tariff.

#### Maintaining Books and Records

Citipower retains the accounting firm of Ernst and Young to prepare its audited financial statements. As of the conclusion of the field review on January 26, 2000, Citipower's 1998 audited financial statements had not been released as "final." Citipower used the calendar year 1998 operating statement information included in the 1998 annual report to the Commission as the test period in this case.

---

<sup>1</sup> The Tariff Filing Of Citipower, L.L.C. Of Whitley City, Kentucky For Furnishing Natural Gas Service In McCreary County, Kentucky, Case No. 97-528, September 23, 1998.

Staff requested supporting documentation that would verify the financial information contained in the filing, yet Citipower was not able to supply sufficient information to reconcile the general ledger accounts to either its "draft" audited financial statements or the annual report to the Commission prior to the field review. Citipower provided a general ledger that did not reconcile with the information in the annual report. Following the field review, Citipower provided a second copy of the general ledger that was not in agreement with the first general ledger. For purposes of this report, Staff used the 1998 annual report to the Commission and the version of the general ledger that was provided prior to Staff's field review. Although some information from 1999 is used in this report, Staff determined that Citipower's 1999 records could not be relied upon as a basis for an updated 1999 test year.

Staff emphasizes the importance of having one general ledger that can be used as support for the financial statements. The general ledgers that were provided to Staff did not reconcile with Citipower's 1998 annual report or its 1998 draft audit report. The general ledger is a permanent organizational record and as such is vital in reporting to regulatory authorities, other federal, state and local authorities, and owners or limited liability members.

#### Records Retention

According to the CFR 18, Subchapter F, Section 225.3, Item 10, general and subsidiary ledgers should be retained for at least 50 years, and the trial balance sheets of the general and subsidiary ledgers should be kept for two years. Citipower has not complied with this section of the CFR.

The CFR 18, Subchapter F, Section 225.2(d)(2) states, "If the media form of the record retained is other than a readable paper copy, then reader and/or printer equipment and related printout programs, if required, shall be provided by the utility for data reference." Section (g) states, "(1) All records created or maintained in a media and a format other than readable entries on paper shall: (i) Be prepared, arranged, classified, identified, and indexed as to permit the subsequent location, examination, and reproduction of the record to a readable media."

Citipower did not produce a complete copy of their supporting/subsidiary ledgers, transaction journals, or other supporting workpapers necessary to trace receipts and disbursements to its general ledgers. In the general ledgers provided to Staff, the transactions were divided into separate accounts for record-keeping purposes. However, the general ledgers did not indicate which accounts these were.

#### Governing Statutes and Regulations

The operation of a utility in Kentucky is subject to statutes as provided by the Kentucky Revised Statutes ("KRS") and to regulations as established by the Kentucky Administrative Regulations ("KAR"). The following deviations were disclosed during the review:

#### Issuance or Assumption of Debt by Utility

Citipower obtained an auto loan from the Bank of McCreary County in 1998 without prior approval from the Commission. The auto loan was issued to finance the purchase of a 1996 Toyota Tacoma 4-Wheel Drive Truck. The loan was dated February 10, 1998, has a four-year maturity, a 9.467% interest rate, and a total amount financed of \$18,871. A utility is required by KRS 278.300 to obtain prior approval before

assuming evidence of indebtedness payable in more than two years from the date of issuance and/or renewing such debt for a period exceeding six years from the date of issuance of the original debt. Prior to the test period, Citipower obtained three additional auto loans that also required Commission approval because of the indebtedness' term to maturity.

Certificate of Public Convenience and Necessity ("CPCN") for Gas Plant Additions

KRS 278.020(1) requires utilities to seek Commission approval prior to "the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010." During 1998, Citipower placed in service in excess of \$560,000 of Kentucky jurisdictional natural gas utility plant and equipment. Staff believes that Citipower should have obtained a CPCN for the projects constructed in 1998. Additionally, Citipower has filed no application for Commission approval of a CPCN for any of its planned 1999 capital projects referenced in its application. Staff does not believe the extensions of this scope qualify for treatment as "extensions in the ordinary course of business" under the statute.<sup>2</sup>

Purchase of McCreary Natural Gas Systems, Inc. ("McCreary") Assets.

Citipower was initially formed to purchase McCreary's assets. The purchase took place on September 26, 1996. Staff requested data or any studies performed to determine the original cost of the assets purchased. Citipower provided McCreary's balance sheet for the year ended December 31, 1995. However, no up-to-date detailed

---

<sup>2</sup> 807 KAR 5:001, Section 9(3), provides that in order to qualify as an extension in the ordinary course of business, said extensions should not "involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers."

supporting information was provided concerning the cost of the assets to the original purchaser. This information is required by the USoA for use in recording utility plant asset purchases. According to the USoA, all amounts included in the accounts for gas plant acquired as an operating unit or system "shall be stated at the cost incurred by the person who first devoted the property to utility service. All other gas plant shall be included in the accounts at the cost incurred by the utility."<sup>3</sup>

Citipower's acquisition of McCreary's assets should have been accounted for in accordance with the USoA. The amounts included in the gas plant accounts of McCreary should have been recorded on Citipower's books at the cost to the original purchaser. If that amount is not known, it should be estimated. Pursuant to the USoA, the following journal entries should be made to effect the purchase of another utility's assets:

- a. To record the purchase of assets:

Acct 102 – Gas Plant Purchased or Sold	XXXX	
Acct 130 – Cash		XXXX

- b. To record original cost of plant, estimated if not known:

Acct 101 – Gas Plant in Service	XXXX	
Including entries to accounts # to #		
Acct 104 – Gas Plant Leased to Others	XXXX	
Acct 105 – Plant Held for Future Use	XXXX	

---

<sup>3</sup> 18 CFR, Chapter 1, Part 201, at Gas Plant Instructions, Section 2(A).



Acct 105.1 – Production Properties Held

for Future Use XXXX

Acct 107 – Construction Work in Progress XXXX

Acct 102 – Gas Plant Purchased or Sold XXXX

c. To record accumulated depreciation, depletion and amortization incurred up to the time of transfer:

Acct 102 – Gas Plant Purchased or Sold XXXX

Acct 110 – Accumulated Provision for  
Depreciation, Depletion and Amortization  
of Gas Utility Plant XXXX

d. Any amount remaining in Account 102, Gas Plant Purchased or Sold, should be closed to Account 114, Gas Plant Acquisition Adjustments (“GPAA”):

Acct 102 – Gas Plant Purchased or Sold XXXX

Acct 114 – Gas Plant Acquisition  
Adjustment XXXX

OR:

Acct 114 – Gas Plant Acquisition Adjustment XXXX

Acct 102—Gas Plant Purchased or Sold  
Sold XXXX

Pursuant to the USoA, amortization of the GPAA may be recorded in account 425, Miscellaneous Amortization. The amortization period cannot exceed “the remaining useful life of the properties to which such amounts relate.”<sup>4</sup> The Commission

---

<sup>4</sup> 18 Code of Regulations, Chapter 1, Part 201, Section 114.

must approve any exceptions to the amortization period. Citipower made no request for approval of a GPAA.

The USoA provides that if the original cost of the assets is not known, the cost should be estimated. This process would require taking an inventory of the assets purchased in the original transaction with McCreary and determining the estimated cost to construct those assets using acceptable indices and appropriate cost valuation techniques to arrive at the estimate. Staff believes that Citipower should determine whether it could undertake this study with its own personnel or whether it should use a professional consultant to conduct the original cost study. The study should be conducted prior to Citipower's next rate adjustment request. If the study is not completed, Citipower may be subject to having the total investment excluded for ratemaking purposes.

#### Staff Recommended Accounting and Rate-Making Adjustments

Citipower presented its test-year operating statement based on its annual report to the Commission for the calendar year 1998. Citipower proposed numerous adjustments to its test-year operations. Based on the review of the proposed adjustments, Staff recommends that none of the requested adjustments be accepted for ratemaking purposes. The adjustments proposed by Citipower were not quantified based on appropriate utility ratemaking methodology, and do not meet the "known and measurable standard." Citipower gave general descriptions of adjustments without explanations any supporting documentation or explanation that is necessary to evaluate the reasonableness of the proposals.<sup>5</sup>

---

<sup>5</sup> Citipower's response to Item 3.d. of the Commission's August 3, 1999 Order.

Although not accepting any of the adjustments proposed by Citipower, Staff has made adjustments where sufficient information is available from the field review and the public record to make the appropriate adjustment. The Staff's evaluation of the adjustments is discussed below. Schedule I contains a proforma income statement with the allowable adjustments.

#### Normalized Revenues

Citipower proposed normalized jurisdictional revenues of \$132,465 in its application. This amount, reported in Schedule E of the application, consisted of \$128,817 in gas sales revenue, \$3,160 in minimum bill revenue and \$488 in late payment fees. The sales revenue was based on Citipower's retail rates in effect during 1998 and its actual sales volumes for calendar year 1998.

Citipower has been operating as a Local Distribution Company ("LDC") under the Commission's jurisdiction for a limited period of time and it only had two years of financial information on file with the Commission at the time it filed its application. Based on a review of that information, for calendar years 1997 and 1998, as well as Staff's review of additional information for part of 1999, two conclusions can be made. First, Citipower's average Mcf sales per residential customer were less during the 1998 test year than during either 1997 or 1999. Second, Citipower has experienced substantial customer growth, both during 1998 and 1999. Staff's field review found that Citipower had 363 total customers at the end of 1999, an increase of 72% over the 211 customers it had at the end of 1998. Because of the lower per-customer sales during the test year and in recognition of the growth Citipower is experiencing, Staff recommends two adjustments to Citipower's proposed normalized revenues.

The first adjustment is a sales volume normalization adjustment. For calendar year 1998, especially for the residential class, sales volumes did not appear representative of normal on-going levels. The 1998 per customer usage was lower than in both 1997 and in the first five months of 1999 for which monthly usage data was available. To provide a more representative level of sales, Staff felt it was appropriate to develop weighted average sales volumes based on the information available for 1997, 1998, and the first five months of 1999. This approach produced mixed results; the residential and industrial monthly weighted averages were higher than the 1998 sales while the commercial and institutional monthly weighted averages were lower than the 1998 sales. Given the rather limited amount of historical information available and the fact that residential usage is more temperature sensitive than usage of other customer classes, Staff believes this averaging approach is appropriate. Staff calculated normalized test year revenue of \$124,120 from this information.

The second adjustment is a customer growth adjustment to recognize additional revenue that would have been generated if Citipower had served the 1998 year-end customer level for the entire test period. Using the same weighted average monthly usage per customer as used in the previous adjustment, Staff calculated the revenue that would have been generated based on the 1998 year-end number of customers. This year-end customer adjustment, which is shown in Schedule II, is a standard adjustment made by the Commission in rate cases, produces normalized test year revenues of \$174,796.

### Non-Jurisdictional Revenue and Purchased Gas Expense

During 1998 Citipower sold gas purchased from its affiliated company, Forexco, Inc., to Citizens Gas Utility District ("Citizens Gas"), a natural gas utility district serving Scott and Morgan Counties, Tennessee. These sales for resale totaled \$54,276 for the calendar year 1998. These sales are not subject to the authority of the Kentucky PSC.

The only revenue included in Account 483, Sales for Resale, is revenue derived from Tennessee. Therefore, Staff recommends an adjustment decreasing sales for resale by the entire amount of \$54,276.

The purchased gas expense of \$49,709 related to sales to Citizens Gas on Citipower's application is consistent with the amount reported on the annual report to the Commission. However, since this cost relates to non-jurisdictional (Tennessee) sales the expense should be removed from Citipower's projected revenues and expenses. Accordingly, Staff recommends an adjustment decreasing purchased gas expense by the entire amount of \$49,709.

### Purchased Gas Expense

Citipower proposed normalized jurisdictional purchased gas expense of \$54,669 based on the 26,788 Mcf purchased in 1998 at an average cost of \$2.0408. Information provided by Citipower during the field review indicates that the test year average cost of \$2.0408 is lower than that expected in the future. However, due to the potential for gas cost fluctuations and the fact that such fluctuations are recoverable through the GCA mechanism, the test year average cost was accepted by Staff.

Staff adjusted the normalized purchased gas expense to reflect the average annual usage volumes used to calculate the normalized revenues. The adjusted

volume is 28,397 Mcf, which includes a 5% allowance for line loss. Using this approach produces a normalized purchased gas expense of \$57,953.

#### Miscellaneous Service Revenues

Citipower included two sub-accounts in its test year-end balance for miscellaneous service revenues: sub-account 488.2, Late Charges Collected, with a balance of \$488; and sub-account 488.3, Hook Up Fees Collected, with a balance of \$25,977. Based upon Staff's review of these accounts, certain charges to customers were erroneously included as revenue.

The Commission approved a change in Citipower's tariff on September 23, 1998. After that tariff change, Citipower could no longer charge a tap fee of \$100 per customer or a refundable customer deposit in the amount of \$200. The previously mentioned account balances were a significant portion of the Hook-Up Fees Collected account. Charges for tap fees should be recorded as contra-assets to the plant accounts being constructed. Refundable customer deposits should be recorded in account 235, Customer Deposits. Charges for service line installation and the extra service line fees should be included in USoA Account 415, Revenues from Merchandising, Jobbing, and Contract Work. If Citipower continues to install service lines to its customers, it should isolate and identify costs associated with those installations and record the costs in account 416, Costs and Expenses of Merchandising, Jobbing and Contract Work. Citipower should also be aware that when the customer pays for distribution line extensions of more than 100 feet, the payment by the customer should be recorded in account 252, Customer Advances for Construction, and refunded according to 807 KAR 5:022, Section 9.

Following is a list of the items and the amounts that Citipower included in Account 488 for the test year 1998:

Account 488—Miscellaneous Service Revenues:

Account 488.2—Late Charges Collected		\$ 488
Account 488.3—Hook up Fees Collected		
A. Additional Audit Adjustment		
-Unearned Well Hook-Up Fees	\$10,000	
B. Customer Deposits		
Before 9/23/98	2,400	
After 9/23/98	800	
Returned Security Deposit	(250)	
C. Service Line Charges	6,500	
D. Extra service line fees	1,097	
E. Non-tariffed Tap Fees		
After 9/23/98	1,200	
F. Non-Recurring Tap Fees		
Before 9/23/98	300	
G. Non-Recurring Miscellaneous Charges	<u>3,442</u>	
Total Account 488.3		\$25,689
To adjust for unexplained difference		
between annual report and general		
ledger		<u>200</u>
Total Account 488		<u>\$26,177</u>

Items A, B, C, and D from the above schedule, totaling \$20,747, should be removed from account 488 because they were initially posted to the wrong account. Item A should be included in Account 238, Other Current and Accrued Liabilities, Item B should be included in Account 235, Customer Deposits, and Items C and D, totaling \$7,597 should be included in Account 415, Revenues from Merchandising, Jobbing, and Contract Work. The \$1,200 in Item E consists of non-tariffed items that were erroneously collected after the September 23, 1998 filing of the new tariff. The new tariff did not include these charges; therefore, they are not allowable. The charges in

Item F of \$300 were excluded because they are non-recurring. The revenues in Item G totaling \$3,442 were not sufficiently explained in the general ledger and Staff was unable to determine the nature of these charges. Consequently, Staff has not included these revenues for ratemaking purposes. Therefore, Staff recommends an adjustment decreasing miscellaneous service revenue by \$25,689 to exclude the above amounts.

The only charge identified in Citipower's records that should be included in miscellaneous service revenues is a late payment fee, which is 10 percent of a customer's bill. In 1998, late fees totaling \$488 were charged to account 488.3 in Citipower's general ledger. This fee is included in Citipower's tariff. Therefore, Citipower's miscellaneous service revenues should be \$488.

Citipower included in Schedule A to its application, in Item II, a \$19,275 increase to other revenue. The notation for the adjustment was "taking into account 70 new customers added." Considering the amounts that Citipower has historically posted to these accounts, the potential customer charges according to the current tariff and Citipower's explanation, Staff finds no basis for including the proposed adjustment.

#### Salaries, Wages and Other Compensation

Citipower proposed six adjustments to salaries, wages and other compensation. First, it proposed an adjustment to increase administrative and general salaries by \$100,000 for 1/3 of the management and office salaries paid by an affiliated company, Forexco, Inc. ("Forexco"), for services performed on behalf of Citipower at Forexco's office in Greensboro, North Carolina. These proposed salaries were for work performed



in Greensboro by Forexco employees Daniel Forsberg, H.V. McCue and J.B. Lawson, CPA.<sup>6</sup>

The salary allocated to Citipower for Daniel Forsberg represented "duties customary of President/CEO" in the amount of \$73,600. H.V. McCue's salary allocation to Citipower in the amount of \$8,250 was for "accounting . . . and administrative/clerical" work. J.B. Lawson, CPA's work on behalf of Citipower was for "oversee[ing] . . . accounting; . . . prepar[ing] internal financial statements . . . and provid[ing] financial information for management decision-making" in the amount of \$18,150. Staff finds the allocations for Ms. McCue and Ms. Lawson reasonable. These Forexco employees' salary allocations to Citipower are 50 percent to customer accounting and collecting and 50 percent to administrative and general salaries and wages. However, due to other forms of compensation to Mr. Forsberg and the lack of a better description of the services he performed, the allocation of pay by Forexco is not considered reasonable and has been excluded by Staff for ratemaking purposes. Citipower's response to Item 4.A. of the July 16, 1999 AG data request said the adjustment for Mr. Forsberg's salary allocation was in error.<sup>7</sup> Staff agrees that the explanation of work he performed is insufficient support to allocate affiliated company expenses for recovery of his services from Citipower's ratepayers.

---

<sup>6</sup> Citipower's response to Item 4 of the Attorney General's ("AG") July 16, 1999 data request.

<sup>7</sup> The proposed adjustment allocating part of Mr. Forsberg's Forexco salary to Citipower was eliminated in Citipower's response to Item 3.d. of the Commission's August 3, 1999 Order.

During the test year, Citipower reported total officers compensation and consulting expense of \$251,840. Citipower proposed adjustments to wages and salaries to decrease officer's compensation and consulting expense by \$50,000, and to reduce commissions by \$10,000. Citipower's only explanation for the adjustments was "based on investments sold." These accounts included only non-cash compensation that was offered to officers in exchange for raising equity capital from investors in Citipower. In regard to the non-cash officer's compensation and consulting expense, Citipower stated its "management does not . . . believe it is appropriate to include such items in Citipower's rate base."<sup>8</sup> However, Citipower made no adjustment to exclude the proposed officer's compensation and consulting expense in its revenue requirement calculation. Staff agrees that the non-cash compensation for raising equity capital should not be included in operating expenses recoverable from ratepayers. Staff recommends a decrease to administrative and general salaries for the entire officer's compensation and consulting expense in the amount of \$251,840. For the same reason, Staff recommends that the non-cash commissions of \$25,774 that were included in administrative and general salaries be excluded from operating expenses.

Total salaries and wages paid, according to Citipower's general ledger in the amount of \$176,761 during the 1998 test year, were included in administrative and general salaries, account 920. According to payroll records maintained by a computerized payroll service for Citipower, the total salaries and wages paid by Citipower during the test period totaled \$175,569. Accordingly, Staff recommends a

---

<sup>8</sup> Citipower's response to Item 7 of the Commission's August 3, 1999 Order.

decrease to administrative and general salaries of \$1,192 to balance with subsidiary payroll records.

Citipower proposed a \$20,005 adjustment to decrease by one-third the salaries and wages of the operations manager and the office manager/bookkeeper in Whitley City, Kentucky for services that they provided to Forexco, an affiliate of Citipower with gas production operations in Kentucky. Staff recomputed this adjustment to be a \$26,805 decrease in administrative and general salaries.<sup>9</sup> The difference is \$6,800.

According to its response to Item 12 of the Commission's October 27, 1999 Order, Citipower provided laborers to perform well hook-up and reclamation work. The estimated total cost of this work during the test year was \$5,240. There is no evidence that this work relates to the Kentucky PSC jurisdictional operations of Citipower. Any cost of this nature that is related to the production of gas to sell in the interstate market should not be included in the revenue requirements of Citipower. Therefore, Staff recommends that this amount be excluded from administrative and general salaries for ratemaking purposes.

After its pipeline and distribution system expansion was completed in June 1999, Citipower reduced its workforce. The employees remaining are the operations manager, office manager, a part-time office assistant, and two laborers. Staff normalized the salaries of the operations manager, office manager, and office assistant based on 1998 hours worked and rates effective at the time of the field review. The two

---

<sup>9</sup> According to its response to Item 12 of the Commission's October 27, 1999 Order, Citipower's "allocations for James Curd and Janice Ross . . . [are] one-third allocation of each employee's salary based on an estimate of hours spent providing services for Forexco, Inc."

remaining laborers' wages were normalized using a 2,080-hour work year and actual hours of overtime as worked in 1998. The salaries and wages of the other laborers employed during 1998 were considered to be allocated to construction during the test year. Thus, Staff has decreased operating expenses by \$56,934 for non-recurring expenses related to construction labor.

After allocating one-third of the operations manager's and office manager's salaries to Forexco, the remainder of their salaries was allocated between distribution supervision, customer accounting and collecting, and administrative and general salaries. The office assistant's wages were allocated 100 percent to customer accounting and collecting.

Citipower's laborers' normalized salaries are allocated 75 percent to Account 761, Distribution Mains and Services Labor, and 25 percent to Account 901, Customer Meter Reading Labor. In normalizing these laborers' wages, Staff increased administrative and general wages (Citipower's direct wages) and operating expenses by \$11,227. Schedule V contains an allocation of normalized salaries which explains how these salaries are allocated to the various expense accounts.

Additionally, in its 1998 annual report to the Commission, Citipower included amounts in the salaries and wages Account 761, Distribution Mains and Services Labor in the amount of \$8,063, and Account 902, Customer Accounting and Collecting Labor in the amount of \$14,713. Staff found no support for these amounts in Citipower's records and accordingly, operating expenses are being adjusted to decrease these account balances in the amounts of \$8,063 and \$14,713, respectively.

Citipower proposed two additional adjustments to wages and salaries. One was to increase contract labor by \$10,400 to hire an individual to perform easement work. Because Citipower is recording the costs of obtaining easements as capital expenditures, Staff does not find support for including these expenses as operating expenses subject to rate recovery. Also, Citipower proposed an additional cost increase for marketing salaries, "to promote new customer hook-ups."<sup>10</sup> Citipower did not demonstrate by its explanation that this new position is required to provide gas service to the customers of Citipower. Therefore, Staff has not included this proposed adjustment as a recoverable operating expense from Citipower's ratepayers.

A summary of the salary and wages adjustments made by Staff is as follows:

Acct. No. & Title / Narrative	Total Salaries & Wages	Acct. 920, Admin. & General	Acct. 760, Distr. Supr.	Acct. 761, Distr. Labor	Acct. 901, Meter Reading	Acct. 902, Acctg. & Collecting
Per 1998 Annual Report	\$477,151	\$454,375	\$ -0-	\$8,063	\$ -0-	\$14,713
Forexco Work for Citipower	26,400	13,200				13,200
Non-cash Salaries & Comp.	(277,614)	(277,614)				
Subsidiary Record Difference	(1,192)	(1,192)				
Citipower Admin. & Labor for Forexco	(26,805) (5,240)	(26,805) (5,240)				
Non-Recurring Labor	(56,934)	(56,934)				

<sup>10</sup> Citipower's response to Item 3.d. of the Commission's August 3, 1999 Order.

Normalize Laborers' Wages	11,227	11,227				
Eliminate Amounts Not Supported	(22,776)			(8,063)		(14,713)
Reclassify to Various Accounts	<u>-0-</u>	<u>(71,007)</u>	<u>20,773</u>	<u>27,485</u>	<u>9,161</u>	<u>13,588</u>
Staff Adjusted Balances	<u>\$124,217</u>	<u>\$40,010</u>	<u>\$20,773</u>	<u>\$27,485</u>	<u>\$9,161</u>	<u>\$26,788</u>

Taxes Other Than Income Taxes

Taxes other than income taxes should include employer payroll taxes, the PSC assessment fee, licenses (representing other taxes) and property taxes. Staff recomputed employer payroll taxes based on normalized employees and salaries and wages as follows:

Total Adjusted Test Year Salaries and Wages	\$124,217	
FICA and OASDI tax rate	<u>7.65%</u>	
FICA and OASDI taxes – employer portion computed		\$ 9,503
State Unemployment ("SUI") wages subject to tax	\$ 32,000	
SUI tax rate	<u>3.00%</u>	
SUI tax computed on applicable employee wage limit		\$ 960
Federal Unemployment ("FUTA") wages subject to tax	\$ 28,000	
FUTA tax rate	<u>0.80%</u>	
FUTA tax computed on applicable employee wage limit		<u>\$ 224</u>
SUBTOTAL		\$ 10,687
Amount reported on annual report to the Commission		\$ (14,376)
Retail Sales Revenues (as normalized) subject to PSC assessment fee	\$174,796	
Rate of 1.667 per \$1,000 revenue	(X) 1.667	
	<u>(÷) 1,000</u>	
PSC assessment fee computed		\$ 292
Amount reported on annual report to the Commission		\$ ( 216)

Licenses included in sub-account 928.2 per general ledger	513
Property taxes substantiated on Citipower's general ledger	\$ -0-
Property taxes reported on annual report to the Commission	<u>\$ ( 1,152)</u>
Staff adjustment to test year balance, taxes other than income tax	<u>\$ (4,252)</u>
Test year balance reported on the annual report	<u>\$ 15,744</u>
Staff Adjusted Test Year Balance	<u>\$ 11,492</u>

Injuries and Damages

Citipower's injuries and damages account balance of \$16,350 included employee health, dental and life insurance premiums totaling \$11,556 that should have been posted to Account 926, Employees' Pension and Benefits. The \$16,350 balance also included \$207 that Staff was unable to trace to Citipower's general ledger.

Citipower proposed a \$1,481 increase to injuries and damages for workers compensation. This was based on a December 1998 workers compensation audit by Kentucky Employers' Mutual Insurance. Staff has not accepted this adjustment as proposed due to the reduction of the salaries and wages accounts addressed in the salaries and wages section of this report. A computation of Citipower's workers compensation premium based on normalized wages is provided below. The calculation is based on the workers compensation rates on Citipower's January 1, 2000 invoice from Kentucky Employers' Mutual Insurance. Staff's calculation assumes Kentucky workers compensation rates for Citipower's employees located in Kentucky. In allocating wages to Forexco, Staff has not calculated the difference in wages caused by the differing workers compensation rates in Kentucky and North Carolina because the result would be inconsequential.

Adjusted Total Citipower Salaries and Wages \$124,217

Base Premium Calculation:

Total office employees' class salaries	\$ 25,660	
Rate per \$100 of compensation \$0.38	<u>x .0038</u>	
Base Premium on office employees' class		\$ 98
Total employees' class salaries for natural gas Local distributing, drivers, etc.	\$ 98,557	
Rate per \$100 of compensation \$4.11	<u>x .0411</u>	
Base Premium on employees' class for natural Gas local distributing, drivers, etc.		\$ 4,051
Premium portion		\$ 118
Base Premium calculated		\$ 4,267
Rate Adjustment Factor		\$ (640)
Expense Constant		\$ 140
Subtotal		\$ 3,767
Kentucky Special Fund Assessment of 9%		\$ 339
Staff computed workers compensation policy premium		\$ 4,106
Less: Account no. 925 balance per annual report		\$ 16,350
Staff recommended adjustment to injuries and damages		<u>\$ (12,244)</u>

Employee Pensions and Benefits

Citipower included \$3,795 in Account 926, Employee Pensions and Benefits in its 1998 annual report. Citipower has a simplified employee pension plan ("SEP") for its employees. For each employee participating in the plan, Citipower matches up to three percent of an employee's salaries or wages when the employee contributes three percent or more of his/her salary or wages. Staff has calculated the adjusted cost for Citipower's SEP, taking into account the number of employees at the time of the field review, their normalized salaries, and each individual level of participation.

As previously discussed, Citipower did not include employee insurance benefits in the Employee Pensions and Benefits account. Instead, Citipower erroneously included these expenses in Account 925, Injuries and Damages. As shown below, Staff



has computed the adjusted employee insurance benefit expenses based on the present level of personnel and the current policy premium costs reflected on recent invoices.

SEP Pension Expense:

Employees contributions for the test year ...	\$ 98,720	
Employer matching rate	<u>3.00%</u>	
Citipower SEP pension expense computed		\$ 2,961

Employee Health, Dental and Life Insurance:

Monthly health ins. premium per employee	\$ 106	
Monthly dental ins. premium per employee	\$ <u>19</u>	
Total monthly premiums	\$ 125	
Total Citipower employees at time of review	<u>4</u>	
Total health & dental premiums	\$ 500	
Times the number of months in a year	<u>x 12</u>	
Annualized health & dental ins. expense		\$ 6,000
Life insurance provided operations manager		\$ <u>547</u>
Citipower employee benefit expense computed		\$ <u>6,547</u>
Staff computed adjusted balance		\$ 9,508
Less: 1998-account no. 926 balance per annual report		\$ <u>3,795</u>
Staff adjustment to employees pensions & benefits		\$ <u><u>5,713</u></u>

Customer Installation Expenses, Maintenance of Meters, and Other Plant

In its annual report to the Commission, Accounts 764, 768 and 769 contained expenses described on Citipower's general ledger as materials, labor and "new customer hook-ups and customer repairs and maintenance."

The annual report balance for Account 769, Maintenance of Other Plant, included one unsubstantiated audit adjustment from the general ledger that increased the account by \$32,883. The description was "to correct PPE [property, plant and equipment]." Citipower was asked to provide its auditor's workpapers, but only provided a trial balance and adjustments, without any other supporting documentation. Consequently, there is no explanation available for the \$32,883 adjustment. Another transaction included in this account was to "B.K.R. Well Service Company" in the amount of \$1,540. This transaction was a portion of a split invoice with additions to gas

plant and equipment, with no allocations noted on the invoice and no explanation of what the \$1,540 represented. Staff has excluded these items for ratemaking purposes.

Citipower's sub-category of customer hook-up expense appeared to be included in Account 764, Customer Installation Expense on the annual report in the amount of \$14,998. Many of the vendors listed on the general ledger are the same as those providing construction services. Several of Citipower's invoices do not provide an allocation by account number of items purchased. Notation of the accounts to which invoices are charged should be provided on the invoice and/or the check voucher in order to distinguish expense items from capital items. Citipower did not provide any form of transaction journal or any other ledgers that would show the accounts to which the costs were posted in the general ledger. Based on the above explanations, Staff recommends that the \$14,998 in Account 764, Customer Installation Expenses, be removed from operating expenses and added to the gas plant and equipment account 381 as a depreciable asset. Staff could not locate any support on Citipower's general ledger for the \$1,950 included on its annual report to the Commission included in Account 768, Maintenance of Other Meters. Since no support could be found for the \$1,950 Citipower included on the annual report in the Account 768, Maintenance of Meters, Staff recommends this amount be disallowed from operating expenses for ratemaking purposes.

Staff recommends that the entire balance of \$34,693 in Account 769, Maintenance of Other Plant, be removed from operating expenses and reclassified as gas plant and equipment. Lacking better documentation, this reclassification to gas plant and equipment should be allocated between Kentucky jurisdictional assets and

non-jurisdictional assets placed in service during 1998. These adjustments bring Staff's recommendation for total reductions to operating expenses from these accounts to \$51,641. Depreciation for the cost reclassifications will be addressed later in this Staff Report.

Uncollectible Accounts

Staff has computed an adjustment to Account 904, Uncollectible Accounts, based on Citipower's 1998 uncollectible rate of \$72 divided by \$131,288, or 0.0548 percent. Normally, Staff requires three or five years of data for an adjustment of this nature. However, because Citipower has not been subject to Commission regulation that long, the 1998 data is reasonable.

Retail Sales Revenues (as normalized) subject		
Applied to uncollectible experience rate	\$174,796	
Rate of 0.05%	(X) .0548%	
Uncollectible accounts computed		\$ 96
Amount reported on annual report to the Commission		\$ ( 72)
Staff recommended adjustment		<u>\$ 24</u>

Outside Services Employed

Citipower reported \$77,673 in Account 923, Outside Services Employed. Citipower proposed to reduce its account to reflect a \$5,000 decrease in engineering costs and a \$15,000 decrease in legal costs.

Invoices for legal expenses incurred with the Law Offices of Robert L. Brown, III during 1998, as well as the response (Schedule A) to Item 1 of the AG's July 16, 1999 data request showed charges for direct work on utility business research, assistance with interpreting Kentucky employment statutes, the preparation of an employee handbook of company employment policies, communication with Commission Staff, research on statutory and regulatory requirements, preparation of responses to

Commission Orders, revisions to tariffs submitted in Citipower's initial tariff filing case, and communications regarding future service to the planned federal prison. These readily identifiable legal expenses have been included for ratemaking purposes. Many of the invoice descriptions included discussions with politicians, discussions about state legislative bills, discussions with localities where Citipower has no franchise to serve the public (i.e., Monticello), extensive work on leases, easements, wells and well operations, and the conduct of business in Tennessee. These kinds of charges are not included for ratemaking purposes by Staff because they are either unrelated to Citipower utility business operations or are unrelated to jurisdictional operations. A significant portion of these bills appears to be related to legal work for Forexco (e.g., discussions with localities where Citipower has no franchise to do business, work on leases, easements, wells and well operations). In instances where professional services are performed for affiliated companies, the services should be billed directly to the company for which the service is performed.

In regard to the remaining legal services, a legal claim of settlement in the amount of \$7,405 was unexplained.<sup>11</sup> Also, \$20,000 of charges by Peter D.W. Heberling were for services in connection with Citipower raising equity capital.<sup>12</sup> Both of these are non-recurring charges. Additionally, Heberling's service is a cost of equity funding, not an operating expense. As such, both costs are disallowed for ratemaking purposes.

---

<sup>11</sup> Citipower's response to Item 1 of the Attorney General's ("AG") July 16, 1999 data request.

<sup>12</sup> Id.

The accounting, tax and payroll services that are allowed for rate-making purposes according to the table below are amounts that are supported in Citipower's general ledger. Invoices in support of engineering services were not provided for Staff review and are not supported in Citipower's general ledger; thus the expense has not been included for ratemaking purposes.

Following is a table of the outside services employed expenses that have been included and excluded for ratemaking purposes.

Sub-categories	Totals	Allowed for Rate Recovery	Disallowed for Rate Recovery
Acctg., tax & payroll services	\$ 5,118	\$ 4,008	\$ 1,110
Legal – Brown Law Offices	\$ 30,878	\$ 10,412	\$ 20,465
Legal – Akin, Gump, Strauss	\$ 2,389	\$ 2,389	\$ -0-
Legal – Peter D.W. Heberling	\$ 20,000	\$ -0-	\$ 20,000
Legal – Claim Settlement	\$ 7,405	\$ -0-	\$ 7,405
Engineering fees	<u>\$ 11,883</u>	<u>\$ -0-</u>	<u>\$ 11,883</u>
Totals	<u>\$ 77,673</u>	<u>\$ 16,809</u>	<u>\$ 60,864</u>

#### Property Insurance

On its 1998 annual report to the Commission in Account 924, Property Insurance, Citipower reported a balance of \$7,642. According to Citipower's most recent invoices, it has annual premiums for general liability and umbrella policies totaling \$8,354. Therefore, Staff recommends an adjustment to increase operating expenses for the property insurance adjusted balance in the amount of \$712.

## Rents

Citipower reported no Account 931, Rents, on its 1998 annual report to the Commission. Citipower included in Account 930.1, Miscellaneous General Expense, a total of \$6,000 for storage rental. Because the majority of the pipeline and distribution system construction ceased in June 1999, management is no longer renting the storage space. A smaller unit was rented at \$150 per month or \$1,800 annually for supplies and equipment storage. Staff has included the \$1,800 annual rental expense in Account 931, Rents.

As part of its purchase of McCreary Gas, Citipower bought a log office building in downtown Whitley City and recorded it on both the general ledger and depreciation schedule at a cost of \$125,000. Citipower was not able to provide a copy of the deed to this building as documentation of the purchase price. The building appears to exceed the size that would be needed to operate daily activities for a utility of Citipower's size. Furthermore, because the building was acquired from a previous owner, the cost recorded on Citipower's books for depreciation should have been the cost to the first user of the property, or an estimate thereof. Citipower provided no substantiation to Staff for either the original cost of the property or an estimate of that cost. In the portion of this report dealing with depreciation expense, Staff has disallowed the depreciation on the building in the amount of \$5,000 for ratemaking purposes. In the portion of this report entitled Insurance Expense, Staff disallowed the cost of property insurance on the office building for ratemaking purposes. Furthermore, no property tax expenses were substantiated in its general ledger, although \$1,152 was included on Citipower's 1998 annual report to the Commission. Therefore, Staff is disallowing costs directly

associated with operating expenses for the office building for rate-making purposes. In lieu of depreciation, taxes, and insurance on the office building, Staff has included a monthly rent expense of \$400 for a total annual expense of \$4,800. Staff believes this amount is reasonable based on experience with other small utilities.

#### Amortization Expense

In its 1998 annual report to the Commission, Citipower erroneously reported \$14,670 in Account 406, Amortization of Gas Plant Acquisition Adjustments. In its response to the Commission's August 3, 1999 Order, Citipower stated that the amortization expense resulted from organizational costs, not a gas plant acquisition adjustment. Citipower's general ledger shows total amortization expense of \$15,132 in contrast to the amount in the annual report of \$14,670.

Citipower's 1998 annual report to the Commission contains organizational costs recorded during the test year in the amount of \$73,350. This was identified in the supporting schedule of the report on page 5, line 1 as "allocation of original purchase." Citipower's general ledger shows "Intangible Plant - Goodwill - Other" in the amount of \$75,648. Citipower provided no supporting workpapers or any explanation of this item. Due to the lack of supporting documentation for this item, Staff has excluded recovery of amortization expense in the amount of \$14,670 for ratemaking purposes.

#### Office Supplies and Expense

In its 1998 annual report to the Commission, Citipower included \$10,978 in Account 921, Office Supplies and Expenses. Citipower proposed an adjustment to decrease office supplies and expenses by \$2,500. However, it did not provide an

explanation of its proposed adjustment.<sup>13</sup> From Citipower's general ledger, Staff found the following sub-accounts in support of the office supplies and expense account balance:

<u>Sub-Account No.</u>	<u>Account Title</u>	<u>Account Balance</u>
921.1	Office Supplies	\$4,851
921.2	Office Cleaning	945
921	Office Supplies/Exp. - Other	<u>1,352</u>
Total Account Balance per Citipower's General Ledger, 1998		<u>\$7,148</u>

Staff found two items in these accounts that do not belong in operating expenses for rate-making purposes. First, check number 1092 was made to Kinko's on April 4, 1998 in the amount of \$969 for printing "offering memoranda." This is a cost of securing equity capital, not an operating expense. Also, on January 15, 1998 a payment was made to Merry's Flower Shop in the amount of \$40. While this expense may represent a business gift, it is not an operating expense for ratemaking purposes.

As described in the Miscellaneous General Expense section, costs for communications expenses of \$14,867, bank charges of \$699, and postage and FedEx expenses of \$2,665 should be reclassified to the Office Supplies and Expenses, Account 921. The total amount reclassified is \$18,231. Of this total amount reclassified, Staff has determined that \$8,881 should not be included for ratemaking purposes. The portion not included is comprised of \$748 from postage and FedEx expenses and \$8,133 from communications expenses. The disallowed portion of the postage and FedEx expense is for a payment to UPS of December 10, 1998 for

---

<sup>13</sup> Citipower's response to Item 3.d. of the Commission's August 3, 1999 Order.



shipping of Christmas gifts. The \$8,133 of communications expenses included telephone, cellular, and paging services. Because Staff considered the total communications expenses extremely high for a utility of Citipower's size, Staff requested support for the amount. Citipower's response was that significant costs were incurred during the test period for frequent communications with the numerous suppliers of components for the distribution system development and the pipeline construction. Citipower lacks contemporaneous records for call purposes and the individuals responsible for cellular and long-distance calling. A printout of charges for the same account for the first nine months of 1999 revealed a significant decline in expenses of this nature. Normally, changes for costs reductions outside the test year would not be accepted when a historical test period is used and it would be a voluminous task for Citipower to reconstruct a detailed analysis of all of the costs. Staff finds that an allocation of the 1998 costs based on an annualized proration of the costs for the first nine months of 1999 communications expenses provides a reasonable basis for estimating an allowable amount of communications expense. The 1999 communications costs were \$7,576 for the first nine months. By annualizing this amount, Staff derived a result of \$10,101 for 1999. Because Citipower's operations manager and office manager work one-third of their time for Forexco, Staff has allocated 66.67 percent of the communications expense to Citipower. Thus, the allowable communications expense is \$6,734 ( $\$10,101 \times .6667 = \$6,734$ ). Of the amounts reclassified from Miscellaneous Expense to Office Supplies and Expense, Staff recommends allowing \$9,350. This amount is comprised of \$699 from bank

charges, \$6,734 from communications expense and \$1,917 from postage and FedEx expense.

Accordingly, Staff has increased Account 921, Office Supplies and Expenses, to an adjusted balance of \$15,489.<sup>14</sup>

Miscellaneous General Expense

In its 1998 annual report Citipower included \$31,785 in Account 930.2, Miscellaneous General Expenses. Citipower proposed an adjustment to decrease Miscellaneous General Expenses by \$10,000, Citipower's explanation of the proposed decrease was "Travel, Utilities, Postage, Computer Repairs." An explanation such as this is insufficient for ratemaking purposes. A description or calculation showing the derivation of a proposed adjustment, as well as, any external factors having an impact on the calculation of an adjustment should be disclosed.

Following is a table of the adjustments explained above to Citipower's Miscellaneous General Expenses for ratemaking purposes.

Sub-Accounts	Gen. Ledger Bal.	Amount Allowed	Disallowed Amt.
Bank Charges	\$ 699	\$ 699	\$ -0-
Computer Repairs	\$ 600	\$ 600	\$ -0-
Dues/Subscriptions	\$ 1,029	\$ 1,029	\$ -0-
Employee Testing	\$ 475	\$ 475	\$ -0-
Postage & FedEx	\$ 2,665	\$ 1,917	\$ 748
Supplies & Repairs	\$ 114	\$ 114	\$ -0-
Communication Exp.	\$14,867	\$ 6,734	\$ 8,133
Meals/Entertainment	\$ 278	\$ 240	\$ 38

<sup>14</sup> General Ledger Balance of \$7,148 - \$969 - \$40 + 9,350 = \$15.489.

Travel	\$( 2,302)	\$( 2,302)	\$ -0-
Utilities	\$ 2,080	\$ 2,080	\$ -0-
Pest Control	\$ 497	\$ 497	\$ -0-
"Prior Period Adjust."	<u>\$13,944</u>	<u>\$ -0-</u>	<u>\$13,944</u>
Subtotal	\$34,946	\$12,083	\$22,863
Less: Reclassifications			
Communication Exp.	\$14,867	\$ 6,734	\$ 8,133
Bank Charges	\$ 699	\$ 699	\$ -0-
Postage & FedEx	<u>\$ 2,665</u>	<u>\$ 1,917</u>	<u>\$ 748</u>
Total Reclassifications	<u>\$18,231</u>	<u>\$ 9,350</u>	<u>\$ 8,881</u>
Total Miscellaneous	<u>\$16,715</u>	<u>\$ 2,733</u>	<u>\$13,982</u>

The above table of sub-accounts within the miscellaneous general expenses, as reported on Citipower's general ledger, includes the sub-accounts communications expense, bank charges, and postage and FedEx, which should be correctly recorded under Account 921, Office Supplies and Expenses. Staff has reclassified these items to office supplies and expenses. A discussion of the amounts in these sub-accounts allowable for rate-making purposes was discussed in that section of this report.

Of the \$16,715 remaining in miscellaneous general expenses after the above-mentioned reclassification, two sub-accounts include expenses that are not allowable for ratemaking purposes. First, Citipower has a sub-account entitled "prior period adjustment" in the amount of \$13,944. Staff was not provided with any explanation of this amount and even so, as an expense related to a prior period, the amount cannot pertain to current normalized operations. Therefore, Staff has disallowed the entire sub-account balance in the amount of \$13,944. Additionally, Citipower has a sub-account

for meals and entertainment. While, entertainment is a below-the-line expense (not an expense in determining net operating income) and not subject to rate recovery, meals that apply to operations should be recorded in the appropriate account according to FERC account definitions and appropriately identified. Contemporaneous documentation of business purpose and place, among the other record-keeping requirements, should also be maintained. Investor-related meals identified in this account totaling \$38 should be recorded in Account 426.5, Other Deductions. The \$38 was not included by Staff in the allowable operating expenses for ratemaking purposes.

The total miscellaneous general expenses disallowed by Staff and excluded from operating expenses after making the reclassification to office supplies and expense is \$13,982.

#### General Advertising Expenses

In its 1998 annual report to the Commission, Citipower included \$1,463 in Account 930.1, General Advertising Expenses. Citipower proposed an adjustment to decrease general advertising expenses by \$500 without an explanation.<sup>15</sup> Upon review of Citipower's general ledger, Staff only found a balance of \$259 supporting the general advertising expense account. Accordingly, Staff has reduced Account 930.1, General Advertising Expenses, by \$1,204 due to lack of supporting documentation.

#### Transportation Expenses

In its 1998 annual report to the Commission, Citipower included \$18,284 in Account 933, Transportation Expenses. Citipower proposed an adjustment to decrease

---

<sup>15</sup> Id.

transportation expenses by \$3,000; however Citipower did not provide a thorough explanation of why the proposed adjustment should be made.<sup>16</sup> Citipower's only explanation of the proposed account balance decrease was "Auto Expense, Repair, Maintenance, and Gas." An explanation such as this is insufficient support for ratemaking purposes.

During the test period Citipower operated, maintained, fueled, and kept in repair four trucks. As discussed in the section on salaries, wages and other compensation, Citipower has been operating with two laborers and an operations manager since the completion of the distribution system expansion and pipeline construction in June of 1999. Since only three personnel remain for normal operations that work in the field, Citipower should not be entitled to charge its ratepayers for a fourth vehicle. The associated expenses for fuel, maintenance, repairs, taxes, insurance, and other should likewise not be included. Staff was not provided any contemporaneous records of individual vehicle use and costs. The truck was operated during the test year due to extensive construction activities. Therefore, Staff has excluded one-fourth of the expense.

The operations manager provides services for Forexco that requires transportation. The services for the affiliated company occupies one-third of his time. As previously stated, since Citipower did not provide contemporaneous records of vehicle use and costs, Citipower should not be allowed to recover one-third of the transportation expenses on the truck used by the operations manager. Following is a

---

<sup>16</sup> Id.

computation of the transportation expenses (based on Citipower's general ledger balances) that are being disallowed for rate recovery.

<u>Sub-Account</u>	<u>Title</u>	<u>Amount</u>
933.1	Automobile Expenses	\$ 2,007
933.3	Auto Taxes	332
933.4	Repairs & Maintenance	4,888
933.5	Insurance/Titles/Fees	4,039
933	Other	<u>5,972</u>
	Total per general ledger	\$ 17,238
	Less: One-fourth of total for extra truck expenses	<u>4,309</u>
	Subtotal	\$ 12,929
	Less: One-third of cost related to operations manager's truck	<u>1,437</u>
	Allowable transportation expenses	\$ 11,492
	Amount included in test period	<u>\$(18,284)</u>
	Staff recommended decrease to expense	<u>\$( 6,792)</u>

#### Maintenance of General Plant

In its 1998 annual report, Citipower included \$16,247 in Account 935, Maintenance of General Plant. Citipower proposed an adjustment to decrease maintenance of general plant by \$3,000 based on cost reductions related to maintenance and storage of equipment. As previously mentioned in the section on Account 931, Rents, Citipower misposted storage rental expense in the amount of \$6,000. This \$6,000 rental expense was reclassified to Account 931, Rents, then reduced as previously discussed. Therefore, this account should be reduced by \$6,000 to an adjusted test year balance of \$10,247.

### Depreciation Expense

Citipower reported total depreciable assets of \$3,250,855 at the end of the test period. The depreciation schedules provided by Citipower that were prepared by the external auditors reflected total depreciable assets of \$3,222,168. Of this amount, \$1,673,416 was added to plant during the test period. The total depreciation expense reported by Citipower for the test period was \$117,566. Upon a review of the depreciation schedules, staff determined that Citipower was using incorrect service lives for many of the plant in service items. Using the appropriate depreciation rates results in total annualized depreciation expense of \$99,251. Depreciation expense has been reduced by \$18,315 to reflect annualized depreciation expense based on the proper depreciation rates. Schedule III hereto, contains an analysis of the depreciation rates used by staff to calculate the normalized depreciation expense. Citipower should adjust its depreciation records to agree with the depreciable lives included in Schedule III.

Information provided in the record and obtained in the field review indicates that \$1,121,057 of the plant on Citipower's books consists of a compressor site and steel pipeline located in the State of Tennessee and used to provide wholesale gas to Citizens. Consequently, these assets are not within the regulatory jurisdiction of the Commission and should not be included in the Kentucky jurisdictional rate base for Citipower. Staff has removed the \$28,952 of annual depreciation expense associated with these assets.

When Citipower purchased the assets of McCreary in 1996, the 1995 balance sheet of McCreary reflected total assets at a gross book value of \$175,772 that included the farm-tap gathering and distribution lines. The McCreary balance sheet was the only

source of information on the value of the assets purchased from McCreary. The purchase price of all of the assets acquired by Citipower and added to the depreciation records in 1996 was \$746,268. The purchase contract reflects that a substantial portion of the purchase price was for assets other than the assets of McCreary, and for the premium paid for the assets above the net book value. However, due to the failure of Citipower to supply adequate supporting documentation of the purchase, we can not determine the precise amount that Citipower paid for the Kentucky jurisdictional assets. Because Citipower has not substantiated the portion of the purchase price to be applied to the McCreary assets, Staff has no alternative but to exclude the total amount, or include only the portion that was included on McCreary's balance sheet. Based on Staff's discussions with Citipower personnel, the assets purchased from McCreary are in good working order and are currently being used to supply LDC service to Citipower's customers. Staff, therefore, has included depreciation expense on the gross book value of the assets purchased from McCreary.

Due to the failure of Citipower to record the original cost of the purchased assets appropriately, Staff has reduced depreciation expense by \$14,262. This amount represents the depreciation expense on the difference between the \$175,772 of assets on the books of McCreary and the \$746,268 of assets recorded on the books of Citipower during 1996. As stated earlier in this report, Citipower should research the purchase price of the McCreary assets and record the purchase in accordance with the USoA so that the appropriate level of depreciation and amortization expense can be included for ratemaking purposes in future cases.



The office building that Citipower and Forexco currently use was purchased in 1996 from the owners of McCreary. For the same reasons listed above, as well as the fact that the property is jointly used by Citipower and its affiliate, Staff does not believe it is appropriate to include the recorded value of this property for ratemaking purposes. Consequently, Staff has reduced depreciation expense by \$3,125. Staff has included rent expense in another section of this report to compensate Citipower for the office space it uses.

At the end of the test period, Citipower included four trucks as depreciable assets. Based on the reduction of employees discussed elsewhere in this report, and the fact that Citipower has reduced the level of new construction since 1998, Staff believes it is appropriate to exclude one of these vehicles for ratemaking purposes. The oldest of the four vehicles is a 1995 Dodge Truck with a gross depreciable value of \$17,884 and a useful life of 5 years. Staff has deducted \$3,577 from depreciation expense to exclude this vehicle. Also, a portion of the vehicle that is used by the operations manager should be allocated to Forexco since it is used for both companies' operations. Staff is excluding 1/3 of the depreciation based on the allocation of salary of this employee. This adjustment results in a reduction of \$1,367 to depreciation expense.

In another section of this order, Staff removed \$14,998 of customer hook-up and meter installation expenses from expense accounts that should have been capitalized. Applying a 30-year depreciable life to these assets will result in an increase to depreciation expense of \$500.

Finally, Staff reclassified some expenses in other sections of this report that result in additional depreciation expense. Staff reclassified \$36,643 of other plant and equipment that had erroneously been charged to expense accounts. This adjustment results in \$916 of additional annual depreciation expense based on a 40-year useful life. Staff reclassified \$67,154 of salaries, and wage related expenses that should have been capitalized during the test year. The annual depreciation expense associated with these reclassified assets, based on a 40-year useful life, is \$1,679. These costs are related to both the jurisdictional and non-jurisdictional operations of Citipower and should be allocated between the two. Because the salaries and wages that are being capitalized relate to construction performed during the test year, the basis for allocation should be the jurisdictional and non-jurisdictional plant additions for the test year. Based on the total plant additions during the test year of \$1,673,416 and the portion that was constructed during the test year for the Tennessee operations in the amount of \$1,110,008, staff has determined that 33.668% of the depreciation expense related to these two items is for Kentucky jurisdictional operations. Therefore Staff has included \$874  $((\$1,679 + \$916) \times .33668 = \$874)$  in additional depreciation for these reclassified items.

The net effect of all of the above adjustments on depreciation expense, is a reduction of the test period depreciation expense of \$68,224.

#### Other Deductions

Donations. Citipower had \$535 in Donations on its 1998 general ledger. These amounts were erroneously included as part of Account 930.2, Miscellaneous General Expense on Citipower's annual report to the Commission. These donations were not

addressed in Staff's discussion of Miscellaneous General Expense. The donations do not have an effect on operating expenses since these costs are below-the-line expenses. Staff is adjusting the Statement of Revenues and Expenses to include donations of \$535 appropriately in Account 426.1, under Other Income (Deductions). As stated, donations do not impact Total Gas Operating Expenses or Citipower's revenue requirement determination.

Other Interest Expense. In its application, Citipower proposed an adjustment to increase interest expense by \$42,500. Citipower explained that this was an annual estimate of the interest to be charged Citipower by the Bank of McCreary on short-term financing totaling \$500,000.<sup>17</sup> The interest was estimated at eight and one-half percent, or three-quarters of a percent over the "New York Prime Rate" at the time of the application.

Generally, the Commission does not approve the financing of long-lived plant and equipment, or operating expenses with short-term financing. Staff inquired whether any studies had "been performed to evaluate the cost effectiveness of short-term loans to finance long-lived assets".<sup>18</sup> Citipower responded that profitability must be achieved before the short-term indebtedness could be converted to long-term debt. It also reported that no studies or analyses had been performed to evaluate the financing method used. As is explained in the revenue requirements section of this report, Citipower's lack of rate base support for equity capital precludes a rate of return on

---

<sup>17</sup> Citipower's response to Item 5 of the Commission's August 3, 1999 Order.

<sup>18</sup> Citipower's response to Item 2 of the Commission's August 3, 1999 Order.

investment in the revenue requirement determination. The 88 percent operating ratio provides sufficient earnings to repay the reported interest. Therefore, Staff does not approve the recovery of this proposed request of short-term interest expense and has reduced Other Interest Expense by \$5,434, leaving only the interest on customer deposits in the amount of \$114. Additionally, Staff reclassifies the Interest on Long-term Debt for the automobile loans of \$5,851 to Account 427, since it was misposted to Account 431.

#### Other Adjustments Requested by Citipower

"Transmission Expenses: USoA # 751, 752, 754, 756, \$72,000."<sup>19</sup> In its application and explanation of adjustments, Citipower requested an increase to Accounts 751, 752, 754 and 756 for additional natural gas transmission expenses to operate the new compressor station for gas delivery to Citizens Gas. As discussed in previous sections of this report, revenue and expenses for sales of gas to Citizens Gas are outside the jurisdiction of the Commission. Since the requested adjustment for transmission expenses is associated with non-jurisdictional revenue, the expenses are considered non-jurisdictional, and as such, are not recoverable from Kentucky ratepayers. Accordingly, Staff has not included any of the proposed adjustments to increase operating expenses.

#### Revenue Requirements

Citipower did not propose a rate of return on rate base approach or the operating ratio method to determine its total revenue requirements in this case. The operating

---

<sup>19</sup> Citipower's response to Item 3.d. of the Commission's August 3, 1999 Order.

ratio method is used primarily when there is no sound basis for a rate of return determination using the required return on capital and rate base method. In order for the rate of return on equity to be conceptually valid, capitalization must be closely supported by rate base.

In its 1998 annual report to the Commission, Citipower reported net utility plant of \$3,007,973 and equity capital, net of accumulated losses, equal to \$2,253,688. As previously mentioned, Staff noted significant discrepancies in Citipower's historical calculations of depreciation. Also, Staff noted significant unsubstantiated amounts Citipower recorded as utility assets from the purchase of McCreary's assets, that Staff cannot accept without more thorough documentation by Citipower. Staff requested explanations needed in regard to Citipower's asset cost allocation from the McCreary acquisition, but no adequate supporting information was provided.

Citipower's members' equity consists of limited liability units acquired with cash, and equity has been issued to certain owners for services provided (non-cash issuances). Citipower was asked prior to the Staff review to provide a schedule of members' equity, a reconciliation of total investments (both cash and non-cash), the allocations of losses, and support for the valuation of the services rendered for LLC units. No response was provided by Citipower.

Without answers to these issues, Staff does not have the information necessary to provide the Commission with an informed decision as to the appropriateness of using a required return on capital and rate base. Therefore, Staff believes that the operating ratio method is the only appropriate method that can be used to determine revenue requirements in this case.

The Commission generally uses an 88 percent operating ratio to determine a reasonable level of earnings for small utilities. Applying the operating ratio to the Staff adjusted operating expenses results in a total revenue requirement of \$365,914. This revenue requirement is before adjustments for the additional PSC assessment fees (\$27) and uncollectible accounts (\$9). The total revenue requirement after consideration of these items is \$365,950. Staff computed normalized revenues based on the adjusted test period sales and current rates of \$175,284. This includes revenue from sales and revenue from late payment fees. The revenue produced by the proposed rates including the revenues from late payment fees is \$215,750. (See Schedule IV.) Therefore, Staff recommends an increase in operating revenue of \$40,466. Although the proposed rates will not produce sufficient revenues to meet the total revenue requirement, due to the uncertainties that exist with the appropriate costs, Staff recommends no additional increase.

Following is a calculation of the revenue requirement:

Total Gas Operating Expenses		329,288
Less: Purchased Gas Expense		57,953
Subtotal		<u>271,335</u>
Operating Ratio		88%
Subtotal		<u>308,335</u>
Add: Purchased Gas Expense		57,953
Interest Expense on Customer Deposits		114
Less: Miscellaneous Service Revenues		488
Revenue Requirement From Rates		<u>365,914</u>
Uncollectible Accounts	0.054800%	9
PSC Assessment Fee (\$1.667 per \$1,000 of Revenue)	0.166700%	27
Total Revenue Requirement		<u>\$ 365,950</u>
Normalized Revenues		174,796
Increase Required		<u><u>\$ 191,154</u></u>

Staff Recommendations

Included in this report are several items of concern to Staff that will require Citipower to take corrective action in order to be in compliance with the Commission's rules and regulations and Kentucky Statutes. Citipower should take the appropriate steps to become familiar with the Kentucky Revised Statutes and the Commission's Administrative Regulations in order to comply with same.

10. Financial Reporting – In order to monitor the progress of compliance with the recommendations in this report, Citipower should file quarterly financial reports to the Commission. The reports should include, at a minimum, a comparative balance sheet and detailed income statement. Staff will work with Citipower to develop any additional schedules deemed necessary.

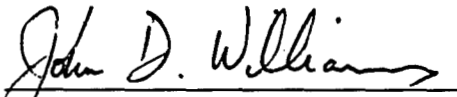
11. GCA Filings – Citipower should develop a procedure to track gas costs and submit quarterly GCA filings in accordance with their tariff.

12. Unauthorized Rates – Citipower should immediately discontinue charging any rate for regulated utility services that has not been approved by the Commission.

13. 1999 Financial Statements – The adjustments and concepts contained in the corrections to the 1998 financial statements contained in this report should be considered and included in the preparation of financial statements for 1999.

14. Plan For Compliance With Recommendations – Within 30 days of the final Order in this case, Citipower should file a plan to comply with the recommendations in this report.

Signatures:

  
Prepared By: John D. Williams  
Public Utility  
Financial Analyst  
Electric and Gas Revenue  
Requirements Branch  
Division of Financial Analysis



*Kathaleen Finn*

---

Prepared By: Kathaleen Finn  
Public Utility  
Financial Analyst  
Electric and Gas Revenue  
Requirements Branch  
Division of Financial Analysis

*S. Dawn McGee*

---

Prepared By: S. Dawn McGee  
Public Utility  
Rate Analyst  
Electric and Gas Rate  
Design Branch  
Division of Financial Analysis

Schedule 1  
Pro Forma Income Statement

Acct. No.	Account Title	Test Year End Balances Per Annual Report	Staff Adjustments	Staff Recommended Test Year Balances
<u>Operating Revenues:</u>				
481, 482	Retail Sales	\$ 131,288	\$ 43,508	\$ 174,796
483	Sales for Resale	54,276	(54,276)	-
489	Miscellaneous Service Revenues	26,177	(25,689)	488
	Operating Revenues	<u>211,741</u>	<u>(36,457)</u>	<u>175,284</u>
<u>Operating Expenses:</u>				
730	Natural Gas Purchases	104,378	(46,425)	57,953
761	Distribution Supervision	-	20,773	20,773
762	Distribution Mains & Svcs. Labor	8,063	19,422	27,485
764	Customer Installation Expenses	14,998	(14,998)	-
768	Maintenance of Meters & Regulators	1,950	(1,950)	-
769	Maintenance of Other Plant	34,693	(34,693)	-
901	Meter Reading Labor	-	9,161	9,161
902	Accounting & Collecting Labor	14,713	12,075	26,788
903	Supplies and Expenses	676	(85)	591
904	Uncollectible Accounts	72	24	96
907	Customer Svc. & Informational Expenses	-	-	-
908	Customer Assistance Expenses	-	-	-
920	Administrative & General Expenses	454,375	(414,365)	40,010
921	Office Supplies and Expenses	10,978	4,511	15,489
923	Outside Services Employed	77,673	(60,864)	16,809
924	Property Insurance	7,642	712	8,354
925	Injuries and Damages	16,350	(12,244)	4,106
926	Employee Pensions & Benefits	3,795	5,713	9,508
928	Regulatory Commission Expenses	-	-	-
930.1	General Advertising Expenses	1,463	(1,204)	259
930.2	Miscellaneous General Expenses	31,785	(29,052)	2,733
931	Rents	-	6,600	6,600
933	Transportation Expenses	18,284	(6,792)	11,492
935	Maintenance of General Plant	16,247	(6,000)	10,247
	Total Operating & Maintenance Expenses	<u>818,135</u>	<u>(549,681)</u>	<u>268,454</u>
403	Depreciation Expense	117,566	(68,224)	49,342
404	Amortization Expense	14,670	(14,670)	-
408.1	Taxes Other Than Income Taxes	15,744	(4,252)	11,492
	Total Gas Operating Expenses	<u>\$ 966,115</u>	<u>\$ (636,827)</u>	<u>\$ 329,288</u>
	Net Operating Income	<u>(754,374)</u>	<u>600,370</u>	<u>(154,004)</u>
<u>Other Income (Deductions):</u>				
415	Jobbing Revenue	-	7,597	7,597
416	Jobbing Expenses	-	-	-
419	Interest Income	5,103	-	5,103
421	Miscellaneous Nonoperating Income	6	-	6
426.1	Donations	-	-	-
427	Interest on Long-Term Debt	-	-	-
431	Other Interest Expense	(11,399)	11,285	(114)
	Total Other Income (Deductions)	<u>(6,290)</u>	<u>18,882</u>	<u>12,592</u>
	<b>NET INCOME</b>	<u><u>\$ (760,664)</u></u>	<u><u>\$ 619,252</u></u>	<u><u>\$ (141,412)</u></u>

SCHEDULE II

Normalized Test Year Revenues

1998 Test Year		Residential	Commercial	Public	Industrial	Total
Wtd Avg. Monthly Usage per Customer 1997 - May 1999 x 12 Months		3.72	7.33	55.94	185.47	252.45
Avg. Annual Usage per Customer		44.58	87.94	671.29	2,225.59	3,029.41
Avg. Annual Usage per Customer x # Customers End of Year 1998		160	30	19	2	211
Avg. Annual Sales Volume		7,133.49	2,638.18	12,754.58	4,451.19	26,977.44
Avg. Annual Sales Volume x Current rate/Mcf		7,133.49 \$7.00	2,638.18 \$7.00	12,754.58 \$6.00	4,451.19 \$6.00	26,977.44
Normalized Sales Revenue		\$49,934.45	\$18,467.24	\$76,527.51	\$26,707.12	\$171,636.31
Normalized Sales Revenue		\$49,934.45	\$18,467.24	\$76,527.51	\$26,707.12	\$171,636.31
Normalized Sales Revenue + Minimum Bills		\$49,934.45	\$18,467.24	\$76,527.51	\$26,707.12	\$171,636.31
+ Late Payment Fees		\$2,430.00	\$455.00	\$245.00	\$30.00	\$3,160.00
Total Normalized Revenue		\$52,787.36	\$18,987.24	\$76,772.51	\$26,737.12	\$175,284.22

**SCHEDULE III**  
**Depreciation Schedule**

	Staff Estimated Useful Lives	Staff Depreciation Rate Used	Per Auditor Prepared Schedule <u>TOTAL</u> COST	Staff Computed Annual Depreciation
Office Building	40 years	0.025	125,000	3,125
Office Furniture & Equip.	5-15 years	.2-.066	9,177	612
Trucks (4)	5 years	0.2	87,311	17,462
Compressor Site - TN rev.('98 add'n)	30 years	0.033	111,094	3,703
Equip. Ditchwitch, Other	30 years	0.033	49,970	1,666
Meters	30 years	0.033	195,853	6,528
Reg. Odorant Station	30 years	0.033	7,321	244
Pipeline, 1" & 2"	40 years	0.025	307,695	7,692
Pipeline, 3"	40 years	0.025	246,154	6,154
Pipeline, 4"	40 years	0.025	583,664	14,592
Pipeline, 6"	40 years	0.025	488,966	12,224
Steel Pipeline to TN	40 years	0.025	1,009,963	25,249
Annualized Staff Total			<u>3,222,168</u>	<u>99,251</u>
 <b><u>ADJUSTMENTS</u></b>				
A. Compressor Site			(111,094)	(3,703)
Steel Pipeline			(1,009,963)	(25,249)
Total in Tennessee			<u>(1,121,057)</u>	<u>(28,952)</u>
B. McCreary Purchase	40 years			
Citipower's Assets-1996=		\$746,268		
Gross Book Value=		<u>\$175,772</u>		
Difference (Non-allowable)			(570,496)	(14,262)
C. Office Building	40 years		(125,000)	(3,125)
D. 1995 Dodge Truck	5 years		(17,884)	(3,577)
E. Reclassified Customer Hook-up and Meter Installation Expenses	30 years		14,998	500
F. Reclassified from Maintenance Accounts 768 and 769	40 years		36,643	916
G. Reclassified Salaries and Wage Related Expenses	40 years		67,154	1,679
H. Nonjurisdictional Reclassifications				(1,721)
I. 33.3% Allocation for Forexco Use of 1995 Toyota Forerunner				(1,367)
Total Plant in Service in Kentucky and Total Depreciation			<u>1,506,526</u>	<u>49,342</u>

SCHEDULE IV

Revenue under Proposed Rates

1998		Residential	Commercial	Public	Industrial	Total
W'd Avg. Monthly Usage per Customer 1997 - May 1999	x 12 Months	3.72	7.33	55.94	185.47	252.45
Avg. Annual Usage per Customer		44.58	87.94	671.29	2,225.59	3,029.41
Avg. Annual Usage per Customer	x # Customers End of Year 1998	160	30	19	2	211
Avg. Annual Sales Volume		7,133.49	2,638.18	12,754.58	4,451.19	26,977.44
Avg. Annual Sales Volume	x Proposed Rate/Mcf	7,133.49	2,638.18	12,754.58	4,451.19	26,977.44
Normalized Sales Revenue		\$8.50	\$8.50	\$7.50	\$7.50	\$60,477.15
Normalized Sales Revenue		\$60,634.69	\$22,424.51	\$95,659.38	\$33,383.90	60,477.15
Normalized Sales Revenue		\$60,634.69	\$22,424.51	\$95,659.38	\$33,383.90	\$212,102.47
+ Minimum Bills		\$2,430.00	\$455.00	\$245.00	\$30.00	\$3,160.00
+ Late Payment Fees		\$422.91	\$65.00	\$0.00	\$0.00	\$487.91
Total Normalized Revenue		\$63,487.60	\$22,944.51	\$95,904.38	\$33,413.90	\$215,750.38

**Schedule V**  
**Allocation of Normalized Salaries and Wages**

1998			1998	Normalized	Citipower	Citipower
Reg. Hrs.	OT Hrs.		Total Pay	Total Pay	Alloc. %	Alloc. \$
Salaried		Operations Manager	\$ 62,316	62,316	66.67%	41,546
2,200.50	21.00	Office Manager	\$ 18,108	18,108	66.67%	12,073
1,084.50	-	Office Assistant	\$ 7,552	7,552	100%	7,552
2,166.80	138.00	Laborer 1, "normalized"	\$ 26,566	18,296	100%	18,296
819.00	142.50	Laborer 2, "normalized"	\$ 7,929	18,350	100%	18,350
						\$ 97,817
Allocated from Forexco (McCue & Lawson)						\$ 26,400
Adjusted And Normalized Citipower Wages						\$ 124,217

Note that the 1998 Salaries and Wages of the operations manager, office manager and office assistant are accepted by Staff as a normal annual representation.

Reg. Hrs.	OT Hrs.		Normalized	760, Distr.	761,	901, CA,	902, CA	920, CA
			Total Pay	Supervision	Labor	Mtr. Reading	Acct./Coll.	Admin./Genl.
Salaried		Operations Manager	62,316	\$ 20,773				\$ 20,773
2,200.50	21.00	Office Manager	18,108				\$ 6,036	\$ 6,037
1,084.50	-	Office Assistant	7,552				\$ 7,552	
2,080.00	138.00	Laborer 1, "normalized"	18,296		\$ 13,722	\$ 4,574		
2,080.00	142.50	Laborer 2, "normalized"	18,350		\$ 13,763	\$ 4,587		
			\$ 97,817	\$ 20,773	\$ 27,485	\$ 9,161	\$ 13,588	\$ 26,810
Allocated from Forexco (McCue & Lawson)			\$ 26,400				\$ 13,200	\$ 13,200
Adjusted And Normalized Citipower Wages			\$ 124,217	\$ 20,773	\$ 27,485	\$ 9,161	\$ 26,788	\$ 40,010

Normalized			Total Pay at
Reg. Hrs.	OT Hrs.		\$8 / Per Hour
2,080.00	138.00	Laborer 1, "normalized"	\$ 18,296
2,080.00	142.50	Laborer 2, "normalized"	\$ 18,350





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

November 17, 1999

To: All parties of record

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Honorable Teresa J. Hill  
Counsel for Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC )  
FOR AN ADJUSTMENT OF RATES ) CASE NO.  
PURSUANT TO THE ALTERNATIVE RATE ) 99-225  
FILING PROCEDURE FOR SMALL UTILITIES )

O R D E R

On November 5, 1999, Citipower, LLC ("Citipower") filed a Motion for an Extension of Time to Respond to the Request for Information. Citipower requested an additional extension of time of 20 days after November 10, 1999 or until November 30, 1999 in which to file its response to the Commission's Order of October 27, 1999. This is the second request for an extension of time filed in this case by Citipower. The Commission will not look favorably upon any further requests for extensions of time.

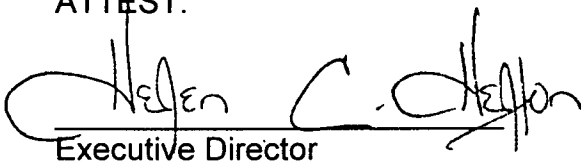
The Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the motion is granted and the responses to the Order of October 27, 1999 are due on or before November 30, 1999.

Done at Frankfort, Kentucky, this 17th day of November, 1999.

By the Commission

ATTEST:

  
Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED

NOV - 5 1999

KENTUCKY PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, )  
L. L. C. FOR RATE ADJUSTMENT )  
PURSUANT TO: 807 KAR 5:076 )  
ALTERNATIVE RATE FILING )

CASE NO. 99-225

MOTION FOR EXTENSION OF TIME  
TO RESPOND TO PSC'S REQUEST FOR INFORMATION

Comes now, Citipower, LLC, the Applicant in the above-styled matter, and respectfully requests an extension of an additional 20 days to respond to the Request for Information propounded by the Kentucky Public Service Commission on October 27, 1999, and due November 10, 1999. Citipower, LLC, would request an additional 20 days so that said Response will be due on or before November 30, 1999.

In support of said Motion, Citipower, LLC, would state that the extension would allow Citipower, LLC, adequate time to respond. Also, a hearing date in this matter has not yet been set, therefore, an extension of time would not cause undue prejudice to any of the parties nor the PSC.

Respectfully Submitted,



BROWN & HILL, PLLC  
1005 S. Main St., S-101  
Corbin, Kentucky 40701  
(606) 528-3073  
*Attorney for Applicant, Citipower, LLC*

CERTIFICATE

I hereby certify that the above and foregoing was on the 4<sup>th</sup> day of November, 1999, served by mailing the original and true and exact copies of same, all postage prepaid, addressed for delivery to:

Ms. Helen C. Helton  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

Hon. Elizabeth E. Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

  
\_\_\_\_\_  
BROWN & HILL, PLLC



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

October 27, 1999

To: All parties of record

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Honorable Teresa J. Hill  
Counsel for Citipower, LLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC )  
FOR AN ADJUSTMENT OF RATES )  
PURSUANT TO THE ALTERNATIVE ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR )  
SMALL UTILITIES )

O R D E R

IT IS ORDERED that Citipower, LLC ("Citipower") shall file within 14 days of the date of this Order an original and 10 copies of the following information with the Commission, with a copy to all parties of record. Each copy of the data requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 3. Include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. Where information requested herein has been provided along with the original application, in the format requested herein, reference may be made to the specific location of said information in responding to this information request.

1. Provide a copy of Citipower's 1998 audited financial statements, complete with the independent auditor's report and notes to financial statements.



2. Provide a copy of Forexco, Inc.'s ("Forexco") 1998 audited financial statements, complete with the independent auditor's report and notes to financial statements.

3. Provide a copy of Citipower's internally prepared monthly and/or quarterly financial statements for any periods available in 1999. If readily available, provide internal financial statements for the twelve months ended September 30, 1999.

4. Provide a copy of Citipower's limited liability company ("LLC") articles of organization and the "organizational documents" (if different), referred to in Citipower's response to Item 7 of the Commission's Order of August 3, 1999.

5. Provide a copy of all sale/purchase agreement(s) or contract(s) for the purchase of McCreary County Gas's assets, whether the agreement(s) or contract(s) is with Citipower and/or Forexco.

6. Explain the original transaction for the purchase of McCreary County Gas's assets.

a. Provide a copy of the journal entries to record the acquisition of McCreary County Gas's assets, whether posted to Citipower's or Forexco's books and records, or both.

b. Provide copies of any agreements, entered subsequent to the original purchase of McCreary County Gas's assets, for transfer of any "former" McCreary County Gas assets from Forexco to Citipower or vice versa.

c. Provide a copy of McCreary County Gas's depreciation schedule used to record the original cost to the first user of the assets.

d. Provide the depreciation schedule, which contains the amount of accumulated depreciation that was posted to Citipower's or Forexco's books at the time of the acquisition.

7. Provide a copy of Citipower's depreciation schedules, detailed by individual asset description, date of purchase, original cost, useful life, method of depreciation, depreciation expense and accumulated depreciation for the years ended December 31, 1997 and December 31, 1998.

8. Provide a copy of Citipower's projected depreciation schedule in the same detail as set out in Item 7 above for the 1999 calendar year.

9. Provide a copy of Citipower's initial balance sheet after recording the acquisition of McCreary County Gas and the initial capitalization of the company.

10. Provide a copy of Citipower's chart of accounts, year-to-date general ledger and supporting ledger of original entry for posting revenues and expenses for the test period, calendar year 1998.

a. If Citipower records expenses on its general ledger from an accounts payable ledger, provide a copy of that ledger(s) for the test period, calendar year 1998.

b. If Citipower records expenses on its general ledger from a cash disbursements journal, provide a copy of that journal(s) for the test period, calendar year 1998.

11. Provide a summary of salaries and wages for Citipower during the test period, calendar year 1998. Include details of salaries and wages as follows:

a. For each employee provide the total hours worked, the regular hours and the overtime hours.

b. Pay rates during 1998 (regular and overtime).

c. Total pay during 1998.

d. Provide a list of accounts charged.

e. Provide the date and amounts of pay rate changes for each employee during 1998 and 1999.

f. For each employee hired or terminated during 1998, provide the hire date and the termination date if applicable.

g. Provide any significant changes in personnel from 1998 to 1999. If a change was to create a new position, describe the reason the new job was needed.

h. Provide any significant changes in personnel time requirements from 1998 to 1999 and describe the reason for the need of the new time requirements.

12. Provide a summary of any salaries and wages paid to Citipower employees for work performed for Forexco during the test period, calendar year 1998. Include details of salaries and wages as follows:

a. For each employee provide the hours worked, specifying how many are at regular rates and how many are at overtime rates.

b. Pay rates during 1998 (regular and overtime).

c. Total pay during 1998.

d. A description of the work performed, including why this work could not be performed by a Forexco employee.

e. Explain whether or not this work will be required of Citipower employees in future years.

13. Provide a summary of any salaries and wages paid to Forexco employees for work performed for Citipower during the test period, calendar year 1998. Include details of salaries and wages as follows:

a. For each employee provide the hours worked, specifying how many are at regular rates and how many are at overtime rates. Also, provide the total hours this employee worked for Forexco during the year.

b. Pay rates during 1998 (regular and overtime).

c. Total pay during 1998 (amount allocated to Citipower and total for both companies).

d. A description of the work performed, including why this work could not be performed by a Forexco employee.

e. Explain whether or not this work will be required of Forexco employees in future years, as ongoing utility service.

14. Refer to Citipower's response to Item 3 of the Commission's Order of August 3, 1999, Exhibit B, Schedule A-1. Provide a schedule cross-referencing and reconciling salaries and wages from 1998 on Citipower's books as adjusted and reported on the annual report to the Commission for 1998 (labor accounts 761, 902 and 920) with the summary of responses Items 12, 13 and 14 above.

15. Refer to Citipower's response to question 4 of the Attorney General's data request of July 16, 1999, which states that Citipower purchases all of its natural gas from Forexco at fair market prices.

- a. Explain how the affiliated purchase price is derived.
- b. Provide a copy of the gas purchase contract between Forexco and Citipower.
- c. Provide copies of any other contracts between Citipower and gas suppliers.

16. Refer to Citipower's responses to Items 10(c) and 19 of the Commission's Order of August 3, 1999.

a. Are the customer hook-ups mentioned in the responses, extensions of 100 feet or less of service lines from the company's existing distribution mains to the customer?

b. If yes, is the company aware of Kentucky regulation 807 KAR 5:022 Section 9(16)(a), which prohibits a gas utility from charging customers for service line extensions of 100 feet or less if the customer applies for and contracts to use service for one year or more?

c. If no, explain the nature of the hook-up.

17. On October 1, 1999, page one of the "City & Region" section of The Lexington Herald-Leader contained an article entitled "McCreary prison project to start by April 2000." In that article, James B. Jones, deputy assistant director of the Federal Bureau of Prisons, states that construction should be finished by the summer of 2002. In Citipower's response to Item 14 of the Commission's Order of August 3, 1999, a forecast of total gas sales is provided.

a. Explain any assumptions in the forecast of gas sales for the level of gas expected to be sold to the prison as a public customer. Include a discussion of the likelihood that the prison will become a customer of Citipower.

b. If the assumptions are not consistent with the announcement of the expected completion of the prison construction, provide a revised forecast of gas sales.

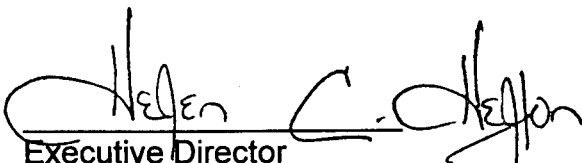
c. Provide a forecast of gas sales for the same period without the projected usage and sales from the prison.

d. Provide a detailed schedule and explanation of additional capital costs and annual operating expenses that would be incurred to provide natural gas service to the prison.

Done at Frankfort, Kentucky, this 27th day of October, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KENTUCKY 40602  
www.psc.state.ky.us  
(502) 564-3940

August 30, 1999

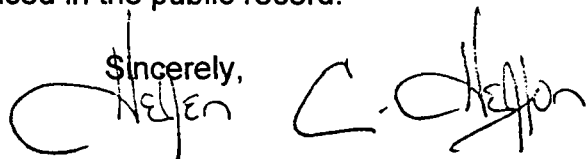
Lee Hill  
Brown & Hill, PLLC  
1005 S. Main Street, S-101  
Corbin KY 40701

RE: Citipower, LLC  
Case No. 99-225  
Petition for Confidential Protection

Dear Mr. Hill,

On August 9, 1999 the Commission received the petition filed on behalf of Citipower, LLC to protect as confidential information filed in response to the Attorney General's data requests. A review of the information has determined that it is entitled to the protection requested on the grounds relied upon in the petition and it shall be withheld from public inspection.

If the information becomes publicly available or no longer warrants confidential treatment, you are required by 807 KAR 5:001, Section 7(9)(a) to inform the Commission so that the information may be placed in the public record.

Sincerely,  


Helen C. Helton  
Executive Director

cc: All parties of record



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 30, 1999

To: All parties of record

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure



David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Counsel, Citipower LLC  
Brown & Hill, PLLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC            )  
FOR AN ADJUSTMENT OF RATES            )  
PURSUANT TO THE ALTERNATIVE        ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR        )  
SMALL UTILITIES                        )

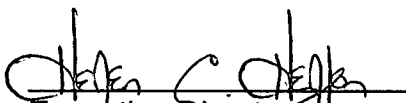
O R D E R

Citipower, LLC having moved for an extension of time until September 7, 1999 in which to respond to the Commission's August 3, 1999 Order and the Commission finding good cause, IT IS HEREBY ORDERED that the motion is granted.

Done at Frankfort, Kentucky, this 30th day of August, 1999.

By the Commission

ATTEST:

  
Executive Director

BROWN & HILL, PLLC  
ATTORNEYS AT LAW  
1005 S. MAIN STREET, SUITE 101  
CORBIN, KENTUCKY 40701

ROBERT L. BROWN III  
TERESA J. HILL

RECEIVED  
AUG 26 1999

PUBLIC SERVICE  
COMMISSION  
FAX (606) 528-5289

VIA CERTIFIED MAIL

August 25, 1999

Ms. Susan Hutcherson  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

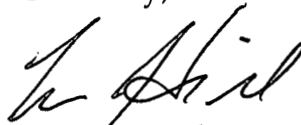
**RE: Application of Citipower, LLC. for Rate Adjustment; Case No. 99-225  
Motion for Extension of Time**

Dear Ms. Hutcherson:

Pursuant to our conversation on today's date, enclosed please find an original Motion for the case file. It is my understanding that the PSC will rule on the copy of the motion which was faxed to your attention today.

I appreciate your assistance in this matter, and should you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Teresa J. Hill

Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED  
AUG 26 1999  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, )  
L. L. C. FOR RATE ADJUSTMENT )  
PURSUANT TO: 807 KAR 5:076 )  
ALTERNATIVE RATE FILING )

CASE NO. 99-225

MOTION FOR EXTENSION OF TIME  
TO RESPOND TO PSC'S REQUEST FOR INFORMATION

Comes now, Citipower, LLC, the Applicant in the above-styled matter, and respectfully requests an extension of an additional 20 days to respond to the Request for Information propounded by the Kentucky Public Service Commission on August 3, 1999, and due August 17, 1999. Citipower, LLC, would request an additional 20 days so that said Response will be due on or before September 7, 1999.

In support of said Motion, Citipower, LLC, would state that the extension would allow Citipower, LLC, adequate time to respond. Also, a hearing date in this matter has not yet been set, therefore, an extension of time would not cause undue prejudice to any of the parties nor the PSC.

Respectfully Submitted,

  
BROWN & HILL, PLLC  
1005 S. Main St., S-101  
Corbin, Kentucky 40701  
(606) 528-3073  
*Attorney for Applicant, Citipower, LLC*


**CERTIFICATE**

I hereby certify that the above and foregoing was on the 6<sup>th</sup> day of August, 1999, served by mailing the original and true and exact copies of same, all postage prepaid, addressed for delivery to:

Ms. Helen C. Helton  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

Hon. Elizabeth E. Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

I further certify that this motion was re-mailed to the above on this the 25th day of August, 1999.

  
\_\_\_\_\_  
BROWN & HILL, PLLC

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED  
AUG 09 1999  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, )  
L. L. C. FOR RATE ADJUSTMENT )  
PURSUANT TO: 807 KAR 5:076 )  
ALTERNATIVE RATE FILING )

CASE NO. 99-225

MOTION TO PROTECT MATERIAL AS CONFIDENTIAL  
TO ATTORNEY GENERAL'S  
REQUESTS FOR INFORMATION

Comes now, Citipower, LLC, the Applicant in the above-styled matter, pursuant to 807 KAR 5.001 Section 7, and moves the Kentucky Public Service Commission to classify as confidential certain information provided to the Public Service Commission in response to the Attorney General's Request for Information filed July 16, 1999.

Applicant would state that certain information sought by the Attorney General (specifically identified in the attached and highlighted copy of the response), requires disclosure of information presently unknown to the public and competitors and represents financial records and documents which if disclosed to competitors, could cause irreparable harm to Citipower, LLC. Kentucky Revised Statute 61.878 (c) (1) provides that certain records can be kept confidential including those "[r]ecords confidentially disclosed to an agency, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial

advantage to competitors of the entity that disclosed the records and which are compiled and maintained: b. In conjunction with the regulation of a commercial enterprise . . . .”

In the response to requests for information, Citipower, LLC, on page 1 of 17, has provided additional information in the form of an introduction, explaining the relationship between Forexco, Inc., and Citipower, LLC, and the services that Forexco, Inc., provides to Citipower, LLC, free of compensation. As this information was provided voluntarily, in an effort to aid the Public Service Commission better understand the relationship between Forexco and Citipower, LLC, and because the compensation and the role of Forexco’s employees is not public knowledge, Citipower requests that said information be kept confidential.

On page 2 of 17, Citipower has disclosed the information relating to the compensation of Daniel Forsberg and Guy Strevey.

On page 3 of 17, Box 4, reveals a percentage amount of allocations of salaries for Forexco employees providing services to Citipower.

On page 4 of 17, Box 4A-C, reveals the annual compensation of Forexco employees.

On page 5 of 17, Box 5 and Box 5D-E, reveals salaries of Citipower employees.

On page 6 of 17, Box 7 reveals compensation of Citipower employees.

On page 9 of 17, Box A reveals compensation paid for legal services.

Citipower, LLC would ask that the Public Service Commission classify as confidential the above referenced information as it relates to salaries and

compensation in actual amounts paid to Citipower employees and/or Forexco employees. Both Citipower and Forexco are privately owned, for-profit corporations which hire and pay personnel in a competitive marketplace. Citipower, LLC, is located in a market in which it is difficult to find trained personnel, and revealing salaries allows competitors to compare their salary rates and gives competitors an unfair advantage in determining what to pay their own personnel or in attempts to hire away key personnel of Citipower, LLC.

In the case of Marina Management Services, Inc., et al v. Cabinet for Tourism Department of Parks, Ky., 906 S.W.2d 318, 319 (1995), the Kentucky Supreme Court recognized and upheld the confidentiality of financial records of private corporations (the marinas) which were submitted pursuant to a license agreement with the State. The financial records of the marinas were in the possession of the Tourism Cabinet and were requested by the Legislative Program Review and Investigation Committee (LPRIC). The circuit court allowed the LPRIC not only to receive the documents but also disclose them to the public. The appellate court upheld the circuit court's decision, but the Kentucky Supreme Court overturned the decision, finding the documents were excluded as being open to the public under KRS 61.878(1) (c) (1).

The Court wrote: "These are records of privately owned marina operators, disclosure of which would unfairly advantage competing operators. The most obvious disadvantage may be the ability to ascertain the economic status of the entities without the hurdles systematically associated with the acquisition of such



information about privately owned organizations.”

Likewise, the information disclosed by Citipower, LLC, and Forexco, Inc., to the PSC relating to salaries and compensation of its key personnel would allow competitors to ascertain the status of the entities. In the Marina Management Services, Inc., case, supra, the Court further recognized that the LPRIC could use the information obtained without disclosing the information to the general public. “The legislature recognizes that the purposes of the Committee can still be achieved without requiring disclosure of documents deemed confidential, not only by the company whose financial data is in question, but also by the public agency in possession of those documents.” Id.

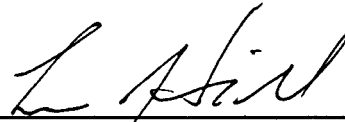
In the case at bar, all of the information disclosed can be used and evaluated by the Public Service Commission for its purposes, without any need of dissemination to the general public, which would include competitors of Citipower, LLC.

As it relates to the legal services provided and the sums received, Citipower, LLC, requests that the type of legal services sought by Citipower, LLC and said amounts paid be kept confidential under the privilege of attorney-client information. As set out in the Marina case, supra, such information, if disseminated to the general public and competitors, shows the issues that the private corporation faces, and allows others the unfair advantage of determining the type of legal issues and the amount to be paid in this market for those issues in this type of business through looking at Citipower’s private records and information. Said information

can be used by the PSC for its purposes, but should be exempted under KRS 61.878(1) (c) (1).

For all the foregoing reasons, Citipower, LLC, respectfully requests that all financial information relating to the compensation and salaries of Citipower, LLC and/or Forexco, Inc.'s employees, as specified in the Responses above, be deemed confidential and exempt under KRS 61.878(1) (c) (1) and not open for disclosure to the public.

Respectfully Submitted,



---

BROWN & HILL, PLLC  
1005 S. Main St., S-101  
Corbin, Kentucky 40701  
(606) 528-3073  
*Attorney for Applicant, Citipower, LLC*

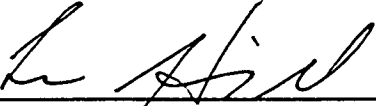
**CERTIFICATE**

I hereby certify that the above and foregoing was on the 6 day of August, 1999, served by mailing the original and 10 true and exact copies of same, all postage prepaid, addressed for delivery to:

Ms. Helen C. Helton  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

and 1 copy, all postage prepaid to:

Hon. Elizabeth E. Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

  
\_\_\_\_\_  
BROWN & HILL, PLLC



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

August 3, 1999

To: All parties of record

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY 40601

Honorable Robert L. Brown  
Counsel, Citipower LLC  
Brown & Hill, PLLC  
1005 S. Main Street, Suite 101  
Corbin, KY 40701

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC )  
FOR AN ADJUSTMENT OF RATES )  
PURSUANT TO THE ALTERNATIVE ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR )  
SMALL UTILITIES )

O R D E R

IT IS ORDERED that Citipower, LLC ("Citipower") shall file within 14 days from the date of this order an original and 10 copies of the following information with the Commission, with a copy to all parties of record. Each copy should be in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be indexed, for example, Item 3(a), Sheet 2 of 6. Include with each response the name of the witness responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. If information requested herein has been provided in the original application, in the format requested herein, reference may be made to that information in responding to this request.

IT IS FURTHER ORDERED that Citipower shall also file its response to the July 16, 1999 information request of the Attorney General of the Commonwealth of Kentucky by no later than 14 days from the date of this order.

1. Provide an affidavit from the president or other corporate officer attesting that Citipower's books and records are maintained separately from any other commonly owned enterprise.

2. Have any studies been performed to evaluate the cost effectiveness of short-term financing used by Citipower to finance long-lived assets? If yes, provide such studies. If no, explain why such studies have not been performed.

3. Refer to Attachment A to Section III of the application.

a. Provide the exhibit of increased cost information using the Uniform System of Accounts ("USoA"), which is the system of accounts reflected in the annual report filed with the Commission.

b. Provide total revenues, including wholesale gas sales, according to the USoA.

c. Provide total gas purchases, including purchases for wholesale sales, as well as gas purchases for retail sales. Show any adjustments in the determination of natural gas purchases for retail or wholesale sales with a footnote referencing a schedule or workpaper where the adjustment is calculated.

d. Provide all increased cost information classified according to the USoA along with a brief explanation for the increases, together with any supporting documentation.

e. Provide projected revenues and requested expenses adjusted for increased cost adjustments classified according to the USoA.

4. Provide an exhibit setting forth Citipower's determination of its revenue requirement, as well as an explanation of the methodology used, i.e., operating ratio, return on rate base, etc.

5. Refer to Attachment A. Provide a computation determining the estimated interest expense for the adjusted test period.

6. Refer to Attachment A.

a. Provide the depreciation expense (Account 403) broken out separately from the amortization expense (Accounts 404-407) according to the USoA accounts.

b. Explain whether any amortization expense results from either a plant acquisition adjustment or organizational costs.

c. If any amortization expense results from a plant acquisition adjustment, provide the supporting adjusting journal entry recording the plant acquisition adjustment on Citipower's books.

7. Refer to Attachment A. Why is "Officers Comp/Consulting" considered a noncash expense in the exhibit?

8. Explain the differences in classes of "Members' Capital Contributions," as reported in the 1998 Annual Report to the Commission.

9. Has a cost-of-service study assessing the appropriateness of a flat rate billing structure compared to alternative billing structures been prepared in association with this application? If yes, provide the study. If no, provide an explanation for why no study was performed.



10. Refer to Section III, Attachment A, of the application, the first line headed "Gas Sales – Citipower Customers" and the third line headed "Other Revenues." Both have a short narrative statement that refers to the addition of 70 customers.

a. Provide a more thorough explanation of the additional 70 customers. Over what period of time were they added? How do they break down by customer classification (residential, commercial, or industrial)?

b. The application was filed June 3, 1999. As of June 1, 1999, provide the total number of Citipower customers, broken down by customer classification.

c. The increase amount of \$175,638 for "Gas Sales – Citipower Customers" does not agree with the \$28,010 revenue increase calculated in Section III, Attachment E. Provide a thorough explanation for the amount of increase shown on Attachment A along with a description of the "Other Revenues" of \$26,177, and a more detailed explanation for the projected \$19,275 increase to those revenues.

d. Refer to the Expenses portion of Attachment A - the first line headed "Cost of Goods Sold – Citipower Customers." Provide a thorough explanation of the derivation of the actual amount of \$54,669 and the calculation of the projected increase of \$33,771.

11. Refer to Section III, Attachment E. Explain why the Revenue Analysis – Proposed Rate Structure does not include the Mcfs currently billed under the minimum bill in its calculation of the Total Revenue generated under the proposed rates.

12. Refer to Section III, Attachment B. In what manner were the pipelines constructed? Provide copies of the feasibility studies, bid documents, and construction specifications.

13. Provide topographic maps showing the route of the steel pipelines, the location of the compressor station and the Citipower distribution system.

14. Provide the forecast of total gas production and total gas sales for 1999-2004.

15. Explain how the gas compressor is used in the operation of the Citipower system. Do any customers in Kentucky receive gas downstream from the compressor? Explain whether the compressor is mainly used to transport gas for Citizens Gas.

16. Are there any customers in Kentucky tapped into the 6-inch or 4-inch steel pipeline? Explain.

17. Refer to Section III, Attachment B. Provide the construction contract and maps for the 1998 and 1999 projects.

18. Refer to Section IV, Tab A. Explain whether the \$1,500 per month represents the total lease and operation costs for the compressor? If yes, explain why, on Attachment A, the adjusted increased cost information for compressor maintenance is \$72,000 annually. If no, provide supporting documentation and a thorough explanation of the additional costs and expenses.

19. Refer to Section IV, Tab B.

a. Is \$350 the average cost of a customer's service connection?

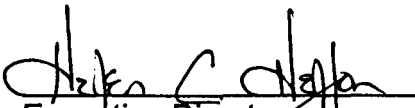
b. Are the costs of customer service lines reimbursed by the customers?

c. Why did two customers pay \$250 and nine customers receive free hook-ups?

Done at Frankfort, Kentucky, this 3rd day of August, 1999.

By the Commission

ATTEST:

  
Executive Director

BROWN & HILL, PLLC  
ATTORNEYS AT LAW  
1005 S. MAIN STREET, SUITE 101  
CORBIN, KENTUCKY 40701

ROBERT L. BROWN III  
TERESA J. HILL

(606) 528-3073  
FAX (606) 528-3289

July 16, 1999

RECEIVED

JUL 19 1999

PUBLIC SERVICE  
COMMISSION

Helen C. Helton, Executive Director  
Commonwealth of Kentucky  
Public Service Commission  
730 Schenkel Lane  
Frankfort, Kentucky 40602


**RE: ATTORNEY GENERAL REQUESTS FOR INFORMATION**  
**Application of Citipower, LLC for Rate Adjustment Pursuant**  
**to: 807 KAR 5:076 - Alternative Rate Filing**  
**Case No. 99-225**

Dear Ms. Helton:

Please allow this letter to serve as a formal request for the firm of Brown and Hill, PLLC to be placed upon the service list for the above-mentioned matter.

Your cooperation in this is greatly appreciated, and should you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Robert L. Brown III

RLB/ca

OK - H.V.

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

RECEIVED

JUL 16 1999

PUBLIC SERVICE  
COMMISSION

In the Matter of:

Application of Citipower, LLC for Rate )  
Adjustment Pursuant to: 807 KAR 5:076 ) Case No. 99-225  
Alternative Rate Filing )

**ATTORNEY GENERAL REQUESTS FOR INFORMATION**

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits these Requests for Information to Citipower LLC:

- (1) In each case where a request seeks data provided in response to a staff request, reference to the appropriate request item will be deemed a satisfactory response.
- (2) Please identify the company witness who will be prepared to answer questions concerning each request.
- (3) These requests shall be deemed continuing so as to require further and supplemental responses if the company receives or generates additional information within the scope of these requests between the time of the response and the time of any hearing conducted hereon.
- (4) If any request appears confusing, please request clarification directly from the Office of the Attorney General.
- (5) To the extent that the specific document, workpaper or information as requested does not exist, but a similar document, workpaper or information does exist, provide the similar

document, workpaper, or information.

(6) To the extent that any request may be answered by way of a computer printout, please identify each variable contained in the printout which would not be self evident to a person not familiar with the printout.

(7) If the company has objections to any request on the grounds that the requested information is proprietary in nature, or for any other reason, please notify the Office of the Attorney General as soon as possible.

(8) For any document withheld on the basis of privilege, state the following: date; author; addressee; indicated or blind copies; all persons to whom distributed, shown, or explained; and, the nature and legal basis for the privilege asserted.

(9) In the event any document called for has been destroyed or transferred beyond the control of the company state: the identity of the person by whom it was destroyed or transferred, and the person authorizing the destruction or transfer; the time, place, and method of destruction or transfer; and, the reason(s) for its destruction or transfer. If destroyed or disposed of by operation of a retention policy, state the retention policy.

Respectfully Submitted,



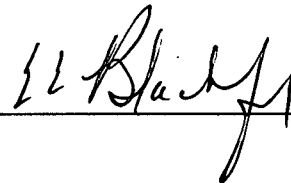
Elizabeth E. Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, Kentucky 40601  
(502) 696-5458

CERTIFICATE OF SERVICE AND OF FILING

I hereby certify that this 16<sup>th</sup> day of July, 1999, I have filed the original and ten true copies of the foregoing with the Public Service Commission at 730 Schenkel Lane, Frankfort, Kentucky, 40601 and that I have served the parties by mailing a true copy of same, postage prepaid to the following:

DAVID K BROCK  
PRESIDENT IBEXCO  
P O BOX 523  
CORBIN KY 40702

JAMES CURD  
MANAGER CITIPOWER LLC  
P O BOX 1309  
12 COURTHOUSE SQUARE



---

## REQUESTS FOR INFORMATION

1. With reference to Section III, Subsection A, please provide a full explanation of the legal services provided to Citipower, LLC in the test year and those expected to be provided on a going forward basis.
2. With reference to Section III, Subsection A, please provide a full explanation of the services to be provided to Citipower, LLC by the Marketing Employee.
3. With reference to Section III, Subsection A, please;
  - A. Provide an explanation detailing who is to be compensated under the line "Officers Comp/Consulting" and the services that are to be provided by each.
  - B. Explain the use of "Based on total investments-less new investments projected for 1999" as the basis for this expense.
  - C. Is the expense referenced in subsection B. or the services to be provided giving rise to that expense expected to change after 1999? If so, please explain the changes expected and the basis upon which the expected changes are anticipated.
3. With reference to Section III, Subsection A, to whom or what have commissions been paid? What investments have been sold to generate those commissions?
4. With reference to Section III, Subsection A, please explain the allocation of 1/3 of the "Salaries paid by Forexco to Citipower" for Forsberg, McCue and Lawson. Include an explanation of what Forexco is, what it does, who owns it, and whether there is any ownership in common with those who own Citipower LLC as well as explaining the basis for the salary allocation between the two companies.
  - A. In what capacity is Forsberg employed by Citipower and what is the total amount of his/her annual compensation therefore? In what capacity is Forsberg employed by Forexco and what is the total amount of his/her annual compensation therefor? Does Forsberg own any portion of either company, and if so, what portion?
  - B. In what capacity is McCue employed by Citipower and what is the total amount of his/her annual compensation therefor? In what capacity is McCue employed by Forexco and what is the total amount of his/her annual compensation therefore? Does McCue own any portion of either company, and if so, what portion?
  - C. In what capacity is Lawson employed by Citipower and what is the total amount of his/her annual compensation therefore? In what capacity is Lawson employed by



Forexco and what is the total amount of his/her compensation therefore? Does Lawson own any portion of either company, and if so, what portion?

5. With reference to Section III, Subsection A, please explain the allocation of 1/3 of the "Salaries paid by Citipower to Forexco" for Curd and Ross.
  - D. In what capacity is Curd employed by Citipower and what is the total amount of his annual compensation therefore? In what capacity is Curd employed by Forexco and what is the total amount of his annual compensation therefore? Does Curd own any portion of either company, and if so, what portion?
  - E. In what capacity is Ross employed by Citipower and what is the total amount of his/her annual compensation therefore? In what capacity is Ross employed by Forexco and what is the total amount of his/her annual compensation therefore? Does Ross own any portion of either company, and if so, what portion?
6. Are there any other employees of Citipower who work for both Forexco and Citipower? If so, please identify each such employee, the nature of the employment with/for each company, the amount of time spent performing duties for each company and the basis for any allocation of salary between the two companies.
7. Are there any other employees of Citipower LLC only? If so, what are their jobs, and what is the total annual compensation paid to them?
8. Are facilities (such as office space) or materials, furnishings or equipment (such as furniture, computers, phone systems and vehicles) shared by Forexco and Citipower? If so, please identify all facilities, furnishings, equipment and materials which are shared by the two and the basis on which the expense of each item is allocated between the two companies.
9. With reference to Section III, Subsection A, please provide a full explanation of "Other expenses - reduction due to cutback and learning curve". Explain what cutback has impacted expenses, how it has done so, and how long that impact is expected to continue. Also explain what learning curve is referenced, how that learning curve has impacted expenses and state whether that learning curve is expected to further reduce expenses in the future.
10. With reference to Section III, Subsection A, do the sales to Citizens Gas utilize the gas supply resources, distribution or transmission facilities, or any other asset, including personnel or labor, of Citipower LLC? If so, explain what is used and the extent of its use.
11. With reference to Section III, Subsection D, please provide a full explanation of the line item "Office F & F".
12. With reference to Section III, Subsection D please provide a full explanation of the line item

"Autos" including a description each vehicle included, the employee to whom that vehicle is assigned and the function that vehicle performs.

13. With reference to Section III, Subsection G, Attachment G-1, were any surveys or studies done to compare the cost of natural gas to alternative energy costs of electric and propane service in McCreary County? If so, please provide copies of those studies or surveys. Further, please provide all facts, materials, reports and information upon which the statement "It is not uncommon for Citipower customers to report savings of 50% over propane or electricity." is based or which supports that statement.

14. Has Citipower LLC performed or caused any studies or surveys to be performed comparing the costs of alternative electric or propane service in McCreary County to that of natural gas if the rate increase requested in this filing is granted? If so, please provide copies of those reports or surveys. If not, please explain the basis for the statement in Section III, Section G, Attachment G-1 which says, "Even with a rate increase, natural gas will continue to be significantly more affordable than alternative energy costs." Provide copies of all information relied upon in making that statement.

15. With reference to Section IV, Subsection B, concerning the extension of pipeline from Poplar Grove Road to Bob Musgrove Road, why were/are nine of eleven customers permitted free hook ups, while two paid/will pay the cost of hook up? On what basis is that differentiation made?

16. Please provide copies of all contracts or agreements upon which costs are allocated between Citipower LLC and any other company with reference to labor, personnel, facilities, equipment and materials.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

July 16, 1999

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY. 40702


James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY. 42653

Elizabeth Blackford  
Assistant Attorney General  
1024 Capital Center Drive  
Frankfort, KY. 40601

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

  
Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC            )  
FOR AN ADJUSTMENT OF RATES            )  
PURSUANT TO THE ALTERNATIVE        ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR        )  
SMALL UTILITIES                        )

O R D E R

This matter arising upon the motion of the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("Attorney General"), filed July 9, 1999, pursuant to KRS 367.150(8), for full intervention, such intervention being authorized by statute, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the motion is granted and the Attorney General is hereby made a party to these proceedings.

Done at Frankfort, Kentucky, this 16th day of July, 1999.

By the Commission

ATTEST:

  
Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION


REC'D  
JUL - 9 1999  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

Application of Citipower, LLC for Rate )  
Adjustment Pursuant to: 807 KAR 5:076 ) Case No. 99-225  
Alternative Rate Filing )

**MOTION TO INTERVENE**

Comes the Attorney General, A. B. Chandler, III, pursuant to KRS 367.150 (8) which grants him the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent the consumers' interests, and moves the Public Service Commission to grant him full intervener status in this action pursuant to 807 KAR 5:001(8).

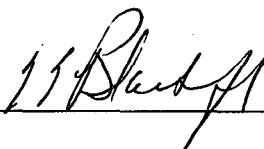
  
\_\_\_\_\_  
ELIZABETH E. BLACKFORD  
ASSISTANT ATTORNEY GENERAL  
1024 CAPITAL CENTER DRIVE  
FRANKFORT KY 40601  
(502) 696-5453  
FAX: (502) 573-4814

**CERTIFICATE OF SERVICE AND OF FILING**

I hereby Certify that this the 9th day of July, 1999, I have filed the Original and ten copies of the foregoing Motion with the Public Service Commission at 730 Schenkel Lane, Frankfort, KY, 40601, and that I have served the parties of record by mailing a true copy of same postage prepaid to:

DAVID K BROCK  
PRESIDENT IBEXCO  
P O BOX 523  
CORBIN, KY 40702

JAMES CURD  
MANAGER CITIPOWER LLC  
P O BOX 1309  
12 COURTHOUSE SQUARE  
WHITLEY CITY KY 42653

  
\_\_\_\_\_



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

June 17, 1999

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY. 40702

James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY. 42653

RE: Case No. 99-225

We enclose one attested copy of the Commission's Order in  
the above case.

Sincerely,

*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CITIPOWER, LLC            )  
FOR AN ADJUSTMENT OF RATES            )  
PURSUANT TO THE ALTERNATIVE         ) CASE NO. 99-225  
RATE FILING PROCEDURE FOR         )  
SMALL UTILITIES                         )

O R D E R

On June 3, 1999, Citipower, LLC ("Citipower") applied to the Commission for an adjustment of rates pursuant to Administrative Regulation 807 KAR 5:076, the alternative rate filing procedure for small utilities. In its filing, Citipower requested permission to deviate from the requirements of 807 KAR 5:076, Section 1.

Administrative Regulation 807 KAR 5:076, Section 1, requires the applicant to have on file with the Commission fully completed annual reports for the immediate past year and for at least the two prior years when the applicant has been in existence that long. Since Citipower did not come under the Commission's jurisdiction until November 1997 and its 1997 and 1998 Annual Reports are on file, the Commission finds that good cause exists to grant the deviation.

IT IS THEREFORE ORDERED that Citipower's request for permission to deviate from the requirements of 807 KAR 5:076, Section 1, is hereby granted.

Done at Frankfort, Kentucky, this 17th day of June, 1999.

By the Commission

ATTEST:

  
Executive Director





COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

June 3, 1999

David K. Brock  
President  
Ibexco  
P. O. Box 523  
Corbin, KY. 40702


James Curd  
Manager  
CitiPower, L.L.C.  
P. O. Box 1309  
12 Courthouse Square  
Whitley City, KY. 42653

RE: Case No. 99-225  
CITIPOWER, L.L.C.  
(Rates - ARF)

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received June 3, 1999 and has been assigned Case No. 99-225. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

  
Stephanie Bell  
Secretary of the Commission

SB/jc

CITIPower, LLC  
12 Courthouse Square  
Whitley City, KY 42653

ALTERNATIVE RATE FILING  
May, 1999

CASE 99-225

# Citipower, LLC

RECEIVED

JUN 03 1999

PUBLIC SERVICE  
COMMISSION  
CASE 99-225

## Application for Rate Adjustment

Pursuant to:

807 KAR 5:076

Alternative Rate Filing

# TABLE OF CONTENTS

May 21, 1999

SECTION I            COVER LETTER

SECTION II           APPLICATION

SECTION III          ATTACHMENTS

- A. Attachment A
- B. Attachment B
- C. Attachment C
- D. Attachment D
- E. Attachment E
- F. Attachment F
- G. Attachment G

SECTION IV          EXHIBITS

- A. Exhibits to Attachment A
- B. Exhibits to Attachment B
- C. Exhibits to Attachment C

---

---

**COVER LETTER**

---

---

Reply to:  
*Ibexco*  
P.O. Box 523  
Corbin, KY 40702

.....  
*Ibexco*

June 2, 1999

RECEIVED

JUN 03 1999

PUBLIC SERVICE  
COMMISSION

Ms. Helen C. Helton  
Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P.O. Box 615  
Frankfort, KY 40602

RE: Alternative Rate Filing for Small Utilities

CASE 99-225

Dear Ms. Helton:

On behalf of Citipower, LLC, I respectfully submit the following application for rate adjustment pursuant to 807 KAR 5:076.

In respect to the Basic Information Section, Question 3 of the application (Has the utility filed an annual report with this Commission for the past year and the two previous years?), Citipower has filed an Annual Report for the years 1997 and 1998. Citipower, LLC acquired McCreary Natural Gas as a farm tap program in September 1996 and operated as such until mid-1997. For this reason, I respectfully request written approval from the Commission to consider the Annual Reports filed for 1997 and 1998 as satisfaction of this specific requirement of the application.

Additionally, Citipower, LLC utilizes a flat rate designed billing structure. For this reason, I respectfully request the Commission to accept Attachment E as satisfaction of the requirement for a Billing/Revenue Analysis.

Pursuant to publication of the Public Notice, Attachment G was published in the McCreary County Record (a newspaper of general circulation within the county) on Tuesday, June 1, 1999 and is scheduled for publication once a week for three consecutive weeks.

Thank you for your time in consideration of this application, should you have any questions or if I may be of assistance in any way please contact me at (606) 526-1177.

Sincerely,



David K. Brock  
President

---

---

**APPLICATION**

---

---

APPLICATION FOR RATE ADJUSTMENT  
BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY

For Small Utilities  
Pursuant to 807 KAR 5:076  
(Alternative Rate Filing)

Citipower, LLC

Name of Utility

12 Courthouse Square

Whitley City, KY 42653

Business Mailing Address

Telephone Number (606) / 376-8373  
Area Code Number

I. Basic Information

NAME, TITLE, ADDRESS and telephone number of the person to whom correspondence or communications concerning this application should be directed:

NAME: David K. Brock - Independent Consultant

Address: P.O. Box 523

Corbin, KY 40702

Telephone Number: (606) 526-1177

- |  |                                      |                                     |
|--|--------------------------------------|-------------------------------------|
| 1) Do you have 500 customers or fewer?   | <input checked="" type="radio"/> Yes | <input type="radio"/> No            |
| 2) Do you have \$300,000 in Gross Annual Revenue or less?  | <input checked="" type="radio"/> Yes | <input type="radio"/> No            |
| 3) Has the utility filed an annual report with this Commission for the past year and the two previous years? | <input type="radio"/> Yes            | <input checked="" type="radio"/> No |
| 4) Are the utility's records kept separate from any other commonly-owned enterprise?                         | <input checked="" type="radio"/> Yes | <input type="radio"/> No            |

NOTICE: To be eligible for consideration of a rate adjustment under this regulation, you must have answered yes to either question 1 or 2 and yes to both questions 3 and 4 above. If you answer no to questions 3 or 4, you must obtain written approval from the Commission prior to filing this Application. If these requirements are not met, you must file under the Commission's procedural rules, 807 KAR 5:001.



II. Increased Cost Information

(1) The most recent Annual Report will be used as the basic test period data in order to determine the reasonableness of the proposed rates. The Annual Report used as the basis for this rate revision is the one filed with the Commission for the 12 months ending December 31, 1998.

a. If you have reason to believe some of the items of revenue and expense listed in the Annual Report will increase or decrease, please list each item, the expected increase or decrease and the adjusted amount.

<u>Item Per</u> <u>Annual Report</u>	<u>Amount Per</u> <u>Annual Report</u>	<u>Increase</u> <u>(Decrease)</u>	<u>Adjusted</u> <u>Amount</u>
---	---	--------------------------------------	----------------------------------

<u>Revenue</u>	\$ _____	\$ _____	\$ _____
----------------	----------	----------	----------

Total Revenue	\$ _____	\$ _____	\$ _____
---------------	----------	----------	----------

Expense

See:

III. ATTACHMENTS

A. Attachment A

Total Expense	\$ _____	\$ _____	\$ _____
Revenue Less Expense	\$ _____	\$ _____	\$ _____

- b. Please describe each item that you adjusted on page 2 and how you know it will change. (Please attach invoices, letters, contracts or receipts which will help in proving the change in cost).

See notes on Attachment A and also:

IV. EXHIBITS

A. Exhibits to Attachment A

- c. Please list your present and proposed rates for each class (i.e., residential, commercial, etc.) of customer and the percentage of increase proposed for each class:

<u>Customer Class</u>	<u>Present Rates</u>	<u>Proposed Rates</u>	<u>Percent Increase</u>
Residential	\$7.00	\$8.50	21%
Commercial	\$7.00	\$8.50	21%
Public	\$6.00	\$7.50	25%
Industrial	\$6.00	\$7.50	25%

III. Other Information

a. Please complete the following questions:

- 1) Please describe any events or occurrences which may have an effect on this rate review that should be brought to the Commission's attention (e.g., excessive line losses, major repairs, planned construction).

See:

III. ATTACHMENTS

B. Attachment B

See also:

IV. EXHIBITS

B. Exhibits to Attachment B

- 2) Total number of customers as of the date of filing: 227
- 3) Total amount of increased revenue requested: \$30,481.38  
Proposed Rate Structure \$159,298.31 minus \$128,816.93 Current Rate Structure per Attachment E
- 4) Please circle Yes or No:

- a) Does the utility have outstanding indebtedness?  Yes  No

If yes, attach a copy of any documents such as promissory notes, bond resolutions, mortgage agreements, etc.

See:

III. ATTACHMENTS

C. Attachment C

See Also:

IV. EXHIBITS

- b) Were all revenues and expenses listed in the Annual Report for 1998 incurred and collected from January 1 to December 31 of that year?  Yes  No

C. Exhibits to Attachment C

If no, list total revenue and total expense incurred prior to or subsequent to this period and attach invoices or other analysis which show how amounts were calculated.

5) Attach a copy of the utility's depreciation schedule of utility plant in service. Reconcile any differences between total depreciation shown on the Annual Report for 19 98 and the amount shown on this schedule. See:

III. ATTACHMENTS

6) If utility is a sewer utility:

D. Attachment D

a) Attach a copy of the latest State and Federal Income Tax Returns. N/A

b) How much of the utility plant was recovered through the sale of lots or other contributions \_\_\_\_\_ \$ or %? (If unknown, state the reason.)

N/A

b. Please state the reason or reasons why a rate adjustment is requested. (Attach additional pages if necessary).

- A) Projections for 1999 and 2000 excluding capital expenditures reflect net operating losses.
- B) To cover costs for expanding services including new pipeline to customers throughout McCreary County.
- C) Cover prior year capital expenditures for new and backup pipeline.
- D) Cover current year capital expenditures for actual and projected expansion.
- E) To cover added costs associated with maintenance of compressor station.

#### IV. Billing Analysis

The billing analysis is the chart reflecting the usage by the customers as well as the revenue generated by a specific level of rates. A billing analysis of both the current and proposed rates is mandatory for analysis of this rate filing. The following is a step-by-step description which may be used to complete the billing analysis. A completed sample of a billing analysis is also included. Although the sample reflects water usage, it is equally applicable for gas companies using a declining block rate design. This billing analysis is not intended for companies using a flat rate design.

#### For Revenue and Billing Analysis

See:

#### III. ATTACHMENTS

E. Attachment E

V. General Information/Customer Notice

1) Filing Requirements:

a. If the applicant is a corporation, a certified copy of its articles of incorporation must be attached to this application. If the articles and any amendments thereto have already been filed with the Commission in a prior proceeding, it will be sufficient to state that fact in the application and refer to the style and case number of the prior proceeding. See: III. ATTACHMENTS  
F. Attachment F

b. An original and 10 copies of the completed application should be sent to:

Executive Director  
Kentucky Public Service Commission  
730 Schenkel Lane  
P. O. Box 615  
Frankfort, Kentucky 40602

Telephone: 502/564-3940

c. One copy of the completed application should also be sent at the same time to:

Public Service Litigation Branch  
Office of the Attorney General  
Post Office Box 2000  
Frankfort, Kentucky 40602-2000

2) A copy of the customer notice must be filed with this application. Proper notice must comply with Section 4 of this regulation. See: III. ATTACHMENTS  
G. Attachment G

3) Copies of this form and the regulation may be obtained from the Commission's Office of Executive Director; or by calling 502/564-3940.

4) I have read and completed this application, and to the best of my knowledge all the information contained in this application is true and correct.

Signed

Daniel D. Foubert  
Officer of the Company

Title

President

Date

5/21/99

**ATTACHMENTS**

**ATTACHMENT A**

**Citipower, LLC  
Alternative Rate Filing  
II. Increased Cost Information**

1) The most recent Annual Report will be used as the basic test period data in order to determine the reasonableness of the proposed rates. The Annual Report used as the basis for this rate revision will be the one filed with the commission for the 12 months ending December 31, 1998 (a) If you have reason to believe some of the items of revenue and expenses listed in the annual report will increase or decrease, please list each item, the expected increase or decrease and the adjusted amount.

**1998 Annualized Using Proposed Rate Increase**

	1998 Actual	Increase or	Adjusted
Gas Sales - Citipower Customers	\$ 131,288	\$ 175,638	\$ 306,926
Gas Sales - Citizens Gas	\$ 54,276	\$ 323,033	\$ 377,309
Other Revenue	\$ 26,177	\$ 19,275	\$ 45,452
<b>Total Revenues</b>	<b>\$ 157,465</b>	<b>\$ 194,913</b>	<b>\$ 352,378</b>

Based on 1998 Actual Customers Added - 70. Using proposed rates \$7.50 and \$8.50 increase sales due to new steel backup line to Tennessee Based on increase from 1997 to 1998 (takes into account 70 new customers added)

← Sales to Citizens Gas and Cost of Goods Sold related to Sales to Citizens Gas have not been included in Revenues or Expenses

	1998 Actual	Increase or	Adjusted
Expenses			
Cost of Goods Sold-Citipower Customers	\$ 54,669	\$ 33,771	\$ 88,440
Cost of Goods Sold-Citizens (180,000 mcf @ 1.82/mcf)	\$ -	\$ 327,600	\$ 377,309
Adjustment for Line Loss/Compressor Burn (Avg 0.45 per mcf, estimated mcf's for 1999 - 180000)	\$ -	\$ (81,000)	\$ (81,000)
(Compressor Fees) (avg 20 wells @ \$100 per well per month)	\$ -	\$ (24,000)	\$ (24,000)
Total Cost of Goods Sold	\$ 54,669	\$ 33,771	\$ 88,440
<b>Gross Profit</b>	<b>\$ 102,796</b>	<b>\$ 161,142</b>	<b>\$ 263,938</b>

Per Contract for Gas Purchase  
Per Contract for Gas Purchase  
Gross Profit from Sales to Citipower Customers Only

← Compressor Rent & Maintenance is not included in Fixed Costs - relates to sales to Citizens Gas

	1998 Actual	Increase or	Adjusted
Operating Expenses			
Insurance-Workmen's Compensation	\$ 4,794	\$ 1,461	\$ 6,255
Compressor Maintenance	\$ -	\$ 72,000	\$ 72,000
Contract Labor - Rick Wilson	\$ -	\$ 10,400	\$ 10,400
Marketing (New person)	\$ -	\$ 21,600	\$ 21,600
Interest Expense	\$ 11,399	\$ 42,500	\$ 53,899
Officers Comp/Consulting	\$ 251,840	\$ (50,000)	\$ 201,840
Commissions	\$ 25,774	\$ (10,000)	\$ 15,774
Engineering Fees	\$ 11,883	\$ (5,000)	\$ 6,883
Legal Fees	\$ 60,672	\$ (15,000)	\$ 45,672
General & Admin Salaries - Allocation	\$ -	\$ 100,000	\$ 100,000
General & Admin Salaries - Allocation	\$ 176,761	\$ (20,005)	\$ 156,756
Other - not specifically broken out	\$ 330,012	\$ (36,000)	\$ 294,012
Other Income	\$ (5,109)	\$ 1,000	\$ (4,109)
Total Operating Expenses	\$ 868,026	\$ 40,956	\$ 908,982
Net Income (Loss)	\$ (765,230)	\$ 120,186	\$ (645,044)
Noncash Expenses included above	\$ (251,840)	\$ -	\$ (201,840)
Officers Comp/Consulting	\$ (132,236)	\$ -	\$ (132,236)
Depreciation/Amortization (in Other)	\$ -	\$ -	\$ -
Sub-Total (Cash expenses)	\$ 483,950	\$ -	\$ 574,906
Projected Capital Expenditures			
Loop line			\$ 350,000
New customers-Josh Hill, Musgrove, Hayes			\$ 104,790
Total Cash Expenses			\$ 1,029,696

Additional premium based on 12/98 Audit by Ky Mutual  
New Compressor Added in 1998 - Monthly rent and Maintenance  
Rick Wilson  
Marketing Employee  
Note Payable - \$500,000 - Bank of McCreary  
Based on total investments-less new investments projected for 1999  
Based on investments sold  
Expect less engineering work in 1999  
Expect less legal work in 1999  
1999 Allocation 1/3 of Salaries paid by Forexco to Citipower (Forsberg, McCue, Lawson)  
1999 Allocation 1/3 of Salaries paid by Citipower to Forexco (Curd, Ross)  
Other Expenses - reduction due to cutback and learning curve  
Interest - less cash in accounts earning interest.

Excludes capital expenditures

Estimates for Hayes, Musgrove



**ATTACHMENT B**

Citipower, LLC  
Alternative Rate Filing  
III. Other Information

(III), a.), 1) Describe any events or occurrences which may have an effect on this rate review that should be brought to the Commission's attention:

**1998 Capital Expenditures - Actual**

**Description of Expenditure**

\$ 426,888.63	Installation of 1", 2", 3", 4" & 6" Pipeline for expansion of infrastructure in McCreary County and hook-up of new customers
\$ 42,991.19	70 New customers added to burn in 1998
\$ 1,023,076.52	Construction in 1998 (and continuing in 1999) of 4" steel backup pipeline
\$ 125,480.17	Installation of compressor station for 4" steel backup pipeline
\$ 10,587.26	Installation of Regulator/Odorant Station in 1998.
\$ 21,477.21	Purchase of new trucks and major repairs to ditchwitch
<u>\$ 1,650,500.98</u>	Total Capital Expenditures in 1998

**1999 Capital Expenditures - Actual**

**Description of Expenditure**

\$ 23,823.56	Continuing expansion of 1", 2", 3" & 4" pipeline for new customer hookups and expansion of infrastructure.
\$ 7,018.79	Completion of 4" steel backup pipeline
\$ 15,682.45	Completion of compressor station
\$ 2,323.12	Completion of regulator/odorant station
\$ 3,581.06	New customer hook-ups - 18 new customers added to burn in 1st quarter 1999
<u>\$ 52,428.98</u>	Total capital expenditures through 3/31/1999

**1999 Projected Capital Expenditures**

\$ 104,790.00	New customers-Josh Hill, Musgrove, Hayes
\$ 350,000.00	Loop line
<u>\$ 454,790.00</u>	Total 1999 Projected capital expenditures

1999 \$ 507,218.98 Total actual and projected capital expenditures

**ATTACHMENT C**

Citipower, LLC  
Alternative Rate Filing  
III. Other Information

III.) a., 4.) a) Does the utility have outstanding indebtedness? If yes, attach a copy of any documents such as promissory notes, bond resolutions, mortgage agreements, etc.

<u>Date</u>	<u>Lender</u>	<u>Type</u>	<u>Amount</u>	<u>Maturity Date</u>	<u>Comments</u>
November 11, 1997	Bank of McCreary	Line of Credit	\$ 250,000.00	November 11, 1998	Working Capital - Construction
November 11, 1998	Bank of McCreary	Line of Credit	\$ 250,000.00	November 11, 1999	Renewal of above Line of Credit
December 16, 1998	Bank of McCreary	Note Payable	\$ 500,000.00	December 16, 1999	Infrastructure/Construction
January 6, 1999	Bank of McCreary	Note Payable	\$ 250,000.00	January 6, 2000	Purchase - LBU
Various	Bank of McCreary	Vehicle Note	\$ 27,157.00	February 10, 2002	
Various	BankOne	Vehicle Note	\$ 29,342.00	December 21, 2001	

# ATTACHMENT D

Summary of PP&E Charges

	12/31/96			12/31/97			12/31/98		
	Adjusted Cost	Adjusting Entry	Usadj. Cost	Adjusted Cost	Adjusting Entry	Usadj. Cost	Adjusted Cost	Adjusting Entry	Usadj. Cost
Office Building	125,000.00	50,000.00	75,000.00	125,000.00	125,000.00	125,000.00	125,000.00	125,000.00	125,000.00
Office F&P	9,176.88	0.00	9,176.88	9,176.88	(797.86)	9,974.74	9,176.88	-	9,176.88
Auto	44,574.33	44,574.33	-	68,475.09	(9,005.22)	77,480.31	87,311.09	(1,871.93)	89,183.02
Compressor Site	-	-	-	-	-	-	111,094.07	27,356.16	83,737.91
Equipment-1/W-Other	25,000.00	20,000.00	5,000.00	47,328.48	(3,285.57)	50,614.05	49,960.69	(862.60)	50,832.29
Equip-Meters-equip	102,798.00	102,798.00	-	160,523.30	(14,678.89)	175,202.19	195,852.94	(8,882.96)	204,735.90
Pipeline-1" & 2"	295,680.00	295,680.00	-	273,932.58	(100,075.00)	374,007.58	307,694.94	(3,397.32)	311,092.26
Pipeline-3"	-	-	-	179,180.92	(813.33)	179,994.25	246,153.63	(2,916.07)	249,069.70
Pipeline-4"	316,800.00	316,800.00	-	361,598.72	2,825.45	358,773.27	583,663.84	(2,516.63)	586,180.47
Pipeline-6"	-	-	-	290,738.87	22,170.62	268,568.25	488,965.67	(23,071.13)	514,036.80
Pipeline-Steel	-	-	-	11,048.70	11,048.70	-	1,009,962.58	17,687.46	992,275.12
Reg-Oleum Station	-	-	-	-	-	-	7,320.75	(23.13)	7,343.88
PP&E-Other	-	(701,724.82)	701,724.82	-	(57,195.08)	57,195.08	-	-	-
Total PP & E	919,020.21	-	(15,018.39)	1,527,003.54	-	(77,290.00)	3,222,166.08	-	(117,565.85)
Depreciation Expense/ Accumulated Deprcc. per TB	-	(102,672.00)	(102,672.00)	-	(309,489.39)	(294,471.00)	-	-	(92,388.39)
Adjustment to Connolly State Depreciation Exp./Assess. Deprcc.	-	87,653.61	87,653.61	-	217,181.00	217,181.00	-	-	(117,565.85)

Note: During our review of PP & E, we noted that the client did not have a capitalization policy. Therefore, we adjusted all items in PP & E less than \$500.00, except for the items in the Steel Pipeline category, which were mainly for assessments, which should be capitalized.

Also, the client was calculating depreciation expense using tax basis. We have recalculated depreciation expense based on a straight-line basis. We have recognized a full month's depreciation expense for items placed in service at anytime during the month.

We tested all PP&E items greater than \$5,000 and any adjustments we found in our testing is noted in the adjusting entries above. Therefore, any items included in the detail PP & E listing at vfp above \$5,000 have been tested without exception.

**ATTACHMENT E**

Citypower, LLC  
 Alternative Rate Filing  
 Billing/Revenue Analysis

**BILLING & REVENUE ANALYSIS - CURRENT RATE STRUCTURE**

CUSTOMER CLASS	TOTAL # OF BILLS	# OF MINIMUM BILLS	CUSTOMER CHARGES Minimum Billing	Late Payment Fees	CUSTOMER CHARGES REVENUE	# of MCF BILLED	# OF MCF USED BY CUSTOMERS RECEIVING MINIMUM BILLS	RATE	GAS SALES REVENUE	TOTAL REVENUE
Domestic	1,494.00	486	\$2,430.00	\$422.91	\$2,852.91	4,774.97	68.77	\$7.00	\$33,424.79	\$36,277.70
Commercial	242.00	91	\$455.00	\$65.00	\$520.00	2,116.44	12.87	\$7.00	\$14,815.08	\$15,335.08
Institutional	127.00	49	\$245.00		\$245.00	9,411.73	8.09	\$6.00	\$56,470.38	\$56,715.38
Industrial	23.00	6	\$30.00		\$30.00	4,017.78	0.99	\$6.00	\$24,106.68	\$24,136.68
<b>TOTAL</b>	<b>1,886.00</b>	<b>632</b>	<b>\$3,160.00</b>	<b>\$487.91</b>	<b>\$3,647.91</b>	<b>20,320.92</b>	<b>90.72</b>		<b>\$128,816.93</b>	<b>\$132,464.84</b>
* Total unbilled MCF pursuant to minimum billing. Not reflected in Gas Sales Revenue or Customer Charges Revenue										
Revenue Loss on Gas Used by Customers Receiving Minimum Bills (625.96)										
Adjustment for 9 MCF commercial not reflected on Annual Report (63.00)										
Deduction for Late Payment Fees Collected (487.91)										
<b>TOTAL REVENUE \$131,287.97</b>										
Late Fees on Page 9, Line 13 of Annual Report are not included in Page 9, Line 6 "Total Sales to Ultimate Customers"										
REVENUE ANALYSIS - PROPOSED RATE STRUCTURE										
CUSTOMER CLASS	TOTAL # OF BILLS	# OF MINIMUM BILLS	CUSTOMER CHARGES* Minimum Billing	Late Payment	CUSTOMER CHARGES REVENUE	# of MCF BILLED	# OF MCF USED BY CUSTOMERS RECEIVING MINIMUM BILLS	RATE	GAS SALES REVENUE	TOTAL REVENUE
Domestic			\$0.00		\$0.00	4774.97		\$8.50	\$40,587.25	\$40,587.25
Commercial			\$0.00		\$0.00	2116.44		\$8.50	\$17,989.74	\$17,989.74
Institutional			\$0.00		\$0.00	9411.73		\$7.50	\$70,587.98	\$70,587.98
Industrial			\$0.00		\$0.00	4017.78		\$7.50	\$30,133.35	\$30,133.35
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>20,320.92</b>			<b>\$159,298.31</b>	<b>\$159,298.31</b>

Office of the Secretary of State

---

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF LIMITED LIABILITY COMPANY OF "CITIPOWER, L.L.C.", FILED IN THIS OFFICE ON THE THIRTIETH DAY OF MAY, A.D. 1996, AT 10 O'CLOCK A.M.



2628643 8100

991190873

A handwritten signature in cursive script, reading "Edward J. Freel".

---

Edward J. Freel, Secretary of State

9747880

AUTHENTICATION:

05-17-99

DATE:

**CERTIFICATE OF FORMATION**

**OF**

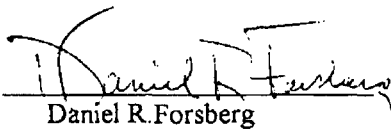
**CITIPOWER, L.L.C.**

1. The name of the limited liability company is Citipower, L.L.C. (the "Company").
2. The address of the registered office of the Company in the state of Delaware is Corporation Trust Center, 1209 Orange St., Wilmington 19801, County of New Castle; and the name of the registered agent for service of process of the Company in the State of Delaware at such address is The Corporation Trust Company.
3. The date of dissolution of the Company shall be April 30, 2046.

**IN WITNESS WHEREOF**, the authorized person whose name is set forth below has executed this Certificate of Formation this 28th day of May, 1996.

FORSBERG OIL CO., INC.

By:

  
Daniel R. Forsberg

**ATTACHMENT G**

***PUBLIC NOTICE OF PROPOSED RATE CHANGE***

Pursuant to public notification provisions relating to an application for rate adjustment with the Kentucky Public Service Commission, Citipower, LLC proposes the following amended rate structure.

<b><u>Customer Class</u></b>	<b><u>Current Rate</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount of Increase</u></b>	<b><u>Percent Increase</u></b>
Residential	\$7.00/mcf	\$8.50/mcf	\$1.50/mcf	21%
Commercial	\$7.00/mcf	\$8.50/mcf	\$1.50/mcf	21%
Public	\$6.00/mcf	\$7.50/mcf	\$1.50/mcf	25%
Industrial	\$6.00/mcf	\$7.50/mcf	\$1.50/mcf	25%

The rates contained in this notice are the rates proposed by Citipower, LLC. However, the Public Service Commission may order rates to be charged that are higher or lower than the rates proposed in this notice. Any corporation, association, body politic or person may request leave to intervene by motion within thirty (30) days after notice of the proposed rate changes is given. A motion to intervene shall be in writing, shall be submitted to the Executive Director, Public Service Commission, 730 Schenkel Lane, P.O. Box 615, Frankfort, Kentucky 40602, and shall set forth the grounds for the motion, including the status and interest of the movant.

Copies of the application may be obtained at no charge from Citipower, LLC at 12 Courthouse Square, Whitley City, Kentucky 42653.

Upon request from an intervenor, the applicant shall furnish to the intervenor a copy of the application and supporting documents.

## ATTACHMENT G-1

Published in McCreary County Record on May 25, 1999



### **CitiPower, L.L.C.**

#### **Gas Distribution Company**

James E. Curd, Vice President  
12 Courthouse Square, P.O. Box 1309  
Whitley City, KY 42653

Office 606-376-8373 - Fax 606-376-8830 - Pager: 423-569-7462

#### **Open Letter To Residents of McCreary County**

When Citipower, LLC purchased McCreary Natural Gas Systems in September, 1996, we promised to be a partner in the prosperity natural gas would bring to McCreary County. Not only would low-cost energy mean savings to local residents, but we knew that county-wide natural gas service would attract industry and better paying jobs.

We immediately set out to deliver on our promises.

Significant expansion of McCreary County's natural gas infrastructure began in early 1997 with the construction of 16.5 miles of pipeline linking Pine Knot, Stearns and Whitley City to the natural gas supply. Upon completion of the pipeline in May 1998, Citipower had not only brought affordable natural gas to local residents, but had become a catalyst for economic development as well.

In order to guarantee an uninterrupted supply of natural gas to McCreary County, Citipower invested an additional \$1.2 million in 1998 to build a compressor station and lay an 11.5-mile pipeline from Strunk to an interstate gas line in Oneida, Tennessee. Construction was completed in May, 1998.

Investing over \$2 million dollars, wasn't the end-it is just the beginning.

With every passing day more residences and businesses of McCreary County are benefiting from the affordability of natural gas. How affordable? It is not uncommon for Citipower customers to report savings of 50% over propane or electricity. These savings are consistent with national surveys conducted by the Department of Energy.

To insure that Citipower continues to provide the high-quality, cost-saving service its customers have come to enjoy and enable the company to service new customers in the future; we are seeking approval for a modest rate increase from the Kentucky Public Service Commission. Approval, if granted, will not occur for several months, but it is important to us that our customers and the community we serve are aware of our plans. The following relevant points should be noted:

- There has not been a rate increase in six years.
- Our current rates are the lowest of all surrounding counties. Our proposed rates will be about the same as those charged in neighboring communities.
- Even with a rate increase, natural gas will continue to be significantly more affordable than alternative energy costs.
- In order to continue expansion of services in the county our rates must reflect the rising labor, material and construction costs that we must bear to build infrastructure in the county.

As partners in prosperity we will continue to do our part and look for your support. If you have any questions about the affordability of natural gas, our ongoing commitment to McCreary County or ways we can better serve the community, please stop by the Citipower offices at 12 Courthouse Square, Whitley City.

Sincerely,

Jimmy Curd, Vice President, Operations



---

---

**EXHIBITS**

---

---



Kentucky Employers' Mutual Insurance  
250 W. Main Street, Suite 900  
Lexington, KY 40507

"Making Workers' Comp Work"

RECEIVED FEB 0 2 1999

FINAL AUDIT SUMMARY/INVOICE

Date: 01/28/1999

Page: 1

The Insured: Policy Number: 225270  
CITIPOWER LLC & FOREXCO INC  
2122 ENTERPRISE RD  
GREENSBORO NC 27408

Inception Date: 01/08/1998  
Cancellation Date: 01/08/1999  
Days In Force: 365

Due Date: 02/27/1999

CODE	CLASS DESCRIPTION:	NUMBER:	REMUNERATION:	RATE/\$100:	PREMIUM:
8810	R CLERICAL OFFICE EMPLOYEES NOC		\$25,408.00	\$ .44	\$111.80
6216	R GAS OR OIL LEASE WORK NOC - NATURAL GAS - BY CONTRACTOR - & DRIVE		\$0.00	\$13.66	\$0.00
7502	R GAS COMPANY: NATURAL GAS - LOCAL DISTRUBUTING - & DRIVERS		\$147,417.00	\$4.33	\$6,383.16

Base Premium: \$6,494.96

Exp. Mod. Rate: 01/08/1998 - 01/08/1999 1.00 \$0.00

Rate Adjust Factor: 1.00 \$0.00

Increased Limits: \$129.90

Short Rate Factor: \$0.00

Premium Discount: \$82.87

Expense Constant: \$140.00

Total Premium: \$6,681.99

Late and/or Reinstatement Charges: \$0.00

Taxes & Assessments: 9% \$601.38

Grand Total: \$7,283.37

Amt. Paid by Insured: -\$2,878.02

Over/Short Writeoff Amount: \$0.00

Additional/Return Premium: \$4,405.35

ENTERED FEB 0 9 1999

PAID MAR 1 2 1999 \$1,102.55  
#7382

PAID MAR 2 9 1999  
1197CP

THANK YOU FOR YOUR BUSINESS.

UNIVERSAL COMPRESSION, INC.

RENTAL CONTRACT

CITIPOWER, LLC

No.: 982780172
UCI Unit #: 201701
October 28, 1998

Page 3

MONTHLY RENTAL AND TERMS

The monthly rental for the equipment quoted herein shall be as follows:

Two thousand, nine hundred dollars (\$2,900.00).

The rental shall be payable monthly in advance at UCI's Houston office, for a minimum term of twelve (12) months, commencing from the date of shipment\*. Upon expiration of the minimum term, such rental shall continue from month to month. Either party may terminate this agreement at the expiration of the minimum term upon thirty (30) days written notice prior to such expiration or upon thirty (30) days prior written notice thereafter. Rentals shall cease at the expiration of such thirty (30) days, provided Customer has returned the equipment to UCI's designated terminal.

\*Lease payments begin one (1) week after arrival on location.

MONTHLY EQUIPMENT AVAILABILITY

- 1. UCI will endeavor to provide a monthly availability of the Equipment furnished in this proposal of 95% ("Proposed Monthly Availability") subject to the provisions below.
2. Any month when the actual monthly availability is less than the proposed monthly availability, the rental rate shall be adjusted by an availability factor in accordance with the following:
(a) To determine actual monthly availability, the following formula shall be used: \* Hours Equipment available during month / (24 x number of days in month) x 100 = %
(b) To determine the availability factor, the following formula shall be used: Actual monthly availability / Proposed monthly availability =
(c) The rental rate shall be adjusted in accordance with the following: Monthly Rental Rate x Availability Factor = Adjusted Rental Rate
3. There shall be no reduction in the rental rate if the compression equipment was not available due to the fault of CUSTOMER or CUSTOMER'S operation.
4. Paragraphs 1 and 2 above shall not be effective during the first thirty (30) days after commencement of the term as stated in Article 1 of the Proposed Lease Terms or during the first thirty (30) days after which UCI replaces or substitutes equipment.
5. In the event of breakdown or non-availability of equipment for any cause, UCI's liability to CUSTOMER shall be limited to a reduction of the rental rate as provided above and in no event shall UCI be liable to CUSTOMER for any consequential loss, damage or expense as a result thereof.
6. Downtime begins when UCI is notified the unit is down.
7. Request for downtime credit must be received by UCI, Houston, Texas; in writing thirty (30) days from the end of the month in which the downtime occurred.
\* Eight (8) hours per month allowed for scheduled preventive maintenance. (only applicable if UCI provides maintenance)

This Contract is subject to the attached terms and conditions on page 4.

Accepted this 3rd day of November, 1998

Submitted By: Tim Nicely, District Manager

CITIPOWER, LLC
BY: James E. Curo
ITS: V.P. and Operations Manager

Return original to:
Universal Compression, Inc
P.O. Box 40009
Houston, TX 77240
Telephone: (713) 466-4103 or (800) 234-4650

These prices are subject to applicable Federal, State, and Local sales and/or use taxes.

**B.K.R. Well Service Company**

P.O. Box 5225, Oneida, TN 37841

Office: (423)569-8999 Fax: (423)569-8997

**COMPRESSOR - FIELD OPERATOR AGREEMENT**

CLIENT: CITIPOWER, LLC.

OPERATOR: B.K.R. WELL SERVICE COMPANY

LOCATION: WORLEY COMPRESSOR SITE  
WINFIELD, TENNESSEE

BEGIN DATE: JANUARY 1, 1999

COST AND TERMS: A PAYMENT OF \$1,500.00 PER MONTH, PAYABLE AT  
THE END OF EACH MONTH FOR A MINIMUM TERM  
OF 12 MONTHS.**SERVICE PROVIDED:**Provide daily operation and inspection of compressor and plant equipment and all  
associated gauges.

1. Check all fluid levels and maintain as required;
2. Check Dehy daily and maintain operating temperature, glycol levels,  
glycol pump and burner efficiency;
3. Check all vessels for dump operation, liquid levels, and filter replacements  
as required;
4. Observe and report field pressure (suction), compressor discharge pressure  
and pipeline pressure (sales);
5. Change chart as required;
6. Notify Universal Compression, Inc. of any compressor problems and  
maintain any required reports;
7. Follow all operating procedures as recommended by Universal  
Compression, Inc.;
8. Responsible for transportation, fuel and insurance;
9. Maintain 24 hour / 7 day on call service;
10. Submit monthly operating reports to Citipower;

Accepted: this 1st day of January, 1999.

OPERATOR: B.K.R. WELL SERVICE

BY: 6530 Reynolds  
TITLE: Owner

CLIENT: CITIPOWER, LLC.

BY: James E. Lind  
TITLE: V.P. Operations Mgr.

**ORIGINAL**  
RECEIVED JAN - 6 1999

PRODUCER GAS PURCHASE CONTRACT

This Contract for the purchase of natural gas is made on the 21st of December, 1998 at Helenwood, Tennessee, by and between CitiPower, L.L.C. of 12 Courthouse Square, P.O. Box 1309, Whitley City, Kentucky 42653, hereinafter referred to as "Seller," and CITIZENS GAS UTILITY DISTRICT, with its principal office at Highway 27, P. O. Box 320, Helenwood, Tennessee, 37755, it being a natural gas utility district serving Scott and Morgan Counties, Tennessee, hereinafter referred to as "Purchaser."

W I T N E S S E T H:

WHEREAS, the Seller owns or has contracts to purchase gas from certain gas wells located in McCreary and Whitley Counties, Kentucky. Seller is willing to sell natural gas that it has under contract to Purchaser; and

WHEREAS, the Purchaser is willing to purchase the natural gas from the Seller; and

NOW, THEREFORE, for and in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Contract agree to the following:

1. Seller has built or will build a natural gas pipeline to connect with Purchaser's natural gas pipeline at the

Stephens/Pine Hill station, or has contracted for the use of a pipeline owned by third parties that connect with Purchaser's line, therefore, the Purchaser hereby agrees to purchase the gas delivered from the Seller's pipeline at the Stephens/Pine Hill station for the term set forth below.

2. The price the Purchaser will pay the Seller for the gas will be measured by each thousand cubic feet (mcf) of gas at the sales meter located at the Stephens/Pine Hill station, less 4% per mmbtu for compressor fuel, and is as follows: Purchaser will pay the Seller on an mmbtu basis for volumes equal to or greater than 1,000 mmbtu per day at any one delivery point, the index price established and published in the publication entitled "Inside F.E.R.C.'s Gas Market Report" as set forth in the Table entitled "Prices of Spot Gas Delivered to Pipelines" under the Listing "Tennessee Gas Pipeline Co., Louisiana & Offshore (zone 1). Purchaser will pay the Seller on an mmbtu basis for volumes equal to or greater than 500 mmbtu per day, but less than 1,000 mmbtu per day, at any one delivery point, the index price established and published in the publication entitled "Inside F.E.R.C.'s Gas Market Report" as set forth in the Table entitled "Prices of Spot Gas Delivered to Pipelines" under the Listing "Tennessee Gas Pipeline Co., Louisiana & Offshore (zone 1), less Fifteen (\$0.15) cents per

mmbtu. Purchaser will pay the Seller on an mmbtu basis for volumes less than 500 mmbtu per day at any one delivery point, the index price established and published in the publication entitled "Inside F.E.R.C.'s Gas Market Report" as set forth in the Table entitled "Prices of Spot Gas Delivered to Pipelines" under the Listing "Tennessee Gas Pipeline Co., Louisiana & Offshore (zone 1), less Thirty (\$0.30) cents per mmbtu. The month of publication for "Inside F.E.R.C.'s Gas Market Report" shall determine the price to be paid for deliveries made to Purchaser for the same month as the publication issue.

3. The term of this Agreement shall be for thirty (30) days from the date hereof, and continuing thereafter under the covenants, terms, and conditions set forth herein unless the party desiring to terminate this Contract shall give thirty (30) days written notice sent by certified mail, return receipt requested, to the other party of its intention to so terminate; provided, however, that Purchaser is hereby given the right to terminate this Agreement at any time it is required to do so by any federal, state, or local governmental agency, or at any time that the Board of Trustees of Purchaser determines, by majority vote, that it is not in the best interest of the customers of Citizens Gas Utility District to continue the same.

4. Seller grants and guarantees to Purchaser, so far as Seller has the right so to do, a meter location and a compressor location with full right of ingress and egress to and from said Stephens/Pine Hill station, and the further right to do thereon acts necessary or convenient for the carrying out of the terms of this Contract. All pipelines and equipment placed, or caused to be placed, on such sites by Purchaser shall be and remain Purchaser's property and may be removed by Purchaser at any time. This paragraph shall not be construed as creating an obligation on the part of the Purchaser to install compression or to locate its meter station at any particular location other than where Purchaser deems necessary in its sole and absolute discretion.

5. Seller agrees that the gas delivered hereunder will, upon delivery:

A. Have a total heating value of not less than one thousand(1,000) btu's per cubic foot; however, should the total heating value of the gas fall below one thousand (1,000) btu's per cubic foot during any month, Purchaser, at Purchaser's sole discretion, shall have the right to refuse to accept delivery thereof;

B. Not have been processed, stripped, refrigerated, or in any way treated to lower the btu content below one thousand



(1,000) btu's per cubic foot;

C. Be commercially free from dust, hydrocarbon liquids, water and any other substance that might become separated from the gas in Purchaser's or Purchaser's designee's facilities, and Seller at its sole expense shall furnish, install, maintain and operate such drips, separators, heaters and other mechanical devices as may be necessary to effect compliance with such requirements;

D. Not contain more than twenty (20) grains of total sulfur, nor more than one (1) grain of hydrogen sulfide per one hundred (100) cubic feet;

E. Not contain more than five parts per million (PPM) by volume of oxygen, and Seller shall make every reasonable effort to keep the gas free of oxygen;

F. Not contain more than four percent (4%) by volume of a combined total of carbon dioxide and nitrogen components; provided, however, that the total carbon dioxide content shall not exceed three percent (3%) by volume;

G. Have a temperature of not more than one hundred degrees (100%) Fahrenheit;

H. Have been dehydrated by Seller for removal of entrained water present therein in a vapor state, and in no event contain more than seven (7) pounds of entrained water per million

cubic feet, at a pressure base of fourteen and seventy three hundredths (14.73) pounds per square inch and a temperature of sixty (60) degrees Fahrenheit as determined by dew-point apparatus approved by the Bureau of Mines or such other apparatus as may be mutually agreed upon;

I. Shall not be of a pulsation level which, in the opinion of Purchaser or Purchaser's designee, hinders accurate measurement.

6. As to gas which cannot meet the specifications set out above, Purchaser shall have the option to:

A. Refuse to accept delivery of such gas and in the event Seller cannot correct such deficiency despite its best efforts within a reasonable period of time, this Agreement will terminate as to such gas; or

B. Upon notice to Seller, accept such gas at a reduced price, to be mutually agreed upon by the parties. However, in the event Purchaser accepts nonconforming gas, such acceptance shall not be construed as a waiver of Purchaser's right to demand strict compliance by Seller in the future.

7. The Seller will pay for all gas lines needed to connect the Seller's pipeline to the delivery point at the Stephens/Pine Hill station, which is defined as the point where the

gas is measured and enters the Purchaser's pipeline system. Each party has the responsibility for the gas in its own pipeline. Deliveries of gas pursuant to this contract are expected to be made at pressures ranging from 250 psi to 400 psi. Therefore, all equipment and fittings installed by Seller must be rated to withstand operating pressures in excess of 400 psi and must be maintained in a safe and operational manner. A purchase meter will be installed at the delivery point. The meter will be a high pressure type meter as determined by American Gas Association Standards, which for volumes equal to or greater than 500 mmbtu per day, shall be an orifice meter with a seven (7) day chart, and for volumes less than 500 mmbtu per day, shall be an orifice meter with a thirty-one (31) day chart, which shall be purchased and installed at the Seller's expense. The Seller will install the meter, all regulators, valves, safety relief valves, and check valves as Purchaser deems necessary to comply with the utility regulations. Purchaser will have the sole and exclusive right to control any and all regulators, valves, safety relief valves, and check valves at the point of delivery. Seller will take all steps necessary to insure a safe delivery pressure.

8. The Seller will maintain its pipeline and connections at the delivery point in a safe and suitable condition

at all times and shall comply with all State and Federal rules and regulations. The Seller is required to obtain and maintain all easements, rights of way, leases, and meter station agreements. The Purchaser and Seller will each own the equipment and materials that they contributed to comply with this Contract. This Contract is not a partnership nor joint venture, and each party will own the equipment it has supplied.

9. The purchase meter will be tested and calibrated at regular intervals, the cost of which shall be divided equally between Seller and Purchaser, by a qualified testing firm selected by Purchaser. The meter and instrument will be tested separately. The Seller will pay for all necessary replacement parts to maintain the accuracy of the meter and instrument. Either party at any time it questions the accuracy of the meter or instrument may order a test to be conducted by a qualified testing firm, provided it observes the same procedures as the tests performed on regular intervals. In the event the test establishes that the meter is measuring gas with a two percent (2%) margin of error or less, the expense of the test shall be paid by the party requesting the test and no adjustments to gas volumes shall be made; it being expressly agreed that a two percent (2%) margin of error or less is an acceptable tolerance for both parties. In the event the test

establishes that the meter measurement has a margin of error greater than two percent (2%), so that the meter is measuring less gas than is actually being delivered, and such slow measurement is a result of the Seller's noncompliance with the quality provisions contained herein, Purchaser shall not be held liable for gas delivered to Purchaser and not properly measured, so that Seller will only be paid for the meter reading amount. In the event the test establishes a greater than two percent (2%) margin of error so that the meter is measuring more gas than is actually being delivered, Purchaser shall be entitled to a credit because of the meter error. In the event the test establishes a greater than two percent (2%) margin of error so that the meter is not measuring all of the gas delivered to Purchaser, and Seller is in compliance with the quality provisions for the gas set forth herein, Seller shall be entitled to a credit for the amount of gas not accurately measured by the meter. The credit to which either Seller or Purchaser may be entitled shall be established by multiplying the difference between the actual percentage margin of error and two percent (2%) by the "Adjustment" (as calculated below), so that the formula to be utilized to establish a credit is as follows:

$$\text{Credit} = (x\% - 2\%) \text{Adjustment}$$

x% = actual margin of error established by

the meter calibration

All adjustments made either on behalf of the Seller or Purchaser shall be made by taking the total volume of gas delivered to Purchaser from the time of the last meter calibration to the most recent meter calibration, divided by the number of days between the last meter calibration and the most recent meter calibration, multiplied by thirty (30) days so that the adjustment shall be made on an average month, multiplied by the average price per mmbtu during the period established by the number of days between the last meter calibration and the most recent meter calibration. In other words, the Adjustment shall be determined by using the following formula:

$$\frac{TV(30)P}{d} = \text{Adjustment}$$

TV = total volume of gas delivered to purchaser from the time of the last meter calibration to the most recent meter calibration.

d = the number of days between the last meter calibration the most recent meter calibration.

P = the average price per mmbtu during the period established by the number of days between the last meter calibration and the most recent meter calibration.

If the most recent meter calibration test establishes a greater than two percent (2%) margin of error so that the meter is measuring more gas than is actually being delivered, Seller shall pay to Purchaser the Credit defined herein.

10. It is understood and agreed by the parties hereto that this Gas Purchase Contract shall be included as collateral pledged to various financial institutions, to secure outstanding loans to the Purchaser by various financial institutions, and this Agreement will inure to the benefit of the successors, assigns, and beneficiaries of Purchaser, including but not limited to, the said financial institutions.

11. Seller agrees to indemnify and hold harmless Purchaser for any and all claims, loss, damage, or costs, including reasonable attorney's fees, which might result from the purchase of gas by Purchaser, including, but not limited to, any liability arising from the production of gas in violation of the statutes, rules, and regulations of the State of Tennessee, the Commonwealth of Kentucky, or of the United States of America, or any agency thereof, and any injuries occasioned by third parties as a result of being at the Stephens/Pine Hill station, if said violation or injury was not caused by Purchaser, its employees or agents. Purchaser agrees to indemnify and hold harmless Seller for any and

all claims, loss, damage, or costs, including reasonable attorney's fees, because of injuries occasioned by third parties as a result of being at the Stephens/Pine Hill station, if such injuries were not caused by Seller, its employees or agents.

12. This is a fully integrated document and can only be modified in writing.

13. This Producer Gas Purchase Contract shall be construed and interpreted according to the laws of the State of Tennessee, and venue for the same shall be Scott County, Tennessee.

14. Seller agrees to maintain all of its pipelines, compressors, metering stations, and/or points of delivery free from hydrocarbon leakage or spills of any kind, whether such hydrocarbons are refined or not, free from trash and debris, and in full compliance with all applicable environmental laws, rules, and/or regulations of every kind and nature.

15. Seller, at its own expense and liability, has the right to install a check meter at the delivery point located at the Stephens/Pine Hill station as long as said check meter is located upstream of the sales meter and is located a sufficient distance from the sales meter to allow for accurate measurement of the gas at the sales meter.

16. This Producer Gas Purchase Contract shall be binding



upon the heirs, executors, administrators, successors, and/or assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

SELLER:

CitiPower, L.L.C.

BY:

James E. Curd  
AUTHORIZED REPRESENTATIVE

PURCHASER:

CITIZENS GAS UTILITY DISTRICT

BY:

Fred B. [Signature]  
AUTHORIZED REPRESENTATIVE

cgpapers #11:begciti.gpc

## LOAN AGREEMENT

**THIS AGREEMENT**, made and entered into this 16th day of December, 1998, by and between CITIPOWER, L.L.C., P.O. Box 1309, Whitley City, Kentucky 42653, **PARTY OF THE FIRST PART**, (hereinafter referred to sometimes as "Borrower" or "First Party"), and BANK OF McCREARY COUNTY, P.O. Box 160, Whitley City, Kentucky 42653, **PARTY OF THE SECOND PART**, (hereinafter referred to as "Bank" or "Second Party").

**WITNESSETH: WHEREAS**, Borrower desires to obtain a loan from Bank in the amount of Five Hundred Thousand and no/100 Dollars (\$500,000.00) for the purpose of: paying construction costs for completion of gas pipeline from McCreary County to Scott County and connected to Citizens Gas, and

**WHEREAS**, Bank is willing to make such a loan upon the terms and conditions herein set forth;

**NOW, THEREFORE**, the parties agree as follows:

### GENERAL PROVISIONS

1. **AMOUNT.** The Bank hereby agrees to loan to Borrower, jointly and severally, the sum of Five Hundred Thousand and no/100 Dollars (\$500,000.00).
2. **NOTE.** The indebtedness shall be evidenced by a Promissory Note payable to the order of the Bank. The note shall become due on December 16, 1999. The Bank may however demand payment in full before the maturity date upon adverse re-evaluation of Borrower's creditworthiness, upon failure of Borrower to comply with any terms of this agreement, or upon Borrower being in default of the Promissory note.
3. **PAYMENTS.** Payments shall be made as follows: quarterly interest payments beginning March 16, 1999 and principal due at maturity. All payments will be applied first to retire interest due, and the remainder to the unpaid principal balance.

4. **INTEREST.** The note executed pursuant hereto by Borrower shall bear interest at a rate of 8.50%. This rate shall be in effect until March 16, 1999. Interest shall be computed upon a 365 day year basis and shall be payable according to the terms of the note. The note shall bear interest at a rate equal to three-fourths percent (0.75%) in excess of the "New York Prime Rate", subject to change quarterly.

5. **BALANCE.** The principal amount of the loan is Five Hundred Thousand and no/100 Dollars (\$500,000.00). Principal payments shall be made in accordance with the terms of the note.

#### **EXPENSES**

The Borrower agrees to pay all taxes and assessments, all recording fees, attorney fees, appraisal fees, and all other expenses associated with the loan as applicable.

#### **SECURITY/COLLATERAL**

This loan is subject to the Borrower providing to Bank security and collateral securing the repayment of any and all amounts loaned. The form and substance of said security and liens perfected on said collateral is to be in a form acceptable to Bank in its own discretion.

The Borrower shall grant to the Bank a pledge and perfected security interest in the following: all assets tangible and intangible now owned or hereafter acquired including accounts receivable, inventory, pipeline, machinery and equipment. The security interest shall be evidenced by the execution and delivery of security agreements, assignments, and/or pledges in a form acceptable to the Bank.

#### **WARRANTIES**

The Borrower covenants and warrants to the Bank on the date of the execution hereof each of the following matters:

1. **AUTHORIZATION.** Borrower represents that there is no known legal impediment which in any way restricts or prevents the execution or carrying out of this

agreement in any respect, and that this agreement and executed Note and Security Documents are valid and binding obligations of the Borrower.

2. **FINANCIAL CONDITION.** Borrower agrees to furnish to the Bank true and correct balance sheets, income statements, and tax returns which fairly reflect the Borrower's financial condition, and furthermore to continue to furnish these items on an semi-annual basis.

3. **TAXES.** Borrower has paid all taxes, other than those which might be due but not payable. Borrower is not in default in the payment of any tax nor is any assessment threatened in respect thereof.

4. **TITLE TO PROPERTY.** The Borrower has good and marketable title to its respective assets as disclosed on the financial statement supplied to the Bank hereunder.

5. **ACTIONS PENDING.** There are no actions, suits, investigations, or proceedings pending, or to the knowledge of the Borrower, threatened against the Borrower by any Court, arbitrator, administrative, or governmental body, either singularly or in the aggregate, which might result in a material adverse change in the business, condition, and operations of the borrower.

#### **CONDITIONS PRECEDENT**

The obligation of the Bank to disburse the loan shall be subject to the satisfaction of each of the following conditions precedent:

1. **EXECUTION OF PROMISSORY NOTE (NOTES).** The Note or Notes in the form acceptable to Bank shall have been executed for the principal amount of the loan and delivered by the Borrower to the Bank.

2. **CORPORATE AUTHORIZATION.** The Bank shall have received in a form acceptable to the Bank all corporate documents authorizing the encumbrance of corporate

assets, authorizing the execution of this agreement and any documents contemplated herein, and ratifying the same.

3. **OTHER DOCUMENTS.** The Bank shall have received upon request from the Borrower any other reasonable documents relating to this Agreement or contemplated by this loan transaction in a form acceptable to Bank.

#### **DEFAULT**

The occurrence of any one or more of the following events shall constitute a default by the Borrower under this Agreement and thereupon any Note or Notes issued hereunder, at the option of the Bank, will immediately become due and payable upon written notice; each of the following shall constitute an event of default hereunder.

1. **NON-PAYMENT OR LATE PAYMENTS.** Non-payment when payment is due, whether by acceleration or otherwise, of any principal or interest of any Note, whether short term or long term. Any installment of principal or accrued interest on any Note not paid in full, punctually when due and payable as provided in any Note.

2. **BREACH OF COVENANTS AND AGREEMENTS.** The Borrower shall fail or omit to perform or observe any covenant, agreement, condition or other provision contained or referred to in this Agreement, or in any Security Agreement, Note, or any other instrument securing any portion of the indebtedness or Note owed or in any other instrument which constitutes security for the repayment of the indebtedness or Note or is related hereto, and such failure or omission shall not have been fully corrected to the satisfaction of the Bank within thirty (30) days after the giving of written notice by the Bank to the Borrower thereof.

3. **MISREPRESENTATION AND ACCURACY OF STATEMENTS.** Any representation or warranty or other statement of facts made by the Borrower herein in any writing, certificate, report, or statement at any time furnished to the Bank pursuant to or in connection with this Loan Agreement or otherwise shall prove to be false and misleading in any material respect when made or shall fail to state a material fact necessary in order to make the statements contained herein or therein not misleading. If any representation or

warranty made by the Borrower in any written statement or certificate now or later furnished by or for the Borrower in connection herewith, shall prove untrue in any material respect as of the date upon which it was made.

4. **INSOLVENCY.** (a) The Borrower shall make an assignment for the benefit of creditors, file a petition in Bankruptcy, Petition or apply to any tribunal for the appointment of a custodian, receiver or any trustee for any one of them, or a substantial part of their assets, or shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or if there shall have been filed any such petition or application or any such proceeding shall have been commenced against any of them, in which an order for relief is entered or which remains undismissed for a period of thirty (30) days or more; or the Borrower by any act or omission shall indicate their consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or any trustees for any of them or any substantial part of any of their property, or shall suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more; or (b) The Borrower shall generally not pay their debts as such debts become due; or (c) The Borrower shall have concealed, removed or permitted to be concealed or removed, any part of their property, with intent to hinder, delay or defraud their creditors, or any of them, or made or suffered a transfer of any of their property which may be fraudulent under any Bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of their property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of their property through legal proceedings or distraint which is not vacated within thirty (30) days from the date hereof.

## MISCELLANEOUS

1. **WAIVERS.** No delay or omission of the Bank to exercise any right upon the happening of any event of default shall impair any such right or shall be construed to be a waiver of any such default or an acquiescence therein. No waiver of any default herein shall effect any later default or impair any right of Bank. No single, partial or full exercise of any right of Bank shall preclude other or further exercise thereof.

2. **GOVERNING LAWS.** This Agreement, the Note and all documents securing same shall each be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

3. **COMPLETE AGREEMENT.** This Agreement shall be binding upon and inure to the benefit of the Bank and the Borrower in accordance with its terms. This Agreement, including the Note and other instruments and documents executed to secure and collateralize said loan in the forms acceptable to Bank, including any correspondence from the Bank to Borrower, constitutes the entire understanding between the parties hereto and supersedes all prior written or oral understandings or agreements with respect to matters contained or referred to herein between the parties or any of the interested parties or any third parties. This Agreement may not be modified, amended or terminated except by written agreement signed by the parties hereto. The headings of the several sections of this Agreement are for the convenience of reference only and shall not effect the meaning hereof.

4. **SINGLE AGREEMENT.** This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. The Counterpart of this Agreement retained by the Bank for its permanent file shall be deemed to be the original for purposes of comparison of provisions.

5. **FEES AND EXPENSES.** The Borrower shall pay all out-of-pocket expenses incurred by the Bank in connection with the transactions contemplated hereunder,



including, but not limited to, the fees and expenses of the Bank's counsel incurred in connection with this Agreement, the Note, and other documents related to or referred to as collateral or documents securing said Loan.

6. **NOTICES.** All notices referred to or permitted to be given hereunder shall be given in writing or personally delivered or sent by mail, addressed as follows:

If to the Bank:            Mr. David Ross  
                                  President  
                                  Bank of McCreary County  
                                  P.O. Box 160  
                                  Whitley City, Kentucky 42653

If to the Borrower:      Mr. James E. Curd  
                                  Vice President  
                                  Citipower, L.L.C.  
                                  P.O. Box 1309  
                                  Whitley City, Kentucky 42653

Any party may change their address for the purpose of this Agreement by sending written notice thereof to the other parties.

7. **SEVERABILITY.** If any provision of this Agreement shall be held invalid under any applicable laws, such invalidity shall not effect any other provision of this Agreement that can be given effect without the invalid provision, and, to this end, the provisions hereof are severable.

8. **BINDING EFFECT, ASSIGNMENT, AND ENTIRE AGREEMENT.**  
This Agreement and all documents executed in association herewith shall inure to the benefit of, and shall be binding upon, the respective parties hereto, including their successors, heirs, personal representatives, legatees, devisees, assigns, and permitted assigns. The Borrowers have no right to assign any of their rights or obligations hereunder without the prior written consent of the Bank.

9. **BANK NOT A JOINT VENTURE.** The Bank by entering into this Agreement or by any action taken pursuant to this Agreement or any loan document, will not be deemed a partner or joint venturer with the Borrower, and the Borrower will indemnify and hold the Bank harmless from any and all damages resulting from such a construction of the parties and their relationship.

**IN TESTIMONY WHEREOF,** the parties have executed this Agreement the day and year first above written.

CITIPOWER, L.L.C.

By: James E. Curd  
JAMES E. CURD

ITS: Vice President

BANK OF MCCREARY COUNTY

By: David Ross  
DAVID ROSS

ITS: President

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced acknowledged, and delivered to before me by Citipower, L.L.C., by James E. Curd, its Vice President of Whitley City, Kentucky, to be his free act and deed and the free act and deed of Citipower, L.L.C..

Witness my hand, this 16<sup>th</sup> day of December, 1998.

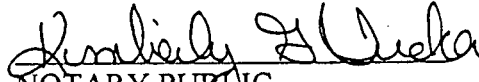
Kimberly D. Puckey  
NOTARY PUBLIC

My commission expires: 9.16.02

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced, acknowledged, and delivered to before me by David Ross, President, Bank of McCreary County, to be his free act and deed and the free act and deed of Bank of McCreary County, Whitley City, Kentucky.

Witness my hand, this 16<sup>th</sup> day of December, 1998.

  
NOTARY PUBLIC

My commission expires: 9-16-02

CITICORP, L.L.C. (61-1305266)  
P.O. BOX 1309  
WHITLEY CITY, KY 42653

BANK OF MCCREARY COUNTY  
P.O. BOX 160  
WHITLEY CITY, KY 42653

Loan Number 9233  
 DECEMBER 16, 1998  
Maturity Date DEC. 16, 1999  
Loan Amount \$ 500,000.00  
Renewal Of: \_\_\_\_\_

**BORROWER'S NAME AND ADDRESS**  
"I" includes each borrower above, jointly and severally.

**LENDER'S NAME AND ADDRESS**  
"You" means the lender, its successors and assigns.

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of FIVE HUNDRED THOUSAND AND NO/100 \* \* \* \* \* Dollars \$ 500,000.00

Single Advance: I will receive all of this principal sum on DECEMBER 16, 1998. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On \_\_\_\_\_ I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated.

Conditions: The conditions for future advances are \_\_\_\_\_

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on \_\_\_\_\_

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from DECEMBER 16, 1998 at the rate of 8.500% per year until MARCH 16, 1999

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 0.750% OVER the following index rate: THE NEW YORK PRIME RATE

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as QUARTERLY  
A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ % each \_\_\_\_\_ %

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change.  The amount of the final payment will change.

\_\_\_\_\_

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above: RECORDING FEES OF \$18.00

PAYMENTS: I agree to pay this note as follows:

Interest: I agree to pay accrued interest ON THE 16TH DAY OF EACH THIRD MONTH BEGINNING MARCH 16, 1999

Principal: I agree to pay the principal DECEMBER 16, 1999

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_ . A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire

unpaid balance of principal and interest will be due \_\_\_\_\_

PURPOSE: The purpose of this loan is BUSINESS: CONSTRUCTION OF 11 MILE PIPELINE FROM MCCREARY TO SCOTT CO.  
ADDITIONAL TERMS:

SECURITY INTEREST: I give you a security interest in all of the Property described below that I now own and that I may own in the future (including, but not limited to, all parts, accessories, repairs, improvements, and accessions to the Property), wherever the Property is or may be located, and all proceeds and products from the Property.

Inventory: All inventory which I hold for ultimate sale or lease, or which has been or will be stored under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

Equipment: All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the secured property, but such a list is not necessary for a valid security interest in my equipment.

Farm Products: All farm products including, but not limited to:  
(a) all poultry and livestock and their young, along with their products, produce and replacements;  
(b) all crops, annual or perennial, and all products of the crops; and  
(c) all food, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.

Accounts, Instruments, Documents, Chattel Paper and Other Rights to Payment: All rights I have now and that I may have in the future to the payment of money including, but not limited to:  
(a) payment for goods and other property sold or leased or for services rendered, whether or not I have earned such payment by performance; and  
(b) rights to payment arising out of all present and future debt instruments, chattel paper and loans and obligations receivable.  
The above include any rights and interests (including all liens and security interests) which I may have by law or agreement against any account debtor or obligor of mine.

General Intangibles: All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, and the right to use my name.

Government Payments and Programs: All payments, accounts, general intangibles, or other benefits (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments, and conservation reserve payments) in which I now have and in the future may have any rights or interest and which arise under or as a result of any preexisting, current or future Federal or state governmental program (including, but not limited to, all programs administered by the Commodity Credit Corporation and the ASCS).

The secured property includes, but is not limited by, the following: **REAL ESTATE MORTGAGE DATED 11-11-97 ON COMMERCIAL BLDG. AND LOT. ALL ASSETS TANGIBLE AND INTANGIBLE NOW OWNED OR HEREAFTER ACQUIRED INCLUDING ACCOUNTS RECEIVABLE, INVENTORY, PIPELINE, MACHINERY AND EQUIPMENT.**

If this agreement covers timber to be cut, minerals (including oil and gas), fixtures or crops growing or to be grown, the description of the real estate is:

If checked, file this agreement on the real estate records. Record owner (if not me) \_\_\_\_\_

The Property will be used for a  personal  business  agricultural  \_\_\_\_\_ purpose.

**ADDITIONAL TERMS OF THE SECURITY AGREEMENT**

**GENERALLY** - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. If property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

**OWNERSHIP AND DUTIES TOWARD PROPERTY** - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purpose(s) described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent: (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

**PURCHASE MONEY SECURITY INTEREST** - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

**PAYMENTS BY LENDER** - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

**INSURANCE** - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state where you are located. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

**WARRANTIES AND REPRESENTATIONS** - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

If this agreement covers farm products I will provide you, at your request, a written list of the buyers, commission merchants or selling agents to or through whom I may sell my farm products. In addition to those parties named on this written list, I authorize you to notify at your sole discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

**REMEDIES** - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1. I agree to inform you in writing of any change of my address.

**FILING** - A carbon, photographic or other reproduction of this security agreement or the financing statement covering the Property described in this agreement may be used as a financing statement where allowed by law. Where permitted by law, you may file a financing statement which does not contain my signature, covering the Property secured by this agreement.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box.

Date \_\_\_\_\_  
Signed \_\_\_\_\_

DEFINITIONS - As used on pages 1 and 2, "X" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to provide a note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - The law of the state in which you are located will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree in such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

POST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondescript obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I owe with you; (4) any other creditor of mine attempts to collect a debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

CREDIT INFORMATION - I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.

CITIPOWER, L.L.C. (61-1305266)

BY: James E. Curd  
JAMES E. CURD, VICE PRESIDENT

SIGNATURE FOR LENDER: X David Ross, Pres.  
DAVID ROSS

GUARANTY

WHITLEY CITY  
(City)

KY  
(State)

DECEMBER 16, 1998

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce BANK OF MCCREARY COUNTY, P.O. BOX 160, WHITLEY CITY, KY 42653 (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of CITIPOWER, L.L.C. (61-1305266)

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this [X] is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower evidenced by or arising out of the following: LOAN DATED 12-16-98 IN THE AMOUNT OF \$500,000.00 TO CITIPOWER, LLC and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").
B. If this [ ] is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The maximum aggregate liability that I am subject to is \$ 500,000.00
In addition to the maximum aggregate liability stated, I absolutely and unconditionally guarantee payment of interest accruing on the guaranteed indebtedness, and fees, charges and costs of collecting the guaranteed indebtedness, including reasonable attorneys' fees.

This guaranty will terminate on DECEMBER 16, 1999. The termination will not affect my liability with respect to obligations created or incurred prior to the termination date, or extensions or renewals of, interest accruing on, or fees, costs, or expenses incurred with respect to such obligations on or after the termination date.

The term "Indebtedness" as used in this guaranty shall not include any obligations entered into between Borrower and Lender after the date hereof (including any extensions, renewals or replacements of such obligations) for which Borrower meets the Lender's standard of creditworthiness based on Borrower's own assets and income without the addition of a guaranty, or for which a guaranty is required but Borrower chooses someone other than the joint Undersigned to guaranty the obligation.

The Undersigned further acknowledges and agrees with Lender that:

- 1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.
2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof.
3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured.
4. Indebtedness may be created and continued in any amount, whether or not in excess of any principal or aggregate amount stated above, without affecting or impairing the liability of the Undersigned as limited hereunder.

This guaranty is [X] unsecured; [ ] secured by a mortgage or security agreement dated ; [ ] secured by

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

[Signature]
FOURBERG, DANIEL R.

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.

5. Subject to any limitations stated in this guaranty, the Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under §1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. The Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

(page 2 of 2)



PIPELINE EXTENSION PROPOSAL

March 19, 1999

*Approved  
3/24/99*

TO: Dan Forsberg

From: Jimmy Curd

RE: Planned extension

Dan;

I am proposing an extension of 3000' of 2" main pipeline from Poplar Grove Road to Bob Musgrove Road. This will enable us to pick up eleven new customers and will eventually loop the 2" line into a planned 4" main line. The line is to be laid in-house as it will all be mostly going from house to house running services.

INCOME

Eleven (11) customer of which eight (9) are free hook-up signees.

Two (2) customers at \$250.00 each = \$500.00.

Eleven customers at an average of \$400.00 per year per customer = \$4400.00

COST

3000' 2" main line @ 55 cents = \$1650.00

2000' 1" Service line @ 33 cents = \$660.00

Eleven service connections @ \$350.00 each = \$3850.00

550' of R.O.W. @ \$1.00 per foot = \$550.00

Fourteen days labor @ \$40.00 per hour = \$4480.00

TOTAL COST \$11,190.00

This equates to a 2.43 year pay out.

JEC

TO: DAN FORSBERG

FROM: JIMMY CURD

RE: PLANNED PIPELINE EXTENSION  
MURTON WILSON #1 TO D H CAMPBELL #1

*Hayes Cr.*

DAN,

The attached information is what I have to date on the planned project. The total distance is 13,500 feet. The ditchline will be opened and a 4" high pressure main put in the bottom of the ditch and a 2" distribution line will be installed above the 4" for house connections.

I can only estimate the possible services that would result from this line due to the fact that I have not went door to door to see how many would hook up to the pipeline if we lay it. The route is a cross-country route due to the fact that the road ditchline would be almost impossible to lay our line in it. I would estimate that the customers gathered along this route would be around twenty. This would not support the payback of the proposed pipeline, but we are laying this line mainly to gather the gas from the D H Campbell #4 and D H Campbell #1 wells which totals 1.2MMCF.

FACTS: 1.2MMCFpd X 20% actual flowable daily gas X 33Cents per MCF = \$30240.00 per year  
 Twenty customers average yearly income = \$6,900.00 Less 66% COG = \$2,346.00 per year  
 Total income per year potential: \$32,586.00  
 Total estimated cost of proposed pipeline \$92,000.00  
 Estimated recovery time frame = 2.82 years.

CITIPOWER, L.L.C.  
JAMES E. CURD

*\$ 92,000*

## LOAN AGREEMENT

**THIS AGREEMENT**, made and entered into this 16th day of December, 1998, by and between CITIPOWER, L.L.C., P.O. Box 1309, Whitley City, Kentucky 42653, **PARTY OF THE FIRST PART**, (hereinafter referred to sometimes as "Borrower" or "First Party"), and BANK OF McCREARY COUNTY, P.O. Box 160, Whitley City, Kentucky 42653, **PARTY OF THE SECOND PART**, (hereinafter referred to as "Bank" or "Second Party").

**WITNESSETH: WHEREAS**, Borrower desires to obtain a loan from Bank in the amount of Five Hundred Thousand and no/100 Dollars (\$500,000.00) for the purpose of: paying construction costs for completion of gas pipeline from McCreary County to Scott County and connected to Citizens Gas, and

**WHEREAS**, Bank is willing to make such a loan upon the terms and conditions herein set forth;

**NOW, THEREFORE**, the parties agree as follows:

### GENERAL PROVISIONS

1. **AMOUNT**. The Bank hereby agrees to loan to Borrower, jointly and severally, the sum of Five Hundred Thousand and no/100 Dollars (\$500,000.00).
2. **NOTE**. The indebtedness shall be evidenced by a Promissory Note payable to the order of the Bank. The note shall become due on December 16, 1999. The Bank may however demand payment in full before the maturity date upon adverse re-evaluation of Borrower's creditworthiness, upon failure of Borrower to comply with any terms of this agreement, or upon Borrower being in default of the Promissory note.
3. **PAYMENTS**. Payments shall be made as follows: quarterly interest payments beginning March 16, 1999 and principal due at maturity. All payments will be applied first to retire interest due, and the remainder to the unpaid principal balance.

4. **INTEREST.** The note executed pursuant hereto by Borrower shall bear interest at a rate of 8.50%. This rate shall be in effect until March 16, 1999. Interest shall be computed upon a 365 day year basis and shall be payable according to the terms of the note. The note shall bear interest at a rate equal to three-fourths percent (0.75%) in excess of the "New York Prime Rate", subject to change quarterly.

5. **BALANCE.** The principal amount of the loan is Five Hundred Thousand and no/100 Dollars (\$500,000.00). Principal payments shall be made in accordance with the terms of the note.

#### **EXPENSES**

The Borrower agrees to pay all taxes and assessments, all recording fees, attorney fees, appraisal fees, and all other expenses associated with the loan as applicable.

#### **SECURITY/COLLATERAL**

This loan is subject to the Borrower providing to Bank security and collateral securing the repayment of any and all amounts loaned. The form and substance of said security and liens perfected on said collateral is to be in a form acceptable to Bank in its own discretion.

The Borrower shall grant to the Bank a pledge and perfected security interest in the following: all assets tangible and intangible now owned or hereafter acquired including accounts receivable, inventory, pipeline, machinery and equipment. The security interest shall be evidenced by the execution and delivery of security agreements, assignments, and/or pledges in a form acceptable to the Bank.

#### **WARRANTIES**

The Borrower covenants and warrants to the Bank on the date of the execution hereof each of the following matters:

1. **AUTHORIZATION.** Borrower represents that there is no known legal impediment which in any way restricts or prevents the execution or carrying out of this

agreement in any respect, and that this agreement and executed Note and Security Documents are valid and binding obligations of the Borrower.

2. **FINANCIAL CONDITION.** Borrower agrees to furnish to the Bank true and correct balance sheets, income statements, and tax returns which fairly reflect the Borrower's financial condition, and furthermore to continue to furnish these items on an semi-annual basis.

3. **TAXES.** Borrower has paid all taxes, other than those which might be due but not payable. Borrower is not in default in the payment of any tax nor is any assessment threatened in respect thereof.

4. **TITLE TO PROPERTY.** The Borrower has good and marketable title to its respective assets as disclosed on the financial statement supplied to the Bank hereunder.

5. **ACTIONS PENDING.** There are no actions, suits, investigations, or proceedings pending, or to the knowledge of the Borrower, threatened against the Borrower by any Court, arbitrator, administrative, or governmental body, either singularly or in the aggregate, which might result in a material adverse change in the business, condition, and operations of the borrower.

#### **CONDITIONS PRECEDENT**

The obligation of the Bank to disburse the loan shall be subject to the satisfaction of each of the following conditions precedent:

1. **EXECUTION OF PROMISSORY NOTE (NOTES).** The Note or Notes in the form acceptable to Bank shall have been executed for the principal amount of the loan and delivered by the Borrower to the Bank.

2. **CORPORATE AUTHORIZATION.** The Bank shall have received in a form acceptable to the Bank all corporate documents authorizing the encumbrance of corporate

assets, authorizing the execution of this agreement and any documents contemplated herein, and ratifying the same.

3. **OTHER DOCUMENTS.** The Bank shall have received upon request from the Borrower any other reasonable documents relating to this Agreement or contemplated by this loan transaction in a form acceptable to Bank.

#### **DEFAULT**

The occurrence of any one or more of the following events shall constitute a default by the Borrower under this Agreement and thereupon any Note or Notes issued hereunder, at the option of the Bank, will immediately become due and payable upon written notice; each of the following shall constitute an event of default hereunder.

1. **NON-PAYMENT OR LATE PAYMENTS.** Non-payment when payment is due, whether by acceleration or otherwise, of any principal or interest of any Note, whether short term or long term. Any installment of principal or accrued interest on any Note not paid in full, punctually when due and payable as provided in any Note.

2. **BREACH OF COVENANTS AND AGREEMENTS.** The Borrower shall fail or omit to perform or observe any covenant, agreement, condition or other provision contained or referred to in this Agreement, or in any Security Agreement, Note, or any other instrument securing any portion of the indebtedness or Note owed or in any other instrument which constitutes security for the repayment of the indebtedness or Note or is related hereto, and such failure or omission shall not have been fully corrected to the satisfaction of the Bank within thirty (30) days after the giving of written notice by the Bank to the Borrower thereof.

3. **MISREPRESENTATION AND ACCURACY OF STATEMENTS.** Any representation or warranty or other statement of facts made by the Borrower herein in any writing, certificate, report, or statement at any time furnished to the Bank pursuant to or in connection with this Loan Agreement or otherwise shall prove to be false and misleading in any material respect when made or shall fail to state a material fact necessary in order to make the statements contained herein or therein not misleading. If any representation or

warranty made by the Borrower in any written statement or certificate now or later furnished by or for the Borrower in connection herewith, shall prove untrue in any material respect as of the date upon which it was made.

4. **INSOLVENCY.** (a) The Borrower shall make an assignment for the benefit of creditors, file a petition in Bankruptcy, Petition or apply to any tribunal for the appointment of a custodian, receiver or any trustee for any one of them, or a substantial part of their assets, or shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or if there shall have been filed any such petition or application or any such proceeding shall have been commenced against any of them, in which an order for relief is entered or which remains undismissed for a period of thirty (30) days or more; or the Borrower by any act or omission shall indicate their consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or any trustees for any of them or any substantial part of any of their property, or shall suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more; or (b) The Borrower shall generally not pay their debts as such debts become due; or (c) The Borrower shall have concealed, removed or permitted to be concealed or removed, any part of their property, with intent to hinder, delay or defraud their creditors, or any of them, or made or suffered a transfer of any of their property which may be fraudulent under any Bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of their property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of their property through legal proceedings or distraint which is not vacated within thirty (30) days from the date hereof.



## MISCELLANEOUS

1. **WAIVERS.** No delay or omission of the Bank to exercise any right upon the happening of any event of default shall impair any such right or shall be construed to be a waiver of any such default or an acquiescence therein. No waiver of any default herein shall effect any later default or impair any right of Bank. No single, partial or full exercise of any right of Bank shall preclude other or further exercise thereof.

2. **GOVERNING LAWS.** This Agreement, the Note and all documents securing same shall each be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

3. **COMPLETE AGREEMENT.** This Agreement shall be binding upon and inure to the benefit of the Bank and the Borrower in accordance with its terms. This Agreement, including the Note and other instruments and documents executed to secure and collateralize said loan in the forms acceptable to Bank, including any correspondence from the Bank to Borrower, constitutes the entire understanding between the parties hereto and supersedes all prior written or oral understandings or agreements with respect to matters contained or referred to herein between the parties or any of the interested parties or any third parties. This Agreement may not be modified, amended or terminated except by written agreement signed by the parties hereto. The headings of the several sections of this Agreement are for the convenience of reference only and shall not effect the meaning hereof.

4. **SINGLE AGREEMENT.** This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. The Counterpart of this Agreement retained by the Bank for its permanent file shall be deemed to be the original for purposes of comparison of provisions.

5. **FEES AND EXPENSES.** The Borrower shall pay all out-of-pocket expenses incurred by the Bank in connection with the transactions contemplated hereunder,

including, but not limited to, the fees and expenses of the Bank's counsel incurred in connection with this Agreement, the Note, and other documents related to or referred to as collateral or documents securing said Loan.

6. **NOTICES.** All notices referred to or permitted to be given hereunder shall be given in writing or personally delivered or sent by mail, addressed as follows:

If to the Bank:           Mr. David Ross  
                                  President  
                                  Bank of McCreary County  
                                  P.O. Box 160  
                                  Whitley City, Kentucky 42653

If to the Borrower:     Mr. James E. Curd  
                                  Vice President  
                                  Citipower, L.L.C.  
                                  P.O. Box 1309  
                                  Whitley City, Kentucky 42653

Any party may change their address for the purpose of this Agreement by sending written notice thereof to the other parties.

7. **SEVERABILITY.** If any provision of this Agreement shall be held invalid under any applicable laws, such invalidity shall not effect any other provision of this Agreement that can be given effect without the invalid provision, and, to this end, the provisions hereof are severable.

8. **BINDING EFFECT, ASSIGNMENT, AND ENTIRE AGREEMENT.**  
This Agreement and all documents executed in association herewith shall inure to the benefit of, and shall be binding upon, the respective parties hereto, including their successors, heirs, personal representatives, legatees, devisees, assigns, and permitted assigns. The Borrowers have no right to assign any of their rights or obligations hereunder without the prior written consent of the Bank.

9. **BANK NOT A JOINT VENTURE.** The Bank by entering into this Agreement or by any action taken pursuant to this Agreement or any loan document, will not be deemed a partner or joint venturer with the Borrower, and the Borrower will indemnify and hold the Bank harmless from any and all damages resulting from such a construction of the parties and their relationship.

**IN TESTIMONY WHEREOF,** the parties have executed this Agreement the day and year first above written.

CITIPOWER, L.L.C.

By: James E. Curd  
JAMES E. CURD

ITS: Vice President

BANK OF MCCREARY COUNTY

By: David Ross  
DAVID ROSS

ITS: President

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced acknowledged, and delivered to before me by Citipower, L.L.C., by James E. Curd, its Vice President of Whitley City, Kentucky, to be his free act and deed and the free act and deed of Citipower, L.L.C..

Witness my hand, this 16<sup>th</sup> day of December, 1998.

Kimberly D. Puckey  
NOTARY PUBLIC

My commission expires: 9.16.02

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced, acknowledged, and delivered to before me by David Ross, President, Bank of McCreary County, to be his free act and deed and the free act and deed of Bank of McCreary County, Whitley City, Kentucky.

Witness my hand, this 16<sup>th</sup> day of December, 1998.

Kimberly A. Ueda  
NOTARY PUBLIC

My commission expires: 9-16-02

CITIPOWER, L.L.C. (61-111166) P.O. BOX 1309 WHITLEY CITY, KY 42653	BANK OF MCCREARY COUNTY P.O. BOX 160 WHITLEY CITY, KY 42653	Loan Number <u>9233</u> Date <u>DECEMBER 16, 1998</u> Maturity Date <u>DEC. 16, 1999</u> Loan Amount \$ <u>500,000.00</u> Renewal Of: _____
BORROWER'S NAME AND ADDRESS <small>*" includes each borrower shown, jointly and severally.</small>	LENDER'S NAME AND ADDRESS <small>*"You" means the lender, its successors and assigns.</small>	

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of FIVE HUNDRED THOUSAND AND NO/100 \* \* \* \* \* Dollars \$ 500,000.00

Single Advance: I will receive all of this principal sum on DECEMBER 16, 1998. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On \_\_\_\_\_ I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated.  
 Conditions: The conditions for future advances are \_\_\_\_\_

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on \_\_\_\_\_

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.  
 INTEREST: I agree to pay interest on the outstanding principal balance from DECEMBER 16, 1998 at the rate of 8.500% per year until MARCH 16, 1999.

Variable Rate: This rate may then change as stated below.  
 Index Rate: The future rate will be 0.750% OVER the following index rate: THE NEW YORK PRIME RATE

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as QUARTERLY.  
 A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:  
 The amount of each scheduled payment will change.  The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:  
 on the same fixed or variable rate basis in effect before maturity (as indicated above).  
 at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above: RECORDING FEES OF \$18.00.

PAYMENTS: I agree to pay this note as follows:  
 Interest: I agree to pay accrued interest ON THE 16TH DAY OF EACH THIRD MONTH BEGINNING MARCH 16, 1999

Principal: I agree to pay the principal DECEMBER 16, 1999

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_. A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire unpaid balance of principal and interest will be due \_\_\_\_\_

PURPOSE: The purpose of this loan is BUSINESS: CONSTRUCTION OF 11 MILE PIPELINE FROM MCCREARY TO SCOTT CO.

ADDITIONAL TERMS:

SECURITY

SECURITY INTEREST: I give you a security interest in all of the Property described below that I now own and that I may own in the future (including, but not limited to, all parts, accessories, repairs, improvements, and accessories to the Property), wherever the Property is or may be located, and all proceeds and products from the Property.

Inventory: All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

Equipment: All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the secured property, but such a list is not necessary for a valid security interest in my equipment.

Farm Products: All farm products including, but not limited to: (a) all poultry and livestock and their young, along with their products, produce and replacements; (b) all crops, annual or perennial, and all products of the crops; and (c) all food, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.

Accounts, Instruments, Documents, Chattel Paper and Other Rights to Payment: All rights I have now and that I may have in the future to the payment of money including, but not limited to:

- (a) payment for goods and other property sold or leased or for services rendered, whether or not I have earned such payment by performance; and (b) rights to payment arising out of all present and future debt instruments, chattel paper and loans and obligations receivable.

The above include any rights and interests (including all liens and security interests) which I may have by law or agreement against any account debtor or obligor of mine.

General Intangibles: All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, and the right to use my name.

Government Payments and Programs: All payments, accounts, general intangibles, or other benefits (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments, and conservation reserve payments) in which I now have and in the future may have any rights or interest and which arise under or as a result of any preexisting, current or future Federal or state governmental program (including, but not limited to, all programs administered by the Commodity Credit Corporation and the ASCS).

The secured property includes, but is not limited by, the following: REAL ESTATE MORTGAGE DATED 11-11-97 ON COMMERCIAL BLDG. AND LOT. ALL ASSETS TANGIBLE AND INTANGIBLE NOW OWNED OR HEREAFTER ACQUIRED INCLUDING ACCOUNTS RECEIVABLE, INVENTORY, PIPELINE, MACHINERY AND EQUIPMENT.

If this agreement covers timber to be cut, minerals (including oil and gas), fixtures or crops growing or to be grown, the description of the real estate is:

If checked, file this agreement on the real estate records. Record owner (if not me) \_\_\_\_\_

The Property will be used for a  personal  business  agricultural  \_\_\_\_\_ purpose.

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. If property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or (to the extent this is a purchase money security interest) I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purpose(s) described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent: (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of my loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state where you are located. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which we returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

If this agreement covers farm products I will provide you, at your request, a written list of the buyers, commission merchants or selling agents to or through whom I may sell my farm products. In addition to those parties named on this written list, I authorize you to notify at your sole discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Federal Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1. I agree to inform you in writing of my change of my address.

FILING - A carbon, photographic or other reproduction of this security agreement or the financing statement covering the Property described in this agreement may be used as a financing statement where allowed by law. Where permitted by law, you may file a financing statement which does not contain my signature, covering the Property secured by this agreement.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box. Date \_\_\_\_\_ Signed \_\_\_\_\_

ADDITIONAL TERMS OF THE NOTE

**DEFINITIONS** - As used on pages 1 and 2, "I" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

**APPLICABLE LAW** - The law of the state in which you are located will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

**PAYMENTS** - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

**INDEX RATE** - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

**POST MATURITY RATE** - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

**SINGLE ADVANCE LOANS** - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

**DEFAULT** - I will be in default if one or more of the following occur: (1) I fail to make a payment of principal or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

**REMEDIES** - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

**COLLECTION COSTS AND ATTORNEY'S FEES** - I agree to pay all costs of collection, repossession or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

**WAIVER** - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

**OBLIGATIONS INDEPENDENT** - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

**CREDIT INFORMATION** - I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.

CITIPOWER, L.L.C. (61-1305266)

BY: James E. Curd  
 JAMES E. CURD, VICE PRESIDENT

SIGNATURE FOR LENDER: X David Ross, Pres.  
 DAVID ROSS

GUARANTY

WHITLEY CITY  
(City)

KY  
(State)

DECEMBER 16, 1998

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce BANK OF MCCREARY COUNTY, P.O. BOX 160, WHITLEY CITY, KY 42653 (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of CITIPOWER, L.L.C. (61-1305266)

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

- A. If this  is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: LOAN DATED 12-16-98 IN THE AMOUNT OF \$500,000.00 TO CITIPOWER, LLC and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").
- B. If this  is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The maximum aggregate liability that I am subject to is \$ 500,000.00  
In addition to the maximum aggregate liability stated, I absolutely and unconditionally guarantee payment of interest accruing on the guaranteed indebtedness, and fees, charges and costs of collecting the guaranteed indebtedness, including reasonable attorneys' fees.

This guaranty will terminate on DECEMBER 16, 1999. The termination will not affect my liability with respect to obligations created or incurred prior to the termination date, or extensions or renewals of, interest accruing on, or fees, costs, or expenses incurred with respect to such obligations on or after the termination date.

The term "Indebtedness" as used in this guaranty shall not include any obligations entered into between Borrower and Lender after the date hereof (including any extensions, renewals or replacements of such obligations) for which Borrower meets the Lender's standard of creditworthiness based on Borrower's own assets and income without the addition of a guaranty, or for which a guaranty is required but Borrower chooses someone other than the joint Undersigned to guaranty the obligation.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.
2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.
3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.
4. Indebtedness may be created and continued in any amount, whether or not in excess of any principal or aggregate amount stated above, without affecting or impairing the liability of the Undersigned as limited hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

This guaranty is  unsecured;  secured by a mortgage or security agreement dated \_\_\_\_\_ ;  
 secured by \_\_\_\_\_

This guaranty includes the additional provisions on page 2, all of which are made a part hereof.

IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

Daniel R. Furburg  
FURBURG, DANIEL R.

\*Undersigned\* shall refer to all persons who sign this guaranty, separately and jointly.



5. Subject to any limitations stated in this guaranty, the Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution therefor; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. The Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

(page 2 of 2)

## LOAN AGREEMENT

THIS AGREEMENT, made and entered into this 6th day of January, 1999, by and between CITIPOWER, L.L.C., P.O. Box 1309, Whitley City, Kentucky 42653, PARTY OF THE FIRST PART, (hereinafter referred to sometimes as "Borrower" or "First Party"), and BANK OF McCREARY COUNTY, P.O. Box 160, Whitley City, Kentucky 42653, PARTY OF THE SECOND PART, (hereinafter referred to as "Bank" or "Second Party").

WITNESSETH: WHEREAS, Borrower desires to obtain a loan from Bank in the amount of Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00) for the purpose of: purchasing an 8.6% ownership interest in Cambridge Resources, Inc., and

WHEREAS, Bank is willing to make such a loan upon the terms and conditions herein set forth;

NOW, THEREFORE, the parties agree as follows:

### GENERAL PROVISIONS

1. **AMOUNT.** The Bank hereby agrees to loan to Borrower, jointly and severally, the sum of Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00).
2. **NOTE.** The indebtedness shall be evidenced by a Promissory Note payable to the order of the Bank. The note shall become due on January 6, 2000. The Bank may however demand payment in full before the maturity date upon adverse re-evaluation of Borrower's creditworthiness, upon failure of Borrower to comply with any terms of this agreement, or upon Borrower being in default of the Promissory note.
3. **PAYMENTS.** Payments shall be made as follows: quarterly interest payments beginning April 6, 1999 and principal due at maturity. All payments will be applied first to retire interest due, and the remainder to the unpaid principal balance.
4. **INTEREST.** The note executed pursuant hereto by Borrower shall bear interest at a rate of 8.50%. This rate shall be in effect until April 6, 1999. Interest shall be

computed upon a 365 day year basis and shall be payable according to the terms of the note. The note shall bear interest at a rate equal to three-fourths percent (0.75%) in excess of the "New York Prime Rate", subject to change quarterly.

5. **BALANCE.** The principal amount of the loan is Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00). Principal payments shall be made in accordance with the terms of the note.

#### **EXPENSES**

The Borrower agrees to pay all taxes and assessments, all recording fees, attorney fees, appraisal fees, and all other expenses associated with the loan as applicable.

#### **SECURITY/COLLATERAL**

This loan is subject to the Borrower providing to Bank security and collateral securing the repayment of any and all amounts loaned. The form and substance of said security and liens perfected on said collateral is to be in a form acceptable to Bank at its own discretion.

The Borrower shall grant to the Bank a pledge and perfected security interest in the following: all assets tangible and intangible now owned or hereafter acquired including accounts receivable, inventory, pipeline, machinery and equipment. The security interest shall be evidenced by the execution and delivery of security agreements, assignments, and/or pledges in a form acceptable to the Bank.

#### **WARRANTIES**

The Borrower covenants and warrants to the Bank on the date of the execution hereof each of the following matters:

1. **AUTHORIZATION.** Borrower represents that there is no known legal impediment which in any way restricts or prevents the execution or carrying out of this agreement in any respect, and that this agreement and executed Note and Security Documents are valid and binding obligations of the Borrower.

2. **FINANCIAL CONDITION.** Borrower agrees to furnish to the Bank true and correct balance sheets, income statements, and tax returns which fairly reflect the Borrower's financial condition, and furthermore to continue to furnish these items on a semi-annual basis.

3. **TAXES.** Borrower has paid all taxes, other than those which might be due but not payable. Borrower is not in default in the payment of any tax nor is any assessment threatened in respect thereof.

4. **TITLE TO PROPERTY.** The Borrower has good and marketable title to its respective assets as disclosed on the financial statement supplied to the Bank hereunder.

5. **ACTIONS PENDING.** There are no actions, suits, investigations, or proceedings pending, or to the knowledge of the Borrower, threatened against the Borrower by any Court, arbitrator, administrative, or governmental body, either singularly or in the aggregate, which might result in a material adverse change in the business, condition, and operations of the borrower.

#### **CONDITIONS PRECEDENT**

The obligation of the Bank to disburse the loan shall be subject to the satisfaction of each of the following conditions precedent:

1. **EXECUTION OF PROMISSORY NOTE (NOTES).** The Note or Notes in the form acceptable to Bank shall have been executed for the principal amount of the loan and delivered by the Borrower to the Bank.

2. **CORPORATE AUTHORIZATION.** The Bank shall have received in a form acceptable to the Bank all corporate documents authorizing the encumbrance of corporate assets, authorizing the execution of this agreement and any documents contemplated herein, and ratifying the same.

3. **OTHER DOCUMENTS.** Upon request, the Bank shall have received from the Borrower any other reasonable documents relating to this Agreement or contemplated by this loan transaction in a form acceptable to Bank.

#### **DEFAULT**

The occurrence of any one or more of the following events shall constitute a default by the Borrower under this Agreement and thereupon any Note or Notes issued hereunder, at the option of the Bank, will immediately become due and payable upon written notice; each of the following shall constitute an event of default hereunder.

1. **NON-PAYMENT OR LATE PAYMENTS.** Non-payment when payment is due, whether by acceleration or otherwise, of any principal or interest of any Note, whether short term or long term. Any installment of principal or accrued interest on any Note not paid in full, punctually when due and payable as provided in any Note.

2. **BREACH OF COVENANTS AND AGREEMENTS.** The Borrower shall fail or omit to perform or observe any covenant, agreement, condition or other provision contained or referred to in this Agreement, or in any Security Agreement, Note, or any other instrument securing any portion of the indebtedness or Note owed or in any other instrument which constitutes security for the repayment of the indebtedness or Note or is related hereto, and such failure or omission shall not have been fully corrected to the satisfaction of the Bank within thirty (30) days after the giving of written notice by the Bank to the Borrower thereof.

3. **MISREPRESENTATION AND ACCURACY OF STATEMENTS.** Any representation or warranty or other statement of facts made by the Borrower herein in any writing, certificate, report, or statement at any time furnished to the Bank pursuant to or in connection with this Loan Agreement or otherwise shall prove to be false and misleading in any material respect when made or shall fail to state a material fact necessary in order to make the statements contained herein or therein not misleading. If any representation or

warranty made by the Borrower in any written statement or certificate now or later furnished by or for the Borrower in connection herewith, shall prove untrue in any material respect as of the date upon which it was made.

4. **INSOLVENCY.** (a) The Borrower shall make an assignment for the benefit of creditors, file a petition in Bankruptcy, Petition or apply to any tribunal for the appointment of a custodian, receiver or any trustee for any one of them, or a substantial part of their assets, or shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction, whether now or hereafter in effect; or if there shall have been filed any such petition or application or any such proceeding shall have been commenced against any of them, in which an order for relief is entered or which remains undismissed for a period of thirty (30) days or more; or the Borrower by any act or omission shall indicate their consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or any trustees for any of them or any substantial part of any of their property, or shall suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of thirty (30) days or more; or (b) The Borrower shall generally not pay their debts as such debts become due; or (c) The Borrower shall have concealed, removed or permitted to be concealed or removed, any part of their property, with intent to hinder, delay or defraud their creditors, or any of them, or made or suffered a transfer of any of their property which may be fraudulent under any Bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of their property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of their property through legal proceedings or distraint which is not vacated within thirty (30) days from the date hereof.

## MISCELLANEOUS

1. **WAIVERS.** No delay or omission of the Bank to exercise any right upon the happening of any event of default shall impair any such right or shall be construed to be a waiver of any such default or an acquiescence therein. No waiver of any default herein shall effect any later default or impair any right of Bank. No single, partial or full exercise of any right of Bank shall preclude other or further exercise thereof.

2. **GOVERNING LAWS.** This Agreement, the Note and all documents securing same shall each be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

3. **COMPLETE AGREEMENT.** This Agreement shall be binding upon and inure to the benefit of the Bank and the Borrower in accordance with its terms. This Agreement, including the Note and other instruments and documents executed to secure and collateralize said loan in the forms acceptable to Bank, including any correspondence from the Bank to Borrower, constitutes the entire understanding between the parties hereto and supersedes all prior written or oral understandings or agreements with respect to matters contained or referred to herein between the parties or any of the interested parties or any third parties. This Agreement may not be modified, amended or terminated except by written agreement signed by the parties hereto. The headings of the several sections of this Agreement are for the convenience of reference only and shall not effect the meaning hereof.

4. **SINGLE AGREEMENT.** This Agreement may be executed in any number of counterparts, all of which together shall constitute a single instrument. The Counterpart of this Agreement retained by the Bank for its permanent file shall be deemed to be the original for purposes of comparison of provisions.

5. **FEES AND EXPENSES.** The Borrower shall pay all out-of-pocket expenses incurred by the Bank in connection with the transactions contemplated hereunder,

including, but not limited to, the fees and expenses of the Bank's counsel incurred in connection with this Agreement, the Note, and other documents related to or referred to as collateral or documents securing said Loan.

6. **NOTICES.** All notices referred to or permitted to be given hereunder shall be given in writing or personally delivered or sent by mail, addressed as follows:

If to the Bank:           Mr. David Ross  
                                  President  
                                  Bank of McCreary County  
                                  P.O. Box 160  
                                  Whitley City, Kentucky 42653

If to the Borrower:    Mr. James E. Curd  
                                  Vice President  
                                  Citipower, L.L.C.  
                                  P.O. Box 1309  
                                  Whitley City, Kentucky 42653

Any party may change their address for the purpose of this Agreement by sending written notice thereof to the other parties.

7. **SEVERABILITY.** If any provision of this Agreement shall be held invalid under any applicable laws, such invalidity shall not effect any other provision of this Agreement that can be given effect without the invalid provision, and, to this end, the provisions hereof are severable.

8. **BINDING EFFECT, ASSIGNMENT, AND ENTIRE AGREEMENT.**  
This Agreement and all documents executed in association herewith shall inure to the benefit of, and shall be binding upon, the respective parties hereto, including their successors, heirs, personal representatives, legatees, devisees, assigns, and permitted assigns. The Borrowers have no right to assign any of their rights or obligations hereunder without the prior written consent of the Bank.



9. **BANK NOT A JOINT VENTURE.** The Bank by entering into this Agreement or by any action taken pursuant to this Agreement or any loan document, will not be deemed a partner or joint venturer with the Borrower, and the Borrower will indemnify and hold the Bank harmless from any and all damages resulting from such a construction of the parties and their relationship.

IN TESTIMONY WHEREOF, the parties have executed this Agreement the day and year first above written.

CITIPOWER, L.L.C.

By: James E. Curd  
JAMES E. CURD

ITS: Vice President

BANK OF MCCREARY COUNTY

By: David Ross  
DAVID ROSS

ITS: President

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced acknowledged, and delivered to before me by Citipower, L.L.C., by James E. Curd, its Vice President of Whitley City, Kentucky, to be his free act and deed and the free act and deed of Citipower, L.L.C..

Witness my hand, this 4<sup>th</sup> day of January, 1999.

Haren A. Tucker  
NOTARY PUBLIC

My commission expires: 8-18-2001

STATE OF KENTUCKY  
COUNTY OF McCREARY

I, the undersigned Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Loan Agreement was this day produced, acknowledged, and delivered to before me by David Ross, President, Bank of McCreary County, to be his free act and deed and the free act and deed of Bank of McCreary County, Whitley City, Kentucky.

Witness my hand, this 4<sup>th</sup> day of January, 1999.

Karen A. Duetz  
NOTARY PUBLIC

My commission expires: 8-18-2001

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code:

No. of Additional Sheets Presented: 1

Maturity Date 3. (Optional):

1. Debtor(s) (Last Name First), Address(es) and Identification Number(s):  
CITIPOWER, L.L.C.  
61-1305266  
P.O. BOX 1309  
WHITLEY CITY, KY 42653

2. Secured Party(ies) Name(s) and Address(es):  
BANK OF MCCREARY COUNTY  
P.O. BOX 160  
WHITLEY CITY, KY 42653

4. For Filing Officer: Time, Date, No., Filing Office

SSN: 611-30-5266

5. This Financing Statement Covers the Following Types (or Items) of Property:

SEE ATTACHED SHEET FOR COMPLETE DESCRIPTION.  
ALL ASSETS TANGIBLE AND INTANGIBLE NOW OWNED OR HEREAFTER ACQUIRED INCLUDING ACCOUNTS RECEIVABLE, INVENTORY, PIPELINE, MACHINERY AND EQUIPMENT.

Products of the Collateral are Also Covered

7. Description of Real Estate:

- 6.  The described goods are or will be affixed to the real estate described in Item 7 and this statement is to be filed in the same office as the real estate records.
- The timber to be cut or minerals or the like (including oil and gas) is on the real estate described in Item 7 and this statement is to be filed in the same office as the real estate records.
- The described crops are growing or are to be grown on the real estate described in Item 7, and the crop production season is \_\_\_\_\_

8. Name(s) of record owner(s) of real estate:

10. This statement is filed without the debtor's signature to perfect a security interest in collateral

(check  if so)

- already subject to a security interest in another jurisdiction when it was brought into this state, or
- when debtor's location is changed to this state, or
- as to which the filing has lapsed, or
- acquired after a change of name, identity, or corporate structure of the debtor, or
- which is proceeds of the following described original collateral which was perfected:

9. Assignee(s) of Secured Party and Address(es)

BANK OF MCCREARY COUNTY  
PO BOX 160  
WHITLEY CITY, KY 42653

CITIPOWER, L.L.C. (61-1305266)

By James E. Lund  
Signature(s) of Debtor(s)

By \_\_\_\_\_  
Signature(s) of Secured Party(ies)

(5) FILE COPY — DEBTOR(S)

**INSTRUCTIONS**

- 1. Remove Secured Party and Debtor copies and send other 3 copies to the filing officer.
- 2. At the time of original filing, filing officer will return the third (3rd) copy as an acknowledgment.
- 3. When filling out this form be sure to indicate state name in appropriate space.
- 4. Be sure to file this form with original financing statement.

**ADDENDUM TO UNIFORM COMMERCIAL CODE FINANCING STATEMENTS**

STATE OF <u>KENTUCKY</u>	TOTAL NUMBER OF SHEETS <u>2</u>
--------------------------	---------------------------------

- The Financing Statement to which this addendum is attached covers the types (or items) of property indicated below that I now own and that I may own in the future, together with all parts, accessories, repairs, improvements, and accessions to the property, wherever it is located, and all proceeds and products from the property:
- Inventory:** All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.
- Equipment:** All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. Any equipment described in a list or schedule which I give to you will also be included in the secured property, but such a list is not necessary for a valid security interest in my equipment.
- Farm Products:** All farm products including, but not limited to:
  - (a) all poultry and livestock and their young, along with their products, produce and replacements;
  - (b) all crops, annual or perennial, and all products of the crops; and
  - (c) all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.
- Accounts, Instruments, Documents, Chattel Paper and Other Rights to Payment:** All rights I have now or may have in the future to the payment of money including, but not limited to:
  - (a) payment for goods sold or leased or for services rendered, whether or not I have earned such payment by performance; and
  - (b) rights to payment arising out of all present and future debt instruments, chattel paper and loans and obligations receivable.
 The above include any rights and interests (including all liens and security interests) which I may have by law or agreement against any account debtor or obligor of mine.
- General Intangibles:** All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, and the right to use my name.
- Government Payments and Programs:** All payments, accounts, general intangibles, or other benefits (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments and conservation reserve payments) in which I now have and in the future may have any rights or interest and which arise under or as a result of any pre-existing, current or future Federal or state governmental program (including but not limited to all programs administered by the Commodity Credit Corporation and the ASCS.)

CITIPOWER, L.L.C. (61-1305266)  
DEBTOR

BANK OF MCCREARY COUNTY  
SECURED PARTY

2  
SHEET No.

(4) SECURED PARTY COPY - ORIGINATOR - Remove this copy and forward balance of form for filing.

<b>CITIPOWER, L.L.C.</b> (60305266) P.O. BOX 1039 WHITLEY CITY, KY 42653	<b>BANK OF MCCREARY COUNTY</b> P.O. BOX 160 WHITLEY CITY, KY 42653	Loan Number _____ Date <u>JANUARY 6, 1999</u> Maturity Date <u>JANUARY 6, 2000</u> Loan Amount \$ <u>250,000.00</u> Renewal Of _____
<b>BORROWER'S NAME AND ADDRESS</b> <small>"I" includes each borrower above, jointly and severally.</small>	<b>LENDER'S NAME AND ADDRESS</b> <small>"You" means the lender, its successors and assigns.</small>	

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 \* \* \* \* \* Dollars \$ 250,000.00

Single Advance: I will receive all of this principal sum on JANUARY 6, 1999. No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On \_\_\_\_\_ I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated. Conditions: The conditions for future advances are \_\_\_\_\_

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on \_\_\_\_\_

Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from JANUARY 6, 1999 at the rate of 8.500% per year until APRIL 6, 1999

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 0.750% OVER the following index rate: THE NEW YORK PRIME RATE

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as QUARTERLY. A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ %. The rate may not change more than \_\_\_\_\_ % each \_\_\_\_\_.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:

The amount of each scheduled payment will change.  The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:

on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above: RECORDING FEES OF \$327.20

PAYMENTS: I agree to pay this note as follows:

Interest: I agree to pay accrued interest ON THE 6TH DAY OF EACH THIRD MONTH BEGINNING APRIL 6, 1999

Principal: I agree to pay the principal JANUARY 6, 2000

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_. A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire unpaid balance of principal and interest will be due \_\_\_\_\_.

PURPOSE: The purpose of this loan is BUSINESS: PURCHASE 8.6% OF CAMBRIDGE RESOURCES, INC.

ADDITIONAL TERMS:

SECURITY

SECURITY INTEREST: I give you a security interest in all of the Property described below that I now own and that I may own in the future (including, but not limited to, all parts, accessories, repairs, improvements, and accessions to the Property), wherever the Property is or may be located, and all proceeds and products from the Property.

Inventory: All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

Equipment: All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the secured property, but such a list is not necessary for a valid security interest in my equipment.

Farm Products: All farm products including, but not limited to: (a) all poultry and livestock and their young, along with their products, produce and replacements; (b) all crops, annual or perennial, and all products of the crops; and (c) all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.

Accounts, Instruments, Documents, Chattel Paper and Other Rights to Payment: All rights I have now and that I may have in the future to the payment of money including, but not limited to: (a) payment for goods and other property sold or leased or for services rendered, whether or not I have earned such payment by performance; and (b) rights to payment arising out of all present and future debt instruments, chattel paper and loans and obligations receivable.

The above include any rights and interests (including all liens and security interests) which I may have by law or agreement against any account debtor or obligor of mine.

General Intangibles: All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, and the right to use my name.

Government Payments and Programs: All payments, accounts, general intangibles, or other benefits (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments, and conservation reserve payments) in which I now have and in the future may have any rights or interest and which arise under or as a result of any preexisting, current or future Federal or state governmental program (including, but not limited to, all programs administered by the Commodity Credit Corporation and the ASCS).

The secured property includes, but is not limited by, the following: REAL ESTATE MORTGAGE DATED 11-11-97 ON COMMERCIAL BLDG. AND LOT. ALL ASSETS TANGIBLE AND INTANGIBLE NOW OWNED OR HEREAFTER ACQUIRED INCLUDING ACCOUNTS RECEIVABLE, INVENTORY, PIPELINE, MACHINERY AND EQUIPMENT.

If this agreement covers timber to be cut, minerals (including oil and gas), fixtures or crops growing or to be grown, the description of the real estate is:

\_\_\_\_\_

If checked, file this agreement on the real estate records. Record owner (if not me) \_\_\_\_\_

The Property will be used for a  personal  business  agricultural  \_\_\_\_\_ purpose.

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. If property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purposes(s) described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent: (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state where you are located. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss payee) you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

If this agreement covers farm products I will provide you, at your request, a written list of the buyers, commission merchants or selling agents to or through whom I may sell my farm products. In addition to those parties named on this written list, I authorize you to notify at your sole discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1. I agree to inform you in writing of any change of my address.

FILING - A carbon, photographic or other reproduction of this security agreement or the financing statement covering the Property described in this agreement may be used as a financing statement where allowed by law. Where permitted by law, you may file a financing statement which does not contain my signature, covering the Property secured by this agreement.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. "I" as used in this security agreement will include the borrower and any person who signs within this box.

Date \_\_\_\_\_

Signed \_\_\_\_\_

ADDITIONAL TERMS OF THE NOTE

**DEFINITIONS** - As used on pages 1 and 2, "X" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

**APPLICABLE LAW** - The law of the state in which you are located will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

**PAYMENTS** - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of, this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

**INTEREST** - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

**INDEX RATE** - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

**POST MATURITY RATE** - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

**SINGLE ADVANCE LOANS** - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

**MULTIPLE ADVANCE LOANS** - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance due the date for which you properly accelerated under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

**DEFAULT** - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

**REMEDIES** - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

**COLLECTION COSTS AND ATTORNEY'S FEES** - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

**WAIVER** - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

**OBLIGATIONS INDEPENDENT** - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

**CREDIT INFORMATION** - I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.

CITICORP, L.L.C. (61-1305266)

BY: James E. Curd  
 JAMES E. CURD, VICE PRESIDENT

SIGNATURE FOR LENDER: X David Ross  
 DAVID ROSS

GUARANTY

WHITLEY CITY  
(City)

KY  
(State)

JANUARY 6, 1999

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce BANK OF MCCREARY COUNTY, P.O. BOX 160, WHITLEY CITY, KY 42653 (herein, with its participants, successors and assigns, called "Lender"), at its option, at any time or from time to time to make loans or extend other accommodations to or for the account of CITIPOWER, L.L.C. (61-1305266)

(herein called "Borrower") or to engage in any other transactions with Borrower, the Undersigned hereby absolutely and unconditionally guarantees to Lender the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the debts, liabilities and obligations described as follows:

A. If this  is checked, the Undersigned guarantees to Lender the payment and performance of the debt, liability or obligation of Borrower to Lender evidenced by or arising out of the following: LOAN DATED JANUARY 6, 1999 IN THE AMOUNT OF \$250,000.00 and any extensions, renewals or replacements thereof (hereinafter referred to as the "Indebtedness").

B. If this  is checked, the Undersigned guarantees to Lender the payment and performance of each and every debt, liability and obligation of every type and description which Borrower may now or at any time hereafter owe to Lender (whether such debt, liability or obligation now exists or is hereafter created or incurred, and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several; all such debts, liabilities and obligations being hereinafter collectively referred to as the "Indebtedness"). Without limitation, this guaranty includes the following described debt(s):

The maximum aggregate liability that I am subject to is \$ 250,000.00 In addition to the maximum aggregate liability stated, I absolutely and unconditionally guarantee payment of interest accruing on the guaranteed indebtedness, and fees, charges and costs of collecting the guaranteed indebtedness, including reasonable attorneys' fees.

This guaranty will terminate on JANUARY 6, 2000 The termination will not affect my liability with respect to obligations created or incurred prior to the termination date, or extensions or renewals of, interest accruing on, or fees, costs, or expenses incurred with respect to such obligations on or after the termination date.

The term "Indebtedness" as used in this guaranty shall not include any obligations entered into between Borrower and Lender after the date hereof (including any extensions, renewals or replacements of such obligations) for which Borrower meets the Lender's standard of creditworthiness based on Borrower's own assets and income without the addition of a guaranty, or for which a guaranty is required but Borrower chooses someone other than the joint Undersigned to guaranty the obligation.

The Undersigned further acknowledges and agrees with Lender that:

1. No act or thing need occur to establish the liability of the Undersigned hereunder, and no act or thing, except full payment and discharge of all indebtedness, shall in any way exonerate the Undersigned or modify, reduce, limit or release the liability of the Undersigned hereunder.


2. This is an absolute, unconditional and continuing guaranty of payment of the Indebtedness and shall continue to be in force and be binding upon the Undersigned, whether or not all Indebtedness is paid in full, until this guaranty is revoked by written notice actually received by the Lender, and such revocation shall not be effective as to Indebtedness existing or committed for at the time of actual receipt of such notice by the Lender, or as to any renewals, extensions and refinancings thereof. If there be more than one Undersigned, such revocation shall be effective only as to the one so revoking. The death or incompetence of the Undersigned shall not revoke this guaranty, except upon actual receipt of written notice thereof by Lender and then only as to the decedent or the incompetent and only prospectively, as to future transactions, as herein set forth.

3. If the Undersigned shall be dissolved, shall die, or shall be or become insolvent (however defined) or revoke this guaranty, then the Lender shall have the right to declare immediately due and payable, and the Undersigned will forthwith pay to the Lender, the full amount of all Indebtedness, whether due and payable or unmatured. If the Undersigned voluntarily commences or there is commenced involuntarily against the Undersigned a case under the United States Bankruptcy Code, the full amount of all Indebtedness, whether due and payable or unmatured, shall be immediately due and payable without demand or notice thereof.

4. Indebtedness may be created and continued in any amount, whether or not in excess of any principal or aggregate amount stated above, without affecting or impairing the liability of the Undersigned as limited hereunder. The Lender may apply any sums received by or available to Lender on account of the Indebtedness from Borrower or any other person (except the Undersigned), from their properties, out of any collateral security or from any other source to payment of the excess. Such application of receipts shall not reduce, affect or impair the liability of the Undersigned hereunder. If the liability of the Undersigned is limited to a stated amount pursuant to this paragraph 4, any payment made by the Undersigned under this guaranty shall be effective to reduce or discharge such liability only if accompanied by a written transmittal document, received by the Lender, advising the Lender that such payment is made under this guaranty for such purpose.

This guaranty is  unsecured;  secured by a mortgage or security agreement dated \_\_\_\_\_;  secured by \_\_\_\_\_

This guaranty includes the additional provisions on page 2, all of which are made a part hereof. IN WITNESS WHEREOF, this guaranty has been duly executed by the Undersigned the day and year first above written.

X   
FORSBERG, DANIEL R.

"Undersigned" shall refer to all persons who sign this guaranty, severally and jointly.



ADDITIONAL PROVISIONS

5. Subject to any limitations stated in this guaranty, the Undersigned will pay or reimburse Lender for all costs and expenses (including reasonable attorneys' fees and legal expenses) incurred by Lender in connection with the protection, defense or enforcement of this guaranty in any litigation or bankruptcy or insolvency proceedings.

6. Whether or not any existing relationship between the Undersigned and Borrower has been changed or ended and whether or not this guaranty has been revoked, Lender may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of Indebtedness, without any consent or approval by the Undersigned and without any notice to the Undersigned. The liability of the Undersigned shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this guaranty, without notice to or approval by the Undersigned): (i) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all Indebtedness; (ii) any one or more extensions or renewals of Indebtedness (whether or not for longer than the original period) or any modification of the interest rates, maturities or other contractual terms applicable to any Indebtedness; (iii) any waiver, adjustment, forbearance, compromise or indulgence granted to Borrower, any delay or lack of diligence in the enforcement of Indebtedness, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any Indebtedness; (iv) any full or partial release of, settlement with, or agreement not to sue, Borrower or any other guarantor or other person liable in respect of any Indebtedness; (v) any discharge of any evidence of Indebtedness or the acceptance of any instrument in renewal thereof or substitution thereof; (vi) any failure to obtain collateral security (including rights of setoff) for Indebtedness, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to protect, insure, or enforce any collateral security; or any release, modification, substitution, discharge, impairment, deterioration, waste, or loss of any collateral security; (vii) any foreclosure or enforcement of any collateral security; (viii) any transfer of any Indebtedness or any evidence thereof; (ix) any order of application of any payments or credits upon Indebtedness; (x) any election by the Lender under § 1111(b)(2) of the United States Bankruptcy Code.

7. The Undersigned waives any and all defenses, claims and discharges of Borrower, or any other obligor, pertaining to Indebtedness, except the defense of discharge by payment in full. Without limiting the generality of the foregoing, the Undersigned will not assert, plead or enforce against Lender any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to Borrower or any other person liable in respect of any Indebtedness, or any setoff available against Lender to Borrower or any such other person, whether or not on account of a related transaction. The Undersigned expressly agrees that the Undersigned shall be and remain liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing Indebtedness, whether or not the liability of Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The undersigned shall remain obligated, to the fullest extent permitted by law, to pay such amounts as though the Borrower's obligations had not been discharged.

8. The Undersigned further agrees that the Undersigned shall be and remain obligated to pay Indebtedness even though any other person obligated to pay Indebtedness, including Borrower, has such obligation discharged in bankruptcy or otherwise discharged by law. "Indebtedness" shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which Borrower is discharged from paying or which do not otherwise accrue to Indebtedness due to Borrower's discharge, and the Undersigned shall remain obligated to pay such amounts as though Borrower's obligations had not been discharged.

9. If any payment applied by Lender to Indebtedness is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Borrower or any other obligor), the Indebtedness to which such payment was applied shall for the purposes of this guaranty be deemed to have continued in existence, notwithstanding such application, and this guaranty shall be enforceable as to such Indebtedness as fully as if such application had never been made.

10. The Undersigned waives any claim, remedy or other right which the Undersigned may now have or hereafter acquire against Borrower or any other person obligated to pay Indebtedness arising out of the creation or performance of the Undersigned's obligation under this guaranty, including, without limitation, any right of subrogation, contribution, reimbursement, indemnification, exoneration, and any right to participate in any claim or remedy the Undersigned may have against the Borrower, collateral, or other party obligated for Borrower's debts, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law.

11. The Undersigned waives presentment, demand for payment, notice of dishonor or nonpayment, and protest of any instrument evidencing Indebtedness. Lender shall not be required first to resort for payment of the Indebtedness to Borrower or other persons or their properties, or first to enforce, realize upon or exhaust any collateral security for Indebtedness, before enforcing this guaranty.

12. The liability of the Undersigned under this guaranty is in addition to and shall be cumulative with all other liabilities of the Undersigned to Lender as guarantor or otherwise, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13. This guaranty shall be enforceable against each person signing this guaranty, even if only one person signs and regardless of any failure of other persons to sign this guaranty. If there be more than one signer, all agreements and promises herein shall be construed to be, and are hereby declared to be, joint and several in each of every particular and shall be fully binding upon and enforceable against either, any or all the Undersigned. This guaranty shall be effective upon delivery to Lender, without further act, condition or acceptance by Lender, shall be binding upon the Undersigned and the heirs, representatives, successors and assigns of the Undersigned and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this guaranty shall not affect other lawful provisions and application hereof, and to this end the provisions of this guaranty are declared to be severable. Except as authorized by the terms herein, this guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Undersigned and Lender. This guaranty shall be governed by the laws of the State in which it is executed. The Undersigned waives notice of Lender's acceptance hereof.

Page 2 of 2

<b>CITIPOWER, L.L.C.</b> P.O. BOX 1309 WHITLEY CITY, KY 42653	<b>BANK OF MCCREARY COUNTY</b> P.O. BOX 160 WHITLEY CITY, KY 42653	Loan Number _____ Date <u>NOVEMBER 11, 1997</u> Maturity Date <u>NOV. 11, 1998</u> Loan Amount \$ <u>250,000.00</u> Renewal Of _____ SSN: <u>61-1305266</u>
<b>BORROWER'S NAME AND ADDRESS</b> <small>"I" includes each borrower above, jointly and severally.</small>	<b>LENDER'S NAME AND ADDRESS</b> <small>"You" means the lender, its successors and assigns.</small>	

For value received, I promise to pay to you, or your order, at your address listed above the **PRINCIPAL** sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 \* \* \* \* \* Dollars \$ 250,000.00

Single Advance: I will receive all of this principal sum on \_\_\_\_\_ No additional advances are contemplated under this note.  
 Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On NOVEMBER 11, 1997 I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated.

Conditions: The conditions for future advances are ADVANCES SHALL BE MADE UPON THE WRITTEN REQUEST OF THE BORROWER UNLESS THE TERMS OF THE LINE OF CREDIT AGREEMENT OR PROMISSORY NOTE HAVE BEEN BREACHED.

Open End Credit: You and I agree that I may borrow up to the maximum principal sum more than one time. This feature is subject to all other conditions and expires on NOVEMBER 11, 1998  
 Closed End Credit: You and I agree that I may borrow (subject to all other conditions) up to the maximum principal sum only one time.

INTEREST: I agree to pay interest on the outstanding principal balance from NOVEMBER 11, 1997 at the rate of 9.500% per year until FEBRUARY 11, 1998

Variable Rate: This rate may then change as stated below.  
 Index Rate: The future rate will be 1.000% OVER the following index rate: THE "PRIME RATE" AS SET FORTH FROM TIME TO TIME BY THE CHASE MANHATTAN BANK AND PUBLISHED IN THE WALL STREET JOURNAL, PER ANNUM.

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.  
 Frequency and Timing: The rate on this note may change as often as QUARTERLY  
A change in the interest rate will take effect ON THE SAME DAY  
 Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ %. The rate may not change more than \_\_\_\_\_ % each \_\_\_\_\_.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:  
 The amount of each scheduled payment will change.  The amount of the final payment will change.  
 \_\_\_\_\_

ACCURAL METHOD: Interest will be calculated on a ACTUAL/365 basis.  
POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:  
 on the same fixed or variable rate basis in effect before maturity (as indicated above).  
 at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above: ALL RECORDING FEES, APPRAISAL COST, AND ATTORNEY FEES.

PAYMENTS: I agree to pay this note as follows:  
 Interest: I agree to pay accrued interest ON DEMAND, BUT IF NO DEMAND IS MADE THEN ON THE 11TH DAY OF EACH THIRD MONTH BEGINNING FEBRUARY 11, 1998  
 Principal: I agree to pay the principal ON DEMAND, BUT IF NO DEMAND IS MADE THEN ON NOVEMBER 11, 1998

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_ A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire unpaid balance of principal and interest will be due \_\_\_\_\_

PURPOSE: The purpose of this loan is BUSINESS: WORKING CAPITAL AND INFRASTRUCTURE PURPOSES IN MCCREARY CO.  
ADDITIONAL TERMS:

SECURITY

SECURITY INTEREST: I give you a security interest in all of the Property described below that I now own and that I may own in the future (including, but not limited to, all parts, accessories, repairs, improvements, and additions to the Property), wherever the Property is or may be located, and all proceeds and products from the Property.

Inventory: All inventory which I hold for ultimate sale or lease, or which has been or will be supplied under contracts of service, or which are raw materials, work in process, or materials used or consumed in my business.

Equipment: All equipment including, but not limited to, all machinery, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and equipment, shop equipment, office and recordkeeping equipment, and parts and tools. All equipment described in a list or schedule which I give to you will also be included in the secured property, but such a list is not necessary for a valid security interest in my equipment.

Farm Products: All farm products including, but not limited to: (a) all poultry and livestock and their young, along with their products, products and replacements; (b) all crops, annual or perennial, and all products of the crops; and (c) all feed, seed, fertilizer, medicines, and other supplies used or produced in my farming operations.

Accounts, Instruments, Documents, Chattel Paper and Other Rights to Payment: All rights I have now and that I may have in the future to the payment of money including, but not limited to: (a) payment for goods and other property sold or leased or for services rendered, whether or not I have earned such payment by performance; and (b) rights to payment arising out of all present and future debt instruments, chattel paper and loans and obligations receivable.

The above include any rights and interests including all liens and security interests which I may have by law or agreement against any account debtor or obligor of mine.

General Intangibles: All general intangibles including, but not limited to, tax refunds, applications for patents, patents, copyrights, trademarks, trade secrets, good will, trade names, customer lists, permits and franchises, and the right to use my name.

Government Payments and Programs: All payments, accounts, general intangibles, or other benefits (including, but not limited to, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, emergency assistance payments, diversion payments, and conservation reserve payments) in which I now have and in the future may have any rights or interest and which arise under or as a result of any preexisting, current or future Federal or state governmental program including, but not limited to, all programs administered by the Commodity Credit Corporation and the ASCS).

The secured property includes, but is not limited by, the following: A REAL ESTATE MORTGAGE OF EVEN DATE ON A COMMERCIAL BUILDING AND LOT LOCATED 12 COURTHOUSE SQUARE, WHITLEY CITY, KENTUCKY. ALL ASSETS TANGIBLE AND INTANGIBLE INCLUDING ACCOUNTS RECEIVABLE, INVENTORY, PIPELINE, MACHINERY AND EQUIPMENT NOW OWNED OR HEREAFTER ACQUIRED INCLUDING BUT NOT LIMITED TO THOSE CONTAINED IN EXHIBIT A AS ATTACHED HERETO.

If this agreement covers timber to be cut, minerals (including oil and gas), fixtures or crops growing or to be grown, the description of the real estate is:

It checked, file this agreement on the real estate records. Record owner (if not me)

The Property will be used for a personal business agricultural purpose.

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you fail with respect to such other debts, to make any required disclosures about this security agreement or if you fail to give any required notice of the right of rescission if property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is located.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest I will acquire ownership of the Property with the proceeds of the loan. I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property in my possession and will keep it in good repair and use it only for the purposes described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Property at my address listed on page 1 of this agreement, unless we agree I may keep it at another location. If the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent: (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fail to perform any of my duties under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preclude you from exercising any of your other rights under the law or this security agreement.

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order which the items of collateral were acquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state where you are located. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance for fail to name you as loss payee you may purchase it yourself.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will do so.

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

If this agreement covers farm products I will provide you, at your request, a written list of the buyers, commission merchants or selling agents and/or through whom I may sell my farm products. In addition to those parties named on this written list, I authorize you to notify at your sole discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meanings given to them in the Federal Food Security Act of 1985.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fail to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mail will be reasonable notice under the Uniform Commercial Code. My current address is on page 1. I agree to inform you in writing of any change of my address.

FILING - A carbon, photographic or other reproduction of this security agreement or the financing statement covering the Property described in this agreement may be used as a financing statement where allowed by law. Where permitted by law, you may file a financing statement which does not contain my signature, covering the Property secured by this agreement.

Any person who signs within this box does so to give you a security interest in the Property described on this page. This person does not promise to pay the note. If used in this security agreement will include the borrower and any person who signs within this box. Date Signed

ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - As used on pages 1 and 2, "I" means the terms that apply to this loan. "I," "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

APPLICABLE LAW - The law of the state in which you are located will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST - Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE - The index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

POST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on this note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph on page 2.

MULTIPLE ADVANCE LOANS - If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

- "Right to receive money from you" means: (1) any deposit account balance I have with you; (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe you through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fail to do something which causes you to believe you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES - If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges). (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein. (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy. (4) You may refuse to make advances to me or allow purchases on credit by me. (5) You may use any remedy you have under state or federal law. (6) You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fees you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (prepayment); (2) obtain official certification of nonpayment (postset); or (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. Of course, you are entitled to only one payment in full. I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

CREDIT INFORMATION - I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGES 1 AND 2). I have received a copy on today's date.

CITIPOWER, L.L.C.

BY: JAMES E. CURD, VICE PRESIDENT

SIGNATURE FOR LENDER: X DAVID ROSS

<b>CITIPOWER, L.L.C.</b> P.O. BOX 1309 WHITLEY CITY, KY 42653  <b>BORROWER'S NAME AND ADDRESS</b> <small>"I" includes each borrower above, joint and severally.</small>	<b>BANK OF MCCREARY COUNTY</b> P.O. BOX 160 WHITLEY CITY, KY 42653  <b>LENDER'S NAME AND ADDRESS</b> <small>"You" means the lender, its successors and assigns.</small>	Loan Number <u>104101</u> Date <u>NOVEMBER 11, 1998</u> Maturity Date <u>NOV. 11, 1999</u> Loan Amount \$ <u>250,000.00</u> Renewal Of <u>104101</u> SSN: <u>61-1305266</u>
--	--	--

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 Dollars \$ 250,000.00

Single Advance: I will receive all of this principal sum on \_\_\_\_\_ No additional advances are contemplated under this note.  
 Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On NOV. 11, 1998 I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated.  
 Conditions: The conditions for future advances are ADVANCES SHALL BE MADE UPON THE REQUEST OF THE BORROWER UNLESS THE TERMS OF THE LINE OF CREDIT AGREEMENT OR PROMISSORY NOTE HAVE BEEN BREACHED.

Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on NOVEMBER 11, 1999  
 Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from NOV. 11, 1998 at the rate of 9.000 % per year until FEBRUARY 11, 1999

Variable Rate: This rate may then change as stated below:  
 Index Rate: The future rate will be 1.000% OVER the following index rate: THE "PRIME RATE" AS SET FORTH FROM TIME TO TIME BY THE CHASE MANHATTAN BANK AND PUBLISHED IN THE WALL STREET JOURNAL PER ANNUM.  
 No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as QUARTERLY  
 A change in the interest rate will take effect ON THE SAME DAY  
 Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ % The rate may not change more than \_\_\_\_\_ % each

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:  
 The amount of each scheduled payment will change.  The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:  
 on the same fixed or variable rate basis in effect before maturity (as indicated above).  
 at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above:

PAYMENTS: I agree to pay this note as follows:  
 Interest: I agree to pay accrued interest ON THE 15TH DAY OF EACH THIRD MONTH BEGINNING FEBRUARY 11, 1999

Principal: I agree to pay the principal NOVEMBER 11, 1999

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_ A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire unpaid balance of principal and interest will be due \_\_\_\_\_

ADDITIONAL TERMS:

SECURITY: This note is separately secured by (describe separate document by type and date): REAL ESTATE MORTGAGE DATED 11-11-97 ON COMM. BLDG. & LOT SECURITY AGREEMENT DATED 11-11-97 ON EQUIP, INVENTORY, PIPELINE, MACHINERY, ACCIS. REC  
(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is BUSINESS; WORKING CAPITAL & INFRASTRUCTURE

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

Signature for Lender  
 \_\_\_\_\_  
 DAVID ROSS

CITIPOWER, L.L.C.  
 BY James E. Curd  
 JAMES E. CURD, VICE PRESIDENT

Removal of L.C.C.

CITIPOWER, L.L.C. P.O. BOX 1309 WHITLEY CITY, KY 42653	BANK OF MCCREARY COUNTY P.O. BOX 160 WHITLEY CITY, KY 42653	Loan Number <u>104101</u> Date <u>NOVEMBER 11, 1998</u> Maturity Date <u>NOV. 11, 1999</u> Loan Amount \$ <u>250,000.00</u> Renewal Of <u>104101</u> SSN: <u>61-1305266</u>
BORROWER'S NAME AND ADDRESS <small>*" Includes each borrower above, joint and severally.</small>		LENDER'S NAME AND ADDRESS <small>"You" means the lender, its successors and assigns.</small>

For value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of TWO HUNDRED FIFTY THOUSAND AND NO/100 Dollars \$ 250,000.00

Single Advance: I will receive all of this principal sum on \_\_\_\_\_ No additional advances are contemplated under this note.

Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On NOV. 11, 1998 I will receive the amount of \$ \_\_\_\_\_ and future principal advances are contemplated.

Conditions: The conditions for future advances are ADVANCES SHALL BE MADE UPON THE REQUEST OF THE BORROWER UNLESS THE TERMS OF THE LINE OF CREDIT AGREEMENT OR PROMISSORY NOTE HAVE BEEN BREACHED.

Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on NOVEMBER 11, 1999

Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions).

INTEREST: I agree to pay interest on the outstanding principal balance from NOV. 11, 1998 at the rate of 9.000 % per year until FEBRUARY 11, 1999

Variable Rate: This rate may then change as stated below.

Index Rate: The future rate will be 1.000% OVER the following index rate: THE "PRIME RATE" AS SET FORTH FROM TIME TO TIME BY THE CHASE MANHATTAN BANK AND PUBLISHED IN THE WALL STREET JOURNAL PER ANNUM.

No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control.

Frequency and Timing: The rate on this note may change as often as QUARTERLY. A change in the interest rate will take effect ON THE SAME DAY

Limitations: During the term of this loan, the applicable annual interest rate will not be more than \_\_\_\_\_ % or less than \_\_\_\_\_ %.

Effect of Variable Rate: A change in the interest rate will have the following effect on the payments:  
 The amount of each scheduled payment will change.  The amount of the final payment will change.

ACCRUAL METHOD: Interest will be calculated on a ACTUAL/365 basis.

POST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below:  
 on the same fixed or variable rate basis in effect before maturity (as indicated above).

at a rate equal to \_\_\_\_\_

LATE CHARGE: If a payment is made more than 10 days after it is due, I agree to pay a late charge of \$10.00

ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which  are  are not included in the principal amount above:

PAYMENTS: I agree to pay this note as follows:  
 Interest: I agree to pay accrued interest ON THE 11TH DAY OF EACH THIRD MONTH BEGINNING FEBRUARY 11, 1999

Principal: I agree to pay the principal NOVEMBER 11, 1999

Installments: I agree to pay this note in \_\_\_\_\_ payments. The first payment will be in the amount of \$ \_\_\_\_\_ and will be due \_\_\_\_\_ . A payment of \$ \_\_\_\_\_ will be due \_\_\_\_\_ thereafter. The final payment of the entire unpaid balance of principal and interest will be due \_\_\_\_\_

ADDITIONAL TERMS:

SECURITY: This note is separately secured by (describe separate document by type and date): REAL ESTATE MORTGAGE DATED 11-11-97 ON COMM. BLDG. & LOT, SECURITY AGREEMENT DATED 11-11-97 ON EQUIP, INVENTORY, PIPELINE, MACHINERY, ACCTS. REC  
(This section is for your internal use. Failure to list a separate security document does not mean the agreement will not secure this note.)

PURPOSE: The purpose of this loan is BUSINESS; WORKING CAPITAL & INFRASTRUCTURE

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

Signature for Lender  
 \_\_\_\_\_  
 X  
 DAVID ROSS

CITIPOWER, L.L.C.  
 \_\_\_\_\_  
 BY James E. Curd  
 JAMES E. CURD, VICE PRESIDENT

**DEFINITIONS:** As used on page 1, "I" means the terms that apply to this loan. "You" or "my" means each Borrower who signs this note and each other person or legal entity including guarantors, endorsers, and sureties who agree to pay this note (together referred to as "us"). "You" or "my" means the Lender and its successors and assigns.

**APPLICABLE LAW:** The law of the state in which you are located will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to enforce it. In such a case, this fact will not affect the enforceability of the remainder of this agreement. No modification of this agreement may be made without your express written consent. Time is of the essence in this agreement.

**PAYMENTS:** Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of, this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not accrue or reduce any later scheduled payment until this note is paid in full. Unless I make the prepayment, you and I agree in writing to the contrary.

**INTEREST:** Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

**INDEX RATE:** The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loan or class of loans to me or other borrowers.

**ACCURAL METHOD:** The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

**POST MATURITY RATE:** For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

**SINGLE ADVANCE LOANS:** If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

**MULTIPLE ADVANCE LOANS:** If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

**PAYMENTS BY LENDER:** If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may deduct those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

**SET-OFF:** I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

Any amount due and payable under this note means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**REAL ESTATE OR RESIDENCE SECURITY:** If this note is secured by real estate or a residence that is personal property, the existence of a default

and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

**DEFAULT:** I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide my financial information that is untrue or inaccurate at the instant was provided; (7) I do or fail to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in the season if I am a grower of crops; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1240, Subpart G, Exhibit M.

**REMEDIES:** If I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges).
- (2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-Off" paragraph herein.
- (3) You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- (4) You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

**COLLECTION COSTS AND ATTORNEY'S FEES:** I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default. In addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

**WAIVER:** I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (arrearments);
- (2) obtain official certification of nonpayment (pre-arrest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

I waive any defenses I have based on suretyship or impairment of collateral.

**COLLECTIONS INDEPENDENT:** I understand that I must pay this note even if someone else has also agreed to pay it for me, for example, signing this form or a separate guarantee or endorsement. You may sue me alone, or anyone else who is obligated on this note, or any number of us (together, to collect this debt). You may do so without any notice that it has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. Of course, you are entitled to only one payment in full. I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

**CREDIT INFORMATION:** I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

**NOTICE:** Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notice to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INITIALS (First Payment)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /
/ / \$	\$		\$	\$	%	\$	/ /





Itemization of the Amount Financed	
1. Cash Price (including sales or use tax)	\$ 17,700.00
2. Cash Down Payment	\$ 1,400.00
3. Trade in	\$ 1,400.00
Less Balance due on trade in	\$ 1,400.00
Net Trade in	\$ 0.00
Allowance	\$ 0.00
Total down Payment (2 + 3)	\$ 1,400.00
4. Unpaid balance of cash price paid to Seller	\$ 16,300.00
5. Amount paid to others on your behalf:	
a. To insurance companies	\$ 0.00
b. To public officials for filing license and registration	\$ 0.00
c. To _____	\$ 0.00
d. To _____	\$ 0.00
7. Total of Item 6 (a + b + c + d)	\$ 0.00
8. Amount Financed	\$ 17,700.00
9. Prepaid Finance Charge	\$ 0.00

**Promise to pay:** You promise to pay to Us, or to Our order, the Principal Amount (defined below) plus interest at the annual interest rate indicated below. The term "Principal Amount" means the Amount Financed plus the Prepaid Finance Charge listed in Item 9 of the Itemization of the Amount Financed. Interest will be figured daily on the unpaid Principal Amount on a simple interest basis, beginning on the date of this Agreement and continuing until paid in full. You promise to make monthly payments according to the payment schedule above on the same day of each month. If this Agreement provides for a variable annual rate of interest and the rate changes, the number of payments may change but the amount of each payment will remain the same (except perhaps for the last payment).

**Annual Rate of Interest:**  
 Mark the appropriate box with an "X"  
 The annual rate of interest of this Agreement is 9.99%.  
 The annual rate of interest in effect on the date of this Agreement is \_\_\_\_\_% which is \_\_\_\_\_ percentage points in excess of the "Prime Rate" (as explained below) for the calendar month preceding the month in which this Agreement is signed. The annual interest rate will be adjusted on the first banking day of each month to equal the "Prime Rate" determined for the previous month, plus the same number of percentage points. "Prime Rate" means the average weekly Bank Prime Loan Rates published by the Board of Governors of the Federal Reserve System in Statistical Release H-15 for the week which includes the 15th of the month. The annual rate of interest will not exceed 24%.

**Late Charges:** If any payment is not paid in full within ten (10) days after it is due, You will pay a Late Charge equal to 3% of the unpaid amount of the payment.

**CHECK BOX IF APPLICABLE**  
 I/We signed this Agreement for the sole purpose of waiving or subordinating any joint or inchoate interest that he or she may have in the Property.  
**Security Interest:** In order to secure all amounts due under this Agreement and any and all renewals, extensions and refinancings of any amounts due under this Agreement, You hereby grant to Us a purchase money security interest in the Property, all proceeds and replacements of the Property, and all additions and accessions to the Property.

**YOU AGREE THAT THE ADDITIONAL TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS PAGE ARE INCORPORATED BY REFERENCE, WHICH MEANS THAT THEY ARE PART OF THIS AGREEMENT JUST AS IF THEY WERE PRINTED RIGHT HERE. YOU ACKNOWLEDGE RECEIPT OF A TRUE AND COMPLETELY FILLED IN COPY OF THIS AGREEMENT AT THE TIME OF SIGNING.**

**COSIGNERS:** Read the Important notice on the reverse side before you sign this Agreement.

*Citipower LLC*  
 BORROWER'S SIGNATURE \_\_\_\_\_ DATE 12/14/92  
 \_\_\_\_\_ DATE \_\_\_\_\_

TIME - HYERS FORD INC.

12/12/92  
 12/12/92

WHITE - BANK      CANARY - SELLER      PINK - BUYER



# MULTI-PURPOSE CONSUMER INSTALLMENT LOAN AND SECURITY AGREEMENT (KENTUCKY) SIMPLE INTEREST

#4683 (7/98)

Motor Vehicle  
 Borrower (and Co-Borrower)  
 NAME  
 Number 2 12 COURTHOUSE SQUARE  
 Street  
 WITLEY CITY State KY Zip 40362  
 City State Zip

Seller  
 NAME  
 Number & 1215 BALL STREET  
 Street  
 City COVINGTON State KY Zip 40302  
 City State Zip

In this Agreement, the words "You," "Your," and "I" mean each and every Borrower or Co-Borrower who signs at the bottom of this page. The words "Our," "Us" and "We" mean Bank One, Kentucky, NA, the Creditor. This loan is to finance Your purchase of the property described below (the "Property") from the Seller identified above (the "Seller"), who arranged for this extension of credit.

Make	Body Type	Year	New or Used	Identification Number	License Number
FORD	F250	96	NEW	1FT1X2E6G1T6841194	

Accessories  Radio  Auto Transmission  Power Steering  Power Brakes  Air Conditioning  Other

<b>*ANNUAL PERCENTAGE RATE*</b> The cost of Your credit as a yearly rate. 6.43%	<b>*FINANCE CHARGE*</b> The dollar amount the credit will cost You. \$ 6420.17	<b>Amount Financed</b> The amount of credit provided to You or on Your behalf. \$ 26090.43	<b>Total of Payments</b> The amount You will have paid after You have made all payments as scheduled. \$ 32511.60	
---	--	--	---	--

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments are Due
120	\$ 270.81	Monthly beginning 12/31/97 1997
120	\$ 270.81	Monthly beginning 1/1/98 1998

Variable Rate: (Mark box with an "X", if applicable). If the box is marked, the annual percentage rate may increase during the term of this transaction if the Bank Prime Loan Rate, as published by the Board of Governors of the Federal Reserve System, increases. The interest rate will not increase above 24%. The rate will not increase more than once every month. Any increase will take the form of more payments. For example, if Your loan were for \$10,000 at 14% for four years and the rate increased to 15% in two years, you would have to make one additional payment of \$77.18.

Late Charge: If a payment is more than 10 days late, You will be charged 5% of the payment.

Security: You are giving a security interest in the goods or Property being purchased, and any money or property You've deposited with Us.

Filing Fees: \$ 17.00  
 Prepayment: If You pay off early, You may have to pay a penalty.  
 CHECK BOX  Assumption: Someone buying Your principal dwelling cannot assume the remainder of the loan on the original terms.  
 IF APPLICABLE  
 See Your contract documents for any additional information about non-payment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

**INSURANCE:**  
 Credit life insurance and credit accident and health insurance are not required to obtain credit, and will not be provided unless You sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life	\$ 11.11	I want credit life insurance. (Signature) (Signature)
Credit Accident and Health Insurance	\$ 11.11	I want credit accident and health insurance. (Signature)

You may obtain property insurance from anyone You want that is acceptable to Us.  
 You may obtain Lender's Single Interest Insurance from anyone You want that is acceptable to Us. If checked below, You have elected to obtain Lender's Single Interest insurance from Us for the cost indicated.  
 Lender's Single Interest Insurance \$ 11.11

**ADDITIONAL INSURANCE INFORMATION**  
 A. Only those of You who signed above requesting Credit Life and/or Credit Accident and Health insurance will be covered by that type of insurance.  
 B. Credit Accident and Health insurance is available only to one person.  
 C. You are required to obtain Collision, Comprehensive and Lender's Single Interest Insurance.  
 D. Only the insurance for which a specific charge is set out above will be furnished by Us.

6420.17 Int 1/20/97 3551.85 2/3/97 - 12/16  
 ( 4966.45 ) 97 Int 1/10 98 12/29/98  
 1453.52 98 Int  
 ( 6070.35 )  
 4616.53 98 pr.  
 22074.00 12/31/98 Bal.

Itemization of the Amount Financed	
1. Cash Price (including sales or use tax)	\$ 20,000.00
2. Cash Down Payment	\$ 4,000.00
3. Trade In	\$ 1,000.00
Less balance due on trade in	\$ 1,000.00
Net Trade In Allowance	\$ 1,000.00
4. Total down Payment (2 + 3)	\$ 5,000.00
5. Unpaid balance of cash price paid to Seller	\$ 15,000.00
6. Amount paid in others on Your behalf:	
a. To insurance companies	\$ 0.00
b. To public officials for filing, license and registration	\$ 0.00
c. To	\$ 0.00
d. To	\$ 0.00
7. Total of Item 6 (a + b + c + d)	\$ 0.00
8. Amount Financed	\$ 15,000.00
9. Prepaid Finance Charge	\$ 0.00

**Promise to pay:** You promise to pay to Us, or to Our order, the Principal Amount (defined below) plus interest at the annual interest rate indicated below. The term "Principal Amount" means the Amount Financed plus the Prepaid Finance Charge listed in Item 9 of the Itemization of the Amount Financed. Interest will be figured daily on the unpaid Principal Amount on a simple interest basis, beginning on the date of this Agreement and continuing until paid in full. You promise to make monthly payments according to the payment schedule above on the same day of each month. If this Agreement provides for a variable annual rate of interest and the rate changes, the number of payments may change but the amount of each payment will remain the same (except perhaps for the last payment).

**Annual Rate of Interest:** Mark the appropriate box with an "X".  
 The annual rate of interest of this Agreement is \_\_\_\_\_ %.  
 The annual rate of interest in effect on the date of this Agreement is \_\_\_\_\_ %, which is \_\_\_\_\_ percentage points in excess of the "Prime Rate" (as explained below) for the calendar month preceding the month in which this Agreement is signed. The annual interest rate will be adjusted on the first banking day of each month to equal the "Prime Rate" determined for the previous month, plus the same number of percentage points. "Prime Rate" means the average weekly Bank Prime Loan Rate as published by the Board of Governors of the Federal Reserve System in Statistical Release H-15 for the week which includes the 15th of the month. The annual rate of interest will not exceed 24%.

**Late Charges:** If any payment is not paid in full within ten (10) days after it is due, You will pay a Late Charge equal to 5% of the unpaid amount of the payment.

**CHECK BOX IF APPLICABLE** \_\_\_\_\_  
 has signed this Agreement for the sole purpose of waiving or subordinating any joint or inchoate interest that he or she may have in the Property.

**Security Interest:** In order to secure all amounts due under this Agreement and any and all renewals, extensions and refinancings of any amounts due under this Agreement, You hereby grant to Us a purchase money security interest in the Property, all proceeds and replacements of the Property, and all additions and accessions to the Property.

**YOU AGREE THAT THE ADDITIONAL TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS PAGE ARE INCORPORATED BY REFERENCE, WHICH MEANS THAT THEY ARE PART OF THIS AGREEMENT JUST AS IF THEY WERE PRINTED RIGHT HERE. YOU ACKNOWLEDGE RECEIPT OF A TRUE AND COMPLETELY FILLED IN COPY OF THIS AGREEMENT AT THE TIME OF SIGNING.**

**COSIGNERS:** Read the Important notice on the reverse side before you sign this Agreement.

[Signature] BORROWER'S SIGNATURE      12/11/96 DATE      [Signature] CO-BORROWER'S SIGNATURE      \_\_\_\_\_ DATE

PRIME - FORD FORD INC.

WHITE - BANK      CANARY - SELLER      PINK - BUYER

12/11/96  
12/11/96

BANK OF MCCREARY COUNTY  
P.O. BOX 160  
WHITLEY CITY, KY 42653

CITIPOWER, L.L.C.  
P.O. BOX 1309  
WHITLEY CITY, KY 42653

Loan Number 43303498  
Date SEPTEMBER 30, 1997  
Maturity Date SEP. 30, 2001  
Loan Amount \$ 18,872.16  
Renewal Of \_\_\_\_\_  
SSN: 61-1305266

LENDER'S NAME AND ADDRESS  
\*You\* means the Lender, its successors and assigns.

BORROWER'S NAME AND ADDRESS  
\*I\* includes each Borrower above, jointly and severally.

TERMS FOLLOWING A  APPLY ONLY IF CHECKED

NOTE - For value received, I promise to pay to you, or your order, at your address above, the sum of: EIGHTEEN THOUSAND EIGHT HUNDRED SEVENTY TWO AND 16/100 Dollars \$ 18,872.16

ADDITIONAL FINANCE CHARGE - I also agree to pay an investigation fee of \$ \_\_\_\_\_, and it will be  withheld from the proceeds.  
 paid pro rata over the loan term.  paid in cash. (The sum above already includes this fee unless it is paid in cash.)

PAYMENT - I will pay this note as follows:

(a)  In 48 Installments of \$ 393.17 each, beginning OCT. 30, 1997 and continuing on the same day of each  month thereafter until paid in full.  
(b)  (other) \_\_\_\_\_

PAYMENTS - This is a precomputed note which means that the sum I have agreed to pay already includes the finance charges payable hereafter to maturity.

REPAYMENT - I may prepay this note in whole or in part at any time. However, my partial prepayment will not reduce or excuse any subsequently scheduled payments until this note is paid in full. If and when prepaid in full, or upon maturity or acceleration, the finance charge will be recalculated to determine the exact amount then due.

using the Rule of 78's method. If the maximum finance charge permitted is charged for this loan.

using the proportional rate method.

if refund calculated to be less than \$1.00 will be made.

MINIMUM FINANCE CHARGE - I agree to pay a minimum finance charge of 10.00 if at the time I pay off this note and after application of the State formula you have not earned that much in finance charges.

SECURITY - You have certain rights that may affect my property as explained on page 2. This loan  is  is not secured.

(a)  This loan is secured by 1995 TOYOTA 4-RUNNER ID #JT3VN39WKS0193170 dated SEPTEMBER 30, 1997.

(b)  Security Agreement - I give you a security interest in the Property described below. The rights I am giving you in this Property and the obligations this agreement secures are defined on page 2 of this agreement. 1995 TOYOTA 4-RUNNER 5 SPEED ID #JT3VN39WKS0193170

This Property will be used for BUSINESS purposes.

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate. <u>9.949%</u>	FINANCE CHARGE The dollar amount the credit will cost me. <u>\$3,355.16</u>	AMOUNT FINANCED The amount of credit provided to me or my dependent. <u>\$15,517.00</u>	TOTAL OF PAYMENTS The amount I will have paid when I have made all scheduled payments. <u>\$18,872.16</u>	I have the right to receive at this time an itemization of the Amount Financed. YES - I want an itemization. NO - I do not want an itemization.
My Payment Schedule will be:				* means an estimate. <u>\$ 17.00</u> Filing Fees <u>\$</u> Nonfiling Insurance
Number of Payments <u>48</u>	Amount of Payments <u>\$ 393.17</u>	Payment Dates <u>MONTHLY BEGINNING OCTOBER 30, 1997</u>		

SECURITY - I am giving a security interest in:

the goods or property being purchased. (Just description of other property) 1995 TOYOTA 4-RUNNER 5 SPEED  
 collateral securing other loans you may also secure this loan.  
 my deposit accounts and other rights to the payment of money from you.

Late Charge - I will be charged a late charge on the portion of my payment made more than 10 days after it is due equal to 5.000% of the unpaid amount up to a maximum of \$ 5.00.

Required Deposit - The annual percentage rate does not take into account my required deposit.

Prepayment - If I pay off this note early, I may be entitled to a refund of part of the finance charge.

I can see my contract documents for any address in my possession, management, default, any required repayment before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE - Credit life insurance and credit health insurance are not insured to obtain credit, and will not be provided unless I sign and agree to pay additional costs.

Policy	Premium	Term
Credit Life		
Credit Health		
Joint Credit Life		
<input type="checkbox"/> do <input type="checkbox"/> do not want credit life insurance.		
<input type="checkbox"/> do <input type="checkbox"/> do not want credit health insurance.		
<input type="checkbox"/> do <input type="checkbox"/> do not want joint credit life insurance.		
<input type="checkbox"/> do <input type="checkbox"/> do not want _____ insurance		

PROPERTY INSURANCE - I may obtain property insurance from anyone I want that acceptable to you. If I get the insurance from or through you I will pay \_\_\_\_\_ for \_\_\_\_\_ of coverage.

SINGLE INTEREST INSURANCE - I may obtain single interest insurance from anyone I want that is acceptable to you. If I get the insurance from or through you I will pay \$ \_\_\_\_\_ for \_\_\_\_\_ of coverage.

Optional or where necessary for filing this Security Agreement.

Signature \_\_\_\_\_ For Lender  
PRESIDENT

ITEMIZATION OF AMOUNT FINANCED

AMOUNT GIVEN TO ME DIRECTLY	\$ <u>15,500.00</u>
AMOUNT PAID ON MY (LOAN) ACCOUNT	\$ _____
AMOUNTS PAID TO OTHERS ON MY BEHALF:	
to Insurance Companies	\$ _____
to Public Officials	\$ <u>17.00</u>
(less) PREPAID FINANCE CHARGE(S)	\$ _____
Amount Financed	\$ <u>15,517.00</u>

(Add all items financed and subtract prepaid finance charges.)

SIGNATURES - I AGREE TO THE TERMS SET OUT ON PAGE 1 AND PAGE 2 OF THIS AGREEMENT. I HAVE RECEIVED A COPY OF THIS DOCUMENT ON TODAY'S DATE.

COUNTERPARTS - SEE NOTICE ON PAGE 2 BEFORE SIGNING.  
CITIPOWER, L.L.C.

Signature BY:  
JAMES CURD, VICE PRESIDENT

Signature \_\_\_\_\_

ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - "I," "me" or "my" means such Borrower who signs this note and on other person or legal entity (including guarantors, endorser, and sureties) who agrees to pay this note (together referred to as "you"). "You" or "your" means a Lender and its successors and assigns.

APPLICABLE LAW - This note and any agreement securing this note will be governed by the laws of the state of Kentucky. The Federal Truth-in-Lending Act and Regulation Z are disclosed only and are not intended to be terms of this agreement. The fact that any part of this note cannot be enforced will not affect the enforceability of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

INTEREST - The interest rate and other charges on this loan will never exceed the greatest rate of charge allowed by law for this loan.

POST-MATURITY INTEREST - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

- 1) If this loan is payable on demand with alternate payment details, on the date you make demand for payment or on the final alternate payment date, whichever is earlier;
- 2) On the date of the last scheduled payment of principal; or
- 3) On the date you accelerate the due date of this loan (demand immediate payment).

DEFAULT - I will be in default on this loan and any agreement securing this loan if I do one or more of the following:

- 1) I fail to make a payment in full when due;
- 2) I die, am declared incompetent, or become insolvent;
- 3) I fail to keep any promise I have made in connection with this loan;
- 4) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- 5) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- 6) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- 7) The Property is damaged, destroyed or stolen;
- 8) I fail to provide any additional security that you may require;
- 9) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, and its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- 10) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

REMEDIES - If I am in default on this loan or any agreement securing this loan, you may:

- 1) After applying the rebate described on page 1, make unpaid principal, interest and all other agreed charges payable under this note immediately due;
- 2) Use the right of set-off as explained below;
- 3) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- 4) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- 5) Use any remedy you have under state or federal law; and
- 6) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

RIGHTS OF COLLECTION AND ATTORNEYS' FEES - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, court costs and reasonable attorneys' fees. If this loan is made under Kentucky Revised Statutes, Chapter 287, I agree to pay our reasonable attorneys' fees of up to 15% of the unpaid balance of this note, as long as the attorney is not your salaried employee.

This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- 1) Any deposit account balance I have with you;
- 2) Any money owed to me or an item presented to you or in your possession for collection or exchange; and
- 3) Any repurchase agreement or other non-deposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is exercised by someone who has not agreed to pay this note, your right of set-off shall apply to my guarantor, obligor and to any other amount owed without regard to my guarantor's endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to my Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the disposition of any check when the disposition occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

OTHER SECURITY - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan, property, including another debt, will not secure this loan:

- 1) If and to the extent such property is in my possession;
- 2) If such property is my principal dwelling and you fail to provide any required notice of right of rescission; and
- 3) If this loan is made under Kentucky Revised Statutes, Chapter 287, and the security is a first lien or first mortgage on real estate. However, the property securing another debt will apply to this loan if the security is a first lien or first mortgage on unimproved real estate not over 10 acres in size or is on real estate on which there is located or to be located a residential mobile home.

OBLIGATIONS INDEPENDENT - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release me or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release my security and I will still be obligated to pay this loan.

WAIVER - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

PRIVACY - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

FINANCIAL STATEMENTS - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

PURCHASE MONEY LOAN - If this is a Purchase Money Loan, you may include the terms of the seller on the check or draft for this loan.

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

SECURED OBLIGATIONS - This security agreement secures this loan (including any extensions, renewals, refinancings and modifications) and any other debt I have with you now or later. Property described in this security agreement will not secure other such debts if you fail to give any required notice of the right of rescission with respect to the Property. Also, this security agreement will not secure other debts if this security interest is in household goods and the other debt is a consumer loan. This security agreement will last until it is discharged in writing.

For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement:

- (a) Payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan; and
- (b) Payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of this loan, if any, and then to the purchase money obligations in the order in which the items were acquired.

No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any property securing the loan and all extensions, renewals, modifications and refinancings of such loan.

PROPERTY - The word "Property," as used here, includes all property that is listed in the security agreement on page 1. If a general description is used, the word "Property" includes all my property fitting the general description. Property also means all benefits that arise from the described Property (including all proceeds, insurance benefits, payments from others, interest, dividends, stock splits and voting rights). It also means property that now or later is attached to, is a part of, or results from the Property.

OWNERSHIP AND DUTIES TOWARD PROPERTY - Unless a co-owner(s) of the Property signed a third party agreement, I represent that I own all the Property. I will defend the Property against any other claim. I agree to do whatever you require to perfect your interest and keep your priority. I will not do anything to harm your position.

I will keep the Property in my possession (except if pledged and delivered to you). I will keep it in good repair and use it only for its intended purposes. I will keep it at my address unless we agree otherwise in writing.

I will not try to sell or transfer the Property, or permit the Property to become attached to any real estate, without your written consent. I will pay all taxes and charges on the Property as they become due. I will inform you of any loss or damage to the Property. You have the right of reasonable access in order to inspect the Property.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require. I will name you as loss payee on any such policy. You may require added security on this loan if you agree that insurance proceeds may be used to repair or replace the Property. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will buy the insurance from a firm authorized to do business in Kentucky. The firm will be reasonably acceptable to you. I will keep the insurance until all debts secured by this agreement are paid.

DEFAULT AND REMEDIES - If I am in default, in addition to the remedies listed in the note portion of this document, you may:

- (a) Pay taxes or other charges, or purchase any required insurance, if I fail to do these things that you are required to do so. You may add the amount you pay to this debt and secure it in the same amount at a rate equal to the rate shown in the "POST-MATURITY INTEREST" paragraph on page 1 until paid in full;
- (b) Require me to gather the Property and any related records and make it available to you in a reasonable fashion;
- (c) Take immediate possession of the Property, but in doing so you may not take possession or unlawfully enter onto my premises. You may sell, lease or dispose of the Property as provided by law. You may apply what you receive from the sale of the Property to your expenses and then to the debt. If what you receive from the sale of the Property is less than what I owe you, you may take me to court to recover the difference (to the extent permitted by law); and
- (d) Keep the Property to satisfy the debt.

I agree to give you first class mail 10 days before the intended sale or disposition of the Property, the notice is reasonable if it is sent to me at my last known address. You may give notice to me of any change in my address.

FINING - A copy of this security agreement may be used as a financing statement when allowed by law.

THIRD PARTY AGREEMENT

For the purposes of the provisions within this enclosure, "I," "me" or "my" means the person signing below and "you" means the Lender identified on page 1.

I agree to give you a security interest in the Property that is described on page 1. I AGREE TO THE TERMS OF THIS NOTE AND SECURITY AGREEMENT SET OUT ON PAGES 1 AND 2, but I am in no way personally liable for payment of the debt. This means that if the Borrower defaults, my interest in the Property may be used to satisfy the Borrower's debt. I agree that you may, without releasing me or the Property from this Third Party Agreement and without notice or demand upon me, extend new credit to any Borrower, renew or change this note or security agreement one or more times and for any term, or fail to perfect your security interest in, impair, or release any security (including guaranties) for the obligations of any Borrower.

I HAVE RECEIVED A COMPLETED COPY OF THIS NOTE AND SECURITY AGREEMENT.

NAME \_\_\_\_\_

X \_\_\_\_\_

NOTICE TO COBIGNER

You (the assigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of your credit record.

This notice is not the contract that makes you liable for the debt.

Attach FTC "Preservation of Consumer Claims and Defenses" Notice if Applicable

BANK OF MCCREARY COUNTY  
P.O. BOX 160  
WHITLEY CITY, KY 42653

CITIPOWER, L.L.C.  
P.O. BOX 1309  
WHITLEY CITY, KY 42653

Loan Number 43305172  
Date FEBRUARY 10, 1998  
Maturity Date FEB. 10, 2002  
Loan Amount \$ 22,742.40  
Renewal Of  
SSN: 61-1305266

LENDER'S NAME AND ADDRESS  
"You" means the Lender, its successors and assigns.

BORROWER'S NAME AND ADDRESS  
"I" includes each Borrower above, jointly and severally.

TERMS FOLLOWING A  APPLY ONLY IF CHECKED

NOTE - For value received, I promise to pay to you, or your order, at your address above, the sum of: TWENTY TWO THOUSAND SEVEN HUNDRED FORTY TWO AND 40/100 \* \* \* \* \* Dollars \$ 22,742.40

ADDITIONAL FINANCE CHARGE - I also agree to pay an investigation fee of \$ 16.00, and it will be  withheld from the proceeds.  
 paid pro rata over the loan term.  paid in cash. (The sum above already includes this fee unless it is paid in cash.)

PAYMENT - I will pay this note as follows:

(a)  in 48 installments of \$ 473.80 each, beginning MAR. 10, 1998 and continuing on the same day of each  month thereafter until paid in full.  
(b)  (other) \_\_\_\_\_

PAYMENTS - This is a precomputed note which means that the sum I have agreed to pay already includes the finance charges payable hereafter to maturity.

PREPAYMENT - I may prepay this note in whole or in part at any time. However, any partial prepayment will not reduce or excuse any subsequently scheduled payments until this note is paid in full. If and when prepaid in full, or upon maturity by acceleration, the finance charge will be recalculated to determine the exact amount then due.

using the Rule of 78's method, if the maximum finance charge permitted is charged for this loan.  
 using the proportional rate method.

No refund calculated to be less than \$1.00 will be made.

MINIMUM FINANCE CHARGE - I agree to pay a minimum finance charge of \$ 10.00 if at the time I pay off this note and after application of the rebate formula you have not earned that much in finance charges.

SECURITY - You have certain rights that may affect my property as explained on page 2. This loan  is  is not further secured.

(a)  This loan is secured by 1996 TOYOTA TACOMA ID #4TAWM72NXTZ085991 dated FEBRUARY 10, 1998  
(b)  Security Agreement - I give you a security interest in the Property described below. The rights I am giving you in this Property and the obligations this agreement secures are defined on page 2 of this agreement. 1996 TOYOTA TACOMA 4WD PICKUP TRUCK ID #4TAWM72NXTZ085991

This Property will be used for BUSINESS purposes.

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate. <u>9.467%</u>	FINANCE CHARGE The dollar amount the credit will cost me. <u>\$3,871.40</u>	AMOUNT FINANCED The amount of credit provided to me or on my behalf. <u>\$18,871.00</u>	TOTAL OF PAYMENTS The amount I will have paid when I have made all scheduled payments. <u>\$22,742.40</u>	I have the right to receive at this time an itemization of the Amount Financed. YES - I want an itemization. NO - I do not want an itemization.
My Payment Schedule will be:				\$ <u>17.00</u> Filing Fees \$ _____ Nonfiling Insurance
Number of Payments <u>48</u>	Amount of Payments <u>\$ 473.80</u>	When Payments Are Due <u>MONTHLY BEGINNING MARCH 10, 1998</u>		
\$ _____	\$ _____	\$ _____		

Security - I am giving a security interest in:  the goods or property being purchased.  (brief description of other property) 1996 TOYOTA TACOMA 4WD PICKUP ID #4TAWM72NXTZ085991  
 collateral securing other loans with you may also secure this loan.  
 my deposit accounts and other rights to the payment of money from you.

Late Charge - I will be charged a late charge on the portion of any payment made more than 10 days after it is due equal to 5.000% of the unpaid amount up to a maximum of \$ 5.00

Required Deposit - The annual percentage rate does not take into account my required deposit.

Prepayment - If I pay off this note early, I may be entitled to a refund of part of the finance charge.

I can see my contract documents for any additional information about nonpayment, default, any required repayment before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE - Credit life insurance and credit health insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional costs.

Type	Premium	Term
Credit Life		
Credit Health		
Joint Credit Life		

I  do  do not want credit life insurance.  
I  do  do not want credit health insurance.  
I  do  do not want joint credit life insurance.  
I  do  do not want \_\_\_\_\_ insurance.

X \_\_\_\_\_ DOB  
X \_\_\_\_\_ DOB

PROPERTY INSURANCE - I may obtain property insurance from anyone I want that is acceptable to you. If I get the insurance from or through you I will pay \$ \_\_\_\_\_ for \_\_\_\_\_ of coverage.

SINGLE INTEREST INSURANCE - I may obtain single interest insurance from anyone I want that is acceptable to you. If I get the insurance from or through you I will pay \$ 18.00 for 48 MO. of coverage.

Optional or where necessary for filing my Security Agreement.  
Signed \_\_\_\_\_ For Lender  
Title PRESIDENT

ITEMIZATION OF AMOUNT FINANCED	
AMOUNT GIVEN TO ME DIRECTLY	\$ <u>18,836.00</u>
AMOUNT PAID ON MY (LOAN) ACCOUNT	\$ _____
TO LENDER	\$ <u>16.00</u>
AMOUNTS PAID TO OTHERS ON MY BEHALF:	
to Insurance Companies	\$ <u>18.00</u>
to Public Officials	\$ <u>17.00</u>
	\$ _____
	\$ _____
(less) PREPAID FINANCE CHARGE(S)	\$ <u>16.00</u>
Amount Financed	\$ <u>18,871.00</u>

(Add all items financed and subtract prepaid finance charges.)

SIGNATURES - I AGREE TO THE TERMS SET OUT ON PAGE 1 AND PAGE 2 OF THIS AGREEMENT. I HAVE RECEIVED A COPY OF THIS DOCUMENT ON TODAY'S DATE.

COSIGNERS - SEE NOTICE ON PAGE 2 BEFORE SIGNING.  
CITIPOWER, L.L.C.

Signature BY: JAMES E. CURD, VICE PRESIDENT

Signature \_\_\_\_\_

ADDITIONAL TERMS OF THE NOTE

**DEFINITIONS** - "I," "me" or "my" means the Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns.

**APPLICABLE LAW** - This note and any agreement securing this note will be governed by the laws of the state of Kentucky. The Federal Truth-in-Lending disclosures on page 1 are disclosures only and are not intended to be terms of this agreement. The fact that any part of this note cannot be enforced will not affect the rest of this note. Any change to this note or any agreement securing this note must be in writing and signed by you and me.

**USURY** - The interest rate and other charges on this loan will never exceed the highest rate of charge allowed by law for this loan.

**POST-MATURITY INTEREST** - Interest will accrue on the principal balance remaining unpaid after final maturity at the rate specified on page 1. For purposes of this section, final maturity occurs:

- (a) If this loan is payable on demand (with alternate payment dates), on the date you make demand for payment or on the final alternate payment date, whichever is earlier;
- (b) On the date of the last scheduled payment of principal; or
- (c) On the date you accelerate the due date of this loan (demand immediate payment).

**DEFAULT** - I will be in default on this loan and any agreement securing this loan if any one or more of the following occurs:

- (a) I fail to make a payment in full when due;
- (b) I file an involuntary bankruptcy or become insolvent;
- (c) I fail to keep any promise I have made in connection with this loan;
- (d) I fail to pay, or keep any other promise on, any other loan or agreement I have with you;
- (e) I make any written statement or provide any financial information that is untrue or inaccurate at the time it is provided;
- (f) Any creditor of mine attempts to collect any debt I owe through court proceedings, set-off or self-help repossession;
- (g) The Property is damaged, destroyed or stolen;
- (h) I fail to provide any additional security that you may require;
- (i) Any legal entity (such as a partnership or corporation) that has agreed to pay this note merges, dissolves, reorganizes, ends its business or existence, or a partner or majority stockholder dies or is declared incompetent; or
- (j) Anything else happens that causes you to believe that you will have difficulty collecting the amount I owe you.

If any of us are in default on this note or any security agreement, you may exercise your remedies against any or all of us.

**REMEDIES** - If I am in default on this loan or any agreement securing this loan, you may:

- (a) After applying the rebate described on page 1, make unpaid principal, interest and all other agreed charges I owe you under this note immediately due;
- (b) Use the right of set-off as explained below;
- (c) Demand more security or new parties obligated to pay this loan (or both) in return for not using any other remedy;
- (d) Make a claim for any and all insurance benefits or refunds that may be available on my default;
- (e) Use any remedy you have under state or federal law; and
- (f) Use any remedy given to you in any agreement securing this loan.

By choosing any one or more of these remedies you do not give up your right to use another remedy later. By deciding not to use any remedy should I be in default, you do not give up your right to consider the event a default if it happens again.

**COSTS OF COLLECTION AND ATTORNEYS' FEES** - I agree to pay you all reasonable costs you incur to collect this debt or realize on any security. This includes, unless prohibited by law, court costs and reasonable attorneys' fees. If this loan is made under Kentucky Revised Statutes, Chapter 287, I agree to pay your reasonable attorneys' fees of up to 15% of the unpaid balance of this note, as long as the attorney is not your salaried employee.

This provision also shall apply if I file a petition or any other claim for relief under any bankruptcy rule or law of the United States, or if such petition or other claim for relief is filed against me by another.

**SET-OFF** - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (a) Any deposit account balance I have with you;
- (b) Any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (c) Any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. The total amount includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights arise only in a representative capacity. It also does not apply to any Individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

**OTHER SECURITY** - Any present or future agreement securing any other debt I owe you also will secure the payment of this loan. Property securing another debt will not secure this loan:

- (1) If and to the extent such property is in household goods;
- (2) If such property is my principal dwelling and you fail to provide any required notice of right of rescission; and
- (3) If this loan is made under Kentucky Revised Statutes, Chapter 287, and the security is a first lien or first mortgage on real estate. However, the property securing another debt will apply to this loan if the security is a first lien or first mortgage on unimproved real estate not over 10 acres in size or is on real estate on which there is located or to be located a residential mobile home.

**OBLIGATIONS INDEPENDENT** - I understand that my obligation to pay this loan is independent of the obligation of any other person who has also agreed to pay it. You may, without notice, release one or any of us, give up any right you may have against any of us, extend new credit to any of us, or renew or change this note one or more times and for any term, and I will still be obligated to pay this loan. You may, without notice, fail to perfect your security interest in, impair, or release any security and I will still be obligated to pay this loan.

**WAIVER** - I waive (to the extent permitted by law) demand, presentment, protest, notice of dishonor and notice of protest.

**PRIVACY** - I agree that from time to time you may receive credit information about me from others, including other lenders and credit reporting agencies. I agree that you may furnish on a regular basis credit and experience information regarding my loan to others seeking such information. To the extent permitted by law, I agree that you will not be liable for any claim arising from the use of information provided to you by others or for providing such information to others.

**FINANCIAL STATEMENTS** - I will give you any financial statements or information that you feel is necessary. All financial statements and information I give you will be correct and complete.

**PURCHASE MONEY LOAN** - If this is a Purchase Money Loan, you may include the name of the seller on the check or draft for this loan.

ADDITIONAL TERMS OF THE SECURITY AGREEMENT

**SECURED OBLIGATIONS** - This security agreement secures this loan (including all extensions, renewals, refinancings and modifications) and any other debt I have with you now or later. Property described in this security agreement will not secure other such debts if you fail to give any required notice of the right of rescission with respect to the Property. Also, this security agreement will not secure other debts if this security interest is in household goods and the other debt is a consumer loan. This security agreement will last until it is discharged in writing.

For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement:

(a) Payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan; and

(b) Payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order in which the items were acquired.

No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any property securing the loan and all extensions, renewals, consolidations and refinancings of such loan.

**PROPERTY** - The word "Property," as used here, includes all property that is listed in the security agreement on page 1. If a general description is used, the word Property includes all my property fitting the general description. Property also means all benefits that arise from the described Property (including all proceeds, insurance benefits, payments from others, interest, dividends, stock splits and voting rights). It also means property that now or later is attached to, is a part of, or results from the Property.

**OWNERSHIP AND DUTIES TOWARD PROPERTY** - Unless a co-owner(s) of the Property signed a third party agreement, I represent that I own all the Property. I will defend the Property against any other claim. I agree to do whatever you require to perfect your interest and keep your priority. I will not do anything to harm your position.

I will keep the Property in my possession (except if pledged and delivered to you). I will keep it in good repair and use it only for its intended purposes. I will keep it at my address unless we agree otherwise in writing.

No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any property securing the loan and all extensions, renewals, consolidations and refinancings of such loan.

**INSURANCE** - I agree to buy insurance on the Property against the risks and for the amounts you require. I will name you as loss payee on any such policy. You may require added security on this loan if you agree that insurance proceeds may be used to repair or replace the Property. I agree that if the insurance proceeds do not cover the amounts I still owe you, I will pay the difference. I will buy the insurance from a firm authorized to do business in Kentucky. The firm will be reasonably acceptable to you. I will keep the insurance until all debts secured by this agreement are paid.

**DEFAULT AND REMEDIES** - If I am in default, in addition to the remedies listed in the note portion of this document, you may:

- (a) Pay taxes or other charges, or purchase any required insurance, if I fail to do these things (but you are not required to do so). You may add the amount you pay to this loan and accrue interest on that amount at a rate equal to the rate shown in the "POST-MATURITY INTEREST" paragraph on page 1 until paid in full;
- (b) Require me to gather the Property and any related records and make it available to you in a reasonable fashion;
- (c) Take immediate possession of the Property, but in doing so you may not breach the peace or unlawfully enter onto my premises. You may sell, lease or dispose of the Property as provided by law. You may apply what you receive from the sale of the Property to your expenses and then to the debt. If what you receive from the sale of the Property is less than what I owe you, you may take me to court to recover the difference (to the extent permitted by law); and
- (d) Keep the Property to satisfy the debt.

I agree that when you must give notice to me of your intended sale or disposition of the Property, the notice is reasonable if it is sent to me at my last known address by first class mail 10 days before the intended sale or disposition. I agree to inform you in writing of any change in my address.

**FLING** - A copy of this security agreement may be used as a financing statement when allowed by law.

THIRD PARTY AGREEMENT

For the purposes of the provisions within this enclosure, "I," "me" or "my" means the person signing below and "you" means the Lender identified on page 1.

I agree to give you a security interest in the Property that is described on page 1. I AGREE TO THE TERMS OF THIS NOTE AND SECURITY AGREEMENT SET OUT ON PAGES 1 AND 2, but I am in no way personally liable for payment of the debt. This means that if the Borrower defaults, my interest in the Property may be used to satisfy the Borrower's debt. I agree that you may, without releasing me or the Property from this Third Party Agreement and without notice or demand upon me, extend new credit to any Borrower, renew or change this note or security agreement one or more times and for any term, or fail to perfect your security interest in, impair, or release any security (including guaranties) for the obligations of any Borrower.

I HAVE RECEIVED A COMPLETED COPY OF THIS NOTE AND SECURITY AGREEMENT.

NAME \_\_\_\_\_

X \_\_\_\_\_

NOTICE TO COSIGNER

You (the cosigner) are being asked to guaranty this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You also may have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of your credit record.

This notice is not the contract that makes you liable for the debt.

Attach FTC "Preservation of Consumer Claims and Defenses" Notice if Applicable

1. Debtor(s) (Last Name First) and address(es)  
CITYPOWER, L.L.C.  
P.O. BOX 1309  
WHITLEY CITY, KY 42653

2. Secured Party and address  
BANK OF MCCREARY COUNTY  
P.O. BOX 160  
WHITLEY CITY, KY 42653

Filing Officer (Date, Time, Number and Filing Office)

3. This Title Lien Statement covers the following:

<u>YEAR MODEL</u>	<u>MAKE</u>	<u>IDENTIFICATION NUMBER</u>	<u>ADDITIONAL DESCRIPTION</u>
1996	TOYOTA	4TAWM72NXTZ085991	TACOMA 4WD PICKUP TRUCK

Filed with: JO KIDD, MCCREARY COUNTY COURT CLERK

(Signature of Debtor)

(Date)

(Signature of Debtor)

(Date)

**DEBTOR COPY**