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July 22, 2000

**VIA OVERNIGHT DELIVERY**

Florida Public Service Commission  
Tariff Section  
2540 Shumard Oak Blvd.  
Gunter Bldg.  
Tallahassee, Florida 32399  
(850) 413-6000

Re: Utility.com, Inc.

000945-TI

Dear Sir/Madam:

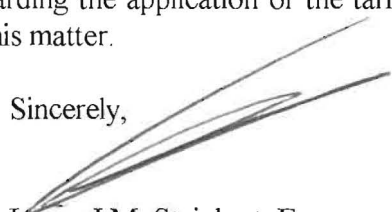
Enclosed please find one original and six (6) copies of Utility.com, Inc.'s Application for Authority to Provide Interexchange Telecommunications Service Within the State of Florida, along with an original and six (6) copies of Utility.com, Inc.'s proposed tariff.

I also have enclosed a check in the amount of \$250.00 payable to the Florida Public Service Commission to cover the cost of filing these documents.

Please return a stamped copy of the extra copy of this letter in the enclosed preaddressed prepaid envelope.

If you have any questions regarding the application or the tariff, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

  
Lance J.M. Steinhart, Esq.  
Attorney for Utility.com, Inc.

Enclosures  
cc: Benjamin T. Reyes, II

Check received with filing and  
forwarded to Fiscal for deposit.  
Fiscal to forward a copy of check  
to RAR with proof of deposit.  
Initials of person who forwarded check:

DOCUMENT NUMBER-DATE  
08971 JUL 25 8  
FPSC-RECORDS/REPORTING

**\*\* FLORIDA PUBLIC SERVICE COMMISSION \*\***

**DIVISION OF COMMUNICATIONS**  
**BUREAU OF SERVICE EVALUATION**

**APPLICATION FORM**  
**for**  
**AUTHORITY TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS**  
**SERVICE**  
**WITHIN THE STATE OF FLORIDA**

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Instructions

- A. This form is used for an original application for a certificate and for approval of sale, assignment or transfer of an existing certificate. In case of a sale, assignment or transfer, the information provided shall be for the purchaser, assignee or transferee (See Appendix A).
- B. Respond to each item requested in the application and appendices. If an item is not applicable, please explain why.
- C. Use a separate sheet for each answer, which will not fit the allotted space.
- D. If you have questions about completing the form, contact:

**Florida Public Service Commission**  
**Division of Communications**  
**Bureau of Service Evaluation**  
**2540 Shumard Oak Blvd.**  
**Gunter Building**  
**Tallahassee, Florida 32399-0850**  
**(904) 413-6600**

- E. Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of \$250.00 to:

**Florida Public Service Commission**  
**Division of Administration**  
**2540 Shumard Oak Blvd.**  
**Gunter Building**  
**Tallahassee, Florida 32399-0850**  
**(904) 413-6251**

FORM PSC/CMU 31 (11/91)

Required by Commission Rule Nos. 25-24.471, 25-24.473, 25-24.480(2)

DOCUMENT NUMBER-DATE

08971 JUL 25 8

FPSC-RECORDS/REPORTING

1. Select what type of business your company will be conducting (check all that apply):

- Facilities based carrier** - company owns and operates or plans to own and operate telecommunications switches and transmission facilities in Florida.
- Operator Service Provider** - company provides or plans to provide alternative operator services for IXCs; or toll operator services to call aggregator locations; or clearinghouse services to bill such calls.
- Reseller** - company has or plans to have one or more switches but primarily leases the transmission facilities of other carriers. Bills its own customer base for services used.
- Switchless rebiller** - company has no switch or transmission facilities but may have a billing computer. Aggregates traffic to obtain bulk discounts from underlying carrier. Rebills end users at a rate above its discount but generally below the rate end users would pay for unaggregated traffic.
- Multi-Location Discount Aggregator** - company contracts with unaffiliated entities to obtain bulk/volume discounts under multi-location discount plans from certain underlying carriers. Then offers the resold service by enrolling unaffiliated customers.
- Prepaid Debit Card Provider** - any person or entity that purchases 800 access from an underlying carrier or unaffiliated entity for use with prepaid debit card service and/or encodes the cards with personal identification numbers.

2. This is an application for (check one):

- Original Authority** (New company).
- Approval of Transfer** (To another certificated company).
- Approval of Assignment of existing certificate** (To a noncertificated company).
- Approval for transfer of control** (To another certificated company).

3. Name of corporation, partnership, cooperative, joint venture or sole proprietorship:

**Utility.com, Inc.**

4. Name under which the applicant will do business (fictitious name, etc.):

5. National address (including street name & number, post office box, city, state and zip code):

**5650 Hollis Street  
Emeryville, California 94608**

6. Florida address (including street name & number, post office box, city, state and zip code):

**None**

7. Structure of organization;

- |  |   |
|--|---|
| <input type="checkbox"/> Individual          | <input checked="" type="checkbox"/> Corporation |
| <input type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Foreign Partnership    |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership    |
| <input type="checkbox"/> Other               |   |

8. If applicant is an individual or partnership, please give name, title and address of sole proprietor or partners. **Not Applicable**

- (a) Provide proof of compliance with the foreign limited partnership statute (Chapter 620.160 FS), if applicable.
- (b) Indicate if the individual or any of the partners have previously been:
  - (1) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings.

- (2) officer, director, partner or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

9. If incorporated, please give:

- (a) Proof from the Florida Secretary of State that the applicant has authority to operate in Florida.

Corporate charter number:

- (b) Name and address of the company's Florida registered agent.

**TCS Corporate Services, Inc.  
1406 Hays Street, Suite #2  
Tallahassee, Florida 32301**

- (c) Provide proof of compliance with the fictitious name statute (Chapter 865.09 FS), if applicable.

Fictitious name registration number:

- (d) Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

- (1) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings.

**No.**

- (2) officer, director, partner or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

**No.**

10. Who will serve as liaison with the Commission in regard to (please give name, title, address and telephone number):

(a) The application;

Lance J.M. Steinhart, Regulatory Counsel  
6455 East Johns Crossing, Suite 285  
Duluth, GA 30097  
770-232-9200

(b) Official Point of Contact for the ongoing operations of the company;

Benjamin T. Reyes, II, General Counsel & Secretary  
Utility.com, Inc.  
5650 Hollis Street  
Emeryville, California 94608  
(510) 740-1700

(c) Tariff;

Lance J.M. Steinhart, Regulatory Counsel  
6455 East Johns Crossing, Suite 285  
Duluth, GA 30097  
770-232-9200

(d) Complaints/Inquiries from customers;

Joseph Mire, Vice President of Customer Service  
Utility.com, Inc.  
5650 Hollis Street  
Emeryville, California 94608  
(888) 365-3700

11. List the states in which the applicant:

(a) Has operated as an interexchange carrier.

**None**

(b) Has applications pending to be certificated as an interexchange carrier.

**Applicant is in the process of filing Applications throughout the United States.**

- (c) Is certificated to operate as an interexchange carrier.

**Iowa, Michigan, Montana, New Hampshire, New Jersey, Texas, Utah and Virginia**

- (d) Has been denied authority to operate as an interexchange carrier and the circumstances involved.

**None.**

- (e) Has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

**None.**

- (f) Has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the circumstances involved.

**None.**

12. What services will the applicant offer to other certificated telephone companies:

- |                          |                        |                          |           |
|--------------------------|------------------------|--------------------------|-----------|
| <input type="checkbox"/> | Facilities             | <input type="checkbox"/> | Operators |
| <input type="checkbox"/> | Billing and Collection | <input type="checkbox"/> | Sales     |
| <input type="checkbox"/> | Maintenance            |                          |           |
| <input type="checkbox"/> | Other:                 |                          |           |

**None.**

13. Do you have a marketing program?

**Yes.**

14. Will your marketing program:

- Pay commissions?  
 Offer sales franchises?  
 Offer multi-level sales incentives?  
 Offer other sales incentives?



15. Explain any of the offers checked in question 14 (To whom, what amount, type of franchise, etc.).

**Applicant will pay commissions to sales representatives.**

16. Who will receive the bills for your service (Check all that apply)?

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Residential customers | <input checked="" type="checkbox"/> Business customers |
| <input type="checkbox"/> PATS providers                   | <input type="checkbox"/> PATS station end-users        |
| <input type="checkbox"/> Hotels & motels                  | <input type="checkbox"/> Hotel & motel guests          |
| <input type="checkbox"/> Universities                     | <input type="checkbox"/> Univ. dormitory residents     |
| <input type="checkbox"/> Other (specify):                 |  |

17. Please provide the following (if applicable):

- (a) Will the name of your company appear on the bill for your services, and if not who will the billed party contact to ask questions about the bill (provide name and phone number) and how is this information provided?

**Applicant's name and toll free number will appear on all end-users' bills.**

- (b) Name and address of the firm who will bill for your service.

**The Company intends to direct bill customers utilizing real-time completed call detail information from its underlying carriers.**

18. Please provide all available documentation demonstrating that the applicant has the following capabilities to provide interexchange telecommunications services in Florida.

- A. Financial capability.

Regarding the showing of financial capability, the following applies:

The application should contain the applicant's financial statements for the most recent 3 years, including:

1. the balance sheet
2. income statement
3. statement of retained earning.

Further, a written explanation, which can include supporting documentation, regarding the following should be provided to show financial capability.

1. Please provide documentation that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.
2. Please provide documentation that the applicant has sufficient financial capability to maintain the requested service.
3. Please provide documentation that the applicant has sufficient financial capability to meet its lease or ownership obligations.

**NOTE:** This documentation may include, but is not limited to, financial statements, a projected profit and loss statement, credit references, credit bureau reports, and descriptions of business relationships with financial institutions.

If available, the financial statements should be audited financial statements. If the applicant does not have audited financial statements, it shall be so stated. The unaudited financial statements should then be signed by the applicant's chief executive officer and chief financial officer. The signatures should affirm that the financial statements are true and correct.

B. Managerial capability.

**See Attached.**

C. Technical capability.

**Applicant will use the network services of its underlying carrier to provide services to customers in the State of Florida.**

19. Please submit the proposed tariff under which the company plans to begin operation. Use the format required by Commission Rule 25-24.482 (example enclosed).

**See Attached.**

20. The applicant will provide the following interexchange carrier services (Check all that apply):

**MTS with distance sensitive per minute rates**

Method of access is FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

**MTS with route specific rates per minute**

Method of access is FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

**MTS with statewide flat rates per minute (i.e. not distance sensitive)**

Method of access is FGA

Method of access is FGB

Method of access is FGD

Method of access is 800

**MTS for pay telephone service providers**

**Block-of-time calling plan (Reach out Florida, Ring America, etc.)**

**800 Service (Toll free)**

**WATS type service (Bulk or volume discount)**

Method of access is via dedicated facilities

Method of access is via switched facilities

**Private Line services (Channel Services)**

(For ex. 1.544 mbs., DS-3, etc.)

- Travel Service**
- Method of access is 950
- Method of access is 800

**900 service**

- Operator Services**
- Available to presubscribed customers
- Available to non presubscribed customers (for example to patrons of hotels, students in universities, patients in hospitals)
- Available to inmates

**Services included are:**

- Station assistance
- Person to Person assistance
- Directory assistance
- Operator verify and interrupt
- Conference Calling

21. What does the end user dial for each of the interexchange carrier services that were checked in services included (above).

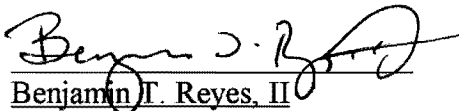
**1 (or 101XXXX) +area code+number or 1-800-XXX-XXXX**

21.  **Other:**

**\*\* APPLICANT ACKNOWLEDGEMENT STATEMENT \*\***

1. **REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of its gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
2. **GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
3. **SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
4. **APPLICATION FEE:** A non-refundable application fee of \$250.00 must be submitted with the application.
5. **RECEIPT AND UNDERSTANDING OF RULES:** I acknowledge receipt and understanding of the Florida Public Service Commission's Rules and Orders relating to my provision of interexchange telephone service in Florida. I also understand that it is my responsibility to comply with all current and future Commission requirements regarding AAV service.
6. **ACCURACY OF APPLICATION:** By my signature below, I the undersigned owner or officer of the named utility in the application, attest to the accuracy of the information contained in this application and associated attachments. I have read the foregoing and declare that to the best of my knowledge and belief, the information is a true and correct statement. Further, I am aware that pursuant to Chapter 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

**UTILITY OFFICIAL:**

  
Benjamin J. Reyes, II

July 4, 2000  
Date

General Counsel & Secretary  
Title

(510) 558-9107  
Telephone No.

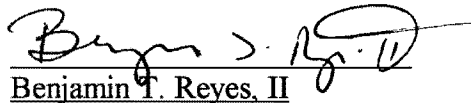
**\*\* APPENDIX B \*\***

**CUSTOMER DEPOSITS AND ADVANCE PAYMENTS**

A statement of how the Commission can be assured of the security of the customer's deposits and advance payments may be responded to in one of the following ways (applicant please check one):

- ( X )            **The applicant will not collect deposits nor will it collect payments for service more than one month in advance.**
- (   )            **The applicant will file with the Commission and maintain a surety bond in an amount equal to the current balance of deposits and advance payments in excess of one month. (Bond must accompany application.)**

**UTILITY OFFICIAL:**

  
Benjamin T. Reyes, II

July 4, 2000  
Date

General Counsel & Secretary  
Title

(510) 558-9107  
Telephone No.

**LIST OF ATTACHMENTS**

**PROPOSED TARIFF**

**FINANCIAL INFORMATION**

**MANAGEMENT INFORMATION**

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**PROPOSED TARIFF**



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TITLE SHEETFLORIDA TELECOMMUNICATIONS TARIFF

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service or facilities for Telecommunications Services furnished by Utility.com, Inc. ("Utility.com"), with principal offices at 5650 Hollis Street, Emeryville, California 94608. This tariff applies for telecommunications services furnished within the State of Florida. This tariff is on file with the Florida Public Service Commission, and copies may be inspected, during normal business hours, at the company's principal place of business.

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Issued: July 25, 2000

Effective:

By: Benjamin T. Reyes, II, General Counsel  
5650 Hollis Street  
Emeryville, California 94608



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Emeryville, California 94608

SYMBOLS

The following are the only symbols used for the purposes indicated below:

- D - Delete or Discontinue
- I - Change Resulting In An  
Increase to A Customer's Bill
- M - Moved from Another Tariff Location
- N - New
- R - Change Resulting In A  
Reduction to A Customer's Bill
- T - Change in Text or Regulation  
But No Change In Rate or Charge

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Emeryville, California 94608





Prepaid Calling Card - A card issued by the Company, containing an Authorization Code which identifies a specific Prepaid Account of Telecom Units, which enables calls to be processed, account activity to be logged, and balances to be maintained, on a prepayment basis.

Resp. Org - Responsible Organization or entity identified by an 800 service Customer that manages and administers records in the 800 database and management system.

Switched Access - The Customer gains entry to the Company's services by a transmission line that is switched through the local exchange carrier to reach the Company's point of presence.

Telecom Unit - A measurement of telecommunications service equivalent to one minute of usage between any two points within the State of Florida.

Telecommunications - The transmission of voice communications or, subject to the transmission capabilities of the services, the transmission of data, facsimile, signaling, metering, or other similar communications.

Underlying Carrier - The telecommunications carrier whose network facilities provide the technical capability and capacity necessary for the transmission and reception of Customer telecommunications traffic.

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- 2.1.2 The rates and regulations contained in this tariff apply only to the services furnished by the Company and do not apply, unless otherwise specified, to the lines, facilities, or services provided by a local exchange telephone company or other common carriers for use in accessing the services of the Company.
- 2.1.3 The Company reserves the right to limit the length of communications, to discontinue furnishing services, or limit the use of service necessitated by conditions beyond its control, including, without limitation: lack of satellite or other transmission medium capacity; the revision, alteration or repricing of the Underlying Carrier's tariffed offerings; or when the use of service becomes or is in violation of the law or the provisions of this tariff.

## **2.2 Use and Limitations of Services**

- 2.2.1 The Company's services may be used for any lawful purpose consistent with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services, subject to any limitations set forth in this Section 2.2.
- 2.2.2 The use of the Company's services to make calls which might reasonably be expected to frighten, abuse, torment, or harass another or in such a way as to unreasonably interfere with use by others is prohibited.
- 2.2.3 The use of the Company's services without payment for service or attempting to avoid payment for service by fraudulent means or devices, schemes, false or invalid numbers, or false calling or credit cards is prohibited.

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- 2.2.4 The Company's services are available for use twenty-four hours per day, seven days per week.
- 2.2.5 The Company does not transmit messages, but the services may be used for that purpose.
- 2.2.6 The Company's services may be denied for nonpayment of charges or for other violations of this tariff subject to Section 2.5.1 herein.
- 2.2.7 Customers shall not use the service provided under this tariff for any unlawful purpose.
- 2.2.8 The Customer is responsible for notifying the Company immediately of any unauthorized use of services.

### 2.3 Liability of the Company

- 2.3.1 The Company shall not be liable for any claim, loss, expense or damage for any interruption, delay, error, omission, or defect in any service, facility or transmission provided under this tariff, if caused by an act of God, fire, war, civil disturbance, act of government, or due to any other causes beyond the Company's control.
- 2.3.2 The Company shall not be liable for, and shall be fully indemnified and held harmless by the Customer against any claim, loss, expense, or damage for defamation, libel, slander, invasion, infringement of copyright or patent, unauthorized use of any trademark, trade name or service mark, proprietary or creative right, or any other injury to any person, property or entity arising out of the material, data or information transmitted.
- 2.3.3 No agent or employee of any other carrier or entity shall be deemed to be an agent or employee of the Company.

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- 2.3.4 The Company's liability, resulting in whole or in part from or arising in connection with the furnishing of service under this tariff, including but not limited to mistakes, omissions, interruptions, delays, errors, or other defects shall not exceed an amount equal to the charges provided for under this tariff for the long distance call for the period during which the call was affected. No other liability in any event shall attach to the Company, except as ordered by the Commission.
- 2.3.5 The Company shall not be liable for and shall be indemnified and saved harmless by any Customer or by any other entity from any and all loss, claims, demands, suits, or other action or any liability whatsoever, whether suffered, made, instituted, or asserted by any Customer or any other entity for any personal injury to, or death of, any person or persons, and for any loss, damage, defacement or destruction of the premises of any Customer or any other entity or any other property whether owned or controlled by the Customer or others.
- 2.3.6 The Company shall not be liable for any indirect, special, incidental, or consequential damages under this tariff including, but not limited to, loss of revenue or profits, for any reason whatsoever, including the breakdown of facilities associated with the service, or for any mistakes, omissions, delays, errors, or defects in transmission occurring during the course of furnishing service.
- 2.3.7 The remedies set forth herein are exclusive and in lieu of all other warranties and remedies, whether express or implied, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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**2.4 Responsibilities of the Customer**

- 2.4.1 The Customer is responsible for placing any necessary orders and complying with tariff regulations. The Customer is also responsible for the payment of charges for services provided under this tariff.
- 2.4.2 The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by the Company on the Customer's behalf.
- 2.4.3 If required for the provision of the Company's services, the Customer must provide any equipment space, supporting structure, conduit and electrical power without charge to the Company.
- 2.4.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to the Company and the Customer when required for Company personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of the Company's services.
- 2.4.5 The Customer shall cause the temperature and relative humidity in the equipment space provided by Customer for the installation of the Company's equipment to be maintained within the range normally provided for the operation of microcomputers.
- 2.4.6 The Customer shall ensure that the equipment and/or system is properly interfaced with the Company's facilities or services, that the signals emitted into the Company's network are of the proper mode, bandwidth, power and signal level for the intended use of the subscriber and in compliance with criteria set forth in this tariff, and that the signals do not damage equipment, injure

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**Section 2.4.6 Continued**

personnel, or degrade service to other Customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with the telephone network, the Company will permit such equipment to be connected with its channels without the use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to Company equipment, personnel or the quality of service to other Customers, the Company may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, the Company may, upon written notice, terminate the Customer's service.

- 2.4.7 The Customer must pay the Company for replacement or repair of damage to the equipment or facilities of the Company caused by negligence or willful act of the Customer or others, by improper use of the services, or by use of equipment provided by Customer or others.
- 2.4.8 The Customer must pay for the loss through theft of any Company equipment installed at Customer's premises.
- 2.4.9 If the Company installs equipment at Customer's premises, the Customer shall be responsible for payment of any applicable installation charge.
- 2.4.10 The Customer must use the services offered in this tariff in a manner consistent with the terms of this tariff and the policies and regulations of all state, federal and local authorities having jurisdiction over the service.

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**2.5 Cancellation or Interruption of Services**

- 2.5.1 Without incurring liability, upon five (5) working days' (defined as any day on which the company's business office is open and the U.S. Mail is delivered) written notice to the Customer, the Company may immediately discontinue services to a Customer or may withhold the provision of ordered or contracted services:
- 2.5.1.A For nonpayment of any sum due the Company for more than thirty (30) days after issuance of the bill for the amount due,
  - 2.5.1.B For violation of any of the provisions of this tariff,
  - 2.5.1.C For violation of any law, rule, regulation, policy of any governing authority having jurisdiction over the Company's services, or
  - 2.5.1.D By reason of any order or decision of a court, public service commission or federal regulatory body or other governing authority prohibiting the Company from furnishing its services.
- 2.5.2 Without incurring liability, the Company may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer and the Company's equipment and facilities and may continue such interruption until any items of noncompliance or improper equipment operation so identified are rectified.

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- 2.5.3 Service may be discontinued by the Company without notice to the Customer, by blocking traffic to certain counties, cities or NXX exchanges, or by blocking calls using certain Customer authorization codes, when the Company deems it necessary to take such action to prevent unlawful use of its service. The Company will restore service as soon as it can be provided without undue risk, and will, upon request by the Customer affected, assign a new authorization code to replace the one that has been deactivated.
- 2.5.4 The Customer may terminate service upon verbal or written notice for the Company's standard month to month contract. Customer will be liable for all usage on any of the Company's service offerings until the Customer actually leaves the service. Customers will continue to have Company usage and be responsible for payment until the Customer or its agent notifies its local exchange carrier and changes its long distance carrier.

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2.6 Credit Allowance - Interruption of Service

- 2.6.1 Credit may be given for disputed calls, on a per call basis.
- 2.6.2 Credit shall not be issued for unavailability of long distance services.
- 2.6.3 The Customer shall be credited for an interruption of two hours or more at the rate of 1/720th of any monthly service charges for each hour or major fraction thereof that the interruption continues.

Credit Formula:

$$\text{Credit} = \frac{A}{720} \times B$$

"A" - outage time in hours

"B" - monthly charge for affected activity

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2.7 Deposit

The Company does not require deposits.

2.8 Advance Payments

The Company requires advance payments for recurring and non-recurring charges. This will be applied against the next month's charges, and if necessary, a new advance payment will be collected for the next month.

2.9 Payment and Billing

2.9.1 Service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. Billing is payable upon receipt.

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2.9.2 The customer is responsible for payment of all charges for services furnished to the Customer, as well as to all persons using the Customer's codes, exchange lines, facilities, or equipment, with or without the knowledge or consent of the Customer. The security of the Customer's Authorization Codes, subscribed exchange lines, and direct connect facilities is the responsibility of the Customer. All calls placed using direct connect facilities, subscribed exchange lines, or Authorization Codes will be billed to and must be paid by the Customer. Recurring charges and non-recurring charges are billed in advance. Charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.

#### 2.10 Collection Costs

In the event Company is required to initiate legal proceedings to collect any amounts due to Company for regulated services, or for the enforcement of any other provision of this tariff or applicable law, Customer shall, in addition to all amounts due, be liable to Company for all reasonable costs incurred by Company in such proceedings and enforcement actions, including reasonable attorneys' fees, collection agency fees or payments, and court costs. In any such proceeding, the amount of collection costs, including attorneys' fees, due to the Company, will be determined by the court.

#### 2.11 Taxes

All federal, state and local taxes, assessments, surcharges, or fees, including sales taxes, use taxes, gross receipts taxes, and municipal utilities taxes, are billed as separate line items and are not included in the rates quoted herein.

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**2.12 Late Charge**

A late fee will be charged on any past due balances as set forth in Section 4.10 of this tariff.

**2.13 Returned Check Charge**

A fee, as set forth in Section 4.6 of this tariff, will be charged whenever a check or draft presented for payment for service is not accepted by the institution on which it is written.

**2.14 Location of Service**

The Company will provide service to Customers within the State of Florida.

**2.15 Sale of Telecommunications Services to Uncertified IXC's Prohibited**

Customers reselling or rebilling the Company's telecommunications services must have a Certificate of Public Convenience and Necessity as an interexchange carrier from the Commission.

**2.16 Reconnection Charge**

A reconnection fee per occurrence as set forth in Section 4.12 of this tariff, will be charged when service is reestablished for Customers which have been disconnected due to non-payment. Payment of the reconnection fee and any other outstanding amounts will be due in full prior to reconnection of service

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SECTION 3 - DESCRIPTION OF SERVICE3.1 Computation of Charges

3.1.1 The total charge for each completed call may be a variable measured charge dependent on the duration, distance and time of day of the call. The total charge for each completed call may also be dependent only on the duration of the call, i.e. a statewide flat rate per minute charge. The variable measured charge is specified as a rate per minute which is applied to each minute. All calls are measured in increments as set forth in the Rates Section of this tariff. All calls are rounded up to the next whole increment.

3.1.2 Usage charges for all mileage sensitive products are based on the airline distance between rate centers associated with the originating and terminating points of the call. The airline mileage between rate centers is determined by applying the formula below to the vertical and horizontal coordinates associated with the rate centers involved. The Company uses the rate centers that are produced by Bell Communications Research in the NPA-NXX V&H Coordinates Tape and Bell's NECA Tariff No. 4.

Formula:

$$\sqrt{\frac{(V1-V2)^2 + (H1-H2)^2}{10}}$$

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3.1.3 Timing begins when the called party answers and two way communication is possible, as determined by standard industry methods generally in use for ascertaining answer, including hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. Timing for each call ends when either party hangs up.

3.1.4 The Company will not bill for uncompleted calls.

3.2 Customer Complaints and/or Billing Disputes

Customer inquiries or complaints regarding service or accounting may be made in writing or by telephone to the Company at:

5650 Hollis Street  
Emeryville, California 94608  
(888) 365-3700

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**3.2 Continued**

Any objection to billed charges should be reported promptly to the Company or its billing agent. Adjustments to Customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate. A Customer who is unable to resolve a billing dispute with the Company may contact the Commission by telephone at 1-800-342-3552 to intervene in the billing dispute.

**3.3 Level of Service**

A Customer can expect end to end network availability of not less than 99% at all times for all services.

**3.4 Billing Entity Conditions**

When billing functions on behalf of the Company or its intermediary are performed by local exchange telephone companies or others, the payment of charge conditions and regulations of such companies and any regulations imposed upon these companies by regulatory bodies having jurisdiction apply. The Company's name and toll-free telephone number will appear on the Customer's bill.

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### 3.5 Service Offerings

#### 3.5.1 1+ Dialing

This service permits Customers to originate calls via switched or dedicated access lines, and to terminate intrastate calls. The customer dials "1+" followed by "ten digits" or dials "101XXXX" followed by "1+ ten digits".

#### 3.5.2 Travel Cards

The Customer utilizes an 11 digit "toll-free" access number established by the Company to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, and the ten digit number of the called party.

#### 3.5.3 800 Service (Toll-Free)

This service is inbound calling only where an 800, 888 or other toll-free prefix number rings into a Customer's premise routed to a specific telephone number or terminated over a dedicated facility.

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3.5.4 Company Prepaid Calling Cards

This service permits use of Prepaid Calling Cards for placing long distance calls. Customers may purchase Company Prepaid Calling Cards at a variety of retail outlets or through other distribution channels. Company Prepaid Calling Cards are available at a variety of face values. Company Prepaid Calling Card service is accessed using the Company toll-free number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code, and then to enter the terminating telephone number. The Company's processor tracks the call duration on a real time basis to determine the number of Telecom Units consumed. The total consumed Telecom Units for each call and applicable taxes are deducted from the remaining Telecom Unit balance on the Customer's Company Prepaid Calling Card.

All calls must be charged against Prepaid Calling Card that has a sufficient Telecom Unit balance. A Customer's call will be interrupted with an announcement when the balance is about to be depleted.

In order to continue the call, the Customer can either call the toll-free number on the back of the Company Prepaid Calling Card and "recharge" the balance on the card using a nationally recognized credit card, or the Customer can throw the card away and purchase a new one. Calls in progress will be terminated by the Company if the balance on the Company Prepaid Calling Card is insufficient to continue the call and the Customer fails to enter the number of another valid Company Prepaid Calling Card prior to termination.

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**Section 3.5.4 Continued**

A card will expire on the date indicated on the card, or if no date is specified, 12 months from the date of first usage, or the date of last recharge, whichever is later. The Company will not refund unused balances.

A credit allowance for Company Prepaid Calling Card Service is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. To receive the proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the Company Prepaid Calling Card and furnish the called number, the trouble experienced (e.g. cut-off, noisy circuit, etc.), and the approximate time that the call was placed.

When a call charged to a Company Prepaid Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one Telecom Unit.

Credit allowances for calls pursuant to the Company Prepaid Card Service do not apply for interruptions not reported promptly to the Company or interruptions that are due to the failure of power, equipment or systems not provided by the Company.

Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company.

The Company will block all calls beginning with the NPA "900" and NXX "976" calls, therefore such calls can not be completed.

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4.5 Directory Assistance

\$.95 per each number requested

4.6 Returned Check Charge

\$25.00

4.7 Rate Periods

	Monday - Friday	Sat.	Sun.
8 a.m. to 5 p.m.*	Daytime Rate Period		
5 p.m. to 11 p.m.*	Evening Rate Period		Evening Rate Period
11 p.m. to 8 a.m.*	Night/Weekend Rate Period		

\* To, but not including

When a message spans more than one rate period, total charges for the minutes in each rate period are calculated and the results for each rate period are totaled to obtain the total message charge. If the calculation results in a fractional charge, the amount will be rounded down to the lower cent.

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**4.8 Rates Applicable for Hearing/Speech Impaired Persons**

For intrastate toll messages which are communicated using a telecommunications device for the deaf (TDD) by properly certified business establishments or individuals equipped with TDDs for communications with hearing or speech impaired persons, the rates shall be evening rates for daytime calls and night rates for evening and night calls.

Intrastate toll calls received from the relay service, each local exchange and interexchange telecommunications company billing relay call will be discounted by 50 percent of the applicable rate for a voice nonrelay call except that where either the calling or called party indicates that either party is both hearing and visually impaired, the call will be discounted 60 percent off the applicable rate for voice nonrelay calls.

Florida Public Service Commission Rules and Regulations require the Company to provide the first 50 directory assistance calls initiated per billing cycle by handicapped persons free of charge.

**4.9 Employee Concessions**

The Company does not offer employee concessions.

**4.10 Late Charge**

1.5% monthly or the amount otherwise authorized by law, whichever is lower.

**4.11 Payphone Dial Around Surcharge**

A dial around surcharge of \$.35 per call will be added to any completed INTRAstate toll access code and subscriber 800/888 type calls placed from a public or semi-public payphone.

**4.12 Reconnection Charge**

\$25.00

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**POWERFUL LEADERS!**

Utility.com brings together a perfect balance of industry and internet experience to take utilities into the 21st Century.

**chris king****Co-Founder and Chief Executive Officer**

As co-founder and chief executive officer of Utility.com, Chris S. King guides the company's vision to put the \$500 billion utilities industry online while providing savings, reliability, convenience and choice in utility services to residents and small businesses.

Before co-founding Utility.com in 1998, King had been the vice president of strategic planning and regulatory affairs and, earlier, of sales and marketing, at CellNet Data Systems. King developed the business plan that led to CellNet's public offering in 1996 at a valuation of \$800 million. Previously, he served as director of time-of-use programs at Pacific Gas & Electric in San Francisco.

King is nationally recognized as an expert in energy deregulation and testifies regularly before the U.S. Congress and state and federal regulatory commissions. He is also a published author who frequently speaks on the topic of energy deregulation. In 1984, he was awarded the California State Energy Award by Governor George Deukmejian for his innovative and successful energy conservation program.

King has earned two Master of Arts degrees in management science and biological sciences from Stanford University, where he was a Sloan Fellow at the Graduate School of Business.

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**paul falchi****President and Chief Operating Officer**

Paul Falchi has been president and chief operating officer of Utility.com since May 2000. From January through April, 2000, he served as senior vice president, sales and marketing for the company.

Falchi joined Utility.com with more than 20 years of experience in senior international and domestic management, marketing, sales, strategic planning and business development. Previously, he was the CEO of Rann International, a Czech-based wireless telecommunications company. From 1989-1993, Falchi founded and operated the first two business units



for CTO in Europe. He served as commercial director for the U.S.-Russian joint venture Sovintel and as Managing Director of Sovam Teleport, two of the first international digital telecommunications carriers for voice and data in Eastern Europe.

Previously, Falchi was the Director of Strategic Planning, then vice president of marketing for Sprint, where he supervised managers in the areas of complex network sales, revenue planning and budgeting, advertising and promotions, sales compensation and product implementation. Falchi was also influential in the development of Sprint's "pin drop" identity and service branding.

Falchi is the co-founder of Winamore Business Technology, a European-based consulting firm dedicated to telecommunications and IT project management, systems integration and outsourcing activities for large global clients including Chevron, Xerox and Coca-Cola.

Falchi is the author of several articles and presentations on marketing and strategic planning for telecommunications in various publications including Management Science and Telephony. Fluent in Spanish, Italian and Russian, Falchi holds a Masters in Philosophy and a Masters in Urban Planning/Information Systems from the University of Washington. He was also a part-time faculty member for economics and business at the British Columbia Institute of Technology, City University and Seattle Community College.

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### **timothy morris**

#### **Chief Financial Officer**

As the chief financial officer for Utility.com, Timothy E. Morris guides all financial aspects of Utility.com including fundraising, strategic partnerships and mergers & acquisitions.

Morris has more than 15 years of financial leadership experience with venture capital-backed technology and biotechnology companies. He has been involved in 29 corporate transactions with a combined value of \$312 million, including initial public offerings, equity financing, mergers and acquisitions, corporate collaborations and licensing agreements.

Morris joined Utility.com in 1999 from RiboGene, Inc. (Amex: RBO, now Questcor Pharmaceuticals Inc, Amex: QSC), a biopharmaceutical company in Hayward, Calif., where he served as chief financial officer and vice president, finance and administration. At RiboGene, he completed the company's initial public offering in May 1998, and raised more than \$50 million in public and private investments, completed numerous strategic alliances and was responsible for creating the infrastructure to allow the company to triple its headcount during his reign. Previously, he was chief accounting officer, senior director of finance at Glycomed, Inc., a publicly held

executed the company's merger with Ligand Pharmaceuticals in 1995. He has also worked for eight years at Ernst & Young in San Jose, Calif.

Morris graduated Cum Laude from California State University, Chico, with a Bachelor of Arts degree in business and an emphasis in accounting. He is also a certified public accountant.

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### **michael anderson**

#### **Chief Technology Officer**

As chief technology officer for Utility.com, Michael C. Anderson is responsible for hiring and keeping the best in technology personnel to run the day-to-day systems operations and to develop new systems for enhancements and new products. He is also responsible for creating strategic technology partnerships and conducting research and development of new products, including Utility.com proprietary products such as CyberStat™.

Anderson joined Utility.com from Enron Energy Services, a Houston-based energy services provider. He was responsible for the Metering Technologies Division technical development, including the metering systems and applications that performed Internet-based reporting of meter information for customers, Enron's Automated Meter Reading (AMR) initiative and cutting-edge home automation projects.

Prior to Enron, Anderson was the director of engineering at Datamatic, Inc., a private hand-held-computer meter reading company in Richardson, Texas, which sells hardware to utilities and municipalities. While at Datamatic, Anderson initiated new wireless data products to diversify the company's product line and supervised all technical projects, primarily meter reading systems and wireless products.

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### **ella conrad**

#### **Vice President, Systems Development**

As Utility.com's vice president of systems development, Ella Conrad is responsible for Web development and engineering.

Conrad worked as director and acting vice president of application development for Silicon Energy in Alameda, Calif., prior to joining Utility.com. At Silicon Energy, Conrad was responsible for the ongoing maintenance and technical support of Web-based, business-to-business, commercial-grade, energy management software.

Prior to Silicon Energy, Conrad worked at IBM Global Services as a senior director consultant, where she managed development of e-business and other applications for

companies such as Williams-Sonoma, Safeway Stores, Inc., Franklin Templeton and the California State Auto Association.

Conrad received her Masters in Data & Telecommunications Management from Golden Gate University, San Francisco. In addition, she obtained her Bachelor of Science in Administration with a Minor in Computer Science from Oregon State University.

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### **murthy divakaruni**

#### **Senior Vice President, Corporate and Business Development**

As senior vice president of corporate and business development for Utility.com, Murthy Divakaruni is in charge of business-to-business (B2B) platform development and corporate expansion efforts.

Divakaruni joins Utility.com with more than 25 years experience in the electric power and energy industries. Divakaruni was a technology and management consultant for Energy & Technology Enterprises (ETE), which he founded. Prior to that, he served as a vice president in Shell Oil Company's new business development group and was vice president of acquisitions and development for its subsidiaries, Tejas and Coral Power Generation. He was the lead strategist behind the company's entry into the U.S. power generation business.

Before Shell Oil Company, Divakaruni spent 16 years at the Electric Power Research Institute (EPRI) in California. He held several positions for EPRI and was responsible for strategic alliances, generation marketing, business development and fossil plant operations. He also worked for General Electric Company for six years in technical project management positions.

Divakaruni has three Masters degrees, including an MBA in organizational development and marketing from Xavier University in Ohio and an MS degree in aerospace engineering from the University of Cincinnati.

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### **richard jones**

#### **Vice President, Sales**

As vice president of sales for Utility.com, Richard A. Jones supervises the sales team, responsible for offline and online marketing and sales as well as trade shows and community events.

Jones joins Utility.com with 20 years of sales, marketing, strategic planning and operations leadership related to Internet launches and start-up companies. As the director of sales for

Good Catalog Company, a Reader's Digest Company, he was instrumental in the launch of two successful e-commerce sites. In addition, he was responsible for developing the strategies and sales initiatives necessary to successfully transition from a brick-and-mortar company to a click-and-mortar company.

Previously, Jones was the general manager for Farmers Group, Inc., where he led and operated an independent sales and marketing company, specializing in consumer and business-to-business products and services for the insurance, financial services and investments industries. At Farmers, he developed and managed an organizational and marketing strategy that increased annual revenues from \$3.4 million to more than \$50 million.

Jones earned his Bachelor of Science degree from Colorado State University. In addition, he is a former U.S. Marine sergeant, having been awarded the Navy Achievement Medal of meritorious service.

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### **Wade Malcolm**

#### **Vice President, E-Commerce Development**

As vice president for e-commerce development for Utility.com, Wade P. Malcolm oversees eUtilities fulfillment, business development and energy technology development. Malcolm's leadership is crucial to the world's first Internet utility company.

Prior to joining Utility.com, Malcolm was the principal management consultant at SRI Consulting in Menlo Park, Calif. He led the North American utilities practice with a focus on technology commercialization and innovation. Previously, Malcolm was a senior director for the Electric Power Research Institute (EPRI) in Palo Alto, Calif. He most recently managed the product line management division, which was responsible for EPRI's science and technology portfolio development.

Malcolm also worked in several capacities at EPRI and managed the development of the first utility open system profile, the Utility Communications Architecture (UCA), which is now an international standard. Malcolm also worked for PECO Energy in a variety of project management and engineering positions.

Malcolm earned his B.S. and M.S. in electrical engineering from Drexel University and is a member of several utility professional organizations.

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### **Brett Powell**

#### **Vice President, Internet**

As Utility.com's vice president, Internet, Brett S. Powell is responsible for Internet strategy and creating and implementing

the company's internet-based strategic alliances.

With more than 15 years of high technology and Internet industry experience, Powell has overseen a variety of business development initiatives, e-commerce alliances, direct sales and distribution channels, and operational management activities. Prior to joining Utility.com, Powell headed up business development at KBkids.com, formerly BrainPlay.com, where he was responsible for traffic, revenue, registrations and content acquisition.

During his time with BrainPlay.com, Powell successfully grew the company to the number two position in the toy category, resulting in additional venture capital investment and the subsequent merger with KBTtoys.com. Prior to KBkids.com, Powell was the director of worldwide alliances for Lightbridge and its acquired company, Coral Systems, where he developed distribution channels and partnerships with Ericsson, Lucent Technologies, Motorola, Oracle, Informix, Hewlett Packard and Sun Microsystems.

Powell received his Masters in Business Administration from the University of Washington, Seattle. In addition, he obtained his Bachelor of Arts in Political Science from the University of California, Los Angeles.

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**benjamin reyes**

**General Counsel**

As chief counsel for Utility.com, Ben Reyes oversees all legal affairs and corporate transactions.

Before joining Utility.com, Reyes was a member of the Office of General Counsel at East Bay Municipal Utility District, a major California utility company in Oakland, Calif., where he performed transaction and litigation work and advised the Board of Directors and senior management regarding strategies for rate structure implementation. Reyes lead utility legislation advocacy, and was published in a court of appeals opinion regarding the defense of utility rate structures.

Previously, Reyes served as deputy city attorney for the City of San Jose, Calif., where he represented the city in a variety of municipal cases. Reyes also worked as a litigation associate with the firm of Boornazian, Jensen & Garthe in Oakland, Calif., where he was counsel for environmental, product liability, and utility cases.

Reyes earned his Juris Doctor from the University of San Francisco School of Law. He received his Bachelor of Arts degree from the University of California, Berkeley. He is a member of the Filipino Bar Association of Northern California; the American Bar Association, Energy and Natural Resources Committee; and the Alameda County Bar Association, Race & Ethnic Fairness Committee.

Reyes is a faculty member of Stanford Law School and the University of San Francisco School of Law where he teaches trial skills and advocacy. He is a member of the California bar, and was admitted to practice before the U.S. District Court, Northern District, California, and the U.S. Court of Appeals for the Ninth Circuit.

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### **mark streater**

#### **Vice President, International Business Development**

Mark Streater joins Utility.com as vice president for international business development. Streater brings more than 12 years of worldwide experience and leadership in energy marketing to Utility.com.

Before joining Utility.com, Streater was the vice president of e-commerce for Southern Company Energy Marketing, LP an affiliate of Southern Company. Streater led the e-business strategy and managed the development of Southern's enterprise business solution. He also developed several new lines of business at Southern including Total Portfolio Management, Pulp and Paper Risk Management and Emissions Trading.

Prior to Southern, Streater held various positions in commodities trading. He worked at Cinergy where he was in charge of product structuring, and he was vice president of commodities derivatives at Chemical Bank (now Chase), where he managed the refined products derivatives desk. Previously Streater was at British Petroleum, where he became the youngest senior trader integrating refining, supply and transportation assets around the world.

Streater earned his MBA in international finance from the University of Warwick and his BS in mechanical engineering from University of Southampton, both in England. Streater is a member of the International Association of Financial Engineers.

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Also Admitted in New York  
and Maryland

July 22, 2000

**VIA OVERNIGHT DELIVERY**

Florida Public Service Commission  
Tariff Section  
2540 Shumard Oak Blvd.  
Gunter Bldg.  
Tallahassee, Florida 32399  
(850) 413-6000

DEPOSIT DATE  
D 3 8 2 JUL 26 2000 000945-TI

Re: Utility.com, Inc.

Dear Sir/Madam:

Enclosed please find one original and six (6) copies of Utility.com, Inc.'s Application for Authority to Provide Interexchange Telecommunications Service Within the State of Florida, along with an original and six (6) copies of Utility.com, Inc.'s proposed tariff.

I also have enclosed a check in the amount of \$250.00 payable to the Florida Public Service Commission to cover the cost of filing these documents.

Please return a stamped copy of the extra copy of this letter in the enclosed preaddressed prepaid envelope.

If you have any questions regarding the application or the tariff, please do not hesitate to call me. Thank you for your attention to this matter.

Sincerely,

LANCE J. M. STEINHART  
ATTORNEY AT LAW  
770-232-9200  
6455 EAST JOHNS CROSSING, SUITE 285  
DULUTH, GA 30097

2596

Date 7/23/00

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\$ 250.00

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