

Exhibit No.:
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Witness: Carmen J. Morrissey
Sponsoring Party: MoPSC Staff
Type of Exhibit: Reclassified Rebuttal Testimony
Case No.: GM-2001-585
Date Testimony Prepared: August 30, 2001

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

RECLASSIFIED REBUTTAL TESTIMONY

OF

CARMEN J. MORRISSEY

GATEWAY PIPELINE COMPANY, INC., ET AL.

CASE NO. GM-2001-585

Jefferson City, Missouri
August, 2001

Exhibit No. 18
Date 9-05-01 Case No. GM-2001-585
Reporter KF

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RECLASSIFIED REBUTTAL TESTIMONY
OF
CARMEN J. MORRISSEY
GATEWAY PIPELINE COMPANY, INC., ET AL.
CASE NO. GM-2001-585

Q. Please state your name and business address.

A. My name is Carmen J. Morrissey and my business address is 200 Madison Street, Governor Office Building-Room 516, Jefferson City, Missouri 65101.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Public Service Commission ("Commission" or "MoPSC") as a Utility Policy Analyst II. I am currently the Energy Department's Assistant Manager for Federal Issues and Policy Analysis.

Q. Please describe your educational and professional background.

A. In December 1976, I obtained a Bachelor of Science degree in Business Administration, with a major in Accounting, from Missouri Western State College. I am a member of the American Institute of Certified Public Accountants and the Missouri Society of Certified Public Accountants. I currently hold a permit to practice as a CPA in Missouri and have held such license since April 1979.

Q. Would you please review your work experience?

A. From January 1977 through October 1987, I was employed by the Missouri State Auditor's Office. For the first five years, I was a governmental auditor responsible for all aspects of financial, compliance and operational audits of state

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1 agencies and local governmental units. During the last five years of service with the
2 Auditor's Office, I was responsible for all administrative activities of the office, including
3 personnel, budgeting and financial matters.

4 I transferred to the Commission in December 1987. My responsibilities with the
5 Commission have centered on monitoring and analyzing activities at the Federal Energy
6 Regulatory Commission ("FERC"). I advise the Commission and its staff with respect to
7 the effects of federal matters on Missouri natural gas consumers. I assist in the
8 formulation and preparation of the Commission's positions to be presented at FERC.

9 Q. Have you previously filed testimony before any regulatory bodies?

10 A. Yes, I have filed testimony at FERC in Williams Natural Gas Company's
11 Docket Nos. FA90-68, RP91-152, RP93-109, RP95-136, RP97-484, Mississippi River
12 Transmission Corporation's Docket Nos. RP93-4 and RP96-199, and Kansas Pipeline
13 Company's Docket No. RP99-485. I have filed only one piece of testimony before this
14 Commission, which was in Missouri Public Service Case No. GR-88-194.

15 Q. What is the purpose of your testimony?

16 A. The purpose of my testimony is to: ** _____

17 _____

18 _____

19 _____

20 _____.

21 Q. ** _____

22 _____

23 _____? **

A.

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Q. Please explain FERC's jurisdiction and regulation of natural gas pipelines.

Q. What determines whether a natural gas company is regulated by a state commission or FERC?

A. Generally, a natural gas company is regulated by the state where its facilities are located and in which it provides transmission and/or distribution services. However, if a natural gas company's pipeline facilities cross state lines and are used for the transmission of gas in interstate commerce, then that company and its facilities come

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1 under FERC jurisdiction. There are two major exceptions, both of which grant/permit
2 deference to existing state regulation of interstate facilities. One is the NGA's Section
3 1(c) Hinshaw exemption. The other is the NGA's Section 7(f)(2) service area
4 determination exclusion.

5 NGA Section 1(c) provides that, if all the gas the pipeline receives from out-of-
6 state is consumed within the state and the pipeline is regulated by that state commission,
7 it is not subject to NGA/FERC jurisdiction. Section 284.224 of FERC's regulations
8 allows a pipeline that falls under the Hinshaw exemption to retain its Hinshaw status
9 despite the fact that the pipeline is performing certain FERC-jurisdictional services that
10 do not satisfy the Hinshaw criteria. So, as permitted by Section 311 of the NGPA, a
11 Hinshaw pipeline can transport, store, and deliver gas on behalf of any interstate pipeline
12 or local distribution company ("LDC"), regardless of where the gas will ultimately be
13 consumed, without jeopardizing its Hinshaw status. However, in order to retain Hinshaw
14 status, the pipeline must perform the services pursuant to a FERC issued Section 284.224
15 blanket certificate. This expansion of the services a Hinshaw pipeline can provide, and
16 still retain Hinshaw status, is to permit Hinshaws to use their facilities to transport gas
17 and thereby eliminate the need for interstate pipes to build duplicate facilities or use less
18 direct transportation routes.

19 FERC's application of the NGA Section 7(f) service area determinations allows
20 LDCs to provide their traditional LDC service (under the jurisdiction of the state
21 commission in the state in which the gas is consumed) across a state line without
22 invoking NGA/FERC jurisdiction. FERC has determined this section does not apply to
23 the transportation of natural gas to another natural gas company.

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1 Q. How does the NGPA's Section 311 authority affect the jurisdiction over
2 gas pipeline activities?

3 A. It expedites and relaxes FERC's oversight of transactions that enable an
4 intrastate pipeline or LDC to attach supplies through interstate pipeline transportation.
5 One of the goals of the NGPA was to integrate the intrastate and interstate gas markets by
6 authorizing expedited treatment for the provision of services that are rendered "on behalf
7 of" an LDC or intrastate pipeline. Since a state commission has already deemed the
8 service of an LDC or intrastate pipeline to be in the public interest, FERC is to facilitate
9 expanded service to them. Accordingly, Section 311 authority permits a pipeline facility
10 to be constructed or modified, without prior FERC approval, if the service to be provided
11 by that facility is on behalf of an LDC or intrastate pipeline. Under Section 311, the
12 natural gas company accepts the financial risks of the project/service. In return, the
13 company is allowed to "self-implement" Section 311 service with no prior notice, or with
14 limited notice if it is by-passing an LDC, and/or must provide FERC notice of Section
15 311 construction activities within 30 days of the commencement of construction, if the
16 costs of the project are in excess of the cost limitations contained FERC's Section
17 157.208 small project prior notice waiver.

18 Q. What are the similarities and differences between FERC's approach to
19 regulation and that of this Commission?

20 A. The MoPSC and FERC operate primarily in a company-specific, case-
21 driven format and have similar missions/responsibilities, i.e. to assure access to reliable
22 service at a reasonable price by balancing competing interests of companies and

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1 consumers. However, there are striking differences between the MoPSC's and FERC's
2 regulatory approaches.

3 First, unlike the MoPSC, the FERC does not have an operation-of-law
4 requirement. So, with respect to rate cases, the FERC does not have a required deadline
5 by which it must issue a final order. This means rate increases sought by interstate
6 pipeline companies, are permitted to go into effect, subject to refund, six months after
7 they are filed. Customers are then obligated to pay those high, subject-to-refund rates
8 until a final FERC order is delivered following a hearing or after an acceptable settlement
9 is reached. It typically takes 3-5 years for a pipeline rate case to be settled or decided at
10 FERC.

11 Second, another FERC procedure, which delays final results (beyond those of the
12 typical MoPSC case) is FERC's use of "tolling orders". Although there is a requirement
13 for FERC to deliver an order on rehearing requests within 30 days, it usually disposes of
14 this requirement by issuing a brief order indicating that it is "reconsidering" its previous
15 order(s). This maneuver then allows FERC an unlimited time for issuing its substantive
16 order on rehearing; all the while customers endure high rates and/or rate uncertainty.

17 Third, FERC's agenda is dictated by an obligation to a broader base of
18 companies, geographic regions, customers, and political influences, than that of this
19 Commission. The pipeline companies that have considerable impact on gas service and
20 rates to Missouri consumers are usually not a high priority for FERC and are not
21 reviewed as closely/thoroughly as they would be if their requests were being presented to
22 this Commission.

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1 Q. What is the effect of a Missouri regulated gas pipeline becoming FERC
2 jurisdictional?

3 A. Since the MoPSC is merely an intervenor/interested party at FERC (not
4 the decisional authority), it has less control over the outcome of FERC-regulated pipeline
5 issues. At the FERC this Commission is left to merely offer up its views on what is in
6 Missouri's best interest and then must live with the decisions made by FERC. At FERC,
7 this Commission has less access to data, less leverage in negotiations, usually less
8 resources than that of our opponents, and no-guarantee that the interests of Missouri
9 consumers will receive a high priority because Missouri's interests are many times at
10 odds with the federal agenda and the broader, public interest perspective of FERC.
11 Moreover, Missouri consumers have less opportunity for input and are likely to suffer
12 higher rates and more delays and uncertainty than if the MoPSC is the decisional
13 authority.

14 Q. Are there any positive effects to having a Missouri company come under
15 FERC jurisdiction?

16 A. Yes. When FERC has jurisdiction over a natural gas company, the
17 MoPSC has a choice as to whether it wishes to participate in the regulatory activities
18 related to that company (as long as it is aware of those activities). Rather than being
19 obligated to address all relevant issues in a case, no matter how small, the MoPSC can
20 focus on only those issues that are of importance to Missouri consumers. If a decision is
21 made at FERC, which adversely affects Missouri (such as a rate increase), then the
22 MoPSC is not directly responsible or accountable for that action.

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1 Unfortunately, the benefits are lesser in number and are generally out-weighed by
2 the detriments.

3 Q. Does this conclude your rebuttal testimony?

4 A. Yes.

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

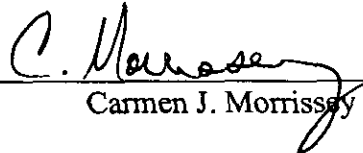
IN THE MATTER OF THE JOINT)
APPLICATION OF GATEWAY)
PIPELINE COMPANY, INC.,)
MISSOURI GAS COMPANY AND)
MISSOURI PIPELINE COMPANY)

Case No. GM-2001-585

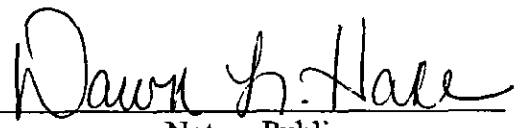
AFFIDAVIT OF CARMEN J. MORRISSEY

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Carmen J. Morrissey, of lawful age, on her oath states: that she has participated in the preparation of the foregoing written testimony in question and answer form, consisting of 8 pages of testimony to be presented in the above case, that the answers in the attached written testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true to the best of her knowledge and belief.


Carmen J. Morrissey

Subscribed and sworn to before me this 30th day of August, 2001.


Notary Public

My commission expires _____

DAWN L. HAKE
Notary Public - State of Missouri
County of Cole
My Commission Expires Jan 9, 2005