Exhibit No.:
Issues: FERC Regulation
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

Denotes Highly Confidential Information

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

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

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

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

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to: **______________________________
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Q. **____
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A. **____
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Q. Please explain FERC's jurisdiction and regulation of natural gas pipelines.

A. The FERC has the authority for and responsibility of regulating the transmission and sale of natural gas for resale in interstate commerce. This includes: certificate and siting responsibility for new services and facilities, as well as, approving the abandonment of services and facilities currently involved in the interstate market; prescribing/approving rate and service conditions; administering accounting, financial reporting, and operational conduct of jurisdictional companies. FERC's legal authority and obligations come primarily from the Natural Gas Act ("NGA") of 1938, the Natural Gas Policy Act ("NGPA") of 1978 and the Energy Policy Act of 1992.

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

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

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

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

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

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

A. The MoPSC and FERC operate primarily in a company-specific, case-driven format and have similar missions/responsibilities, i.e. to assure access to reliable service at a reasonable price by balancing competing interests of companies and consumers. However, there are striking differences between the MoPSC's and FERC's regulatory approaches.

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

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

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

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

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

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

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

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

Q. Does this conclude your rebuttal testimony?

A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

IN THE MATTER OF THE JOINT	)	
APPLICATION OF GATEWAY	)	
PIPELINE COMPANY, INC.,	)	Case No. GM-2001-585
MISSOURI GAS COMPANY AND	)	
MISSOURI PIPELINE COMPANY	)	

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.

C. Morrissey

Carmen J. Morrissey

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

Dawn L. Hake

Notary Public

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

My commission expires