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MAY 19 2006

**Missouri Public
Service Commission**

Exhibit No.:

Issues: *Staff's Position on Expansion
of Certificated Service Area*

Witness: *V. William Harris*

Sponsoring Party: *MoPSC Staff*

Type of Exhibit: *Rebuttal Testimony*

Case No.: *HA-2006-0294*

Date Testimony Prepared: *April 13, 2006*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

V. WILLIAM HARRIS

TRIGEN-KANSAS CITY ENERGY CORPORATION

CASE NO. HA-2006-0294

Exhibit No. 6
Case No(s) HA-2006-0294
Date 5-15-06 Rptr XF

**Jefferson City, Missouri
April 2006**

****Denotes Highly Confidential Information****

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

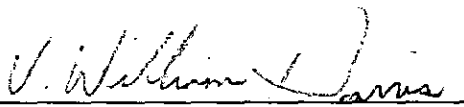
In the matter of the application of Trigen-Kansas)
City Energy Corporation for a Certificate of Public)
Convenience and Necessity authorizing it to)
construct, install, own, operate, control, manage and)
maintain a steam heat distribution system to provide)
steam heat service in Kansas City, Missouri, as an)
expansion of its existing certified area.)

Case No. HA-2006-0294

AFFIDAVIT OF V. WILLIAM HARRIS

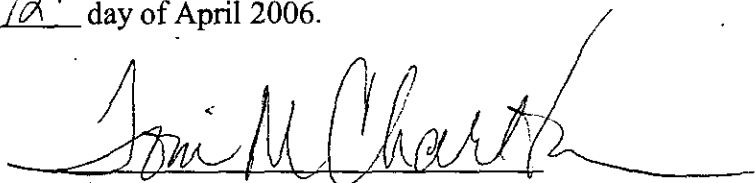
STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

V. William Harris, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 12 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


V. William Harris

Subscribed and sworn to before me this 12th day of April 2006.





TONI M. CHARLTON
Notary Public - State of Missouri
My Commission Expires December 28, 2008
Cole County
Commission #04474301

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V. WILLIAM HARRIS, CPA, CIA
TRIGEN-KANSAS CITY ENERGY CORPORATION
CASE NO. HA-2006-0294

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1 Regulatory Commission (FERC) in Washington, DC. Prior to that, I was an Internal Auditor
2 and Training Supervisor with Volume Shoe Corporation (d/b/a Payless ShoeSource).

3 Q. What are your responsibilities with the Commission?

4 A. I am responsible for directing or assisting in the audits and examinations of
5 the books and records of regulated utility companies operating within the state of Missouri.

6 Q. Have you previously filed testimony before this Commission?

7 A. Yes. I have attached a list of the cases in which I have filed testimony before
8 this Commission as Schedule 1 of my rebuttal testimony.

9 Q. With reference to Case No. HA-2006-0294, have you examined and studied
10 the application filed by Trigen-Kansas City Energy Corporation (Trigen or Company) and
11 the subsequent direct testimony of Company witness Brian P. Kirk?

12 A. Yes, in conjunction with other members of the Commission Staff (Staff).

13 Q. Have you examined and studied any other testimony or information pertinent
14 to this case?

15 A. Yes. I have examined the direct testimony of Truman Medical Center's
16 (Truman or TMC) witness David A. Wagner and the information exchanged between the
17 parties in this case through a series of data requests (DRs).

18 Q. What is the purpose of your rebuttal testimony in this proceeding?

19 A. The purpose of my rebuttal testimony is to present the Staff's position in this
20 case by discussing the aforementioned application, testimonies and DRs.

21 **EXECUTIVE SUMMARY**

22 Q. Please summarize your rebuttal testimony in this proceeding.

1 A. Staff recommends the Commission approve this application provided it
2 conditions its approval on the Company's existing customers being "held harmless" from any
3 operating losses that may result from this project, i.e., the extension of Trigen's certificated
4 service territory to the area proposed by Trigen.

5 Staff believes this can be accomplished by Truman financing the entire cost of the
6 project's construction and specific language in the Commission's order conditioning the
7 Commission's approval on Trigen being completely "at risk" for covering any operating
8 losses resulting from the project.

9 **OVERVIEW**

10 Q. Briefly describe the application in this proceeding.

11 A. On January 10, 2006, Trigen filed an application seeking Commission
12 approval to expand its certificated service territory. The application states that the filing is in
13 response to a request from TMC that Trigen provide it with steam heating service. TMC
14 subsequently filed an application to intervene (approved on February 28, 2006) and
15 submitted direct testimony in support of Trigen's application. The TMC witness is David A.
16 Wagner, its Senior Director of Support Services.

17 Q. Have any other entities been granted intervention in this case?

18 A. Yes. As current energy providers to TMC, Kansas City Power & Light
19 (KCPL) and Missouri Gas Energy (MGE) filed for, and the Commission approved both of
20 these entities intervention status.

21 Q. What energy services do they provide to TMC?

22 A. KCPL supplies electricity to TMC. MGE transports natural gas for TMC.

23 Q. Does TMC purchase natural gas from MGE?

1 A. Per TMC's response to Staff Data Request No. 12, it has not purchased any
2 natural gas from MGE in the past five years. Staff does not know if TMC purchased natural
3 gas from MGE prior to 2001.

4 Q. What is Trigen?

5 A. Trigen is a provider of regulated steam services to 67 customers in downtown
6 Kansas City, Missouri and to one industrial steam customer located in North Kansas City.
7 The steam distribution of Trigen runs approximately from its Grand Avenue generating
8 facility to individual customer locations within what is commonly referred to as the
9 downtown loop, within the bounds to the north of Interstate 70. The industrial customer
10 takes industrial steam under a special contract and takes the steam load through the
11 customer's pipeline that is connected to the Grand Avenue generating facility. This customer
12 supplies the steam line from its plant directly north of the Grand Avenue plant by a pipeline
13 running across the Missouri River byway of the Heart of America Bridge.

14 The steam system was purchased from Kansas City Power & Light (KCPL) in the
15 early 1990s. KCPL originally owned and operated the Grand Avenue power plant since the
16 early part of the last century.

17 **STANDARD OF "IS NECESSARY OR CONVENIENT FOR THE PUBLIC**
18 **SERVICE"**

19 Q. What standard did Staff use to develop its recommendation regarding the
20 proposed application in this case?

21 A. Staff utilized the standard "is necessary or convenient for the public service," as
22 it has in the other certificate cases of which I am aware. If the Applicant fails to show that the
23 proposed certificate of expanding the steam service is necessary or convenient for the public

1 service, i.e. if it is not demonstrated that the Missouri public will be benefited by this proposal,
2 then the Commission should reject this application and not approval the proposal. Staff counsel
3 has advised that the "is necessary or convenient for the public service," standard is based on
4 case law generally cited in Commission Orders such as *In the matter of the Application of Union*
5 *Electric Company for Permission and Authority to Construct, Operate, Own, and Maintain a*
6 *345 Kilovolt Transmission Line in Maries, Osage, and Pulaski County, Missouri ("Callaway-*
7 *Franks Line")*, Case No. EO-2002-0351, Report and Order at p. 26-34. See also *State ex rel.*
8 *Intercon Gas, Inc. v. Public Service Commission*, 848 S.W.2d 593, 597 (Mo App. 1993) Staff
9 counsel also advises that the Commission has incorporated the "is necessary or convenient for
10 the public service" standard in its rules requesting applications for 4 CSR 240-3.400 (1)(E).

11 Q. How is Staff defining the term "public?"

12 A. Consistent with Staff's position in other cases in which the "is necessary or
13 convenient for the public service" standard has been used, Staff views the members of the
14 "public" that are to be benefited as at least those consumers taking and receiving utility
15 service from Trigen's steam operations in downtown Kansas City.

16 In this case, Staff would define "public interest" as referring to the nature and level of
17 the impact or effect that this proposed expansion of the existing steam operations will have
18 on Trigen's existing customers. This includes all existing Trigen customers and the
19 industrial steam customer who has operations north of the Missouri River. There is a
20 fundamental concern in the regulation of public utilities that the public being served must not
21 be impacted adversely or harmed by those responsible for providing monopoly services.
22 Public utilities in Missouri are charged with providing safe and adequate service at non-
23 unduly discriminatory, just, and reasonable rates. If this proposed expansion does not benefit

1 the public and instead would result in adverse or negative impacts to Trigen's existing steam
2 customers, then the Commission should not approve the application or, in the alternative,
3 should impose conditions sufficient to overcome in the aggregate any detriments of the
4 proposed expansion.

5 Q. Is Staff defining "is necessary or convenient for the public service" differently
6 in this case than it has in previous certificate cases?

7 A. No.

8 **PROJECT FINANCING**

9 Q. How does Trigen propose to finance the cost of this project?

10 A. On page 4, lines 22 and 23, of Mr. Kirk's direct testimony he refers to Staff
11 Data Request No. 1 (attached to his testimony as HC Schedule BPK-1) and on page 5, lines 5
12 and 6, of Mr. Kirk's direct testimony he refers to highly confidential Appendix C of the
13 Application (attached to his testimony as HC Schedule BPK-2). HC Schedule BPK-1 (page
14 4 of 4) states that ** _____

15 _____ **. HC Schedule BPK-2
16 (page 2 of 5) states that ** _____

17 **.

18 As an addendum to HC Staff Data Request No. 1, Trigen's response to HC Staff Data
19 Request No. 1.1 (attached as HC Schedule VWH-2) states that the ** _____

20 _____
21 **.

22 Q. Is Trigen's proposed treatment of the customer advances proper?

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Rebuttal Testimony of
V. William Harris

1 A. Yes, from an accounting perspective. The FERC Uniform System of Accounts
2 for Account 252, Customer advances for construction states:

3 This account shall include advances by customers for construction
4 which are to be refunded either wholly or in part. When a customer is
5 refunded the entire amount to which he is entitled, according to the
6 agreement or rule under which the advance was made, the balance, if
7 any, remaining in this account shall be credited to the respective plant
8 account.

9 However, the Staff is recommending that the entire amount of the project be
10 advanced by the customer(s) being directly served by the new steam line expansion. At
11 present, TMC would be the only customer directly served by the expansion.

12 Q. Why is Staff proposing that TMC provide Trigen with all the funding to
13 construct this project?

14 A. Staff believes that TMC should pay the entire funding for this project for two
15 reasons: significant savings are expected to result from taking the steam service; and,
16 Trigen's existing customers should not be adversely impacted by the expansion of the steam
17 service in downtown Kansas City nor should the industrial steam customer located in North
18 Kansas City. While it is expected to provide positive benefits to both TMC and Trigen,
19 there is no guarantee that such will occur. In order that existing customers be held harmless,
20 Staff is recommending that TMC absorb all initial costs of construction for the expansion of
21 the steam system to the hospital facility. At such time that Trigen's expanded steam
22 operations proves to be successful, then a portion of TMC's funds used to construct the
23 distribution lines south of the existing service territory could be refunded back to TMC.

24 Q. If TMC advances the entire amount of the construction, would the project still
25 result in significant savings to TMC?

1 A. Yes. On page 4, lines 11 and 12, of his direct testimony TMC witness David
2 A. Wagner states that "having Trigen steam delivered to TMC would create a significant
3 annual savings over using natural gas." Mr. Wagner also states on page 4 of his testimony
4 (lines 5 through 8) that TMC performed an analysis of the expected financial impact. TMC
5 provided the analysis in response to Staff Data Request No. 11. The analysis shows a

6 ** _____

7 _____ **.

8 Q. Is it common in the utility industry for potential customers to provide funds
9 for construction expansion?

10 A. Yes. Contributions in aid of construction (CIAC) or construction advances for
11 expanding utility service to potential customers, are very common in the water and sewer,
12 natural gas and electric utility industry. The utility only has an obligation to serve customers
13 in its service territory. When customers approach the utility to provide service, the customers
14 generally are required to pay for the expansion with the understanding that a portion of the
15 monies provided may qualify for refunds to the customers if sufficient revenues are
16 generated. In the case of service requested by Truman, Trigen does not have an obligation to
17 serve this load. However, Trigen has an interest from a business perspective to expand its
18 existing customer base. One way of doing this is the expansion proposed by Truman to serve
19 the Quality Hill area.

20 **EFFECT ON EXISTING CUSTOMERS**

21 Q. Is Trigen willing to maintain separate books and records or a separate tracking
22 for the costs and revenues related to the TMC expansion project in order to protect its
23 existing customers from any losses that may result from the expansion?

NP

1 A. No. On page 5, lines 10 and 11, of his direct testimony Mr. Kirk refers to
2 Trigen's response to Staff Data Request Nos. 8 and 9 (attached to his testimony as
3 NP Schedules BPK-3 and BPK-4). These schedules state that Trigen will not separately
4 account for the TMC expansion because "the project is expected to be accretive to the
5 earnings of Trigen KC".

6 Q. Have there been similar cases involving the expansion of a utility's
7 certificated service area in which the utility "expected" the project to yield earnings?

8 A. Yes, there have been many similar cases involving natural gas utilities.

9 Q. How are those natural gas cases similar to this steam heat case?

10 A. The natural gas cases involved service territory expansions into areas having
11 electricity and propane gas energy choices. This steam heat case involves service territory
12 expansion into an area having electricity and natural gas energy choices. Each of these cases
13 involves a service territory expansion into an area by a new energy provider, thus increasing
14 competition within that area.

15 Q. Can you cite some cases in which the Commission has required a separate
16 accounting for the project or stated that the shareholder is at risk for its completion?

17 A. Yes. During the original application by Tartan Energy Company, LC d/b/a
18 SMGC which was later sold to DTE, Tartan agreed to bear the risk for any misstatement or
19 overstatement in estimates of the construction and operational costs that were identified in
20 the Stipulation and Agreement filed in Case No. GA-94-127. As a condition of the
21 Stipulation and Agreement, the Commission Order in Case No. GA-94-127 states, "Tartan
22 bears most of the risk if it has underestimated the economic feasibility of its project, and the
23 public benefit outweighs the potential for underestimating these costs."

1 In Case No. GA-94-325, UtiliCorp United, Inc. d/b/a Missouri Public Service (MPS)
2 sought Commission approval to expand its service area by constructing a gas distribution
3 system in the City of Rolla. In the Report and Order in Case No. GA-94-325, the
4 Commission stated in part:

5 In regard to its desire to serve the Rolla area and its attending
6 feasibility estimates for doing so, some weight must be given to the
7 size and experience of UtiliCorp and MPS. In addition, should the
8 Staff's position prove to be more accurate and MPS be mistaken in its
9 analysis of the economic viability of this project, the financial stability
10 of UtiliCorp's operation in Missouri will not be jeopardized by the
11 mistake. Both Staff and Company's positions on the feasibility of the
12 project are based upon estimates. The Commission finds that
13 Company's estimates are as reasonable as Staff's and, **since MPS**
14 **bears most of the risk if it has underestimated the economic**
15 **feasibility of the project, the public benefit outweighs the potential**
16 **for underestimating these costs.** ...The Commission, therefore, finds
17 that the proposed certificate of convenience and necessity to serve the
18 Rolla franchise is necessary and convenient for the public service and
19 will be granted with the conditions as set out hereafter in this Report
20 and Order, and for the area as set out by legal description and plat, ...
21 Finally, the Staff believes that UtiliCorp stockholders should bear the
22 risk of under-recovery of excess costs associated with the project. ... It
23 is argued that no detriment to the remainder of the MPS operating
24 system should result should the Rolla system be unable to support
25 itself or should feasibility estimates by MPS be grossly in error. ... To
26 force MPS to create a separate set of cost-based rates on the Rolla
27 service area alone would be forfeiting the advantage MPS has in terms
28 of economies of both scale and scope. The Commission sees no
29 advantage in setting rates specific to the Rolla area prior to completion
30 of construction and will, therefore, authorize for service in the Rolla
31 area the existing filed and approved gas rates for the northern and
32 southern district of MPS, ... The Commission will, however, order
33 MPS to keep separate accounting records for the Rolla service area, to
34 be examined at the time of the next general rate case, to determine if
35 any detriment to the remainder of the system has or will occur ... MPS
36 states that rates based on its cost-of-service to Rolla may also be filed.
37 ... MPS has requested a variance from the provisions of the
38 Commission's promotional practice rules specifically for the purpose
39 of providing free installation and recalibration of existing customer
40 equipment to facilitate and promote the conversion of the Rolla area
41 from propane to natural gas. ... MPS will be allowed to provide a
42 maximum of \$300.00 free conversion, installation and recalibration,

1 per customer, on the customer's side of the meter only. **Any**
2 **remaining customer conversion costs paid by the Company should**
3 **be appropriately borne by the shareholders, and will be accounted**
4 **for below the line.** [emphasis added]

5 In Case No. GA-95-216, UtiliCorp United, Inc. sought Commission approval to
6 expand its service area by constructing a gas distribution system in the City of Salem. In the
7 Commission's Report and Order in Case No. GA-95-216, items five and six of the Order
8 stated:

9 5. That the Commission makes no finding as to the prudence or
10 ratemaking treatment to be given any costs or expenses incurred as the
11 result of the granting of this certificate, except those costs and
12 expenses dealt with specifically in this Report and Order, and reserves
13 the right to make any disposition of the remainder of those costs and
14 expenses it deems reasonable, including charging those costs and
15 expenses to the stockholders of UtiliCorp United, Inc., in any future
16 ratemaking proceeding.

17 6. That UtiliCorp Inc., d/b/a Missouri Public Service, will keep a
18 separate and complete accounting of the Salem service area and will
19 provide that separate accounting to the Staff upon proper request in
20 any future rate or complaint proceeding.

21 In Case Nos. GA-97-132 and GA-97-133, UtiliCorp United, Inc. sought Commission
22 approval to expand its service area by constructing a gas distribution system in the City of
23 Owensville. In the Commission's Report and Order in Case Nos. GA-97-132 and
24 GA-97-133, item six of the Order stated:

25 That the Commission makes no finding as to the prudence or
26 ratemaking treatment to be given any costs or expenses incurred as the
27 result of the granting of this certificate, and reserves the right to make
28 any disposition of the remainder of those costs and expenses it deems
29 reasonable, including charging those costs and expenses to the
30 stockholders of UtiliCorp United, Inc., d/b/a Missouri Public Service,
31 in any future ratemaking proceeding.

Rebuttal Testimony of
V. William Harris

1 Q. Does Staff believe that it is necessary for the Commission to approve the
2 certificate for the Trigen expansion with a condition that there is not to be any harm to its
3 existing customers?

4 A. Yes. To ensure that none of Trigen's current customers are harmed by the
5 proposed service to Truman, the Commission should issue its order stating the application is
6 approved based on a condition that Trigen will bear the risk of any adverse affects of this
7 expansion. One of the ways to further ensure that Trigen's current customers are held
8 harmless is for Truman to pay for the expansion until it is shown that service to this customer
9 is beneficial to the whole of the steam operations in downtown Kansas City and to the
10 industrial steam customer located in North Kansas City.

11 Q. Does this conclude your rebuttal testimony?

12 A. Yes, it does.

V. William Harris

Schedule of Testimony Filings

Case No.	Type	Company
ER-95-279	Direct	Empire District Electric Company
GR-96-285	Direct, Rebuttal, Surrebuttal	Missouri Gas Energy (Southern Union Co.)
GR-97-272	Direct	Associated Natural Gas Company
EC-98-573	Direct, Rebuttal, Surrebuttal	St. Joseph Light and Power Company
HR-99-245	Direct, Rebuttal, Surrebuttal	St. Joseph Light and Power Company
GR-99-246	Direct, Rebuttal, Surrebuttal	St. Joseph Light and Power Company
ER-99-247	Direct, Rebuttal, Surrebuttal	St. Joseph Light and Power Company
EM-2000-292	Rebuttal	UtiliCorp United Inc., St. Joseph Light & Power
EM-2000-36	Rebuttal	UtiliCorp United Inc., Empire District Electric
EO-2000-845	Rebuttal	St. Joseph Light and Power Company
TT-2001-115	Rebuttal	Green Hills Telephone Corporation
TC-2001-401	Direct	Green Hills Telephone Corporation
ER-2001-299	Direct, Rebuttal, Surrebuttal	Empire District Electric Company
ER-2001-672	Direct, Rebuttal, Surrebuttal	UtiliCorp United Inc., dba Missouri Public Service
ER-2002-424	Direct	Empire District Electric Company

Case No.	Type	Company
ER-2004-0034 & HR-2004-0024 (Consolidated)	Direct	Aquila, Inc. d/b/a Aquila Networks- MPS (Electric), Aquila Networks-L&P (Electric & Steam)
GR-2004-0072	Direct, Rebuttal, Surrebuttal	Aquila, Inc. d/b/a Aquila Networks- MPS and Aquila Networks-L&P
ER-2005-0436	Direct	Aquila, Inc. d/b/a Aquila Networks- MPS and Aquila Networks-L&P
HR-2005-0450	Direct	Aquila, Inc. d/b/a Aquila Networks- L&P

Case Nos. GR-96-285, EM-2000-292, EM-2000-369, EO-2000-845 and ER-2001-299 were litigated. All others were stipulated.

Schedule VWH-2

Deemed

Highly Confidential

In Its Entirety