

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 31st day of
March, 2005.

County of Jackson, Missouri,

Complainant,

v. --

Trigen-Kansas City Energy Corp.,

and

Thermal North America, Inc.

Respondents.

Case No. HC-2005-0331

FILED³

MAY 13 2005

**Missouri Public
Service Commission**

**ORDER DIRECTING RESPONDENTS NOT TO SEVER THEIR STEAM
LOOP, GRANTING APPLICATION TO INTERVENE, AND SCHEDULING
A HEARING**

On March 29, 2005, the County of Jackson, Missouri, filed a complaint against Trigen-Kansas City Energy Corp., and Trigen's corporate parent, Thermal North America, Inc. Trigen is a public utility operating a regulated steam heating service in downtown Kansas City. Jackson County is a major customer of that service. Jackson County's complaint alleges that Trigen has informed its customers that the City of Kansas City has passed an ordinance that will require Trigen to permanently remove that portion of its steam heating network that lies in the area of planned construction for a downtown arena. Jackson County and Trigen's other customers will still be able to receive steam heating service from Trigen after the steam line is cut, but the system will no longer be a loop

system. Instead, Trigen's customers will be served by only one of two radial connections to Trigen's steam plant until Trigen reconstructs its loop, a process that is expected to take a year or more.

Using the current looped system, Trigen's customers are able to receive steam from two directions. That means that if there is an interruption on one side of the loop, downstream customers can still receive steam from the other side of the loop. If the loop is cut, that redundancy will be lost. Jackson County contends that if that happens, Trigen will no longer be providing safe, reliable and adequate service as required by law.

Trigen originally informed its customers that it would be cutting the steam loop on March 5. Jackson County indicates that after it and other steam customers had talks with Trigen and the City of Kansas City, they agreed to postpone the cutting of the loop until April 2. On March 28, Jackson County was informed that no further negotiations or delays would be allowed, and that the steam line would be cut on April 2. Jackson County asks the Commission to issue an immediate order setting a hearing on its complaint and directing Trigen to "cease and desist from severing its steam main pending final adjudication of this complaint."

On March 30, the City of Kansas City filed an application to intervene and a motion to dismiss Jackson County's complaint. The City of Kansas City contends that the Commission lacks authority to order Trigen to disobey a valid order of the city regulating the use of the city's right of way. According to the City of Kansas City, the relief sought by Jackson County would create delays in a major public works project and interfere with the duly enacted and authorized police powers of the city and its authority to enforce the terms of its utility franchises.

Section 386.310.1, RSMo 2000, grants the Commission the authority to require a public utility to maintain and operate its system "in such manner as to promote and safeguard the health and safety of its employees, customers, and the public." That statute further provides that:

The commission may waive the requirement for notice and hearing and provide for expeditious issuance of an order in any case in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, provided that the commission shall include in such an order an opportunity for hearing as soon as practicable after the issuance of such order.

Jackson County has raised serious concerns about the reliability of Trigen's steam heating system if the loop is cut. Unless the Commission acts immediately, the loop will be cut on April 2 and no practical way will remain to address those concerns. As a result, Jackson County's property could be irreparably harmed. Therefore, in order to maintain the status quo, the Commission will order Trigen not to cut the loop on April 2. An expedited hearing to take evidence and argument on the question of whether Trigen will be able to provide safe, reliable, and adequate service if its steam loop is cut will be scheduled for April 6, 2005. In addition, the parties should be prepared to address the question of whether the Commission has the authority to grant the relief requested by Jackson County.

Since the City of Kansas City is inextricably bound up in the circumstances of this complaint, its request to intervene will be granted.

IT IS THEREFORE ORDERED:

1. That Trigen-Kansas City Energy Corp. and Thermal North America, Inc., are ordered not to cut their steam main loop on April 2, 2005, or thereafter, pending further order of this Commission.

2. That a hearing will be held in the offices of the Missouri Public Service Commission in Jefferson City, Missouri on April 4, 2005, beginning at 9:00 a.m. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

3. That the City of Kansas City's Application to Intervene is granted.

4. That this order shall become effective on March 31, 2005.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Gaw, Clayton and Appling, CC., concur
Davis, Ch., and Murray, C., dissent

Woodruff, Senior Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 31st day of March 2005 .

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

MISSOURI PUBLIC SERVICE COMMISSION

March 31, 2005

Case No. HC-2005-0331

Dana K Joyce
P.O. Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102

John B Coffman
P.O. Box 7800
200 Madison Street, Suite 640
Jefferson City, MO 65102

City of Kansas City, Missouri
Mark Comley
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102-0537

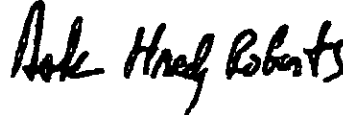
County of Jackson, Missouri
Jeremiah Finnegan
1209 Penntower Office Center
3100 Broadway
Kansas City, MO 64111

Thermal North America, Inc.
Official Representative
600 Atlantic Avenue
Boston, MA 02210

Trigen-Kansas City Energy Corporation
Charla Bradley
115 Grand
Kansas City, MO 64106

Enclosed find a certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Missouri Public Service Commission

Adjudication Division - Data Center

P.O. Box 360

Jefferson City, Missouri 65102-0360

MO 419-2651 (9-01)

RTS ATTEMPTED NOT KNOWN



UNITED STATES POSTAGE
EAGLE
METAL BOWERS
02 1A \$ 00.37⁰
0004350512 MAR 31 2005
MAILED FROM ZIP CODE 65101

Thermal North America, Inc.
Official Representative
600 Atlantic Avenue
Boston, MA 02210

02210+2211 34
65102-0360

