



Martha S. Hogerty

Public Counsel

State of Missouri

Bob Holden

Governor

Office of the Public Counsel
Governor Office Building
200 Madison, Suite 650
P.O. Box 7800
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Web: <http://www.mo-opc.org>
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

July 19, 2001

FILED³

JUL 19 2001

Missouri Public
Service Commission

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**Re: Gateway Pipeline Company
Case No. GM-2001-585**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **Motion to Remove Highly Confidential Designations**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

M. Ruth O'Neill
Assistant Public Counsel

MRO:jb

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
JUL 19 2001
Missouri Public
Service Commission

In the Matter of the Joint Application of)
Gateway Pipeline Company, Inc.,)
Missouri Gas Company and Missouri)
Pipeline Company.)

Case No. GM-2001-585

MOTION TO REMOVE HIGHLY CONFIDENTIAL DESIGNATIONS

COMES NOW, the Office of the Public Counsel (Public Counsel) and pursuant to 4 CSR 24002.065 and paragraph B of the Commission's protective order filed May 2, 2001, and states as follows:

1. As part of the application process in this case, Gateway Pipeline Company, Inc., (Gateway) filed a motion for a protective order. On May 2, 2001, the Public Service Commission (Commission) addressed this request in its "Order Granting Protective Order." In addressing this request, the Commission noted that the applicants sought a protective order regarding "information that is not made available to the general public **and** which cannot be found in any format in a public document including financial and business information, customer specific information and non-public salary information." (emphasis added.) The Commission granted a protective order for five specific types of "highly confidential" material and information and also for specific "proprietary" material and information. The five types of material and information which are allowed to be designated "highly confidential" are:

- 1) material or documents that contain information relating directly to specific customers;
- 2) employee-sensitive information;

3) marketing analyses or other market-specific information relating to services offered in competition with others;

4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants, and

5) strategies employed, to be employed, or under consideration in contract negotiations.

2. In the course of conducting its investigation into whether to support or oppose the proposed transaction in this case, Public Counsel and the Public Service Commission Staff (Staff) have submitted data requests to Gateway. By agreement between Staff, Gateway and Public Counsel, responses to data requests sent by Public Counsel and Staff are shared with one another in this matter. Virtually every response to a data request made to Gateway and received by Public Counsel is stamped "highly confidential." Public Counsel submits that many, if not most of the responses do not fit into the specific categories set forth in the protective order for highly confidential designation because the five categories are modified by the requirements that the information requested not be (a) of the type made available to the general public **and** (b) which cannot be found in any format in a public document.

3. Public Counsel agrees that some information which may be sought in proceedings before the Commission should be designated as "highly confidential" in order to protect legitimate business interests and concerns. However, Public Counsel believes that much of the information received thus far does not fall into any of the five categories listed in the Commission's protective order. However, if the highly confidential classification remains, Public Counsel's witnesses will be required to file

testimony in the format set forth in the protective order, and thereby will be precluding the public from having access to much of the relevant information in the case concerning whether this transaction is in the public interest, or, at least, whether the transaction will operate to the detriment of the public interest.

4. When the Commission decides whether or not to keep certain testimony and information under seal, it should limit the application of such designations as much as possible so that government decisions are made in the most open manner possible.

5. Public Counsel believes that at least some portions of the Company's responses to data requests in the following areas do not fall into the designated 5 highly confidential categories:

- the identity of the corporate owner of 100% of Gateway.

- negative answers to data requests, which contain no actual or pro forma financial data, and no proprietary information.

- responses to data requests regarding public utility related litigation and proceedings before state and federal regulators involving the principles to Gateway and its corporate owner, as the existence of such litigation is a public record, although not easily accessible to Public Counsel.


- the prior experience in the natural gas pipeline business of the principles of Gateway and its corporate owner, as public documents exist which contain this information.

- responses to data requests regarding whether Gateway will seek to recover costs associated with acquisition adjustments, market entry costs, transaction costs, transition costs or carrying costs for the above in the rates of the regulated pipelines.

WHEREFORE, it is respectfully moved that the Commission declassify all Gateway responses regarding the above described information, and direct Gateway to refrain from indiscriminately designating material as highly confidential which does not fall within the strict guidelines of the Commission's protective order.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 
M. Ruth O'Neill (#49456)
Assistant Public Counsel

P O Box 7800
Jefferson City, MO 65102
(573) 751-5565
(573) 751-5562 FAX

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 19th day of July 2001:

Ms. Lera L. Shemwell
Missouri Public Service Commission
P O Box 360
Jefferson City, MO 65102

Mr. Michael Pendergast
Laclede Gas Company
720 Olive Street, Room 1520
St. Louis, MO 63101

Mr. Thomas M. Byrne
Ameren Services Company
1901 Chouteau Avenue
P O Box 66149 (MC 1310)
St. Louis, MO 63166-6149

Mr. William D. Steinmeier
William D. Steinmeier, P.C.
2031 Tower Drive
P O Box 104595
Jefferson City, MO 65110-4595

Mr. Paul A. Boudreau
Brydon, Swearingen & England, PC
P O Box 456
Jefferson City, MO 65102

Jeffrey A. Keevil
Stewart & Keevil, LLC
1001 Cherry St., Suite 302
Columbia, MO 65201

Mark W. Comley
Newman, Comley & Ruth, PC
601 Monroe, Suite 301
P O Box 537
Jefferson City, MO 65102