

# GOLLER, GARDNER AND FEATHER

PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS AT LAW

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Robert W. Hedrick  
1918-1988

April 20, 2003

**FILED**

APR 20 2004

Judge Dale Roberts  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Missouri Public  
Service Commission**

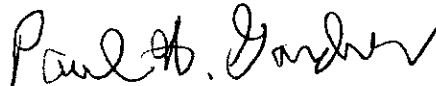
Re: In the Matter of an investigation into Compliance with the Required Registration of Sellers of Electricity and Gas, MOPSC Case No. GO-2004-0195

Dear Judge Roberts:

Enclosed for filing is an original and eight (8) copies of the MOTION TO DISMISS ONEOK ENERGY MARKETING AND TRADING COMPANY, II, ONEOK POWER MARKETING COMPANY AND ONEOK GAS MARKETING AS PARTIES TO THIS CASE. Copies of this Motion have been served on all parties of record.

Thank you for your attention to this matter.

Sincerely,



Paul H. Gardner

FILED

APR 20 2004

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

Missouri Public  
Service Commission

In the Matter of an Investigation into Compliance )  
with the Required Registration of Sellers of Electricity )  
and Gas for use or Consumption within Missouri. )

Case No. GO-2004-0195

**MOTION TO DISMISS ONEOK ENERGY MARKETING AND TRADING COMPANY,  
II, ONEOK POWER MARKETING COMPANY AND  
ONEOK GAS MARKETING AS PARTIES TO THIS CASE**

COME NOW ONEOK Power Marketing Company, ONEOK Energy Marketing and Trading Company, II, and ONEOK Gas Marketing Company by and through counsel, and move this Commission to dismiss them as named parties in this investigatory proceeding on the following grounds:

1. On December 9, 2003 the Commission issued its ORDER OPENING CASE, ADDING PARTIES, DIRECTING NOTICE AND SETTING PREHEARING CONFERENCE which named the following ONEOK related entities as parties to this case: ONEOK Energy Marketing and Trading Company, II, ONEOK Power Marketing Company, ONEOK Gas Marketing, ONEOK Energy Marketing Company and ONEOK Energy and Marketing and Trading Company, L.P.

2. While it is the position of the ONEOK entities that none of them provide "energy services" as defined by Section 393.297 - 302 RSMo (2000), this motion focuses on grounds for dismissing ONEOK Power Marketing Company, ONEOK Energy Marketing and Trading Company, II, and ONEOK Gas Marketing Company from this proceeding.

3. ONEOK Energy Marketing and Trading Company II is the general partner of ONEOK Energy Marketing and Trading Company, L.P. which is the entity registered to do business in

Missouri with the Missouri Secretary of State. (See paragraph 3, attached affidavit of Donald England attached hereto as Exhibit 1).

4. Prior to April 20, 2000, ONEOK Energy Marketing and Trading Company II, although showing as registered in Missouri, has done no business in Missouri. (Id. para. 4)

5. ONEOK Power Marketing Company was merged into ONEOK Energy Marketing and Trading Company, L.P. effective September 13, 2002 and has never made wholesale or retail power sales in Missouri. (Id. para. 5).

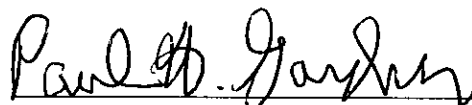
6. ONEOK Gas Marketing Company was the predecessor to ONEOK Energy Marketing and Trading Company II.. (Id. para. 6).

7. On April 20, 2000 ONEOK Gas Marketing changed its name to ONEOK Energy Marketing and Trading Company II and ceased doing business. ONEOK Energy Marketing and Trading Company II became the general partner of ONEOK Energy Marketing and Trading company, L.P., which does 100% of the energy business.

8. The only ONEOK entities that do business in Missouri listed in the December 9, 2003 COMMISSION ORDER are ONEOK Energy Marketing Company and ONEOK Energy Marketing and Trading Company, L.P.

WHEREFORE, ONEOK Power Marketing Company, ONEOK Energy Marketing and Trading Company, II, and ONEOK Gas Marketing Company respectfully request that they be dismissed as parties to this proceeding on the grounds that they do not do business in Missouri.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Paul H. Gardner", is written over a horizontal line.

Paul H. Gardner – MO Bar #28159  
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131 East High Street

Jefferson City, MO 65101  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss was served upon all parties of record by U.S. Mail, postage prepaid, on this 20<sup>th</sup> day of April, 2004:

A handwritten signature in cursive script, reading "Paul A. Gardner", written over a horizontal line.

Paul Gardner

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

**In the Matter of an Investigation into Compliance            )**  
**with the Required Registration of Sellers of Electricity    )**       **Case No. GO-2004-0195**  
**and Gas for use or Consumption within Missouri.            )**

**AFFIDAVIT OF DONALD ENGLAND**

1. My name is Donald England and I am currently employed by ONEOK Energy Marketing and Trading Company as manager for Regulatory Affairs. I have personal knowledge of the matters set forth in this affidavit.
2. I am aware that ONEOK Energy Marketing and Trading Company II, ONEOK Power Marketing Company, ONEOK Gas Marketing, ONEOK Energy Marketing Company and ONEOK Energy Marketing and Trading Company, L.P. have been named as parties in this investigatory proceeding docketed as Case No. GO-2004-0195.
3. ONEOK Energy Marketing and Trading Company II is a general partner of ONEOK Energy Marketing and Trading Company, L.P. which is the entity registered to do business in Missouri with the Missouri Secretary of State.
4. ONEOK Energy Marketing and Trading Company II has never registered in or done business in Missouri.
5. ONEOK Power Marketing was merged into ONEOK Energy Marketing and Trading Company, L.P. effective September 13, 2002 and makes no wholesale or retail sales in Missouri.
6. ONEOK Gas Marketing Company was the predecessor to ONEOK Energy Marketing and Trading Company II. On April 20, ONEOK Gas Marketing changed its name to ONEOK Energy Marketing and Trading Company II and ceased doing business. ONEOK

Energy Marketing and Trading Company II became the general partner of ONEOK Energy Marketing and Trading Company, which does 100 per cent (100%) of the energy business.

7. The only ONEOK entities that do business in Missouri listed in the Missouri Public service Commission's Order of December 9, 2003 are ONEOK Energy Marketing Company and ONEOK Energy Marketing and Trading Company, L.P.
8. None of the ONEOK related entities discussed above and named in this proceeding engage in any activity or business that constitutes the distribution of electricity or natural gas or the provision of "energy services" as defined by Sections 393.297-393.302 RSMo 2000.

Further Affiant sayeth not.

Donald England

Donald England

Subscribed and sworn to before me on this 16th day of April, 2004.



Kelly Renne Mills

Notary Public

My Commission expires: 1-18-06  
Commission #02001183