

# STEWART & KEEVIL, L.L.C.

ATTORNEYS AT LAW

CHARLES BRENT STEWART  
JEFFREY A. KEEVIL

SOUTHAMPTON VILLAGE AT CORPORATE LAKE  
4603 JOHN GARRY DRIVE  
SUITE 11  
COLUMBIA, MISSOURI 65203

OFFICE (573) 499-0635  
FAX (573) 499-0638

May 10, 2004

Missouri Public Service Commission  
Attn: Secretary of the Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Mo. 65102-0360

**FILED<sup>2</sup>**

MAY 10 2004

Missouri Public  
Service Commission

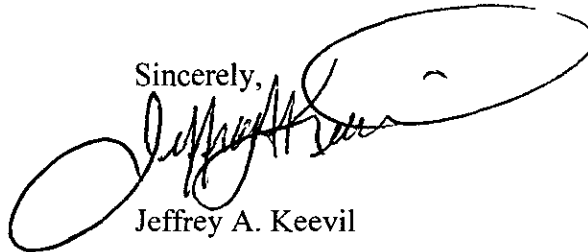
RE: Case No. GR-2002-348

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case is an original and the appropriate number of copies of a RESPONSE TO APRIL 21 ORDER DIRECTING FILING AND SERVICE REQUEST on behalf of Enbridge Pipelines (KPC).

Copies of this filing have on this date been mailed, hand-delivered, transmitted by facsimile or emailed to counsel of record. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er

Enclosures

Cc: counsel of record

ORIGINAL

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

MAY 10 2004

Missouri Public  
Service Commission

In the Matter of Missouri Gas Energy's )  
Purchased Gas Adjustment Tariff ) Case No. GR-2002-348  
Revisions to be Reviewed in Its 2001-2002 )  
Actual Cost Adjustment. )

**RESPONSE TO APRIL 21 ORDER DIRECTING FILING  
AND SERVICE REQUEST**

COMES NOW Intervenor Enbridge Pipelines (KPC), formerly known as Kansas Pipeline Company ("Enbridge" or "KPC") and for its Response to April 21 Order Directing Filing and Service Request respectfully states as follows:

**Service Request**

1. On March 4, 2002, the Commission issued its Order Granting Intervention to Enbridge in this case. However, neither Enbridge nor its counsel received a service copy of the Commission's Second Order Directing Filing issued herein on April 21, 2004 (the "April 21 Order"). Upon review of the Commission's EFIS service list, it appears that Enbridge is not included on the service list for this case. Accordingly, Enbridge requests that the service list for this case be updated to include counsel for Enbridge at the address shown in the signature block below, as well as the other Enbridge representatives included in its application to intervene in this case, and that they be served with copies of all future filings and orders in this case.

**Response to April 21 Order Directing Filing**

2. The April 21 Order stated that "The Commission will direct the parties to file a further status report and proposed procedural schedule as ordered below. The status

report should clearly outline what matters are still at issue and whether MGE has withdrawn all or portions of its Motion to Strike.” The April 21 Order then stated “That no later than May 10, 2004, the parties shall jointly or separately file a status report and proposed procedural schedule as directed above.”

3. The Order and Judgment issued on June 9, 2003, in Cole County Circuit Court Case No. 02CV324478, which was a circuit court review arising out of Commission Case No. GR-96-450, precludes a procedural schedule for Staff’s MKP/RPC Pipeline adjustment recommendation in this case at this time. The Commission appealed the circuit court’s June 9, 2003, Order and Judgment and that appeal was argued in the Western District Court of Appeals on April 21, 2004. However, the circuit court’s Order and Judgment was not stayed pending appeal and therefore remains in effect pending an opinion by the Court of Appeals. Since the appeal was argued on April 21, 2004, the Court of Appeals could issue an opinion at any time; waiting for the appeal to be finally resolved will not prejudice any party to this case.

4. Furthermore, even if a procedural schedule was not prohibited by court order, a procedural schedule is premature at this time for efficiency reasons. As the Staff stated at the prehearing conference held in this case on February 17, 2004, “staff has believed that it’s more efficient for the decision to be made there [*i.e.*, in Court] because it may impact the staff’s ultimate recommendation in these ... actual cost adjustment cases.” (Tr. p. 7). The Commission came to a similar conclusion in its September 10, 2002 Order in Case Nos. GR-2001-382 et al. Although in Case Nos. GR-2001-382 et al. the Commission bifurcated certain issues out for an early hearing, Enbridge submits that the bifurcated process was unwieldy and confusing, did not result in an efficient

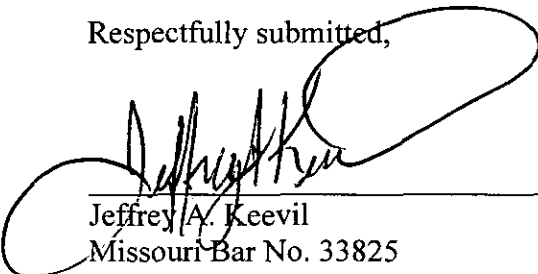
utilization of resources and simply did not work well in that case and should not be adopted in this case. Also, until that case is finally decided, the Commission cannot proceed with this case.

5. Finally, the April 21 Order recognizes that MGE still has a pending Motion to Strike in this case. Any procedural schedule would be premature until said Motion is ruled upon or totally withdrawn.

6. In regard to this case's "status", as MGE noted in its April 12 status report, MGE has presented the Staff with information concerning certain of Staff's recommendations (other than Staff's recommendation related to the Riverside/Mid-Kansas contract). However, as Staff stated in its status report filed on or about the same date, at least in regard to one of Staff's recommendations, "Staff needs time to evaluate whether the presented information will change the recommended adjustment." Based upon the outcome of Staff's evaluation, Enbridge may need to conduct some discovery of Staff.

WHEREFORE, for the reasons set forth above, Enbridge requests the Commission issue an order (a) suspending the requirement that the parties file a proposed procedural schedule for this case, or (b) if any other parties to this case file a proposed procedural schedule, rejecting said proposal and ordering that no procedural schedule will be set for this case until all of the matters noted above are fully and finally resolved.

Respectfully submitted,



Jeffrey A. Keevil  
Missouri Bar No. 33825  
Stewart & Keevil, L.L.C.

4603 John Garry Dr., Ste. 11  
Columbia, Missouri 65203  
(573) 499-0635  
(573) 499-0638 (fax)  
[per594@aol.com](mailto:per594@aol.com)  
ATTORNEY FOR ENBRIDGE  
PIPELINES (KPC)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served by placing same in the United States mail with first-class postage paid, by hand-delivery, by facsimile transmission or by e-mail to counsel for parties of record on this 10th day of May, 2004.

