

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

Beverly A. Johnson,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2008-0295
)	
Missouri Gas Energy,)	
)	
Respondent.)	

**PETITION OF MISSOURI ENERGY DEVELOPMENT ASSOCIATION FOR
LEAVE TO FILE A BRIEF AS *AMICUS CURIAE* OUT OF TIME**

COMES NOW the Missouri Energy Development Association (“MEDA”), pursuant to Missouri Public Service Commission (“Commission”) rule 4 CSR 240-2.075(6) and for its request to file a brief as an *amicus curiae* out of time states the following:

1. MEDA is an incorporated trade association whose member companies consist of Union Electric Company, d/b/a AmerenUE; Kansas City Power & Light Company; The Empire District Electric Company; Empire District Gas Company; Laclede Gas Company; Missouri Gas Energy (“MGE”); Atmos Energy Corporation and Missouri-American Water Company. Each of the member companies are regulated by the Commission as provided by law.

2. MEDA seeks leave of the Commission to file the accompanying brief of *amicus curiae* in the captioned case. MEDA petitions for leave to file its brief to address an issue of importance to all regulated utilities in the State of Missouri. Staff has taken the position in this case that MGE’s application of its denial of service tariff with respect to one of its customers is time-barred under

the five-year civil action statute of limitations. MEDA submits that Staff's novel and unexpected argument is directly contrary to the Commission's denial of service rule (4 CSR 240-13.035), is contrary to the law, would constitute a *de facto* revocation of the Commission's denial of service rule without following the procedural requirements of the Missouri Administrative Procedure Act and is at odds with the Commission's stated public policy with respect to this topic. Because Staff's argument, if accepted by the Commission, would undermine an important regulatory framework that is already in place, all of Missouri's regulated utilities have an interest in being heard on this topic.

3. MEDA submits simultaneously herewith an *amicus curiae* brief for the Commission's consideration.

4. The Commission's rule on the filing of *amicus curiae* briefs states the following:

Unless otherwise ordered by the Commission, the brief must be filed no later than the initial briefs of the parties.

The initial briefs of the other parties of this case were filed on September 26, 2008. Consequently, MEDA's offers this brief only 11 days out of time. MEDA request that the Commission accept the brief out of time because no party will be prejudiced by doing so. The procedural schedule in this case does not contemplate a second round of responsive briefs so no one can claim that the lateness of the filing hampers a rebuttal. Also, the issue raised by Staff in the complaint was first brought up in the context of its opening statement on August 22, 2008. As such, the regulated industry was not given proper notice that Staff

would take the position that the practices set forth in 4 CSR 240-13.035 are superseded by the statutes of limitation for civil actions.

WHEREFORE, MEDA requests the Commission accept its *amicus curiae* brief for consideration in the caption matter and that the filing be accepted out of time.

Respectfully submitted,

/s/ Paul A. Boudreau

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 7th day of October, 2008, to the following:

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