

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

In the Matter of Missouri Gas Energy's Purchased Gas)
Adjustment Tariff Revisions to be Reviewed in its) **Case No. GR-2003-0330**
2002-2003 Actual Cost Adjustment.)

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

In the Matter of Missouri Gas Energy's Purchased Gas)
Adjustment Tariff Revisions to be Reviewed in its) **Case No. GR-2001-382**
2000-2001 Actual Cost Adjustment.)

In the Matter of Missouri Gas Energy's Purchased)
Gas Cost Adjustment Factors to be Reviewed) **Case No. GR-2000-425**
in its 1999-2000 Actual Cost Adjustment.)

In the Matter of Missouri Gas Energy's Purchased)
Gas Cost Adjustment Factors to be Reviewed) **Case No. GR-99-304**
in its 1998-1999 Actual Cost Adjustment.)

In the Matter of Missouri Gas Energy's Purchased)
Gas Cost Adjustment Tariff Revisions to be Reviewed) **Case No. GR-98-167**
in its 1997-1998 Actual Cost Adjustment.)

In the Matter of Missouri Gas Energy's)
Gas Cost Adjustment Tariff Revisions) **Case No. GR-96-450**
to be Reviewed in its 1996-1997)
Annual Reconciliation Adjustment)
Account.

NOTICE OF WITHDRAWAL OF ISSUE

COMES NOW the Staff of the Commission and for its Notice of Withdrawal of Issue
states:

1. In Case No. GR-96-450, Staff raised the issue of the prudence of Missouri Gas
Energy (MGE) entering into a contract with Kansas Pipeline Company. That issue was
tried in September 2001 and the Commission determined in a Report and Order issued

March 12, 2002, that Staff had not presented sufficient evidence for the Commission to reach a decision that MGE had acted imprudently. That part of the decision was not appealed and is final. There was also an argument that the Staff's proposal, as well as any similar proposals for subsequent ACA periods, was barred by the terms of a Stipulation and Agreement approved by the Commission in Case Nos. GR-94-101 and GR-94-228. The Commission found in the March 2002 decision that the Stipulation and Agreement was ambiguous. Parties associated with Kansas Pipeline (Mid-Kansas/Riverside) pursued a writ of review regarding the Commission's decision on the alleged ambiguity.

2. While the Mid-Kansas/Riverside appeal was in progress, the Staff raised the same Kansas Pipeline prudence issue, with different dollar values, in recommendations filed in succeeding MGE ACA proceedings. Staff also raised issues of a different nature in some of those subsequent proceedings. The Commission bifurcated the Kansas Pipeline issues from the other issues which first appeared in Case No. GR-2001-382, and determined the Kansas Pipeline issues would be held in abeyance pending the judicial review being pursued by Mid-Kansas/Riverside while the other issues would have separate procedural schedules. The parties have proceeded to hearing on the other issues in the cases through the end of the 2002-2003 ACA period.

3. Therefore, the non-Kansas Pipeline issues that were tried in GR-2001-382 (consolidated with GR-98-167, GR-99-304, and GR-2000-425) in November of 2003 and the non-Kansas Pipeline issues that were tried in GR-2003-0330 (consolidated with GR-2002-348) last summer, have been pending at the Commission for some time because a decision on those issues would not have produced a final order due to the bifurcation.

4. The Missouri Supreme Court issued its decision in *State ex rel. Riverside Pipeline Co., L.P., et al. v. Public Service Commission* on January 30, 2007. 215 S.W.3d 76 (Mo. 2007). That decision is now final.

5. The Commission had argued that a Stipulation and Agreement entered into by Riverside, Mid-Kansas Partnership, MGE, the Staff and the Office of the Public Counsel only precluded prudence reviews of the contract between MGE and the pipelines at the time of the Stipulation and not for subsequent ACA periods.

6. The Supreme Court disagreed and upheld the decision of the Circuit Court in determining that the May 1996 Stipulation and Agreement was designed to “resolve certain disputes . . . then pending between the parties” and precludes prudence reviews of the Riverside, Mid-Kansas Partnership and MGE contract – “the Missouri Agreements.” 215 S.W3d 76, 84 (Mo. 2007).

7. Due to the decision of the Supreme Court, Staff hereby gives notice that it is withdrawing that issue from consideration in all of the cases noted above except for Case No. GR-96-450, where withdrawal is not necessary in light of the Commission’s March 2002 decision. All of the above-captioned cases except GR-96-450 which the Commission has already decided have been tried and are ready for Commission determination of the remaining issues. This decision by the Staff to withdraw the issue, identified for example in Case No. GR-2001-382 as the “MKP/RPC Pipeline Adjustment,” also means that the bifurcation of this issue becomes moot in all of the cases in which it was ordered. The Staff’s withdrawal of this issue in the pending cases is not opposed by the other parties.

8. Staff in the near future will make separate filings withdrawing this issue in the other cases currently pending before the Commission in which recommendations

containing the issue have been filed but in which hearings have not been held. These are Case No. GR-2005-0104 (the 2003-2004 ACA period) and Case No. GR-2005-0169 (the 2004-2005 ACA period).

9. All Parties except Enbridge pipelines (KPC) have indicated to Counsel for the Staff that Staff may file this on behalf of the Parties to the above captioned cases. Counsel for Enbridge was given the time and opportunity to respond but has not done so.

WHEREFORE, the Staff gives notice that it hereby withdraws the MKP/RPC Pipeline adjustment it has proposed as the basis for recommended disallowances in Case Nos. GR-98-167, GR-99-304, GR-2000-425, GR-2001-382, GR-2002-348, and GR-2003-0330. The Parties jointly, except for Enbridge Pipelines, inform the Commission that the issues which have been tried and submitted to the Commission in those cases now should be considered ripe for decision, and the Commission may wish to consider rescinding its bifurcation orders as being moot since the reason for their existence is eliminated with the Staff's withdrawal of the issue.

Respectfully submitted,

/s/ Lera L. Shemwell

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 18th day of May, 2007.

/s/ Lera Shemwell_____