

Exhibit No.
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Convenience and
Necessity
Witness: Murray Sim
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Trigen-Kansas City
Case No. HA-2006-0294
Date Testimony Prepared: April 27, 2006

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

SURREBUTTAL TESTIMONY
OF
MURRAY SIM

TRIGEN-KANSAS CITY ENERGY CORP.

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI
SURREBUTTAL TESTIMONY OF MURRAY SIM
ON BEHALF OF TRIGEN KANSAS CITY ENERGY CORP.
CASE NO. HA-2006-0294**

1 Q. Please state your name and business address.

2 A. My name is Murray Sim and my business address is 828 North Broadway, Ste. 700,
3 Milwaukee, WI 53202.
4

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by ThermalSource, LLC, a wholly owned subsidiary of Thermal North
7 America, Inc., as Treasurer. In this capacity, I manage accounting, finance, risk,
8 technology and regulatory activities for both the holding company and each subsidiary,
9 including Trigen-Kansas City Energy Corporation (referred to in this document as
10 "Trigen" or the "Company").¹
11

12 Q. Please describe your educational background and professional experience.

13 A. I have a Bachelor's Degree in Electric Engineering and a Master's Degree in Business
14 Administration from the University of Illinois. I am a Registered Professional Engineer
15 in Illinois and a Certified Management Accountant. I have 28 years of utility
16 management and energy consulting experience including managerial responsibilities in
17 regulatory, finance, administration and strategy with Illinois Power Company (1978-
18 1997) and Manitowoc (Wisconsin) Public Utilities (2001-2004). I performed client-
19 centric consulting work from 1998-2001 for many U.S. and foreign energy companies
20 primarily in the deregulation, energy trading and risk management arenas.

¹ Trigen-Kansas City Energy Corporation is also a wholly owned subsidiary of Thermal North America, Inc.

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Q. Have you ever testified before this Commission or any other regulatory commission?

A. While I have not previously filed testimony before this Commission, I have appeared as an expert witness in Illinois, Wisconsin, and at the Federal Energy Regulatory Commission, and participated in various regulatory rule-making groups in California with respect to deregulation of retail electricity in the mid-1990s. I also supported client-related regulatory activities in North Carolina and New Jersey in the late 1990s.

Q. Have you reviewed the rebuttal testimony filed on behalf of Staff and Kansas City Power & Light Company (“KCPL”) in this proceeding?

A. Yes. I have reviewed the rebuttal testimonies of Staff witnesses Messrs. V. William Harris and Alan J. Bax as well as KCPL witness Mr. David L. Wagner. My surrebuttal testimony will address certain portion of Mr. Harris’ recommendations, while Trigen witness Kirk will respond to the rebuttal testimony of Mr. Wagner.

Q. Are you familiar with the Application filed by Trigen on January 10, 2006, seeking Commission authority to expand its certificated service territory in an area generally extending south of the Downtown Loop?

A. Yes. I reviewed and participated in the development of the Trigen Application.

OVERVIEW OF SURREBUTTAL TESTIMONY

Q. Please provide an overview of Trigen’s surrebuttal testimony.

1 A. The purpose of my surrebuttal testimony is to identify and address the various
2 recommendations and conditions proposed by Staff in the rebuttal testimony of Mr.
3 Harris. Since the rebuttal testimony of Mr. Bax recommends approval of Trigen's
4 Application, conditioned solely on the recommendations set forth by Mr. Harris,² Trigen
5 will not file any surrebuttal testimony responsive to Mr. Bax. The surrebuttal testimony
6 of Trigen witness Mr. Brian P. Kirk will respond to the rebuttal testimony of KCPL
7 witness Wagner.

8
9 Trigen disagrees with the representations of KCPL witness Wagner and believes that the
10 "hold harmless" conditions recommended by Mr. Harris are unnecessary. However, we
11 are encouraged by Staff's recommendation that the Commission approve the Application,
12 with conditions,³ and apparent conclusion that the proposed expansion is necessary or
13 convenient for the public service.⁴

14
15 **STAFF REBUTTAL & PROPOSED CONDITIONS**

16 Q. Please summarize the proposed conditions contained in Staff's rebuttal testimony.

17 A. The rebuttal testimony of Mr. Harris qualifies Staff's recommendation that the
18 Commission conditionally approve Trigen's Application by imposing two "hold
19 harmless" conditions, summarized below:

- 20
- TMC should finance the entire construction cost of the extension project.

² Bax rebuttal, p. 5-6.

³ Harris rebuttal, p. 3.

⁴ Harris rebuttal, pp. 5-6.

- Trigen should insulate its existing customers in the Downtown Loop from any operating losses that may result from the proposed extension project by being completely “at risk” for such losses.

Q. How do you respond to these two “hold harmless” conditions?

A. With regard to the first condition, Trigen cannot commit TMC resources to financing the entire construction cost of the extension project. TMC is best able to answer this condition for themselves.

Trigen has considered the impact of this condition on its economic analysis of district steam service and has determined that the already significant contribution to fixed costs will increase as TMC’s construction advance increases.

Without disclosing any highly confidential information, Mr. Kirk has represented that Trigen’s original feasibility study (HC Schedule BPK-2) shows that the proposed expansion is expected to be accretive to earnings, solely from the margin on tariff revenue generated by serving TMC, and to provide a measurable contribution to Trigen’s fixed costs.⁵ In the event that TMC were willing to accept Staff’s recommendation and provide a construction advance for the entire cost of the project, the expected accretion to earnings will be enhanced even further.

Q. Please discuss Staff’s second condition.

⁵ Kirk direct, p. 5 (lines 10-13) & p. 8 (lines 7-14).

1 A. Staff has also proposed that the Commission further condition its approval by insulating
2 Trigen's existing customers from any losses the might arise from the extension to TMC.
3 Trigen opposes the asymmetrical Staff recommendation for several reasons. First, Trigen
4 firmly believes that the extension will be immediately accretive to its earnings. Trigen's
5 feasibility study shows that the expected revenues to be generated under existing rates
6 will significantly exceed the incremental cost of fuel and consumables required to support
7 those sales.

8
9 Second, if TMC were to agree to finance the entire cost of the construction, Trigen would
10 have no initial capital investment (i.e., no net investment increasing rate base) attributable
11 to the extension, further improving the already favorable economics of the project and
12 yielding enhanced benefits for existing customers. As an attachment to his surrebuttal
13 testimony, Mr. Kirk has provided HC Schedule BPK-2-S, representing an excerpt from
14 his highly confidential feasibility study edited to show Staff's recommendation increasing
15 the construction advance to equal the estimated project construction cost. Notably,
16 Trigen's initial net cost of construction (i.e., rate base) would decline to zero. In
17 comparison, Trigen's gross margin would remain unchanged. After deducting
18 depreciation expense and recognizing any incremental income tax consequences,
19 significant incremental net earnings (i.e., net operating income available) would be
20 generated from a zero initial investment in rate base – materially insulating ratepayers
21 from any risk of loss.

1 Third, Staff has presented no analysis or study to support any contention that the
2 extension will have any probability of producing an operating loss.

3
4 Fourth, Staff is critical of Trigen's unwillingness to maintain separate books and records
5 for or a separate tracking of the costs and revenues related to the TMC project.⁶ Trigen
6 has and continues to run a lean operation. We hope to avoid additional administrative
7 burdens and the incurrence of incremental costs to segregate or track the operating and
8 maintenance costs for the proposed extension area separate from our existing service
9 territory. Unless Staff envisions some abbreviated accounting routine that could easily be
10 maintained at minimal cost, Trigen believes that the Commission endorsement of the
11 second condition will cause the Company to incur additional administrative costs to
12 maintain accounting reports for the extension area – costs that would not be required or
13 maintained in the ordinary course of business. Otherwise, the operating results for the
14 proposed extension could only be determined by conducting a special study. Although
15 we firmly believe that the extension will be immediately accretive to earnings,
16 Commission adoption of Staff's recommendation will cause Trigen to incur additional
17 unnecessary costs that will reduce profitability of the extension.

18
19 For the foregoing reasons, the second condition is unwarranted and is opposed by
20 Trigen.

21
22 Q. At pages 9 through 11 of his surrebuttal, Mr. Harris cites to or quotes from various
23 natural gas expansion cases wherein the utility either agreed or the Commission ordered

⁶ Harris rebuttal, pp. 8-9.

1 the utility to bear any negative economic consequences of the expansion or the
2 Commission imposed other conditions. Do you have any general observations with
3 regard to that portion of Mr. Harris' rebuttal testimony?

4 A. Yes. Trigen believes that this steam territory expansion case and historic natural gas
5 territory expansions are fundamentally different. First, in this case, we are expanding to
6 serve a specific customer with a great public need. There is no "spec building" of a
7 pipeline where we hope to serve enough customers to recover the cost of expansion and
8 provide a reasonable contribution to fixed costs. Trigen is not in the business of risking
9 capital to extend pipelines on anything but a sure thing. The economics of this expansion
10 do not require any customers beyond TMC.

11
12 Second, if 100% of the downside risk is strictly on Trigen, as proposed by Staff, then at
13 least some of the upside gain should be as well. Trigen would be willing to accept Staff's
14 recommendation to indemnify other customers from any losses that might result from the
15 territory expansion if Trigen can keep 50% of any gain. That is, on a cost of service
16 basis, one-half of the margin earned above the Commission-authorized rate of return
17 would not be recognized for ratemaking purposes to reduce the overall revenue
18 requirement. Although Trigen firmly believes that the extension will be immediately
19 accretive to earnings and did not envision proposing any retention of the expected upside
20 gain, such a sharing seems reasonable if Staff's proposed condition were adopted by the
21 Commission.

1 Third, Trigen has excess steam production capacity to serve new customers. Any
2 margins attributable to revenues from these new customers would serve to reduce future
3 per unit rates from what they would otherwise be. A regulatory policy that imposes
4 extraordinary risk on such customer expansion opportunities could result in Trigen (and
5 other utilities) not pursuing such opportunities, thereby increasing future rate levels to
6 existing customers from what they would have been had such expansion occurred.

7
8 Q. Does this conclude your prefiled surrebuttal testimony?

9 A. Yes.

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

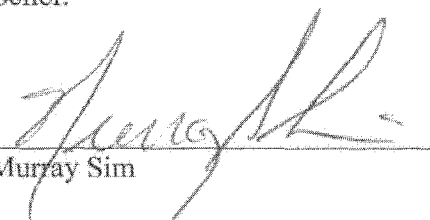
In the matter of the application of Trigen-)
Kansas City Energy Corporation for a)
Certificate of Public Convenience and)
Necessity authorizing it to construct, install,)
own, operate, control, manage and maintain)
a steam heat distribution system to provide)
steam heat service in Kansas City, Missouri,)
as an expansion of its existing certified area.)

Case No. HA-2006-0294

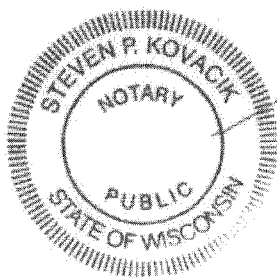
AFFIDAVIT OF MURRAY SIM

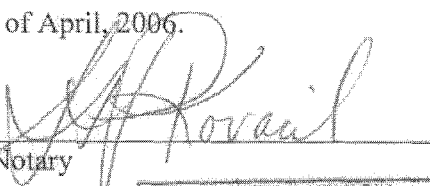
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STATE OF ~~MISSOURI~~)
MILWAUKEE) SS
COUNTY OF JACKSON)

Murray Sim, being of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form to be presented in the above case; that the answers in said Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


Murray Sim

Subscribed and sworn to before me this 27th day of April, 2006.




Notary

STEVEN P. KOVACIK
Notary Public, Milwaukee Co., WI
My Comm. Expires Nov. 7, 2009