

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

In re: FERC Docket No. CP07-450,                    )  
MoGas Request for Authorization                ) Case No. \_\_\_\_\_  
under Blanket Certificate                        )

**APPLICATION TO TERMINATE**

COMES NOW MoGas Pipeline LLC and states as follows.

1. MoGas Pipeline LLC ("MoGas") operates an interstate natural gas pipeline under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). MoGas is a party to the action known as *MoGas Request for Authorization under Blanket Certificate* (FERC Docket No. CP07-450; hereinafter, the "FERC case").

2. The Commission has intervened in the FERC case.

3. Staff for the Commission is presently conducting an investigation into the substance of the FERC case ("Staff's investigation"), as set forth more fully in a *Motion to Declassify* recently filed by Staff in MoPSC Cases Nos. GC-2006-0378 and GC-2006-491 and, also filed in those same cases, an *Amended Motion to Declassify* and *Staff's Response To Missouri Pipeline Company's Response To Amended Motion To Declassify*. MoGas asks the Commission to take official notice of these pleadings, which are part of the Commission's official files and records.

4. In the FERC case, Staff has filed a formal protest against a request by MoGas for compression on its existing, interstate pipeline. Staff's protest has delayed FERC's approval of the compression project. This delay threatens reliability of service to existing MoGas customers, and will ultimately increase the cost of the compression project due to inflating material prices. Notably, Laclede Gas, the largest natural gas distribution company in Missouri and MoGas's largest customer, is supportive of MoGas's request for compression.

5. Because it is purely a creature of statute, the Commission's powers are limited to those powers conferred by the Commission's enabling statutes, either expressly, or by clear implication "as necessary to carry out the powers specifically granted." *State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 49 (Mo. 1979); see also *State ex rel. GS Technologies Operating Co., Inc. v. Public Service Com'n of State of Mo.*, 116 S.W.3d 680 (Mo.App. W.D. 2003). Neither convenience, expediency, nor necessity are proper matters for consideration in determining the scope of the commission's statutory authority. *State ex rel. Utility Consumers' Council*, 585 S.W.2d at 49, quoting *State ex rel. Kansas City v. Public Service Comm'n*, 301 Mo. 179, 257 S.W. 462 (Mo. banc 1923).

6. The Commission's enabling statute (§ 386.040, RSMo.) expressly limits the Commission's powers to those that are "necessary or proper to enable it to carry out fully and effectually all the purposes of this chapter," and the statute (§ 386.030, RSMo.) explicitly states that such purposes do not include matters of interstate commerce.

7. The FERC case is a matter of interstate commerce.

8. MoGas' need for compression on an interstate pipeline regulated by FERC is a matter of interstate commerce.

9. The investigatory power of the Commission with regard to public utilities is expressly limited to the investigation of violations of law. (§ 386.330.1, RSMo.) This authority does not expressly or by clear implication extend to the investigation of allegations or issues in a regulatory filing lodged before FERC.

10. The Commission's intervention in the FERC case—in addition to being expressly prohibited by § 386.030—is not by clear implication necessary to carry out any power specifically granted to the Commission.

11. The legislature has expressly authorized the Commission to conduct investigations in FERC cases, but only when conducted as a joint investigation with FERC and as an agent of FERC. (§ 386.210.7, RSMo.)

12. Staff's investigation is not a joint investigation conducted as an agent of FERC.

13. There is no provision of Missouri law by which the legislature has conferred upon the Commission the power to intervene in the FERC case or to conduct Staff's investigation into the substance of the FERC case.

14. The Commission is expending public funds to retain a private law firm to represent the Commission in the FERC case.

15. There is no provision of Missouri law by which the legislature has conferred upon the Commission the power to retain a private law firm to intervene in a FERC case or to litigate matters relating to interstate commerce.

16. The expenditure by a state agency of public funds to retain a private law firm, if not contemplated by the agency's enabling legislation, is illegal and subject to injunction. *State ex rel. Nixon v. American Tobacco Co.*, 34 S.W.3d 122, 133 (Mo. banc 2000).

17. An affidavit of the President of MoGas is attached to this Application and incorporated by reference.

WHEREFORE, MoGas requests that the Commission withdraw its protest in the FERC case, terminate its intervention in the FERC case, and instruct Staff to cease its investigation into the substance of the FERC case.

Respectfully submitted,

LATHROP & GAGE, L.C.

/s/David G. Brown

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*Attorneys for Applicant*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 9th day of September, 2008, to:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
GenCounsel@psc.mo.gov

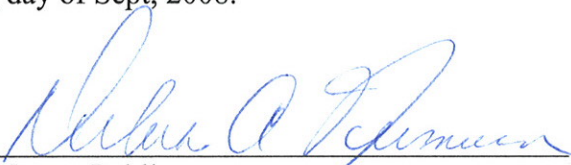
Office Of Public Counsel  
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opcservice@ded.mo.gov

*/s/David Brown*

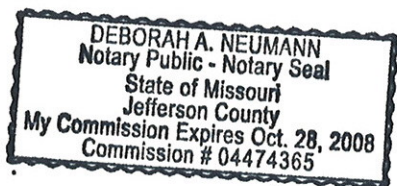
STATE OF MISSOURI )  
 ) ss.  
COUNTY OF ST. LOUIS )

  
David J. Ries

Subscribed and sworn to before me this 3rd day of Sept, 2008.

  
Notary Public

My Commission expires:



# STATE OF MISSOURI



Robin Carnahan  
Secretary of State

**CORPORATION DIVISION**  
**CERTIFICATE OF GOOD STANDING**

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

**MOGAS PIPELINE LLC**

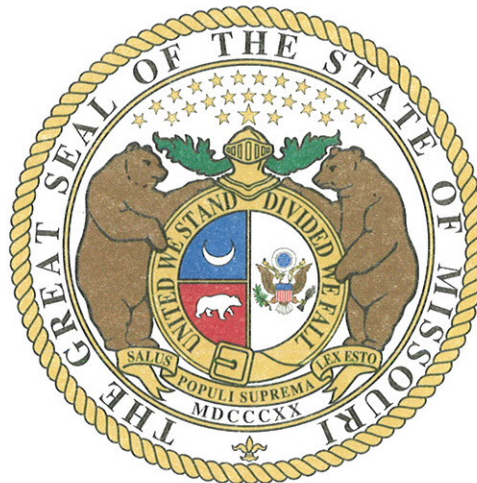
using in Missouri the name

**MOGAS PIPELINE LLC**  
**FL0075816**

a DELAWARE entity was created under the laws of this State on the 31st day of December, 2002, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 29th day of August, 2008

  
Secretary of State



Certification Number: 11055230-1 Reference:  
Verify this certificate online at <http://www.sos.mo.gov/businessentity/verification>