

**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,     )     Case No. HA-2006-0294  
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.     )

**RESPONSE IN OPPOSITION TO MGE'S  
MOTION FOR RECONSIDERATION**

COMES NOW Trigen-Kansas City Energy Corporation ("Trigen"), by and through its counsel, and for its Response in Opposition to MGE's Motion for Reconsideration and Response to Staff's Motion for Expedited Procedural Schedule<sup>1</sup> ("MGE's Motion for Reconsideration") respectfully states as follows:

1.     The Commission should deny MGE's Motion for Reconsideration of its April 13, 2006 Order denying MGE's Request for extension of filing deadlines in this case for all of the reasons set forth in the Commission's April 13 Order. MGE's Motion for Reconsideration fails to even address the reasons set forth in the Commission's April 13 Order, but rather seeks to extend the procedural schedule on a new basis not set forth in MGE's original request to extend the filing deadlines by introducing extraneous information which is irrelevant to the matter pending before the Commission.

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<sup>1</sup> Staff's initial pleading was incorrectly titled; it was not, as MGE would have the Commission believe, a Motion for Expedited Procedural Schedule, but a Response to MGE's Request for Extension. Subsequent to its initial pleading, Staff filed a corrected pleading to make this clear. Furthermore, Staff did not affirmatively request a change in the procedural schedule but, in the event that the Commission was inclined to grant MGE's Request, offered an alternative to MGE's Request which was less onerous (though still unacceptable) than MGE's Request. Since the Commission was not inclined to grant MGE's Request, Staff's alternative should likewise not be adopted.

2. The Commission will recall that MGE's original Request was based on MGE's untimely hiring of an outside consultant, allegedly due to certain responses to data requests being designated as highly confidential. In its April 13 Order the Commission correctly found that MGE's "dilemma is one of MGE's making." MGE's Motion for Reconsideration completely fails to address its original allegations of needing to hire an outside consultant due to highly confidential data request responses. In fact, not one of the responses attached to MGE's Motion for Reconsideration was designated highly confidential. However, each of the responses attached to MGE's Motion for Reconsideration shows that Trigen believes the data requests to be irrelevant to the matter currently pending before the Commission, and therefore objected in order to preserve its rights, but nevertheless responded in an effort to be cooperative and move this process along expeditiously.

3. The data requests attached to MGE's Motion for Reconsideration are irrelevant for the simple reason that they deal with a matter (Cargill) not within the proposed expansion area being addressed in this case<sup>2</sup>. In spite of Trigen's attempt to be cooperative by responding to irrelevant MGE data requests, MGE now attempts to paint a nefarious picture of Trigen's business activity in order to meet MGE's own self-serving ends by claiming in its Motion for Reconsideration that "MGE believes that this [i.e., the Cargill matter] is a matter warranting investigation by the Staff, and a modest amendment to the procedural schedule should permit that investigation to occur" – completely

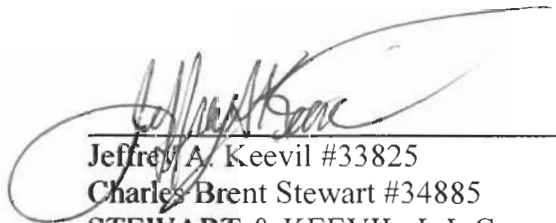
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<sup>2</sup> Trigen served each of the responses attached to MGE's Motion for Reconsideration on counsel for MGE on March 24, 2006, almost three weeks prior to the April 13 rebuttal testimony filing deadline. None of the responses were designated highly confidential. MGE apparently made no effort to file rebuttal on this subject on April 13. MGE's original basis for requesting an extension – that certain responses were designated highly confidential, and it did not retain an outside consultant until April 10 – does not therefore explain MGE's failure to file.

ignoring MGE's original basis for its Request. MGE appears to believe that Staff was unaware of the Cargill matter. However, not as part of this case (in fact, unrelated and irrelevant to this case), **Trigen provided Staff with a highly confidential copy of its contract with Cargill on February 1, 2006**, and has also had discussions with Staff concerning this matter. What MGE appears to believe to be a revelation is therefore old news, known to Staff before the agreed-upon procedural schedule was proposed. Had Staff believed the matter was relevant to this case, Staff had ample time to "investigate" as suggested by MGE and address it in Staff's testimony filed April 13. Unlike MGE, Staff was able to meet the agreed-upon and Commission-ordered April 13 filing deadline. Bear in mind that it is MGE, and not Staff, now claiming that Staff needs more time; MGE is seeking merely to cover its mishandling of its participation in this case. Furthermore, MGE's original Request sought an extension for the filing of rebuttal testimony for MGE only; MGE's current position in its Motion for Reconsideration appears inconsistent even with that.

WHEREFORE, the Commission should issue its Order denying MGE's Motion for Reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey A. Keevil", is written over a horizontal line.

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ATTORNEYS FOR TRIGEN-KANSAS  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing was sent to counsel for parties of record by depositing same in the U.S. Mail, first class postage prepaid, by hand-delivery, or by electronic mail transmission, this 14<sup>th</sup> day of April, 2006.



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