

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

In the matter of The Kansas Power and Light Company of  
Topeka, Kansas, for authority to file a tariff reflect-  
ing a change in rates for its Missouri customers to be  
reviewed in its 1989-1990 Actual Cost Adjustment filing  
in accordance with the Purchased Gas Adjustment on file  
for the company.

Case No. GR-90-40

In the matter of The Kansas Power and Light Company of  
Topeka, Kansas, for authority to file a tariff reflect-  
ing a change in rates for its Missouri customers to be  
reviewed in its 1990-1991 Actual Cost Adjustment filing  
in accordance with the Purchased Gas Adjustment on file  
for the company.

Case No. GR-91-149

**APPEARANCES**

Martin J. Bregman, General Attorney-Regulation, and Michael C. Pendergast,  
Assistant General Attorney, Western Resources, Inc., 818 Kansas Avenue, Post  
Office Box 889, Topeka, Kansas 66612, for Western Resources, Inc., d/b/a Gas  
Service, a Western Resources Company.

James P. Zakoura, Lee M. Smithyman, and Richard W. Hird, Smithyman & Zakoura,  
Chartered, 650 Commerce Plaza, 7300 West 110th Street, Overland Park, Kansas  
66210,

and

J. Russell Ford, Wise & Ford, 400 Lathrop Building, 1005 Grand Avenue,  
Kansas City, Missouri 64106, for Mid-Kansas Partnership and Riverside Pipeline  
Company, L.P.

Stuart W. Conrad and Paul S. DeFord, Lathrop & Norquist, 2345 Grand Avenue,  
Suite 2500, Kansas City, Missouri 64108, for Armco Incorporated and Midwest Gas  
Users Association.

Paul W. Phillips, Deputy Assistant Counsel for Regulatory Interventions, Office  
of the General Counsel, United States Department of Energy, 1000 Independence  
Avenue, S.W., Room 6D-033, Washington, D.C. 20585, for the United States Depart-  
ment of Energy and the Federal Executive Agencies.

William M. Shansey, Assistant General Counsel, Missouri Public Service Commis-  
sion, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the  
Missouri Public Service Commission.

**HEARING EXAMINER:** Edward C. Graham.

## REPORT AND ORDER

Western Resources, Inc., d/b/a Gas Service, a Western Resources Company, formerly The Kansas Power and Light Company, (hereinafter referred to as Gas Service) has an annual Actual Cost Adjustment (ACA) period ending June 30. Gas Service filed a tariff on August 23, 1991, effective on an interim basis on September 5, 1991 which implemented two ACA rates and a take-or-pay (TOP) rate. The ACA rates were designed to refund \$19,151,129 to Firm customers and \$1,297,088 to Large Commercial (LC) and Large Industrial (LI) customers. The TOP rate was intended to collect \$3,127,226 from all customer classes. The ACA or audit period in Case No. GR-91-149 was from July, 1990 to June 30, 1991. Gas Service reported gas costs during this period of \$178,608,688 for the Firm class and \$3,956,719 for the LC and LI class. Reported revenue recovery for the gas costs was \$196,862,079 and \$4,664,439 from the Firm and LC/LI classes, respectively. This resulted in an overrecovery of gas costs by \$18,253,392 from Firm customers and \$692,671 from LC and LI customers. The amounts to be refunded in the ACA rates include the enumerated overrecoveries for the 1990-1991 ACA period, plus refunds for prior ACA periods which came from Case No. GR-90-40.

On November 20, 1992 the Commission issued an order consolidating Case Nos. GR-91-149 and GR-90-40. In addition, a procedural schedule was adopted with a hearing date set to commence on March 15, 1993. The Commission has allowed Mid-Kansas Partnership and Riverside Pipeline Company, L.P. (Riverside), the United States Department of Energy, and Midwest Gas Users Association to intervene. Two orders were subsequently issued by the Commission, one on February 23, 1993 and one on March 5, 1993 which, *inter alia*, reset the hearing to commence on April 29, 1993.

On April 29, 1993 all parties appeared for the hearing except Public Counsel. At the hearing the parties presented two Stipulations And Agreements

which had been previously filed by the parties on March 30, 1993 and April 2, 1993 to be considered by the Commission to resolve all the issues in the consolidated case.

### **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Commission finds that Gas Service is a Kansas corporation authorized to do business in the state of Missouri with its principal office being 818 Kansas Avenue, Topeka, Kansas 66601. Gas Service, among other things, is a local distributor (LDC) of natural gas in Missouri.

The wholesale gas costs incurred by Gas Service change periodically as a result of the Federal Energy Regulatory Commission's (FERC) authorized changes in wholesale rates. To reflect these changes, the Commission has approved a Purchased Gas Adjustment (PGA) clause for Gas Service, and other LDCs, which allows for interim rate changes subject to refund throughout the revenue year of the company. The ACA account for the company tracks the overcollection and undercollection of gas costs during the course of the company's revenue year. As of June 30 each year, the net balances are cleared and distributed over the following 12-month period.

As a result of a series of orders by the FERC, interstate pipelines which settled take-or-pay claims with their gas suppliers have been allowed to "direct bill" a portion of those costs to their LDC customers. Initially FERC allowed the pipelines to allocate their costs among customers based upon each customer's share of the decrease in pipeline gas sales from one period to another. This "base period/deficiency period" method was used to separate the cost of disposing of take-or-pay problems from the current costs of taking gas

service from a pipeline. Although the base period/deficiency period allocation method was held unlawful by the U.S. Circuit Court of Appeals for the District of Columbia, the pipelines were allowed to keep the money billed and collected under this method while the parties negotiated with the FERC to determine a new, lawful method of allocation of these costs among pipeline customers. Sheet No. 15 of Gas Service's Missouri tariff states that direct-billed take-or-pay costs are to be excluded from the calculation of its cost of purchased gas. Those costs are placed in a separate account and recovered through the TOP factor calculated under the provisions of its PGA clause. According to the PGA clause of Gas Service, direct bill take-or-pay costs are to be recovered from all classes of customers equally on a volumetric basis by the application of the TOP cost recovery factor to all MCF billed, whether sales or transportation. The TOP cost recovery factor is calculated by dividing annualized take-or-pay costs by the estimated volumes of the total sales and transportation MCF for the 12-month period beginning with the effective date of the recovery factor.

The Stipulation And Agreement filed on March 30, 1993, and attached hereto as Appendix A, deals with the ACA and states that Gas Service shall, beginning with the 1991-1992 ACA filing, submit the minimum filing requirements that were set out in a memorandum of Staff dated April 1, 1992 and which were modified by Gas Service's memorandum dated May 1, 1992. The parties agree with Gas Service's allocation of gas costs during the ACA periods. The parties agree that the gas costs during the 1991-1992 ACA period should reflect the \$147,269 decrease identified in Staff's memorandum of April 1, 1992 and the \$87,131 increase identified in Gas Service's memorandum dated May 1, 1992. The parties agree that the amount associated with banked gas costs for LC and LI customers at the end of the 1990-1991 ACA period was \$1,012,549. The parties also agree that there will be no adjustment to Gas Service's ACA costs of gas delivered to it by Riverside in the ACA periods in Case Nos. GR-91-149 or GR-92-80, which

concerns the 1991-1992 ACA period. However, the parties agree that to facilitate review of Riverside purchases in the future, Gas Service will maintain certain delineated records.

The Stipulation And Agreement filed on April 2, 1993, and attached hereto as Appendix B, deals with the TOP costs and states that the parties anticipate that direct-billed take-or-pay refunds to be received from Williams Natural Gas Company (WNG) as a result of the Stipulation And Agreement filed in FERC Docket No. RP89-183-000 et al. on November 24, 1992 and approved by FERC on March 12, 1993, will be sufficient in amount to affect a significant portion if not all of the direct-billed take-or-pay costs billed to Gas Service as of the date of the Stipulation And Agreement by its two interstate pipeline suppliers in Missouri. The parties agree that once such refunds are received by Gas Service, a corresponding refund of direct-billed take-or-pay charges billed by Gas Service to its Missouri customers shall be made in an amount not exceeding the total of the Missouri jurisdictional share of such refunds, including any interest paid by WNG. Within the Residential and General Service class, refunds to individual customers shall be made through a credit to the bills of customers of record that is proportioned to usage. Refunds to LC and LI customers shall be made either through a check or, if requested, a credit to the customer's bill. All payments, as nearly as practical, shall equal the amount of direct-billed take-or-pay charges billed to that customer during the entire period over which the refunded amounts were collected. Any refund amounts to Gas Service in excess of refunds made by Gas Service to its customers shall be applied to direct-billed take-or-pay amounts previously paid by Gas Service but not yet billed to its customers. The take-or-pay surcharge will then be adjusted to reflect such credit. The parties state that the Stipulation And Agreement finally and permanently resolves all issues relating to the disposition of any and all take-or-pay charges billed to Gas Service prior to June 30, 1992 plus any

take-or-pay charges billed to Gas Service subsequent to that date which are refunded or offset to Gas Service.

The Commission, after examining both Stipulations And Agreements and Staff's Response To Stipulation And Agreement and after examining the parties at the hearing, determines that both Stipulations And Agreements and Staff's Response To Stipulation And Agreement, which are incorporated herein by reference, are just and reasonable and should be adopted in disposition of all issues reflecting the final ACA factors for Gas Service's 1989-1990 and 1990-1991 revenue periods, and in disposition of all issues reflecting Gas Service's take-or-pay charges billed to Gas Service by WNG prior to June 30, 1992, plus any take-or-pay charges billed to Gas Service subsequent to that date which are refunded or offset to Gas Service.

The Commission has certain reservations concerning whether Gas Service's decision to exercise its reduction rights and reduce purchases from WNG and replace them with purchases from Mid-Kansas Gas Gathering, L.P. (Mid-Kansas) via the Riverside Pipeline Company was prudent. The evidence would apparently be controversial as to the actual cost that Gas Service paid for this exercise of reduction rights. Staff used a comparison of equivalent purchases from Mobil Natural Gas via the WNG pipeline and thought that there should be an adjustment of \$3,419,417. Gas Service believes this to be improper as not reflecting the necessary service that would follow the load that it ultimately obtained through Mid-Kansas via the Riverside pipeline. Gas Service says this is an "apples-to-oranges" comparison by Staff and that an "apples-to-apples" comparison would mean that the exercising of the reduction rights was a prudent action. In essence, Gas Service says Staff's comparison of Mobil-WNG as an alternative supplier was inappropriate. The Commission, therefore, without a hearing can only speculate what the evidence would disclose. It is undisputed that Gas Service did not take competitive bids in selecting Mid-Kansas as a supplier. An additional pipeline

supplier may or may not help an LDC obtain the most competitive gas supply. It would, however, in all likelihood increase an LDC's ability to provide reliable service. It will be necessary for the Commission to consider the consequences of FERC Order No. 636 on LDCs. If adding a pipeline supplier to an LDC increases its ability to obtain gas more cheaply as a consequence of competition, then the Commission would find that appropriate. However, the Commission expects the LDC to be able to provide the necessary economic analyses and documentation to support any action it takes that it claims will benefit its gas purchasing practices or increase the reliability of its gas supply. The Commission is of the opinion that the Staff's future record requirements will be an assistance to help substantiate an LDC's claim of increased competitive benefits. The Commission also is of the opinion that at this stage of developing policy for LDCs to benefit from FERC Order No. 636, it should be careful in the use of prudence reviews so as to not discourage LDCs from taking full advantage of the competition that the Order encourages. However, the Commission will certainly make increasing demands on LDCs to prove that their gas purchasing practices, in fact, are prudent. The Commission itself will be developing standards to judge an LDC's actions to determine if it is, in fact, providing the most competitive, safe and adequate service for its customers with due consideration given to reliability of supply.

The Commission also finds that since all matters at issue in this docket have been resolved, both cases which have been consolidated herein should be closed. Also, the Commission finds that Late-filed Exhibit No. 10 and 10HC should be admitted into evidence over no objection by any party and made a part of the record.

### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Gas Service is a public utility subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, R.S.Mo. (Supp. 1992).

The Commission determined in the case of *In Re Laclede Gas Company*, 10 Mo. P.S.C. (N.S.) 442 (1962), that the Purchased Gas Adjustment (PGA) mechanism is a simplified method of regulation alleviating the need for an LDC (local distribution company) to constantly file rate cases reflecting the difference in wholesale rates by allowing the immediate pass-through to retail customers of any difference in wholesale natural gas rates. The purchased gas cost is not controlled by the Commission or the LDC, but is subject to federal regulation. The Actual Cost Adjustment (ACA) is a reconciling or truing-up of annual gas costs with annual gas cost revenue recoveries.

The Commission determined in *Missouri-American Can v. Laclede Gas*, 30 Mo. P.S.C. (N.S.) 32 (1989), that the take-or-pay (TOP) charges via its PGA mechanism does not constitute retroactive ratemaking since TOP costs being charged by the LDC's supplier are the basis for setting the rates to be charged customers in the future. The Commission determined that the PGA clause provides for recovery of TOP charges since no practical difference exists between TOP charges and the costs that an LDC has traditionally recovered through its PGA clause since its inception.

For ratemaking and rate design purposes, the Commission may accept a stipulation and agreement as a settlement of any contested matters submitted by the parties. The Commission concludes that both Stipulations And Agreements submitted in this case and attached hereto as Appendix A and Appendix B and Staff's Response To Stipulation And Agreement attached hereto as Appendix C are



reasonable and proper and should be accepted and adopted by the Commission as settlement of all contested matters in this case.

**IT IS THEREFORE ORDERED:**

1. That the Missouri Public Service Commission hereby adopts the Stipulations And Agreements attached hereto as Appendix A and Appendix B and the Staff's Response To Stipulation And Agreement marked as Appendix C, all of which are incorporated herein by reference, as adjusting and settling all the issues involving Western Resources, Inc., d/b/a Gas Service, a Western Resources Company's (Gas Service) 1989-1990 and 1990-1991 Actual Cost Adjustment (ACA) filings and Gas Service's take-or-pay (TOP) charges billed to it by Williams Natural Gas Company up to June 30, 1992 and as further set out in the Stipulation And Agreement.

2. That the Actual Cost Adjustment (ACA) as filed by Gas Service on an interim basis subject to refund for Gas Service's 1989-1990 and 1990-1991 revenue periods, and as adjusted herein, be hereby approved on a permanent basis.

3. That the take-or-pay (TOP) charges billed by Williams Natural Gas Company to Gas Service be disposed of according to the Stipulation And Agreement approved herein as to all TOP charges billed to Gas Service prior to June 30, 1992 and as to any TOP charges billed to Gas Service subsequent to that date which are refunded or offset on Gas Service's books pursuant to the Stipulation And Agreement approved herein, and that it be hereby approved on a permanent basis.

4. That the beginning balances for Gas Service's Actual Cost Adjustment (ACA) filing for the revenue period of 1991-1992 shall reflect the

following experience from the 1989-1990 and 1990-1991 ACA revenue periods as adjusted and agreed to in this Report And Order:

Case No. GR-90-40: FIRM - \$19,763,843  
LC & LI - \$ 1,364,129

Case No. GR-91-149: FIRM - \$19,151,129  
LC & LI - \$ 1,297,089

5. That the balances for Gas Service's take-or-pay (TOP) filing for the revenue period ending June 30, 1992 shall reflect the following experience from the 1989-1990 and 1990-1991 ACA revenue periods as adjusted and agreed to in this Report And Order:

Case No. GR-90-40: \$1,652,293  
Case No. GR-91-149: \$5,564,807

6. That Gas Service shall file tariffs implementing the refund procedures provided for herein within five (5) days of the date of this Report And Order.

7. That Late-filed Exhibit No. 10 and No. 10HC filed herein by Gas Service on May 10, 1993 be hereby admitted into evidence and made a part of the record.

8. That Case No. GR-90-40 and Case No. GR-91-149 be hereby closed.

9. That this Report And Order shall become effective on the 8th day of June, 1993.

(S E A L)

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

Mueller, Chm., Perkins, Kincheloe  
and Crumpton, CC., concur and  
certify compliance with the  
provisions of Section 536.080,  
R.S.Mo. 1986.  
McClure, C., absent.

Dated at Jefferson City, Missouri,  
on this 26th day of May, 1993.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of The Kansas Power and Light )  
Company of Topeka, Kansas, for authority to )  
file a tariff reflecting a change in rates )  
for its Missouri customers to be reviewed ) Case No. GR-90-40  
in its 1989-1990 Actual Cost Adjustment )  
filing in accordance with the Purchased )  
Gas Adjustment on file for the Company )

In the matter of The Kansas Power and Light )  
Company of Topeka, Kansas, for authority to )  
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in its 1990-1991 Actual Cost Adjustment )  
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Gas Adjustment on file for the Company )

STIPULATION AND AGREEMENT

On August 23, 1991, Western Resources Inc. d/b/a Gas Service (Gas Service or Company), formerly The Kansas Power and Light Company, submitted to this Commission for its approval a tariff which primarily reflected (1) a change in rates for natural gas service due to the recalculation of the Company's 1990-1991 Actual Cost Adjustment (ACA) factors, and (2) the implementation of a rate to recover certain take-or-pay costs. Case No. GR-91-149 was established to maintain these rates on an interim, subject to refund basis, pending the completion of the Commission Staff's audit of the ACA filing and its submission of a recommendation for Commission review.

Staff filed its recommendation on April 1, 1992, in which it raised several issues and concerns regarding the ACA filing. Pursuant to Staff's request, the Commission issued an Order on

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PUBLIC SERVICE COMMISSION

Appendix A  
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April 8, 1992, directing the Company to file its response to Staff's recommendations. Gas Service's response was subsequently submitted on May 1, 1992.

On November 20, 1992, the Commission issued an Order consolidating Case No. GR-91-149 with the Company's previous ACA proceeding, Case No. GR-90-40. Case No. GR-90-40 had previously been established by the Commission to examine the Company's ACA filing for the 1989-1990 period. All of the issues raised in Case No. GR-90-40 were subsequently resolved by the Commission, with the exception of the appropriate treatment to be afforded certain take-or-pay costs billed to the Company by its pipeline suppliers. In addition to consolidating these cases, the Commission also established a procedural schedule for purposes of addressing any remaining issues in these dockets.

The procedural schedule established by the Commission was amended by Notice dated January 15, 1993 and Order Modifying Procedural Schedule issued by the Commission on February 23, 1993. On March 5, 1993, the Commission issued a further order in which it partially suspended the schedule for surrebuttal testimony, hearing memorandum and hearing with regard to "take-or-pay" related issues.

Following the issuance of the Commission's Orders, Gas Service, Staff, the Office of Public Counsel, Midwest Gas Users Association (MGUA), the U.S. Department of Energy, Mid Kansas Partnership and Riverside Pipeline Company, L.P. (Riverside) met in an effort to resolve certain procedural and substantive issues. As a result of that meeting, the undersigned parties submit the

following stipulations and agreements which dispose of issues currently set for hearing in Case Nos. GR-90-40 and GR-91-149 and one issue in Case No. GR-92-80:

1. The parties agree that they will continue discussions in an effort to reach agreement on issues related to take-or-pay charges billed to the Company by its pipeline suppliers.

2. Gas Service shall, beginning with its 1991/1992 ACA filing, submit the Minimum Filing Requirements described by Staff in its April 1, 1992, memorandum in this case, as modified by the Company in its May 1, 1992, response to Staff's recommendations.

3. The parties agree with the Company's allocation of gas costs during the ACA period. Staff will continue to monitor such allocations during future ACA audits.

4. The parties agree that gas costs during the 1991-1992 ACA period should be adjusted to reflect the \$147,269 decrease identified in Staff's April 1, 1992, memorandum and the \$87,131 increase identified in the Company's May 1, 1992, Response.

5. The parties agree that the amount associated with banked gas costs for LC and LI customers at the end of the 1990-1991 ACA period was \$1,012,549.

6. In response to and in resolution of the concerns raised by Staff regarding the gas supplies delivered to the Company by Riverside, the parties agree as follows:

(a) The parties agree that no adjustment to the Company's actual gas costs related to the cost of gas delivered to the Company by Riverside is necessary for

the ACA periods under consideration in Case Nos. GR-91-149 and GR-92-80.

(b) The parties further agree that to facilitate review of the Company's purchases of gas and transportation services through Mid-Kansas/Riverside in future ACA proceedings:

(i) The Company will maintain records, to the extent practicable, identifying Mid-Continent, Delivered-to-Pipeline Prices for firm gas sales services into Panhandle Eastern Pipe Line Company (PEPL), Williams Natural Gas Company, Northern Natural Gas Company, Natural Gas Pipeline Company of America, ANR Pipeline Company, and Arkla Energy Resources, taking into account such factors as length of term of contract, load following characteristics, peaking characteristics, the comparable strength of supply commitment, cover and/or penalty provisions for non-performance, and the presence or absence of, and the amount of any supply reservation charge. The Company will also maintain records, to the extent practicable, identifying prices charged by individual gas suppliers to Mid-Kansas/Riverside, taking into account the factors listed above in this paragraph.

(ii) The Company will maintain records, to the extent practicable, identifying WNG and PEPL

charges for the following types of firm transportation services: no notice, system access, storage, seasonal exchange, balancing, firm gathering, hourly, daily, monthly and annual load following and/or peaking services, enhanced firm delivery, the presence or absence of, and the amount of any transportation reservation charge and/or any other firm transportation related service offerings. Under this section, the Company will retain records sufficient to allow the evaluation and comparison of the cost of transportation and pipeline services using various combinations of pipelines including deliveries of gas by PEPL into Kansas Pipeline for redelivery to Riverside.

(iii) Future Riverside/Mid-Kansas invoices to Company shall identify the component parts of the services provided. Mid-Kansas and the Company have voluntarily agreed to amend any existing agreements between them (and to draft any future agreements between them) to provide that the total costs in any agreement between them shall be separately stated (and/or bifurcated into separate and distinct agreements) as to: (a) a price for natural gas supply into the first upstream transporting pipeline; and (b) a price for

transportation and/or pipeline services for each upstream pipeline.

7. This Stipulation and Agreement represents a negotiated settlement for the sole purpose of disposing of certain issues in Case Nos. GR-90-40, GR-91-149, and GR-92-80, and none of the signatories to this Stipulation and Agreement shall be prejudiced or bound in any manner by the terms of the Stipulation and Agreement in any other proceeding, except as otherwise specified herein.

8. None of the signatories to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation underlying or allegedly underlying this Stipulation and Agreement and the rates provided for herein.

9. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive with respect to the matters resolved herein their respective rights to cross-examine witnesses, their respective rights to present oral argument and written briefs pursuant to Section 536.808.1 RSMo 1986; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

10. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not approve

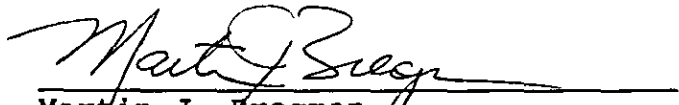


and adopt this Stipulation and Agreement in total, this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

11. The Staff shall have the right to provide to the Commission whatever further explanation the Commission requests. The explanation shall not become a part of the record of this proceeding and shall not bind or prejudice the Staff in any future proceeding or in this proceeding in the event the Commission does not approve the Stipulation and Agreement. The contents of any explanation provided by the Staff are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement.

Respectfully submitted,

WESTERN RESOURCES, INC.

  
Martin J. Bregman  
Michael C. Pendergast

STAFF OF THE MISSOURI PUBLIC  
SERVICE COMMISSION

  
William M. Shansey

MID-KANSAS PARTNERSHIP  
RIVERSIDE PIPELINE COMPANY, L.P.


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James P. Zakoura

ARMCO, MIDWEST GAS USERS  
ASSOCIATION

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Stuart W. Conrad

OFFICE OF PUBLIC COUNSEL



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Douglas E. Micheel

U.S. DEPARTMENT OF ENERGY

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Paul W. Phillips

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STAFF OF THE MISSOURI PUBLIC  
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MID-KANSAS PARTNERSHIP  
RIVERSIDE PIPELINE COMPANY, L.P.

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*James P. Zakoura*  
James P. Zakoura

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Staff filed its recommendation on April 1, 1992, in which it raised several issues and concerns regarding the ACA filing. Pursuant to Staff's request, the Commission issued an Order on

April 8, 1992, directing the Company to file its response to Staff's recommendations. Gas Service's response was subsequently submitted on May 1, 1992.

On November 20, 1992, the Commission issued an Order consolidating Case No. GR-91-149 with the Company's previous ACA proceeding, Case No. GR-90-40. Case No. GR-90-40 had previously been established by the Commission to examine the Company's ACA filing for the 1989-1990 period. All of the issues raised in Case No. GR-90-40 were subsequently resolved by the Commission, with the exception of the appropriate treatment to be afforded certain take-or-pay costs billed to the Company by its pipeline suppliers. In addition to consolidating these cases, the Commission also established a procedural schedule for purposes of addressing any remaining issues in these dockets.

Following the issuance of the Commission's Order, Gas Service, Staff, the Office of Public Counsel, Midwest Gas Users Association (MGUA), the U.S. Department of Energy, Mid Kansas Partnership and Riverside Pipeline Company, L.P. (Riverside) met in an effort to resolve certain procedural and substantive issues. As a result of those meetings, the Staff, Company, Riverside and Office of Public Counsel executed and filed a Stipulation and Agreement resolving various issues raised in the above captioned cases. As a result of further discussions, the undersigned parties have reached the following stipulations and agreements which dispose of all remaining issues in Case Nos. GR-90-40 and GR-91-149.

1. The parties anticipate that direct billed take-or-pay

refunds to be received from Williams Natural Gas Company (WNG) as a result of the Stipulation and Agreement filed in FERC Docket No. RP89-183-000 et. al. on November 24, 1992 and approved by FERC on March 12, 1993, will be sufficient in amount to offset a significant portion of the direct billed take-or-pay costs billed to the Company as of the date of this Stipulation and Agreement by its two interstate pipeline suppliers in Missouri. The parties therefore agree that once such refunds are received by the Company, a corresponding refund of direct billed take-or-pay charges billed by the Company to its Missouri customers shall be made in an amount not exceeding the total of the Missouri jurisdictional share of such refunds, including any interest paid thereon by WNG.

2. The amount of refunds received by each customer class shall, as nearly as practical, equal the amount of direct billed take-or-pay charges billed to that customer class during the period over which the refunded amounts were collected. Within the Residential and General Service class, refunds to individual customers shall be made through a credit to the bills of customers of record on the last day of the billing month in which the Company receives the refund from WNG and shall be proportioned, as nearly as practical, based on the customer's usage during the most recent twelve month period for which customer usage data is available. Refunds to Large Commercial (LC) and Large Industrial (LI) customers shall be made either through a check or, if requested, a credit to the customer's bill and shall equal, as nearly as practical, the amount of direct billed take-or pay charges billed

to that customer during the entire period over which the refunded amounts were collected. The Company shall deduct the amount of any customer's delinquent bill or bad debt before making a refund to the customer.

3. To the extent refund amounts, including interest received from WNG and refund amounts which cannot be returned to customers, exceed the amount of the refund made by the Company to its customers pursuant to this Stipulation and Agreement, such excess amounts shall be applied to direct bill take-or-pay amounts previously paid by the Company but not yet billed to its customers. The take-or-pay surcharge currently in effect shall then be adjusted to reflect the remaining amount of take-or-pay costs not yet recovered.

4. This Stipulation and Agreement finally and permanently resolves all issues relating to the disposition of any and all take-or-pay charges billed to the Company prior to June 30, 1992, and any take-or-pay charges billed to the Company subsequent to that date which are refunded or offset on the Company's books pursuant to this Stipulation and Agreement, provided that the Stipulation and Agreement approved in FERC Docket No. RP89-183-000 on March 12, 1993, is ultimately implemented. In the event such settlement is not ultimately implemented, a subsequent proceeding shall be held to dispose of this issue.

5. The treatment of any take-or-pay charges billed to the Company subsequent to June 30, 1992, which have not been refunded or offset on the Company's books pursuant to this Stipulation and

Agreement, shall be the subject of subsequent filings by the Company and all parties reserve the right to take any position they believe is appropriate with respect to such filings.

6. The parties agree that they will continue discussions in an effort to reach agreement on the final disposition of any take-or-pay charges billed to the Company subsequent to June 30, 1992 which have not been refunded or offset on the Company books pursuant to this Stipulation and Agreement.

7. If deemed necessary by the Commission, the Company will file tariffs implementing the refund procedures provided for herein within five days of the date this Stipulation and Agreement is approved.

8. Case Nos. GR-90-40 and GR-91-149 shall be closed upon the effective date of the Commission Order approving this Stipulation and Agreement and the ACA rates and factors as filed by the Company for the 1989-1990 and 1990-1991 ACA periods covered by those proceedings shall become permanent.

9. This Stipulation and Agreement represents a negotiated settlement for the sole purpose of disposing of certain take or pay related issues, and none of the signatories to this Stipulation and Agreement shall be prejudiced or bound in any manner by the terms of the Stipulation and Agreement in any other proceeding, except as otherwise specified herein.

10. None of the signatories to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation



underlying or allegedly underlying this Stipulation and Agreement and the rates provided for herein.

11. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive with respect to the matters resolved herein their respective rights to cross-examine witnesses, their respective rights to present oral argument and written briefs pursuant to Section 536.808.1 RSMo 1986; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 1986; and their respective rights to judicial review pursuant to Section 386.510 RSMo 1986.

12. This Stipulation and Agreement has resulted from extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not approve and adopt this Stipulation and Agreement in total, this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

13. The Staff shall have the right to provide to the Commission whatever further explanation the Commission requests. The explanation shall not become a part of the record of this proceeding and shall not bind or prejudice the Staff in any future proceeding or in this proceeding in the event the Commission does not approve the Stipulation and Agreement. The contents of any explanation provided by the Staff are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement.

Respectfully submitted,

WESTERN RESOURCES, INC.



Martin J. Bregman  
Michael C. Pendergast

STAFF OF THE MISSOURI PUBLIC  
SERVICE COMMISSION

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William M. Shansey


MID-KANSAS PARTNERSHIP  
RIVERSIDE PIPELINE COMPANY, L.P.

  
James P. Zakoura *Sum*

ARMCO, MIDWEST GAS USERS  
ASSOCIATION

  
Stuart W. Conrad

OFFICE OF PUBLIC COUNSEL

  
Douglas E. Micheel *Sum*

U.S. DEPARTMENT OF ENERGY

  
Paul W. Phillips *Sum*

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of Kansas Power  
and Light Company of Topeka,  
Kansas, for authority to file  
a tariff reflecting a change  
in rates for its Missouri  
customers, to be reviewed in  
its 1989-1990 actual cost  
adjustment filing in  
accordance with the purchased  
gas adjustment clause on file  
for the company.

Case No. GR-90-40

and

In the matter of the Kansas  
Power and Light Company for  
authority to file a tariff  
reflecting changes in rates  
to be reviewed in its  
1990-1991 actual cost  
adjustment filing.

Case No. GR-91-149

**STAFF'S RESPONSE TO STIPULATION AND AGREEMENT**

COMES NOW the Staff of the Public Service Commission of the state of Missouri ("the Staff") and for its response to the Stipulation and Agreement filed by Western Resources, Inc. d/b/a Gas Service ("Gas Service" or "Company") and Midwest Gas Users Association ("MGUA") on April 2, 1993 states as follows:

1. On April 2, 1993, the counsel for MGUA filed a Stipulation and Agreement in the above-styled cause which was signed by all parties in this case with the exception of the Staff.

2. As referenced in the cover letter of that filing, the Staff was still reviewing this Stipulation and Agreement and was to

**FILED**

APR 7 1993

MISSOURI  
PUBLIC SERVICE COMMISSION

render its decision on joinder in the Stipulation Agreement by Wednesday, April 7, 1993.

3. The Staff has now completed its review of all available data concerning the provisions of this Stipulation and Agreement. The Company has responded to additional concerns raised by the Staff concerning this Stipulation and Agreement by letter and a proposed tariff filing, a copy of which is hereby attached and incorporated as Attachment A. The Company has assured Staff that this letter and proposed tariff will be filed with the Commission no later than Thursday, April 8, 1993.

4. With this understanding, the Staff hereby states that it does not oppose the Stipulation and Agreement filed by MGUA on April 2, 1993, and is not exercising its right to request a hearing under Commission Rule 4 CSR 240-2.115(2) concerning nonunanimous stipulation and agreements.

WHEREFORE, the Staff of the Public Service Commission hereby states that it does not object to the Stipulation and Agreement signed by the other parties in the above-styled cause on April 2, 1993.

Respectfully submitted,

*William M. Shansey*

William M. Shansey  
Assistant General Counsel

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102  
314 751-7434

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 7th day of April.

*William M. Shansey*

Case No. GR-91-149  
Revised: 2-18-93

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**Michael C. Pendergast**  
Assistant General Attorney, Regulation  
Law Division

**April 7, 1993**

**Mr. Brent Stewart**  
Executive Secretary  
Missouri Public Service Commission  
P.O. Box 360  
301 West High  
Jefferson City, MO 65102

**Re: Stipulation and Agreement**  
**Case Nos. GR-90-40 and GR-91-149**

**Dear Mr. Stewart:**

Attached for filing in the above referenced cases are the original and fourteen copies of a draft tariff which is intended to implement the refund provided for in the Stipulation and Agreement filed in these cases on March 5, 1993. If the Stipulation and Agreement is approved by the Commission, Western Resources, Inc. will resubmit the tariff in completed form pursuant to paragraph 7 of the Stipulation and Agreement.

In response to questions raised by the Commission Staff, Western Resources, on behalf of the signatories to the Stipulation and Agreement, offers the following clarifications regarding certain provisions of the Stipulation and Agreement and how it will be implemented.

(a) The first sentence of paragraph 2 is only designed to make clear that direct billed take-or-pay refunds received by the Company from Williams Natural Gas Company (WNG) will, in turn, be distributed to each customer class in the same amount and in the same proportion that direct billed take-or-pay charges were originally billed to these customer classes. In determining how much was billed to each customer class, it is the Company's intention to look at the entire period over which these charges were billed up to the most recent date for which customer billing data is available at the time the refunds are made.

(b) The refund credits referenced in paragraph 2 of the Stipulation and Agreement will be completed as soon as practical but at the latest will be reflected on customer bills commencing with the first bills issued by the Company on or after the forty fifth day after the referenced refunds are received by the Company from WNG and will continue thereafter until the completion of the Company's normal billing cycle. The

**Attachment A**

**KPL • Gas Service • KGE**

Appendix C  
Page 5 of 7 pages

Mr. Stewart  
Page 2  
April 7, 1993

refund checks referenced in paragraph 2 will also be mailed as soon as practical but at the latest will be mailed by the forty fifth day after the referenced refunds are received from WNG.

(c) In implementing paragraph 3, any excess amounts remaining after refunds have been completed will be applied to any remaining direct billed take-or-pay amounts on the Company's books utilizing the same method described in paragraph 2 as updated to reflect more recent information, provided that any refund amounts which cannot be returned to a customer shall be used to offset the take-or-pay liability of the class to which that customer belongs.

Thank you for bringing this matter to the Commission's attention.

Sincerely,

  
Michael C. Pendergast

MCP:pdm  
Enclosure



UNAPU

P.S.C.MO. No. 1

1st Revised

SHEET No. 23.6

Cancelling P.S.C.MO No. 1

Original

SHEET No. 23.6

Western Resources, Inc. dba

Gas Service, A Western Resources Company For All Missouri Service Areas

Purchased Gas Cost Adjustment (cont.)

PGAm

**VII. TAKE OR PAY RECOVERY (continued)**

This account will be audited simultaneously with Company's Deferred Purchased Gas Cost Accounts (Section IV of this PGA Clause). The period for recovering TOP costs shall generally mirror the recovery period ordered in each applicable FERC proceeding. The Company will keep such records so as to allow for an accurate accounting of such costs actually paid to suppliers and recovery actually received from customers. Any over or under-recovery of such costs shall be refunded or recovered by inclusion in a subsequent TOP Cost Recovery Factor determination. Notwithstanding the foregoing, the lump sum direct billed take-or-pay refunds made to Company by Williams Natural Gas Company pursuant to the Stipulation and Agreement approved by the Federal Energy Regulatory Commission in FERC Docket No. RP89-183-000 et. al. on March 12, 1993 shall be refunded by Company to customers or otherwise disposed of in accordance with the terms of the Stipulation and Agreement approved by the Commission in Case Nos. GR-90-40 and GR-91-149. After the permanent cessation of billing of TOP costs to the Company by its suppliers, a request to terminate the TOP Cost Recovery Factor will be filed accordingly.

After termination of the TOP Cost Recovery Factor, any remaining over or under-recovery balance shall be carried forward and included in the calculation of the next Actual Cost Adjustment (ACA).

The TOP Cost Recovery Factor shall remain in effect until superseded by a subsequent TOP Cost Recovery Factor calculated according to this provision. The Company shall file any revised TOP Cost Recovery Factor on Sheet No. 18 in the same manner as all other Purchased Gas Cost Adjustments.

DATE OF ISSUE                      DATE EFFECTIVE                       
                     month    day    year                      month    day    year

ISSUED BY                      Exec. Vice President 818 Kansas Ave., Topeka, KS  
                     James Haines