

**Before the Public Service Commission
Of the State of Missouri**

County of Jackson, Missouri,)	
Complainant,)	
)	
vs.)	Case No. HC-2005-0331
)	
Trigen-Kansas City Energy Corp. and)	
Thermal North America, Inc.,)	
Respondents.)	

POST-HEARING ARGUMENT

COMES NOW Trigen Kansas City Energy Corp. (“Trigen”), and for its Post-Hearing Argument, states:

On March 29, 2005, the County of Jackson, Missouri (the “County”), a customer of Trigen, filed a complaint against Trigen, alleging that Trigen informed it that the City of Kansas City (the “City”) passed an ordinance requiring Trigen to permanently remove that portion of its steam heating network that lies within the area of planned construction for a downtown area.

The County was further notified that Trigen would sever the steam loop in two locations commencing on April 2, 2005 and the steam lines between such locations would be removed. The County alleges that such action would result in Trigen providing less than safe and adequate service to its customers.

On March 30, 2005, the City filed an application to intervene and a motion to dismiss the County’s complaint, alleging the County had failed to state a claim on which relief could be granted.

On March 31, 2005, the Commission issued its order setting a hearing for April 4, 2005.

The evidentiary hearing was held on April 4, 2005, and the Commission directed the parties to file post-hearing arguments by noon on April 6, 2005.

Trigen's position, as established at the April 4, 2005 hearing, is that it must comply with the terms of its franchise from the City of Kansas City, as well as the City's February 3, 2005 ordinance directing Trigen to

. . . remove, relocate, change or discontinue all plants, mains, facilities, lines, and other appliances from any streets, boulevards, alleys, avenues, lanes and public grounds within the Main/South Loop TIF Plan Development area and the Kansas City Downtown Arena Project area as necessary in the public interest and for a public purpose.

Exhibits 7 and 8, respectively.

Trigen acknowledges that severing, capping and removing the subject steamline will result in separating what is currently a loop network-type system into two radial lines. Even after cutting and capping what is currently a loop, Trigen's system will provide safe and adequate service through those radial lines. Tr. 17, 74, 75.

Section 393.130 requires that utilities such as Trigen provide safe and adequate service. Through the expert testimony of Mr. Brian Kirk, the General Manager of the Trigen Kansas City plant, and Mr. Warren Wood, the Manager of the City's Energy Department, it was established that Trigen's system, even if modified to become a radial system, will be capable of providing safe and adequate service to all of Trigen's customers. Tr. 17, 74, 75, 190, 191. Mr. Kirk in fact indicated that the system as currently configured is approximately 99.88% reliable. After removal of the subject steam pipe, the evidence establishes that Trigen's system will remain approximately 99.5% reliable. Tr. 69-70.

While there is no doubt that Trigen's system will, under either scenario, remain extremely reliable and efficient, Trigen believes that ultimately maintaining a loop network-system is greatly preferable and in the public interest. Tr. 46, 79-81. Under current circumstances it may, however, be cost prohibitive for Trigen to reconnect the loop. At this time, the City has determined that Trigen must bear all cost of removal and/or relocation of its system. Tr. 223, 224. Unless there is a material change in these facts, Trigen will most likely operate a radial system as dictated by the City's request.

WHEREFORE, Trigen Kansas City Energy Corp. requests that the Commission dismiss the complaint.

Respectfully submitted,

LATHROP & GAGE, L.C.

Dated: April 6, 2005

/s/ Paul S. DeFord

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CERTIFICATE OF SERVICE

I hereby certify that a correct copy of the foregoing was sent via U.S. Mail or electronic transmittal on this 6th day of April, 2005, to:

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