

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

Beverly A. Johnson,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2008-0295
)	
Missouri Gas Energy,)	
)	
Respondent.)	

RESPONSE TO PUBLIC COUNSEL’S MOTION FOR RECONSIDERATION

COMES NOW the Missouri Energy Development Association (“MEDA”), and for its response to Public Counsel’s Motion for Reconsideration, states the following:

1. On October 16, 2008, the Office of the Public Counsel filed a Motion for Reconsideration (“Motion”) of the Commission’s October 7, 2008, order granting MEDA’s Petition to file a brief as *amicus curiae* out of time. Curiously, rather than taking the opportunity provided by the Commission to file a brief responsive to the issues addressed in MEDA’s filing, Public Counsel instead has chosen to attempt to stifle a thoughtful discussion of the proper application of the Commission’s denial of service rule by challenging the Commission’s decision to receive MEDA’s brief.

2. Public Counsel suggests that MEDA was on notice of Staff’s position in the case because the Respondent, MGE, is a member of MEDA. This observation fails to take into account that the Staff did not fully present the basis

for its legal theory until the time that its post-hearing brief was filed.¹ Consequently, MEDA prepared and filed a brief addressing the topic as quickly as reasonably could have been expected in the circumstance. Also, the fact that MGE is a member of MEDA is a matter of no significance where this topic is concerned because MEDA speaks for the great majority of the regulated utility industry in this state on issues of common interest, not for any individual member. That collective voice deserves to be heard on this topic because it may have an industry-wide impact.

3. Public Counsel also claims that it has been prejudiced because MEDA's brief is in the nature of a reply brief. This is an argument that falls flat inasmuch as Public Counsel filed no post-hearing brief in the case to which MEDA can be said to have replied. Nevertheless, and without in any way conceding the point, the Commission remedied any arguable unfairness by giving any party an opportunity to file a response to the *amicus* brief, a course that Public Counsel has chosen not to pursue.

WHEREFORE, MEDA requests that the Commission deny Public Counsel's Motion for the reasons aforesaid.

¹ Even if the Commission were to assume, wrongly, that Staff's opening statement on August 22, 2008, constituted effective notice on every member of MEDA that Staff sought to nullify the Commission's denial of service rule, it is entirely plausible that Staff, after having researched the question, could have thought the better of the idea by the time it briefed the case and formally presented its arguments to the Commission.

Respectfully submitted,

/s/ Paul A. Boudreau

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 20th day of October, 2008, to the following:

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