

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

In the Matter of Missouri Gas Energy's)
Purchased Gas Adjustment (PGA) Factors)
To be Audited in Its 2004-2005 Actual Cost)
Adjustment.)
Case No. GR-2005-0169

**RESPONSE OF ENBRIDGE PIPELINES (KPC) TO
ORDER DIRECTING FILING**

COMES NOW Enbridge Pipelines (KPC) (hereafter "Enbridge"), by and through the undersigned counsel, and for its Response to the Commission's *Order Directing Parties to Indicate Whether Any Issues Remain to be Resolved* issued herein on October 19, 2007 (hereafter the "Order"), respectfully states as follows:

1. The Order refers to two adjustments proposed by Staff in its recommendation filed in this case: first, an adjustment related to MGE's contract with Kansas Pipeline Company, and second, an adjustment related to MGE's alleged excess transportation capacity.

2. In regard to Staff's first proposed adjustment, the Order was correct to refer to the recent Missouri Supreme Court opinion in the case of *State ex rel. Riverside Pipeline Co. v. Public Service Commission*, 215 S.W.3d 76 (Mo. 2007), which was the culmination of a lengthy court review proceeding of an MGE ACA case involving the interpretation of a 1996 Stipulation and Agreement. In its opinion in that case, the Supreme Court of Missouri decided that "the contract [*i.e.*, the Stipulation] speaks for itself and *precludes any further ACA prudence reviews of the Missouri Agreements. As such, the PSC acted unlawfully in failing to disallow the ACA prudence reviews*

altogether. . . .” *Id.* at 85. (emphasis added) In the present case, Staff’s first proposed adjustment is a proposed prudence adjustment under one of the Missouri Agreements referenced above – an adjustment based on an ACA prudence review of one of the Missouri Agreements. Accordingly, based on the Missouri Supreme Court opinion referenced in the Commission’s October 19 Order, Staff’s first proposed adjustment **must** be immediately dismissed by the Commission – anything else would be unlawful according to the Supreme Court opinion (“any further ACA prudence reviews of the Missouri Agreements” are precluded and “the PSC acted unlawfully in failing to disallow the ACA prudence reviews altogether” *Id.*). In fact, based on the foregoing language of the Supreme Court, the Commission should, in its order dismissing this proposed Staff adjustment, direct its Staff to cease from conducting any further ACA prudence reviews of the Missouri Agreements in any future MGE ACA cases.

3. In regard to Staff’s second proposed adjustment, Enbridge does not believe it is affected by this proposed adjustment. However, the undersigned would note that the Order appears to be correct in that the Commission has previously decided this issue in favor of MGE and against Staff. The Order also appears to be correct in its conclusion that “Since Staff’s two proposed adjustments have been rejected in other proceedings, it seems that no issues remain for resolution in this case.”

~~WHEREFORE~~, Enbridge Pipelines (KPC) respectfully requests an order from the Commission dismissing this case and, in any event, respectfully submits that the Commission **must dismiss** Staff’s first proposed adjustment (as described in the Commission’s October 19 Order) and respectfully requests that the Commission direct its Staff to cease from conducting any further ACA prudence reviews of the Missouri

Agreements in any future MGE ACA cases in order to comply with the opinion of the Missouri Supreme Court.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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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 2nd day of November, 2007.

/s/ Jeffrey A. Keevil
