

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 28th  
day of January, 1992.

Larry and Cecilia McKnight,	)	
	)	
Complainants,	)	
	)	
v.	)	<u>Case No. GC-92-169</u>
	)	
Missouri Pipeline Company and	)	
Laclede Gas Company,	)	
	)	
Respondents.	)	
	)	

**ORDER DISMISSING COMPLAINT**

On January 17, 1992, Larry and Cecilia McKnight (Complainants) filed a complaint against Missouri Pipeline Company (MPC) and Laclede Gas Company alleging that the Missouri Public Service Commission (MoPSC) in MoPSC Case No. GA-90-280 (consolidated with Cases No. GA-90-276, GA-91-81, and GA-91-82) and entitled *In the matter of Intercon Gas, Inc., et seq.*, improperly issued certificates of public convenience and necessity to each of them to construct, install, acquire, own, operate, and control, manage and maintain a natural gas pipeline and related facilities and to transport natural gas in portions of Jefferson, Franklin, Crawford, Washington and Phelps Counties, Missouri,

The Report And Order of the MoPSC granting certificates of public convenience and necessity to MPC and Laclede Gas Company for the purpose of constructing and operating natural gas pipeline facilities in portions of St. Charles, St. Louis, Warren, Jefferson, and Franklin Counties was issued on June 28, 1991 in MoPSC Case No. GA-90-280 (consolidated with Cases No. GA-90-276, GA-91-81, and GA-91-82) and entitled *In the matter of Intercon Gas, Inc., et seq.*, with an effective date of July 8, 1991. The rule prescribing the procedure for requesting a rehearing on a decision by the MoPSC and the

disposition of that request is set out in 4 CSR 240-2.160--Rehearings. The applicable portion of that rule, with underlines, is as follows:

"(1) After an order or decision has been made by the commission, any party, before the effective date of that order or decision, may apply for a rehearing in respect to any matter determined."

The Complainants herein made no timely application to the MoPSC for a rehearing of its Report And Order in MoPSC Case No. GA-90-280, as consolidated, prior to its effective date of July 8, 1991.

Section 386.550, R.S.Mo. 1986, entitled "Orders to be conclusive" states therein:

"In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive."

The case of *State ex rel. Harline v. Public Service Commission of Mo.*, 343 S.W.2d 177 (App. 1961), found that a MoPSC order granting a certificate of convenience and necessity to an electric utility was not subject to collateral attack for failure of evidentiary support and cited the above statute as "declaratory of the law's solicitude for the repose of final judgments." The Court in that case concluded: "The quoted statute bars our review of the issues decided in ... that were properly within the jurisdiction of the commission."

The MoPSC's actions in MoPSC Case No. Ga-90-280, as consolidated, were clearly within its jurisdiction and the matters decided therein, as collaterally attacked by Complainants, are now final and conclusive. Furthermore, pursuant to 4 CSR 240-2.070(6), the MoPSC may dismiss, without argument and without hearing, a complaint for failure to state facts upon which relief can be granted.

**IT IS THEREFORE ORDERED:**

1. That the complaint herein is dismissed for failure to state facts upon which relief can be granted.

2. That this order shall become effective on the 7th day of  
February, 1992.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

( S E A L )

McClure, Chm., Rauch and Perkins,  
CC., concur.  
Kincheloe, C., not participating.  
Mueller, C., absent.