

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

In the matter of the application of Trigen-)
Kansas City Energy Corporation for a)
Certificate of Public Convenience and)
Necessity authorizing it to construct, install, Case No. HA-2006-0294
own, operate, control, manage and maintain)
a steam heat distribution system to provide)
steam heat service in Kansas City, Missouri,)
as an expansion of its existing certified area.)

**TRIGEN INITIAL RESPONSE TO MGE SUGGESTIONS,
REQUEST THAT MGE FILING BE CLASSIFIED AS HIGHLY
CONFIDENTIAL, AND FOR EXPEDITED ACTION**

COMES NOW Trigen-Kansas City Energy Corporation (“Trigen”), by and through the undersigned counsel, and for its Initial Response to MGE Suggestions, Request That MGE Filing Be Classified as Highly Confidential, and For Expedited Action (“Initial Response”) respectfully states as follows:

1. On October 16, 2007, Missouri Gas Energy filed the Suggestions of Missouri Gas Energy (including its officers, employees, consultants and counsel, henceforth “MGE”) in this case. In its Suggestions, which MGE filed as a Public document with no confidentiality protection, MGE has revealed, in part, one of the provisions of a document which Trigen previously filed in this case as Highly Confidential. In fact, MGE’s Suggestions recognize that the document was filed as Highly Confidential, but discloses certain information from the document nonetheless.
2. This document is a contract between Trigen and a customer, and as such is clearly proper to be designated as Highly Confidential under the provisions of 4 CSR 240-2.135. No party objected to this classification as provided in the Commission’s rule

or in the protective order issued in this case. In addition to violating the trust of the customer involved, its disclosure, including the provision disclosed by MGE, is likely to harm Trigen's ability to negotiate other contracts in the future. Also, MGE's disclosure of a portion of the contract is misleading when taken out of context as it is.

3. MGE's public disclosure of a portion of a contract designated as Highly Confidential also raises the question of what MGE employees were provided access to the contract or given information concerning the contract in violation of 4 CSR 240-2.135 and the protective order issued in this case. As the Commission is aware, Highly Confidential information is only available to attorneys of record in the case and outside experts who have signed a nondisclosure agreement. From the email accompanying MGE's service copy of its Suggestions it appears that MGE employees have been provided with the Suggestions at least and possibly with further information regarding Trigen's contract with its customer. Furthermore, the filing of the Suggestions itself raises the question of what employee(s) at MGE authorized or directed the filing and how that MGE employee(s) could do so without having been provided access to the Highly Confidential contract. MGE should be required to disclose to whom Highly Confidential information has been made available.

4. Due to the continuing harm that may be caused, beyond that already caused, by continued public disclosure of this information, Trigen requests that the Commission **immediately reclassify** MGE's Suggestions as Highly Confidential in the Commission's records and on the Commission's EFIS system so that it is not publicly accessible.

5. Since Trigen believes that the selected material improperly revealed by MGE mischaracterizes the import of the entire document, Trigen reserves the right to file an additional response to MGE's Suggestions. However, that filing will need to be made as a Highly Confidential filing, and Trigen wanted to get this filing before the Commission at the earliest opportunity so that MGE's Suggestions could be reclassified as soon as possible and removed from the public record of this case.

WHEREFORE, Trigen requests that the Commission immediately reclassify MGE's Suggestions filed on October 16, 2007, as Highly Confidential and remove same from the public record of this case, order MGE to disclose to whom Highly Confidential information concerning this contract (and the other contract filed at the same time, which was also designated Highly Confidential) has been made available, and allow Trigen to file a further response in a Highly Confidential filing within 10 days to clarify MGE's mischaracterization of the document in question.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading 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 17th day of October, 2007.

/s/ Jeffrey A. Keevil
