

**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,)
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.)

Case No. HA-2006-0294

**PRE-HEARING BRIEF OF INTERVENOR
TRUMAN MEDICAL CENTER, INCORPORATED**

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INTRODUCTION

COMES NOW Intervenor, Truman Medical Center, Incorporated (TMC), by and through its undersigned counsel and submits its pre-hearing brief as provided for in the Commission's March 13, 2006 Order Adopting Procedural Schedule.

PROCEDURAL HISTORY

1. On January 10, 2006, Trigen-Kansas City Energy Corporation ("Trigen") filed an application seeking to expand its existing certificated area for the provision of regulated steam heating service in downtown Kansas City, Missouri. (Item No. 1)
2. On January 11, 2006, the Commission issued its Order and Notice setting an intervention date of February 10, 2006. (Item No. 2)
3. On February 9, 2006, Missouri Gas Energy (MGE) applied to intervene and requested a hearing. (Item No. 6)
4. On February 10, 2006, Kansas City Power & Light Company (KCPL) applied to intervene. (Item No. 7)
5. On February 15, 2006, TMC applied out of time for good cause to intervene. (Item No. 8)
6. On February 24, 2006, the Commission granted MGE and KCPL intervention. (Item No. 9)
7. On February 28, 2006, the Commission granted TMC intervention. (Item No. 10)
8. On March 9, 2006, the pre-hearing conference in this matter was held.
9. On April 26, 2006, KCPL filed its notice of withdrawal of intervention in this proceeding. (Item No. 35).

10. On May 4, 2006, the parties filed their proposed list of issues, order of witnesses and order of cross examination. (Item No. 40).

FACTUAL BACKGROUND

This case involves the limited expansion of Trigen-Kansas City Energy Corporation's (Trigen) existing certified area for the provision of regulated steam heating service. That expansion is directed toward and will culminate at or near TMC's Hospital Hill facility located at 2301 Holmes, Kansas City, Missouri. TMC has intervened in this proceeding in support of Trigen's application.

TMC is a Missouri non-profit corporation exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code. TMC operates a health care delivery system comprised of acute inpatient, outpatient and behavioral health services. TMC is the safety net hospital provider for the indigent citizens of Kansas City, Missouri and Jackson County, Missouri pursuant to contracts for such services with the City and County. (Wagner, DA Direct, 3:6-7)¹. TMC is also the primary teaching hospital for the UMKC School of Medicine, the UMKC School of Dentistry, the UMKC School of Pharmacy and the UMKC Schools of Health Sciences. (Wagner, DA Direct, 3:7-8). TMC's principal office and place of business is located at 2301 Holmes, Kansas City, Missouri 64108.

TMC desires to receive steam heating service as a customer from Trigen as quickly as possible. TMC's analysis is that steam heating service from Trigen will result in a significant utility cost savings to TMC. (Wagner, DA Direct, 3:20-21). As a non-profit health care provider to the indigent of Kansas City, Missouri and Jackson County,

¹ References to the pre-filed direct testimony of David A. Wagner will be noted as Wagner, DA Direct, page:line(s).

Missouri, such a cost savings serves to conserve and stretch the already scarce health care resources currently available. (Wagner, DA Direct, 3:21-23). Those savings translate into greater resources available for direct patient care to the population that TMC serves. (Wagner, DA Direct, 7:16-20).

Beyond the cost savings, Trigen steam service would provide TMC with a redundant energy source to assure uninterrupted healthcare delivery at TMC. (Wagner, DA Direct, 3:23-4:1). TMC's Level I Trauma Center is at the core of the Kansas City healthcare infrastructure and TMC's emergency room is the busiest in Kansas City. Assuring uninterrupted operation of these and other services with a resulting cost savings is a win-win for TMC and the community. (Wagner, DA Direct 4:1-4).

CONTESTED ISSUES ANALYSIS

I. Should the Commission grant Trigen's requested Certificate of Convenience and Necessity to construct, install, own, operate, control, manage and maintain a system for the provision of steam heating service to the public pursuant to its approved rates, rules and regulations in Kansas City, Jackson County, Missouri (in the area more particularly described in Appendix B to Trigen's Application) as an expansion of its current service territory as being "necessary or convenient for the public service" pursuant to Sections 393.170 and 393.290 RSMo (2000)?

TMC supports the approval of Trigen's application. As set forth above, the annual savings to TMC will be significant. With the savings, TMC could fund much needed capital improvements to the HVAC system at TMC. That system is over 30 years old and needs to be replaced. Presently those capital dollars are not available. Due to Medicare and Medicaid cuts, dollars that would typically have been used for such capital expenditures have been used to cover the ever-shrinking Medicare and Medicaid revenues available to TMC. (Wagner, DA Direct, 4:18-22). Further, dollars saved

beyond those needed for capital improvements will go directly to the provision of care for the indigent population TMC serves.

Staff's recommendations are based on the "public" being defined as current customers in Trigen's current certified area. (Harris, VW Rebuttal, 5:16-18).² Thus, if there is no adverse impact against those customers, then Trigen's application "is necessary or convenient for the public service." See, e.g. 4 CSR 240-3.400 (1)(E); State ex rel. Intercon Gas, Inc. v. Public Service Commission, 848 S.W.2d 593, 597 (Mo App. 1993).

Staff made recommendations set forth as issue II below to protect the public interest consistent with approving Trigen's application. (Harris, VW Rebuttal, 3:1-8). As set forth below, TMC is willing to fully finance Trigen's construction. Thus, that condition is met. Trigen will need to speak to the second condition of "hold harmless."

II. If so, should any conditions be imposed on the Certificate of Convenience and Necessity?

Staff has recommended that the Commission grant Trigen's application with two conditions: a) that TMC advance the entire cost of Trigen's expansion project and b) Trigen "hold harmless" its existing customers in its existing certified area.

As for condition a, TMC is willing to finance the entire cost of Trigen's expansion project. TMC will submit evidence of its willingness to provide such financing to meet Staff's recommended condition. Additionally, TMC would anticipate that when the project proves financially advantageous to both Trigen and TMC that portions of its advanced funds would be refunded. Mr. Harris from the Staff has indicated that such a refund would be appropriate. (Harris, VW Rebuttal, 7:21-23).

² References to the pre-filed rebuttal testimony of V. William Harris will be noted as Harris, VW Rebuttal, page:line(s).

As for condition b, Trigen would be best suited to respond to these conditions that are directed at its operations.

WHEREFORE, Truman Medical Center, Incorporated respectfully requests that Trigen's application be granted in this proceeding.

Respectfully submitted,

TRUMAN MEDICAL CENTER, INCORPORATED

/s/ G. David Porter

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent to counsel for all parties of record in Case No. HA-2006-0294 by depositing same in the U.S. Mail, first class postage prepaid, by hand-delivery, or by electronic transmission this 11th day of May, 2006.

/s/ G. David Porter

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