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FILED³

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Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Mo. 65102-0360

Missouri Public
Service Commission

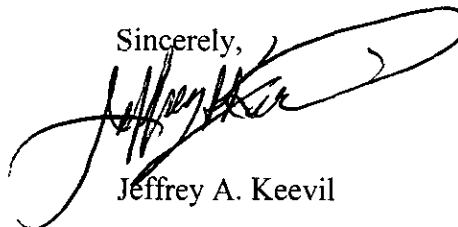
RE: Case No. GM-2001-585

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case are an original and the appropriate number of copies of a RESPONSE TO MOTION TO DECLASSIFY HIGHLY CONFIDENTIAL PORTIONS OF WITNESS TESTIMONY FILED ON BEHALF OF THE OFFICE OF THE PUBLIC COUNSEL on behalf of Gateway Pipeline Company, Inc.

Copies of this filing have on this date been mailed or hand-delivered to counsel of record. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er
Enclosures
cc: counsel of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
AUG 20 2001

Missouri Public
Service Commission

In the Matter of the Joint Application of)
Gateway Pipeline Company, Inc.,)
Missouri Gas Company and Missouri)
Pipeline Company.)

Case No. GM-2001-585

**RESPONSE TO MOTION TO DECLASSIFY HIGHLY CONFIDENTIAL
PORTIONS OF WITNESS TESTIMONY FILED ON BEHALF OF
THE OFFICE OF THE PUBLIC COUNSEL**

COMES NOW Gateway Pipeline Company, Inc. ("Gateway"), and for its response to the motion filed by the Office of the Public Counsel ("OPC") on August 14, 2001 (the "Fourth Motion"), to declassify highly confidential portions of witness testimony filed on behalf of the Office of the Public Counsel, states as follows:

1. Gateway would note that OPC first filed its motion to remove the highly confidential designations of data request responses on or about July 19, 2001 (the "First Motion"). Gateway responded to the First Motion on July 24, 2001, and incorporates herein by reference the arguments set forth in that response. Thereafter, on August 1, 2001, OPC filed a motion to declassify highly confidential portions of witness testimony filed on behalf of the Office of the Public Counsel (the "Second Motion"). Gateway responded to the Second Motion on August 6, 2001, and incorporates herein by reference the arguments set forth in that response. On August 7, 2001, OPC filed what it denominated as supplemental suggestions in support of motion to remove highly confidential designations (the "Third Motion"), to declassify certain data request responses of Gateway, purportedly to supplement its First Motion. Gateway responded to

the Third Motion on August 13, 2001, and incorporates herein by reference the arguments set forth in that response. OPC has now filed the Fourth Motion in its series of motions, necessitating that Gateway respond once again.

2. Gateway would also note that Paragraph B of the Protective Order states: “The *requesting party* [*i.e.*, the party requesting information through data requests or other discovery devices] may then [after a response designated Highly Confidential or Proprietary is received] file a motion challenging the designation. The party designating the information confidential shall have five days after the filing of the challenge to file a response. *No other filings are authorized.*” (emphasis added) Despite no other filings being authorized by the terms of the Protective Order, Gateway has now been forced to respond to four filings by OPC. In addition, some of the data request responses and corresponding testimony which OPC has sought to declassify were not responses to data requests submitted by OPC, *i.e.*, requests as to which OPC was not the requesting party – therefore, under the terms of the Protective Order, OPC has no standing, authority or right to challenge the designation of the responses. This is discussed in detail in Gateway’s responses to OPC’s previous motions, and Gateway would refer the Commission to those responses for further discussion of this matter.

3. OPC raises no new arguments from its numerous prior motions nor does it give any real reasons why its latest motion should be granted; once again, OPC does not and cannot show any harm to OPC by the designation of certain information as Highly Confidential (or Proprietary); OPC cannot allege that its ability to conduct discovery or present its case is hampered in the slightest degree by the designation of certain information as Highly Confidential; and once again OPC ignores the harm to Gateway

that could be affected by public disclosure of certain information. If granted, OPC's Fourth Motion, like its numerous predecessors, still presents the danger of harm to Gateway, because if it is granted the responses (which have been provided to other parties pursuant to data requests) and testimony will be available to persons other than those allowed to view Highly Confidential information pursuant to the Protective Order. Also, the testimony and responses could be used at the hearing without going in camera to protect the information.

4. Turning now to the specific portions of testimony which OPC seeks to declassify in its Fourth Motion:

Bolin testimony:

a) page 2, line 12 and b) schedule KKB-5 in its entirety – Schedule KKB-5 is a response to a data request submitted by Staff, and accordingly OPC lacks standing/authority to challenge the designation under the terms of the Protective Order. The information clearly relates to future business plans and strategies which have not been made public, as well as services which are offered (or may be contemplated) in competition with others, and accordingly should continue to be protected. Page 2, line 12 is taken from and refers to Schedule KKB-5. The information should continue to be protected and classified as designated.

Burdette testimony:

a) page 3, lines 10-36 and b) page 4, lines 1-5 and 10-12 [sic] – All of this testimony relates to and is taken from a response to a data request submitted by Staff, and accordingly OPC lacks standing/authority to challenge the designation under the terms of the Protective Order. The testimony refers to and is taken from the updated response to a

Staff data request which OPC has previously sought to declassify. This testimony should not be declassified for the same reasons OPC's previous attempt to declassify it should not be granted (see Gateway's response to OPC's Second Motion, Burdette testimony, schedule (attachment) 3). It concerns the business financial plans of Gateway and certain *Highly Confidential financing/loan terms* between Gateway and its lender and could be detrimental to Gateway if the information were to become known beyond those allowed to view Highly Confidential information pursuant to the Protective Order. The testimony is taken from an updated term sheet attached to the data request response; *this term sheet was designated as Confidential by Gateway's lender, so it is not only Gateway that seeks to maintain this information as Confidential.* Disclosure could also hamper Gateway's ability to negotiate for the most favorable financing terms in the future. The Highly Confidential designation of this information should be maintained.

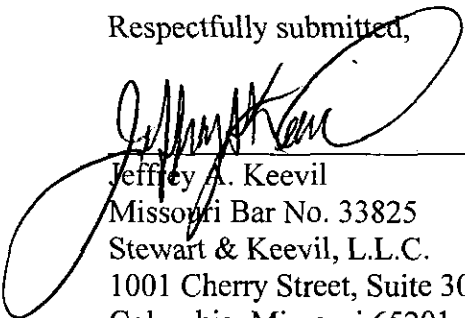
5. Rather than repeat at length the arguments set forth in Gateway's responses to OPC's First Motion, Second Motion and Third Motion, Gateway would refer the Commission to Gateway's responses filed herein on July 24, 2001, August 6, 2001, and August 13, 2001, which are incorporated herein by reference.

WHEREFORE, for all of the reasons set forth herein and in Gateway's responses filed on July 24, 2001, August 6, 2001, and August 13, 2001, Gateway respectfully requests the Commission issue an order denying OPC's Motion to Remove Highly Confidential Designations (the First Motion), denying OPC's Motion to De-classify Highly Confidential Portions of Witness Testimony Filed on Behalf of the Office of the Public Counsel¹ (the Second Motion), denying OPC's Supplemental Suggestions in

¹ Except as set forth in paragraph numbered 5 of Gateway's response to OPC's Second Motion.

Support of Motion to Remove Highly Confidential Designations² (the Third Motion), and
denying OPC's Motion to De-classify Highly Confidential Portions of Witness
Testimony Filed on Behalf of the Office of the Public Counsel (the Fourth Motion).

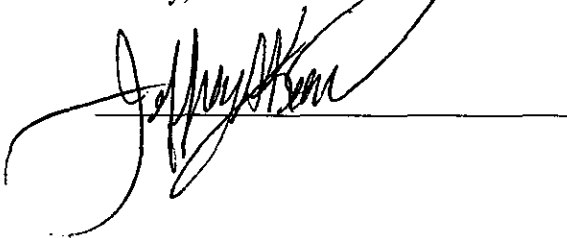
Respectfully submitted,



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ATTORNEY FOR GATEWAY
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by placing same
in first-class mail, postage paid, or by hand-delivery, to counsel of record on this 20th day
of August, 2001.



² Except as set forth in paragraph numbered 8 of Gateway's response to OPC's Third Motion.