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August 28, 2001

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Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. GM-2001-585


Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **STAFF'S POSITIONS ON THE ISSUES**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,


Lera L. Shemwell
Associate General Counsel
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LLS:sw
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
AUG 28 2001

Missouri Public
Service Commission

In the Matter of the Joint Application of)
Gateway Pipeline Company, Inc.,)
Missouri Gas Company and the)
Acquisition by Gateway Pipeline)
Company of the Outstanding Shares of)
Utilicorp Pipeline, Inc.)

Case No. GM-2001-585

STAFF'S POSITIONS ON THE ISSUES

COMES NOW the Staff of the Commission (Staff) and in compliance with the Commission's Order Modifying Procedural Schedule, submits its statement of Positions on the Issues.

1. **Should the request of the Joint Applicants for Gateway to acquire all of the stock of UPL be approved?**

STAFF POSITION: No.

- A. **Would the sale be detrimental to the public interest?**

STAFF POSITION: In Staff's opinion the sale would be detrimental to the public interest for the following reasons:

- (1). These pipelines are not profitable and there is no plan to make the system profitable. Gateway has not provided any detailed information concerning its plan to make this system profitable. It has not provided a business plan, a strategic plan, any economic analysis supporting its projections of higher profits or, in fact, the details of any realistic approach to make this system profitable. At the same time, Gateway will be less able to withstand financial losses associated with these properties than UtiliCorp, due to UtiliCorp's financial strength.
- (2). Rates are already high on the MPC and MGC systems and will almost certainly have to increase under Gateway ownership, which will likely lead to loss of customers on the pipeline to alternative fuels, decreased usage of natural gas, thus creating the need for further rate increases. This process would end in a so-called death spiral, and the possible termination of gas service in the MPC and MGC service territories.

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- (3). If the sale is approved, it is most likely that the Commission will ultimately lose jurisdiction to the FERC over the rates and services provided to Missouri customers by these Missouri pipelines.

B. If so, are there conditions that the Commission could impose to reduce or eliminate any detriment?

STAFF'S POSITION: There are conditions that the Commission could impose to reduce any detriment, however, when this system becomes FERC jurisdictional, which Staff believes it will if the sale is approved, no conditions imposed by the Commission will have any force or effect at the FERC. Once the pipeline comes under the jurisdiction of the FERC, Missouri Commission jurisdiction is preempted, eliminating the effectiveness of any conditions.

If the Commission were to approve the sale, which Staff is not recommending, Staff would submit a suggested set of conditions designed to limit the detriment to the public so long as the system remained under the jurisdiction of this Commission.

2. Does the condition that the Commission placed on UtiliCorp when it acquired these properties, that UtiliCorp would not connect the intrastate pipelines to the interstate Trans Mississippi Pipeline, apply to Gateway should the Commission approve the proposed transaction?

STAFF POSITION: Yes. The condition that MPC not connect to the interstate pipeline that goes under the Mississippi River was part of the order granting a certificate of convenience and necessity (CCN) for this pipeline and a condition of Utilicorp's acquisition. Thus, there are two levels of restrictions. No request to amend or waive the Utilicorp condition or the CCN condition was made by the Joint Applicants in the Application or in their Direct Testimony. If the Commission were to approve this transaction, the CCN with its restriction on MPC, would pass to the new owners and should remain in effect until the Commission agreed to change the CNN.

A. If so, should the Commission waive this provision?

STAFF POSITION: No. Joint Applicant's last minute request that the Commission waive this provision is inadequate and untimely and should be rejected.

B. Might the Commission lose jurisdiction over these pipelines? If so, how would the loss of jurisdiction affect the public interest?

STAFF POSITION: Yes. If the intrastate pipelines connect to the currently

unused interstate pipeline, Missouri jurisdiction over the pipeline becomes more questionable and if Gateway were to begin to serve any Illinois customers, FERC jurisdiction is much more likely. While there are some exceptions to FERC jurisdiction, even with an interstate connection, having such a connection makes FERC jurisdiction much more probable than if the prohibition on connection remains in place and in force.

Respectfully submitted,

DANA K. JOYCE
General Counsel

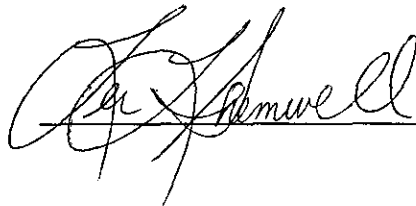


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 28th day of August 2001.



**Service List for
Case No. GM-2001-585
Revised: August 28, 2001 (SW)**

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