BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In re: FERC Docket No. CP07-450, MoGas Request for Authorization under Blanket Certificate

) Case No. GO-2009-0094

FIRST AMENDED APPLICATION TO TERMINATE

COMES NOW Applicant MoGas Pipeline LLC ("MoGas") and pleads as follows.

A. MoGas incorporates by reference all of its previous pleadings in this action,

including the following:

- (1) Application to Terminate, filed 9/9/2008;
- (2) Reply To Staff's Response, filed 9/24/2008;
- (3) Supplement to Application, filed 10/16/2008;
- (4) Additional Supplement To Application, filed 10/22/2008; and
- (5) Motion for Determination on the Pleadings, filed 1/15/2009.

B. MoGas specifically pleads the following additional allegations:

1. MoGas is a party to the action known as *MoGas Pipeline LLC* (FERC

Docket No. RP09-185-000; hereinafter, the "FERC Rate Case").

2. On January 5, 2009, outside counsel for the Commission filed an Intervention and Protest, purportedly on behalf of the Commission, in the FERC Rate Case. A copy of said filing was previously attached as Exhibit A to Applicant's Motion for Determination and is already a part of the record before the Commission in this action.

3. The Intervention and Protest demands that FERC order Applicant to modify Applicant's proposed federal tariff sheets.

4. The FERC Rate Case is a matter of interstate commerce.

5. MoGas' proposed federal tariff sheets are a matter of interstate commerce.

6. There is no express provision of Missouri law by which the legislature has conferred upon the Commission the power to intervene in the FERC Rate Case.

7. The Commission's intervention in the FERC Rate Case is not by clear implication necessary to carry out any power specifically granted to the Commission.

8. The Commission's intervention in the FERC Rate Case is expressly prohibited by § 386.030, RSMo., which forbids the Commission from interference with matters of interstate commerce.

9. General Counsel for the Commission is authorized to represent and appear for the Commission but only "if directed to do so by the commission." § 386.071, RSMo.

10. It does not appear in any public record known to Applicant that the Commission directed its General Counsel to intervene in the FERC Rate Case. In any event, it is a private law firm that is representing and appearing for the Commission in the FERC Rate Case, not the Commission's General Counsel.

The Commission is expending public funds to retain the private law firm
Stinson, Morrison, Hecker LLP to represent and appear for the Commission in the FERC
Rate Case.

12. There is no provision of Missouri law by which the legislature has expressly conferred upon the Commission the power to retain a private law firm to represent and appear for the Commission, the power to retain a private law firm to intervene in a FERC case, or the power to retain a private law firm to litigate matters relating to interstate commerce. Likewise, none of these actions are by clear implication necessary to carry out any power specifically granted to the Commission.

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13. The expenditure by a state agency of public funds to retain a private law firm, if not contemplated by the agency's enabling legislation, is illegal and subject to injunction. State ex rel. Nixon v. American Tobacco Co., 34 S.W.3d 122, 133 (Mo. banc 2000).

14. An affidavit of the President of MoGas was attached to the original Application in this action. Said affidavit is incorporated herein by reference.

WHEREFORE, MoGas moves that the Commission:

(A) Withdraw its Intervention and Protest in the FERC Rate Case;

(B) Terminate permanently its involvement in all FERC matters related to MoGas:

Instruct Staff, General Counsel, and outside counsel to refrain from further (C) interfering with MoGas's operation as a FERC-regulated entity engaged in interstate commerce: and

(D) Decide the issues of general public importance raised by the pleadings in this action, as set forth in Applicant's Motion for Determination on the Pleadings.

Respectfully submitted,

LATHROP & GAGE, L.C.

/s/David G. Brown

Mo. #42559

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Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 5th day of February, 2009, to:

General Counsel Office Missouri Public Service Commission 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 GenCounsel@psc.mo.gov

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/s/David Brown