

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 3rd day of
May, 2005.

In the Matter of an Investigation into Compliance)
with the Required Registration of Sellers of Electricity)
and Gas for Use or Consumption within Missouri.) **Case No. GO-2004-0195**

ORDER CLOSING CASE

Background

On October 24, 2003, the Staff of the Missouri Public Service Commission filed a motion requesting that the Commission open a case to investigate the sale or distribution of gas and electricity in Missouri by entities that are not certificated by the Commission. Staff's motion was prompted by an inquiry from school officials in Salem, Missouri concerning Cornerstone Energy. Cornerstone is not registered with the Commission to sell energy. Finding it reasonable, the Commission granted Staff's motion.

Staff's Investigation

After investigating a number of companies, Staff found that certification of "upstream" transactions is not required and that "downstream" passage of title is not occurring. Staff therefore concluded that its concerns, regarding the selling of energy by companies that are not certificated by the Commission, are moot. However, Staff offered the following recommendations:

- (1) The Commission's website should be updated to include a list of registered Energy Sellers along with clear statements on the scope of the existing Energy Seller's review process.

- (2) If the Commission desires to consider a more level tax paying field, amended legislation should be considered to allow the gross receipts based franchise tax to be replaced by a consumption tax on the end-use customer. The Staff is neither advocating nor opposing a new tax but merely suggesting a possible alternative in the event these taxes are restructured. If new legislation is proposed it should also require the Local Distribution Company to perform the role of tax collector.
- (3) The Commission should consider the effect of limited marketer participation in this state.

In addition to its general finding, Staff submitted answers to several questions posed by the Commission. The questions and answers are as follows:

- a. What sellers are providing “energy services” as defined by Section 393.297-.302, RSMo 2000?

None. Staff’s interpretation of the law is that energy services are related to a specific service that is delivered to the end-user’s premise and that the rule implies control or direct use of the LDC’s distribution system by the seller. There are no such sellers in Missouri.

- b. Of these sellers providing “energy service,” which ones are operating without the required certification from the Commission?

None.

- c. Are any of these sellers affiliated with electric and gas distributors in Missouri?

No, because there are no “sellers.”

- d. Are these sellers registered with the Missouri Secretary of State to do business in Missouri?

Because there are no sellers, there are none registered with the Missouri Secretary of State.

- e. Should the Commission's certification process be modified to address the financial, technical, and managerial capabilities of sellers providing service in Missouri?

Staff does not believe Missouri's certification process should be modified. The present practice of limiting the review to an assessment of whether the applicant will collect any taxes that might be due is consistent with the limited requirements of the statute and Commission rule. However, Staff does suggest that the Commission conduct a more detailed review of marketers' creditworthiness and supply capabilities if access to transportation were to be expanded to small commercial or residential customers because those customers often do not have the expertise to contract for natural gas supply and transportation services.

- f. What plan of action do the parties in this case recommend to ensure full compliance with the statutes by all energy sellers?

To permit quick access for the public as to which companies are certificated, Staff suggests that a list of certified marketing companies be made available on the Commission's website.

Conclusion

The Commission has reviewed Staff's Report and finds that this case has accomplished its goal of determining whether there are entities selling energy in Missouri without authorization from the Commission. There are none. The Commission will address Staff's recommendations outside the scope of this case. Therefore, this case may now be closed.

IT IS THEREFORE ORDERED:

1. That this order shall become effective on May 13, 2005.

2. That this case may be closed on May 14, 2005.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Jones, Regulatory Law Judge