

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Trigen-Kansas City Energy	)	<u>Case No. HR-2008-0300</u>
Corporation's Tariffs to Increase Rates for	)	Tariff Nos. YH-2008-0553
Customers of its Steam Service	)	and YH-2008-0554

ORDER ADOPTING PROCEDURAL SCHEDULE AND TEST YEAR

Issue Date: April 28, 2008

Effective Date: April 28, 2008

Background

On March 11, 2008,¹ Trigen-Kansas City Energy Corporation ("Trigen") submitted tariffs designed to implement a general rate increase for steam service. Trigen indicates the new steam service rates are designed to increase its gross annual steam tariff revenues by approximately \$1,228,000. The submitted tariffs carry an April 11 effective date.

On March 12, the Commission suspended the tariff until February 9, 2009. In its order suspending Trigen's tariff, the Commission ordered the parties to prepare a proposed procedural schedule. On April 24, 2008, the parties filed a pleading with a proposed procedural schedule that also addressed some ancillary procedural matters.

Test Year and True-Up

The test year is a central component in the ratemaking process. Rates are usually established based upon a historical test year which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be

¹ All dates throughout this order refer to the year 2008 unless otherwise noted.

earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses.² From these four factors is calculated the “revenue requirement,” which, in the context of rate setting, is the amount of revenue ratepayers must generate to pay the costs of producing the utility service they receive while yielding a reasonable rate of return to the investors.³ A historical test year is used because the past expenses of a utility can be used as a basis for determining what rate is reasonable to be charged in the future.⁴

The parties have agreed to a historical test year consisting of calendar year 2006. The parties further agree that if an anticipated customer addition is completed in time to gather a month’s worth of that customer’s data (that data is presently predicted to be available by approximately July 16) the parties do not believe that true-up will be necessary. However, should a need arise for a true-up hearing, the parties request that the dates set for that hearing be December 2-3, as opposed to the dates currently reserved by the Commission, i.e. November 20-21.

The proposed test year recommended by parties is suitable and no party has objected to it. The Commission will therefore adopt the test year recommended by the parties. Because the parties have not solidified their positions regarding true-up, the Commission will reserve dates for a true-up hearing.

Hearing Dates and Procedural Schedule

The Commission reserved dates for an evidentiary hearing and true-up hearing in its Suspension Order and Notice of March 12. This practice is necessary to ensure that

² *State ex rel. Union Electric Company v. Public Service Commission*, 765 S.W.2d 618, 622 (Mo. App. 1988).

³ *State ex rel. Capital City Water Co. v. Public Service Commission*, 850 S.W.2d 903, 916 n. 1 (Mo. App. 1993).

⁴ *See State ex rel. Utility Consumers’ Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 59 (Mo. banc 1979).

sufficient hearing dates will be available. The order noted that to allow the Commission adequate time to issue its Report and Order, the hearing should end no later than October 31. The parties have conformed their request to the dates ordered by the Commission with regard to the evidentiary hearing, however, they propose dates later than the dates reserved by the Commission in the event a true-up hearing is required. The Commission will accommodate the parties' request with regard to the potential true-up hearing. However, the Commission emphasizes that because the deadline for completion of the hearing process is fixed by law, the Commission is unwilling to continue any part of the scheduled hearings beyond the dates fixed in this order.

The Commission finds that the remainder of the dates in the proposed procedural schedule are appropriate with four modifications. First, the proposed procedural schedule calls for the parties to file position statements on October 16, 2008. The Commission finds prehearing briefs to be more helpful in preparing for an evidentiary hearing. Accordingly, the Commission will order the parties to file prehearing briefs instead of filing position statements. The Commission will require prehearing briefs be filed on or before October 13, to allow the Commission sufficient time review to them prior to the start of the hearing on October 20. No page limit will be placed upon prehearing briefs. The parties proposed no post-hearing briefing schedule; consequently, the post-hearing briefing schedule will be delineated in the ordered paragraphs of this order. For clarity, there will only be a single round of post-hearing briefs. No page limit will be placed upon post-hearing briefs. Third, the parties will be required to submit proposed findings of fact and conclusions of law, to be filed concurrently with post-hearing briefs. Fourth, Staff will be required to submit a reconciliation as part of the procedural schedule.

Local Public Hearing

The parties have not requested local public hearings at this time. The parties suggest that in the event a customer should request a local public hearing, they reserve the right to support or oppose such request. The Commission will consider this suggestion and if it determines that a local public hearing is warranted the final scheduling of the public hearing shall follow in a separate order.

Conditions

The Commission will apply the following conditions to the procedural schedule:

(A) The Commission will require that testimony be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.

(B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

(C) Each party shall file a prehearing brief, which shall include a simple and concise statement summarizing its position on each disputed issue.

(D) All pleadings and briefs shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(E) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the

party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

(F) All parties must file proposed findings of fact and conclusions of law, including citations to prefiled testimony, transcripts and other relevant evidence.

(G) A settlement shall not be grounds for continuing the hearing unless a written settlement agreement resolving all issues is filed with the Commission prior to, or concurrent with, the request for continuance.

(H) The Commission's standard practice is that hearing transcripts will be available no later than ten business days following the close of the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the Regulatory Law Judge at least five days prior to the date of the hearing.

IT IS ORDERED THAT:

1. The following procedural schedule is established:

Direct Testimony (Revenue Requirement) All parties except Company	-	August 1, 2008, by 5:00 p.m.
Direct Testimony (Rate Design) All parties except Company	-	August 15, 2008 by 5:00 p.m.
Prehearing Conference	-	August 25-29, 2008 beginning 9:30 a.m.
Rebuttal Testimony All parties	-	September 9, 2008 by 5:00 p.m.
Beginning of 10 Calendar Day Response Time for Data Requests and 5 Business Days to Object, etc.	-	September 9, 2008
Surrebuttal Testimony All parties	-	October 8, 2008 by 5:00 p.m.

Reconciliation Filed	-	October 10, 2008 by 5:00 p.m.
List of Issues, List of Witnesses, and Order of Cross-Examination	-	October 10, 2008 by 5:00 p.m.
Prehearing Briefs	-	October 13, 2008 by 5:00 p.m.
Evidentiary Hearing	-	October 20-24, and October 27-31, 2008 beginning 8:30 a.m.
Transcript	-	November 14, 2008
True-up hearing, if necessary	-	November 24, 2008 beginning 8:30 a.m.
Post-hearing Briefs	-	December 4, 2008 by 5:00 p.m.
Proposed Findings of Fact, and Conclusions of Law	-	December 4, 2008 by 5:00 p.m.

2. The procedural conference will be held at the Commission's office at the Governor Office Building, Room 305, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference.

3. The hearing will be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service

Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

4. The test year for purposes of this case shall be the calendar year of 2006.

5. Transcripts of the evidentiary hearings will be expedited and shall be filed no later than November 14, 2008.

6. This order shall become effective on April 28, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 28th day of April, 2008.