

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Investigation into)
Limitations of Liability for Public Utilities.) **Case No. AO-2012-0173**

STAFF'S NOTICE OF APPELLATE OPINION

COMES NOW the Staff of the Missouri Public Service Commission (Staff),
by and through the undersigned counsel, and files *Staff's Notice of Appellate
Opinion (Notice)*, and states as follows:

1. On September 18, 2012, the Missouri Public Service Commission (Commission) issued an *Order Directing Filing (Order)*, whereby the Commission ordered Staff to file another report that “will examine jurisdictions that have reduced regulated utilities’ immunity from liability for personal and property damage and describe how they have done so.”

2. On September 20, 2012, the Commission issued an order directing Staff to file its next report on March 25, 2013.

3. On January 8, 2013, the Western District of Missouri Court of Appeals issued its opinion in *Public Service Commission v. Missouri Gas Energy*, No. WD75024, 2013 WL 68897 (Mo. App. W.D. January 8, 2013) in which it held “The Commission¹ has no statutory authority to abrogate the common law of negligence by affording immunity to public utilities from negligence causing personal injury or property damage on a customer’s property, whether or not the immunity is conditioned on compliance with safety rules”. *Id* at 10. The opinion is attached to this filing for the Commission’s review as Appendix A.

¹ The Missouri Public Service Commission

4. On January 22, 2013, Missouri Gas Energy filed an application to transfer the case to the Supreme Court of Missouri. The Application is currently pending.

WHEREFORE, Staff respectfully submits this *Notice*, and requests that the Commission direct Staff as to whether Staff should submit its report given the Appellate Court's decision in the aforementioned case, or hold off until a final decision has been made.

Respectfully submitted,

/s/ Goldie Tompkins

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **31st day of January, 2013**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Goldie Tompkins