

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE

STATE OF MISSOURI, ex rel. MISSOURI PIPELINE COMPANY, L.L.C., and
MISSOURI GAS COMPANY, L.L.C.,

Appellants,

v.

MISSOURI PUBLIC SERVICE COMMISSION, et al.,

Respondents.

DOCKET NUMBER WD70325

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: December 22, 2009

Appeal from

The Circuit Court of Cole County, Missouri
The Honorable Richard G. Callahan, Judge

APPELLATE JUDGES

Division Three: Thomas H. Newton, C.J., and James Edward Welsh and Karen King Mitchell, JJ.

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MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI, ex rel.)
MISSOURI PIPELINE COMPANY,)
L.L.C., and MISSOURI GAS)
COMPANY, L.L.C.,)
)
Appellants,)
v.)
)
MISSOURI PUBLIC SERVICE)
COMMISSION, et al.,)
)
Respondents.)

WD70325

Cole County

Before Division Three Judges: Thomas H. Newton, C.J., and James Edward Welsh and Karen King Mitchell, JJ.

This case requires review of an order of the Public Service Commission of Missouri (“PSC” or “the Commission”). The Staff of the PSC (“Staff”) filed a complaint with the PSC pursuant to section 386.390.1,¹ alleging that Missouri Gas Company, LLC (“MGC”) and Missouri Pipeline Company (“MPC”) had violated the terms of their tariffs and PSC regulations.² The Staff proceeded to a hearing before the Commission. The Commission entered an order finding that MGC and MPC had violated their tariffs and PSC regulations in that they (1) provided confidential information and/or preferential treatment to their affiliate, Omega Pipeline Company (“Omega”); (2) charged Omega transportation rates that were lower than the transportation rates that they charged non-affiliate customers; and (3) failed to report the discounted rates that they charged Omega.

AFFIRMED.

Division Three holds:

MGC and MPC argue that the order was unlawful in that it violated due process and employed an unauthorized ratemaking procedure. We hold that due process was satisfied because MGC and MPC received adequate notice and opportunity to defend themselves in all respects. We

¹ All statutory references are to RSMo 2000, updated through the 2008 Cumulative Supplement.

² MPC and MGC are “gas corporations,” as defined in section 386.020(18), and “public utilities,” as defined in section 386.020(43). As monopoly providers of intrastate natural gas transportation service, they were regulated by the Commission and were required to file “tariffs” with the Commission, which establish the rates and conditions for providing service. See § 393.140(11). MGC and MPC were subject to regulation by the Commission at all times relevant to this appeal.

hold further that the Commission did not employ an unauthorized ratemaking procedure; rather, consistent with its authority, the Commission merely interpreted and enforced PSC regulations and the tariffs of MGC and MPC.

MGC and MPC also argue that the Commission's order was unreasonable. We hold that the order was reasonable in that there was substantial and competent evidence that (1) MGC and MPC charged their affiliate, Omega, discounted rates; (2) the Commission did not misapply the terms of the relevant tariffs; and (3) MGC and MPC transferred confidential information to Omega, and/or Omega used such information.

Opinion by: Karen King Mitchell, Judge

December 22, 2009

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.