

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

The Staff of the Missouri Public Service Commission,)	
)	
Complaint,)	
)	
v.)	Case No. GC-2009-0036
)	
Missouri Gas Energy, a division of Southern Union Company,)	
)	
Respondent.)	

ANSWER

COMES NOW Respondent, Southern Union Company d/b/a Missouri Gas Energy (hereinafter "MGE" or "Respondent") pursuant to Commission rule 4 CSR 240-2.070(8) and for its Answer to the Complaint, provides the following:

Response to Introduction and Summary of Staff's Complaint

Staff's Complaint starts with an editorial comment section that purports to explain and rationalize the filing, an approach that offers a series of inaccuracies and misrepresentations. Staff would have the Commission believe that MGE in its last rate case filing surreptitiously filed a tariff sheet and somehow prevented Staff from ever seeing it. This would be troubling indeed if it was true. In fact, however, MGE filed the tariff sheet complained of (R-34) on May 1, 2006, in a red-line format that made all changes readily apparent to anyone who bothered to look.

The proposed amendments to tariff sheet R-34 were submitted in a track-changes format familiar to anyone who uses word processing software. This

drafting feature highlights new language and “balloons” deletions in the margin. In fact, the tariff sheet filed by MGE is affixed to Staff’s Complaint as Exhibit B. One need only look at that document to weigh the credibility of Staff’s allegation that MGE “did not bring the changes to the Commission’s attention”.

It is simply not true, contrary to Staff’s allegation, that MGE’s witnesses explained the tariff changes on the first 21 proposed tariff sheets but “did [not] mention the changes to R-34” In his direct testimony, MGE witness Noack addressed specifically 15 of the 22 tariff sheets filed by the company and refers to the others in only general terms. Additionally, in his surrebuttal testimony, page 24, he states “[t]ariff sheet nos. 24.3, 61.2, and R-34, all of which were included in the filing made by MGE on May 1, 2006, have not been mentioned or opposed by any party.”

Finally, Staff asserts that MGE’s liability tariff “does not comply with the Commission’s gas safety rules and is in conflict with the law and public policy.” This statement is wrong. The power of the Commission to provide for reasonable limitations of liability is an integral part of the ratemaking process in this state and the Commission has approved such tariff sheets in the past. Contrary to Staff’s claim, limitations of liability contained in utility company tariffs are fully consistent with public policy in Missouri.

Alleged Violation of Commission Rules

1. Respondent admits to the allegations contained in paragraph 1 of the Complaint.

2. Respondent admits to the allegations contained in paragraph 2 of the Complaint.

3. Respondent admits to the allegations contained in paragraph 3 of the Complaint.

4. Respondent admits to the allegations contained in paragraph 4 of the Complaint.

5. Respondent admits to the allegations contained in paragraph 5 of the Complaint. For further answer and defense, Respondent states that Exhibit B to the Complaint is a copy of the tariff sheet R-34 filed by Respondent on May 1, 2006.

6. Respondent denies the allegations contained in paragraph 6 of the Complaint.

7. Respondent admits to the allegations contained in paragraph 7 of the Complaint except that Respondent specifically denies that MGE did not identify and summarize changes in its liability tariff.

8. Respondent admits to the allegations contained in paragraph 8 of the Complaint.

9. Respondent states that no response is required concerning the allegations contained in paragraph 9 of the Complaint in that § 386.390 RSMo speaks for itself. Respondent specifically denies any suggestion that Staff is authorized to file complaints in the absence of an express delegation of authority from the Commission.

10. Respondent admits Staff did not address in its testimony the tariff sheet R-34 language changes proposed by Respondent and that the issue was not specifically identified on the list of issues in Case No. GR-2006-0422. Respondent denies each and every other allegation contained in paragraph 10 of the Complaint.

11. Respondent denies the allegations contained in paragraph 11 of the Complaint.

12. Respondent denies the allegations contained in paragraph 12 of the Complaint. For further answer and defense, Respondent states that the language of tariff sheet R-34 does not conflict in any way with the requirements of the Commission's gas safety rules.

13. Respondent states that no response is required concerning the allegations contained in paragraph 13 of the Complaint in that § 393.140 RSMo speaks for itself.

14. Respondent denies the allegations contained in paragraph 14 of the Complaint.

15. Respondent denies the allegations contained in paragraph 15 of the Complaint. For further answer and defense, Respondent states that tariff sheet R-34 is in full force and effect, is *prima facie* lawful and reasonable and, consequently, there is no lawful basis upon which to assess monetary penalties.

Affirmative Defenses

16. Staff has no legal authority to file a complaint under the Missouri Public Service Commission Act. The Staff has no independent legal existence or

standing to commence this action against Respondent. The Commission has not delegated to its Staff the authority to file a complaint against Respondent regarding tariff sheet R-34.

17. Staff's complaint fails to state a claim upon which relief may be granted.

18. Respondent complied in all respects with the minimum filing requirements set forth in Commission rules 4 CSR 240-3.030 and 4 CSR 240-3.260.

19. Respondent's tariff sheet R-34 enjoys a presumption that it is lawful and reasonable. See, §386.270 RSMo.

20. Staff's complaint is an impermissible collateral attack on the Commission's April 3, 2007, Order Regarding Motion for Expedited Consideration and Approval of Tariff Sheets in Compliance with Commission Order in Case No. GR-2006-0422. See, §386.550 RSMo.

21. Staff's case is nothing more than an application for rehearing of Commission's Report and Order in Case No. GR-2006-0422 clothed in the vestments of a complaint and it is time-barred in that the Report and Order became final and effective in accordance with its terms on March 30, 2007. See, §386.480 RSMo.

22. Staff is estopped from making a complaint concerning the lawfulness and reasonableness of Respondent's tariff sheet R-34.

WHEREFORE, having fully answered the Complaint, Respondent prays
the Commission dismiss the Complaint for the reasons aforesaid.

Respectfully submitted,

/s/ Paul A. Boudreau
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 3rd day of September, 2008, to the following:

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/s/ Paul A. Boudreau
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