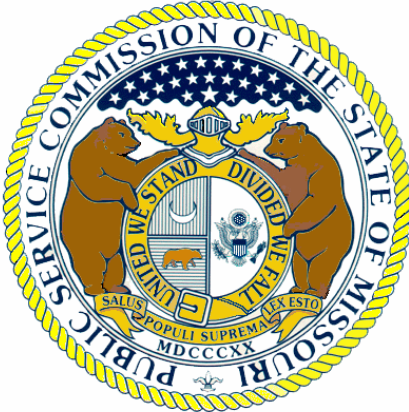


**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**



Ronald Kitchen,

Complainant,

v.

Missouri Gas Energy,

Respondent

**Case No. GC-2006-0066**

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**REPORT AND ORDER**

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**Issue Date:** August 15, 2006

**Effective Date:** August 25, 2006

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

Ronald Kitchen,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. GC-2006-0066</u></b>
	)	
Missouri Gas Energy,	)	
	)	
Respondent	)	

**APPEARANCES**

**Ronald Kitchen**, *appearing pro se*, 10602 East 20<sup>th</sup> Street, Independence, Missouri.

**Dean Cooper**, Brydon, Swearengen & England, Post Office Box 456, Jefferson City, Missouri 65102. Attorney for Missouri Gas Energy, a division of Southern Union Company.

**Lera Shemwell**, Senior Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102. Attorney for the Staff of the Commission.

**REGULATORY LAW JUDGE:**    **Kennard L. Jones, Judge**

# **REPORT AND ORDER**

## **Background**

On August 8, 2005, Ronald Kitchen filed a complaint against Missouri Gas Energy alleging that MGE improperly transferred to his account a delinquent bill of another customer, Jennifer Kitchen, Ronald Kitchen's daughter. The Staff of the Commission filed its investigative memorandum on October 7, 2005. An evidentiary hearing was held on June 5, 2006.

MGE interprets its reconnection of Mr. Kitchen's service as "commencing service" and argues that under Section 3.02 of its tariff, it has acted properly. Citing a different section of MGE's tariff, Section 3.07, Staff recommended that the Commission resolve this complaint in Mr. Kitchen's favor.

## **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

1. Mr. Kitchen opened his account, at 10602 E. 20<sup>th</sup> Street, with MGE on July 31, 1996.<sup>1</sup>
2. Jennifer Kitchen was responsible for gas service at 416 N. Emery St.<sup>2</sup>
3. Jennifer Kitchen is Ronald Kitchen's daughter.<sup>3</sup>
4. In 1998, MGE charged off to bad debt an amount of \$241.71 owed by Jennifer from the Emery address.<sup>4</sup>

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<sup>1</sup> Transcript p. 119, lines 9-10.

<sup>2</sup> Exhibit C, which includes a Customer Contact Inquiry, a current account data and an account analysis.

<sup>3</sup> Transcript p. 18, lines 14-15.

<sup>4</sup> Exhibit C, which includes a Customer Contact Inquiry, a current account data and an account analysis.

5. After leaving the 416 N. Emery address, Jennifer Kitchen resided at 10602 E. 20<sup>th</sup> street, with Mr. Kitchen.<sup>5</sup>

6. Mr. Kitchen never resided at the Emery address.<sup>6</sup>

7. Because he had an overdue balance of \$367.00, MGE disconnected Mr. Kitchen's gas service on September 15, 2003.<sup>7</sup>

8. The disconnection of Mr. Kitchen's gas service had only to do with *his* past-due balance of \$367.00, not his daughter's debt of \$241.71.<sup>8</sup>

9. MGE and Mr. Kitchen discussed, by telephone, reconnection of his service and his daughter's arrearage on September 17, 2003.<sup>9</sup>

10. Jennifer Kitchen's arrearage was transferred to Mr. Kitchen's account on September 17, 2003.<sup>10</sup>

11. Mr. Kitchen was upset and protested his daughter's arrearage being transferred to his account.<sup>11</sup>

12. Mr. Kitchen did not complete an application to have his service reconnected.<sup>12</sup>

13. Mr. Kitchen's service was restored on September 18, 2003, after a payment of \$200 was made.<sup>13</sup>

14. It was not a condition of Mr. Kitchen's service being restored that he agree to pay his daughter's debt.<sup>14</sup>

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<sup>5</sup> Staff Report, p. 15, lines 6-7.

<sup>6</sup> Transcript p. 16, lines 22-24.

<sup>7</sup> Transcript pp. 110-111; p. 93, lines 10-25; and p. 102, lines 10-11.

<sup>8</sup> Transcript p. 81, lines 15-19.

<sup>9</sup> Transcript pp. 27-29; p 40, lines 22-25; Exhibit D, a Customer Contact Inquiry.

<sup>10</sup> Exhibit E, Account Analysis.

<sup>11</sup> Exhibit D, Customer Contact Inquiry.

<sup>12</sup> Transcript p. 21, lines 15-17.

<sup>13</sup> Exhibit Z1, Service Order Completion History.

<sup>14</sup> Transcript p. 141. lines 19-25.

15. Mr. Kitchen did not agree to pay his daughter's debt. Rather, MGE simply attached the debt to Mr. Kitchen's account.<sup>15</sup>

16. After reconnection, there was no distinction between that portion of Mr. Kitchen's bill that reflected his usage and that which reflected his daughter's debt.<sup>16</sup>

### **Conclusions of Law**

The facts show and the parties do not dispute that Mr. Kitchen's gas service was disconnected because he did not pay his bill. It is also clear that Jennifer Kitchen, upon moving in with Mr. Kitchen, owed an arrearage at a previous address. Although Mr. Kitchen does not offer an applicable tariff provision, Staff and MGE both offer alternative provisions that should be applied to this case.

Staff argues that Section 3.07 applies to this case, which states as follows:

Section 3.07 Discontinuance of Service – None of the following shall constitute sufficient cause for Company to discontinue service:

. . . .

(D) The failure to pay the bill of another customer unless the customer whose service is sought to be discontinued received substantial benefit and use of the service.

The facts do not show that disconnection of service is an issue. Mr. Kitchen's service was disconnected because he did not pay *his* bill. After attaching Jennifer Kitchen's bill to Mr. Kitchen's account, MGE informed Mr. Kitchen that his service would be disconnected if he did not continue to pay his bill, which inseparably included his daughter's arrearage. However, Mr. Kitchen continued to pay his bill and his service was not thereafter disconnected. Thus, the Commission concludes that disconnection is not applicable to this case.

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<sup>15</sup> Transcript p. 28, lines 7-13; p. 29, lines 4-5; and p. 138, lines 10-15.

<sup>16</sup> Transcript p. 126, lines 4-6.

Alternatively, MGE asserts that the following tariff provision applies to this case:

Section 3.02 Prior Indebtedness of Customer: Company shall not be required to commence supplying gas service if at the time of application, the applicant, or any member of applicant's household (who has received benefit from previous gas service), is indebted to Company for such gas service previously supplied at the same premises or any former premises until payment of such indebtedness shall have been made. This provision cannot be avoided by substituting an application for service at the same or at a new location signed by some other member of the former customer's household or by any other person acting for or on behalf of such customer.

The Commission concludes that this section applies only to new applicants; not customers whose service has been reconnected after being disconnected for nonpayment. After being disconnected, Mr. Kitchen's service was not commenced, as the section describes, but was rather reconnected.

In support of its position, MGE argues that the definition of a "customer" in its tariff refers also to an "applicant." Though this is true, MGE's reasoning is flawed. Applicants, through this definition, are a subset of customers. Customers and applicants are not interchangeable. Mr. Kitchen, in this case, is a customer, not an applicant. This conclusion is supported by the following tariff provision:

Section 2.01 Application for Service: An application for service will be required for each customer. Customers applying for gas service shall furnish sufficient information on the size and characteristics of the load, the location of the premises to be served, and such additional information as may be necessary to facilitate determination of the class of service required by customer, and the conditions under which service will be supplied. A separate application shall be made for each class of service to customer at each separate location or premises.

Under this section, applicants, who are also described as customers, are required to provide certain information in order for MGE to properly provide service. It was not necessary for Mr. Kitchen to provide information to "facilitate determination of the class of

service” he would require. The Commission is unable to characterize Mr. Kitchen’s service as being “commenced.”

MGE’s witness testified that after Mr. Kitchen’s service was reconnected his daughter’s arrearage was merged with his charges for service. From that point, Mr. Kitchen was unable to discern what portion of his bill was attributable to his usage for a billing period and what portion was attributable to his daughter’s debt.

Section 3.01 of MGE’s tariff, which is a public document on file in the Commission’s records and of which the Commission takes official notice, states that MGE “will supply gas service in accordance with its rate schedules and the General Terms and Conditions for Gas Service on file with and approved by the Commission.” The Commission also takes official notice of Section 2.02 of MGE’s tariff, which states:

Gas service will be supplied to customer under the provision of customer’s service agreement which shall be deemed to include the provisions of (a) Company’s applicable rate schedule, (b) Company’s General Terms and Conditions for Gas Service in effect and on file with the Commission, and (c) the Commission’s applicable rules. . . .

By merging his daughter’s debt with his monthly bill, MGE has effectively charged Mr. Kitchen more for his service than the company’s rates allow and has not supplied gas service under its rate schedule. Also, MGE has not supplied gas service under the provisions of its tariff or the Commission’s rule. Neither the rate schedule, the tariff, nor the Commission rules allowed MGE to attach Jennifer Kitchen’s debt to Mr. Kitchen’s bill. By doing so, the Commission concludes that MGE has violated Sections 3.01 and 2.02 of its tariff. The Commission will therefore require MGE to credit Mr. Kitchen’s account in the amount of \$241.71.

**IT IS ORDERED THAT:**

1. Missouri Gas Energy shall, upon the effective date of this order, credit Ronald Kitchen's account in the amount of \$241.71.
2. This order shall become effective on August 25, 2006.
3. This case may be closed on August 26, 2006.

**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 )

Davis, Chm., Murray, Gaw, Clayton,  
and Appling, CC., concur and certify  
compliance with the provisions of  
Section 536.080, RSMo.

Dated at Jefferson City, Missouri,  
on this 15th day of August, 2006.