Exhibit No.:	
Issues:	*Bad Debt Expense; Rate Case Expense; and Pension Expense*
Witness:	*Keith D. Foster*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Rebuttal Testimony*
Case No:	*GR-2009-0355*
Date Testimony Prepared:	*September 28, 2009*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

KEITH D. FOSTER

MISSOURI GAS ENERGY,
a Division of Southern Union Company

CASE NO. GR-2009-0355

Jefferson City, Missouri
September 2009

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Q. Please state your name and business address.

A. Keith D. Foster, 200 Madison Street, Suite 440, Jefferson City, Missouri 65101.

Q. Are you the same Keith D. Foster who participated in the preparation of the Staff's Cost of Service Report, filed August 21, 2009 for this case?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony addresses the direct testimonies of Office of the Public Counsel (OPC) witnesses Russell W. Trippensee and Ted Robertson regarding:

- Bad Debt Expense and
- Rate Case Expense, respectively.

Further, my rebuttal testimony presents the Staff's position regarding modifications to Missouri Gas Energy's (MGE's or Company's) current tracker mechanism for:

- Pension Expense.

<u>BAD DEBT EXPENSE</u>

Q. In his direct testimony, what did OPC witness Trippensee recommend regarding MGE's level of bad debt expense?

A. Mr. Trippensee advocates use of a five-year average of MGE's bad debt write-offs for establishing a level of bad debt expense in this case. Mr. Trippensee's five-year average is based upon the write-offs for calendar years 2004-2008.

Q. Why is Staff proposing a three-year normalization adjustment rather than a five-year normalization in this case for bad debts?

A. To take into account the most recent bad debt write-off amounts for the update period ending April 30, 2009, the Staff recalculated the total annual bad debt write-offs for each May to April period for the past five years. When the Staff compared the annual write-offs year-to-year, there was a noticeable upward trend in the amount of write-offs between years, with the exception of a slight decrease between the May 2006-April 2007 and May 2007-April 2008 periods. The five-year average ending April 2009 was $9,366,918 while the three-year average ending April 2009 was $9,843,535, a difference of $476,617. Since the bad debt write-offs are trending upwards, selecting the three-year average more closely resembles the current state of bad debt write-offs being experienced by MGE and represents a more reasonable normalization in which to base Staff's bad debt adjustment. Based on the Staff's analysis, the Staff believes use of the three-year average level of actual bad debt write-offs is appropriate in this proceeding.

Q. At pages 9-10 of his direct testimony, Mr. Trippensee advocates reducing MGE's adjusted level of bad debt expense determined in this case by the amount of the Emergency Cold Weather Rule (ECWR) bad debt deferral amortization recorded by MGE in its test year. Please comment.

A. The basis for OPC's position on this issue appears to be a belief that the ECWR amortization ordered in MGE's last rate proceeding (Case No. GR-2006-0422) represents a pre-recovery by the Company of certain bad debt costs in rates, and that if actual test year bad debt write-off results are not adjusted downward by the amount of the amortization, the Company will double-recover bad debt expense in the amount of the ECWR amortization.

The Staff is still reviewing OPC's contentions on this matter, and may take a position on this issue later in this proceeding.

RATE CASE EXPENSE

Q. What is OPC witness Robertson's position in this case regarding rate case expense?

A. Mr. Robertson advocates that all costs incurred by MGE in this proceeding for outside consultants and legal counsel be disallowed. Then, 50% of the remainder of MGE's reasonable and prudent rate case expenses should be recovered in rates, with the remaining half being treated below-the-line as the responsibility of MGE's shareholders.

Q. What is the Staff's position on Rate Case Expense?

A. The Staff understands that a regulated utility is entitled, under traditional ratemaking concepts, to rates that allow a reasonable opportunity for recovery of all reasonable and prudent amounts expended in rending utility service to customers. This opportunity extends to costs incurred by the utility to set new rates within the established regulatory process in Missouri. The general rules governing rate case expense provide that those expenses that are known and measureable, reasonable, necessary, and prudently incurred in the preparation and presentation of a company's case may be included in the allowable expenses of the company. Some examples of rate case expense are: legal fees from outside counsel, consulting fees, expert witness fees, shipping expenses, and costs incurred by company employees to attend case-related activities in Jefferson City, including meals and lodging. Staff typically normalizes rate case expenses for a rate case over a two- or three-year period, depending on the average time between a company's prior and future rate case filings. The Staff, however, believes it is inappropriate to allow specific recovery in rates of amounts related to prior case proceedings. The Staff's policy is to recommend recovery in rates of normalized rate case expenses only on a prospective basis.

Q. Does Staff share the concern addressed on page 9 of OPC witness Ted Robertson's direct testimony "about the large expenditures MGE expects to incur for processing the current general rate increase case?"

A. Not for the current MGE rate case. Note that OPC witness Robertson states on page 9 of his direct testimony that "Public Counsel has become increasingly concerned with the level of rate case expense among utilities *in general*." In fact, the Staff's analysis shows, since MGE's 2004 rate case, in which the Commission adopted adjustments that reduced MGE's incurred level of rate case legal expenses as recommended by OPC, MGE's rate case expenses have actually decreased in subsequent rate cases. This is demonstrated in the following table (the amount shown for the current case is MGE's estimate of total expenses that will be incurred during the course of this proceeding):

Case Number	**Current Rate Case Expense**	
	Requested	**Allowed**
GR-2004-0209	$1,383,333	$893,824
GR-2006-0422	$900,000	$794,937
GR-2009-0355	$777,688	

Q. Does Staff believe MGE should not be allowed to use outside consultants and legal counsel in support of a rate case?

A. No, as long as the expenses incurred are known and measureable, reasonable, necessary, and prudently incurred. Utilities should have reasonable discretion to hire outside consultants and legal counsel in rate proceedings before this Commission.

Q. Does the Staff believe that rate case expenses should be assigned in part to utility shareholders by denying the cost recovery in rates?

A. No. The Staff believes that, under the regulatory system in this jurisdiction, the overriding purpose of which is to protect the public interest, a utility is required to incur certain costs in attempting to establish new rate levels. Given this fact, rate case expenses are a necessary cost for utilities to incur from time to time and, as with all necessary costs incurred in providing utility service, reasonable and prudent rate case expenses should be included in a utility's cost of service for purposes of setting rates.

<u>PENSION EXPENSE</u>

Q. Does MGE currently operate under a "tracker mechanism" for rate recovery of pension expenses?

A. Yes. This tracker was established by stipulation in MGE's prior rate case, GR-2004-0209. MGE's current pension tracker is discussed in more detail in the Staff's Cost of Service Report.

Q. Does the Staff have any proposed changes to the current Pension Tracker currently being used by MGE?

A. Yes, the following is the Staff's recommendation for new language governing prospective operation of the pension tracker mechanism:

> 1. The parties agree that the rates established in this case for MGE include an allowance of $10,000,000, exclusive of the amortizations of the prepaid pension asset and tracker mechanism regulatory assets/liabilities. (All amounts are stated prior to the transfer rate.) The

Company shall be authorized to record as a regulatory asset/liability, as appropriate, the difference between the pension expense used in setting rates and pension expense as recorded for financial reporting purposes as determined in accordance with GAAP pursuant to FAS 87 and FAS 88 (or such standard as the FASB may issue to supersede, amend or interpret the existing standards), and that such difference shall be subject to recovery from or return to customers in future rates. The difference between the amount of pension expense included in MGE's rates and the amount funded by MGE shall be included in the Company's rate base in future rate proceedings.

2. The Company shall be allowed rate recovery for contributions it makes to its pension trust that exceed the ERISA minimum for the purpose of avoiding Pension Benefit Guarantee Corporation (PBGC) variable premiums. Additional contributions made pursuant to this paragraph will increase MGE's rate base by increasing the prepaid pension asset and/or reducing the accrued liability, and will receive regulatory treatment as described in paragraph 1 of this Agreement. MGE shall inform the Staff and Public Counsel of contributions of additional amounts to its pension trust funds pursuant to this Paragraph in a timely manner.

3. The provisions of FAS 158 require certain adjustments to the prepaid pension asset and/or accrued liability with a corresponding adjustment to equity (i.e., decreases/increases to Other Comprehensive Income). The Company will be allowed to set up a regulatory asset/liability to offset any adjustments that would otherwise be recorded to equity caused by applying the provisions of FAS 158 or any other FASB statement or procedure that requires accounting adjustments to equity due to the funded status or other attributes of the pension plan. The parties acknowledge that the adjustments described in this paragraph will not increase or decrease rate base.

4. Due to the Pension Protection Act of 2006 (PPA), MGE may be required to make contributions in excess of the ERISA Minimum amount in order to avoid benefit restrictions under the PPA. Such contributions will be examined in the context of future rate cases and a determination will be made at that time as to the appropriate and proper level recognized for ratemaking as a Net Prepaid Pension Asset.

Q. Does this conclude your rebuttal testimony in this case?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy and Its Tariff Filing to Implement a General Rate Increase for Natural Gas Service	))))	Case No. GR-2009-0355

AFFIDAVIT OF KEITH D. FOSTER

STATE OF MISSOURI	)	
	)	ss.
COUNTY OF COLE	)	

Keith D. Foster, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 6 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Keith D. Foster

Subscribed and sworn to before me this 25th day of September, 2009.

NIKKI SENN
Notary Public - Notary Seal
State of Missouri
Commissioned for Osage County
My Commission Expires: October 01, 2011
Commission Number: 07287016

Nikki Senn
Notary Public