

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 17<sup>th</sup> day of  
July, 2008.

In the Matter of the Application of Missouri Gas	)	
Energy, a Division of Southern Union Company, for	)	
a Certificate of Public Convenience and Necessity	)	<b><u>Case No. GA-2007-0289, et al.</u></b>
Authorizing it to Construct, Install, Own, Operate,	)	Tariff No. YG-2008-0691
Control, Manage and Maintain a Natural Gas	)	Tariff No. YG-2008-0703
Distribution System to Provide Gas Service in Platte	)	
County, Missouri, as an Expansion of its Existing	)	
Certified Area	)	

**ORDER SUSPENDING COMPLIANCE TARIFF FILINGS AND  
DIRECTING RESPONSES**

Issue Date: July 17, 2008

Effective Date: July 18, 2008

**Background**

On February 14, 2008,<sup>1</sup> the Commission issued its final Report and Order in this matter bearing an effective date of February 24. In ordered paragraph 8 of that order, the Commission directed Missouri Gas Energy ("MGE") and The Empire District Gas Company ("Empire") to file revised tariff sheets identifying which types of certificates they have (i.e. transport, line, or service area certificates) in all of the areas in which they hold any type of certificate to provide any type of natural gas service. The Commission set a deadline of May 26 for the filing of the revised tariff sheets.<sup>2</sup>

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<sup>1</sup> All dates throughout this order reference the year 2008 unless otherwise noted.

<sup>2</sup> See *Order Setting Deadline for Tariff Filings*, issued February 26, 2008.

On May 20, in its attempt to comply with the Commission's order, MGE submitted proposed revisions to its P.S.C. MO. No. 1, tariff sheets. The filing was assigned Tariff Tracking No. YG-2008-0691 and the revised tariff sheets had an effective date of June 20. On May 23, in its attempt to comply with the Commission's order, Empire submitted proposed revisions to its P.S.C. MO. No. 2, tariff sheets. The filing was assigned Tariff Tracking No. YG-2008-0703 and the revised tariff sheets had an effective date of June 22.

The Commission directed its Staff to review the revised tariff sheets and file a report and recommendation as to whether MGE and Empire were in compliance with the Commission's Report and Order with regard to revising their tariff sheets. On June 6, Staff filed a motion for an extension of time to complete its recommendations concerning these compliance tariffs. Staff stated that extensive review was required in order for it to provide its recommendations and Staff requested that the deadline for the recommendations be extended until July 18.

Because Staff requested an extension beyond the effective dates of the submitted tariffs, and because Staff did not request the Commission to suspend the tariffs while it completed its evaluation, the Commission directed MGE and Empire to respond to Staff's request. MGE and Empire both responded and voluntarily extended the effective dates of their compliance tariff filings so that Staff could have its requested extension of time.

MGE extended the effective date of its tariff until August 1 and Empire extended the effective date of its tariff until July 22.<sup>3</sup> With the effective dates extended, the Commission granted Staff's request; however, given that Empire's extension was only

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<sup>3</sup> Both companies filed substitute tariff sheets reflecting the revised effective dates.

until July 22, the Commission only granted Staff an extension of time for its recommendation until July 15 so the Commission would have sufficient time to suspend any tariff that was not in compliance with the February 14 Report and Order.

### **Staff's Recommendation**

On July 15, Staff filed its recommendation. It appears Staff elected to address a broader issue in its recommendation than was encompassed in the Commission's February 14 Report and Order. Specifically Staff's position is that the Commission's Order makes Empire and MGE responsible for the accuracy of their tariff sheets and that any discrepancy between Commission's Orders granting Certificates of Convenience and Necessity ("CCNs") and the Commission-approved tariff sheets would violate the Commission's Order in this case. To account for Staff's interpretation of the Commission's order, Staff believes that the compliance tariffs should include the following language:

Orders granting the service territory take precedence in any discrepancies between them and the information listed above. More detail is available in the orders, and the above should not be relied upon for detailed territory boundaries.

Based upon Staff's suggested condition it recommends that the Commission should approve Empire's compliance filing, containing the suggested language, and should reject or suspend MGE's compliance filing which lacks Staff's suggested language. Staff further claims that it discovered what it believes are some discrepancies between MGE's Commission-approved tariffs and the Commission's orders granting MGE CCNs, an assertion to which MGE has not yet had an opportunity to respond.<sup>4</sup>

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<sup>4</sup> Staff states that it examined MGE tariff sheets and Commission Orders regarding Buchanan County (Sheet No. 6.1), Howard County -- Armstrong and Fayette (Sheet No. 6.7), and Saline County from

Consequently, the Commission shall suspend the compliance tariffs filed by both Empire and MGE and allow the parties a full and fair opportunity to respond to Staff's suggested tariff condition.<sup>5</sup> The Commission will decide if Staff's suggestion is encompassed within its February 14 Report and Order, and if the Commission finds it to be necessary, the Commission will schedule a hearing to adduce additional evidence or allow oral argument regarding Staff's suggested condition prior to making its final decision.

**IT IS ORDERED THAT:**

1. The compliance tariff sheets issued by The Empire District Gas Company on June 25, 2008, substituting those issued on May 23, 2008 and bearing an effective date of July 22, 2008, and assigned tariff number YG-2008-0703, are suspended until October 1, 2008. The tariff sheets suspended are:

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Marshall to Slater (Sheet No. 6.16) and that it found what it believes are the following discrepancies between the Commission's Orders and the Commission-approved tariffs:

- 1) In Buchanan County Staff found a typographical error where three sections from Clay County were listed in Buchanan County.
- 2) In Howard County whole sections were listed around Armstrong where the metes and bounds descriptions only included small parts of these sections.
- 3) For the city of Fayette, in Howard County, MGE only has a certificate for the community, but includes in Tariff Sheet No. 6.7 land sections in and around the city. At least two of these sections were likely too far outside Fayette to include any customers, but Staff has not been able to verify this.
- 4) In Saline County, Staff found that MGE was in violation of Commission Supplemental Order in Case No. 15,176 by not eliminating several sections near Marshall from its service area.
- 5) In Saline County there are some other sections near Marshall where MGE is authorized to serve part of the section and Empire serves another part of that section resulting in both Companies listing that section in their tariff.

<sup>5</sup> Section 393.150, RSMo 2000, authorizes the Commission to suspend tariffs submitted by a gas corporation for a period of 120 days plus six months.

**P.S.C. MO. No. 2**

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**First Revised Sheet No. 4, canceling Original Sheet No. 4**  
**First Revised Sheet No. 5, canceling Original Sheet No. 5**  
**First Revised Sheet No. 6, canceling Original Sheet No. 6**  
**First Revised Sheet No. 7, canceling Original Sheet No. 7**

2. The compliance tariff sheets issued by Missouri Gas Energy on May 20, 2008, bearing the revised effective date of August 1, 2008 and assigned tariff number YG-2008-0691, are suspended until October 1, 2008. The tariff sheets suspended are:

**P.S.C. MO. No. 1**

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**Third Revised Sheet No. 6, canceling Second Revised Sheet No. 6**  
**First Revised Sheet No. 6.1, canceling Original Sheet No. 6.1**  
**First Revised Sheet No. 6.2, canceling Original Sheet No. 6.2**  
**Fourth Revised Sheet No. 6.3, canceling Original Sheet No. 6.3**  
**First Revised Sheet No. 6.4, canceling Original Sheet No. 6.4**  
**First Revised Sheet No. 6.5, canceling Original Sheet No. 6.5**  
**First Revised Sheet No. 6.6, canceling Original Sheet No. 6.6**  
**Fourth Revised Sheet No. 6.7, canceling Third Revised Sheet No. 6.7**  
**First Revised Sheet No. 6.8, canceling Original Sheet No. 6.8**  
**First Revised Sheet No. 6.9, canceling Original Sheet No. 6.9**  
**First Revised Sheet No. 6.10, canceling Original Sheet No. 6.10**  
**First Revised Sheet No. 6.11, canceling Original Sheet No. 6.11**  
**First Revised Sheet No. 6.12, canceling Original Sheet No. 6.12**  
**Second Revised Sheet No. 6.13, canceling First Revised Sheet No. 6.13**  
**Third Revised Sheet No. 6.14, canceling Second Revised Sheet No. 6.14**  
**Second Revised Sheet No. 6.15, canceling First Revised Sheet No. 6.15**  
**First Revised Sheet No. 6.16, canceling Original Sheet No. 6.16**  
**First Revised Sheet No. 7, canceling Original Sheet No. 7**  
**Second Revised Sheet No. 8, canceling First Revised Sheet No. 8**

3. No later than August 4, 2008, The Empire District Gas Company and Missouri Gas Energy shall file responses to "Staff Recommendations Regarding Compliance Tariff Filings Showing Certificated Service Areas" filed on July 15, 2008.

4. No later than August 4, 2008, any party wishing to request a hearing regarding the issue presented in the July 15, 2008 "Staff Recommendations Regarding Compliance Tariff Filings Showing Certificated Service Areas," as delineated in the body

of this order, shall file said request with the Commission and state, with particularity, the reasons for its request.

5. This order shall become effective on July 18, 2008 at 12:01 A.M.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a faint, illegible stamp.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Clayton, Jarrett,  
and Gunn, CC., concur.

Stearley, Regulatory Law Judge