

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

In the Matter of the Application of Missouri Gas)	
Energy, a Division of Laclede Gas Company)	<u>File No. GO-2014-0179</u>
For Approval to Change its Infrastructure System)	Tariff No. YG-2014-0244
Replacement Surcharge		

**STAFF RESPONSE TO THE OFFICE OF THE PUBLIC COUNSEL'S
MOTION TO REJECT APPLICATION**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), by and through counsel, and for its response to the *Motion to Reject Application* filed by the Office of the Public Counsel on December 18, 2013, hereby states:

1. On December 6, 2013, Missouri Gas Energy ("MGE" or "Company"), a division of Laclede Gas Company ("Laclede"), filed its *Verified Application and Petition of MGE to Change Its Infrastructure System Replacement Surcharge* ("Application") requesting Commission approval to change the Company's infrastructure replacement surcharge (ISRS) pursuant to Sections 393.1009 to 393.1015 RSMo.

2. On December 18, 2013, the Office of the Public Counsel ("Public Counsel") filed a motion requesting that the Commission reject MGE's application, stating that the Application does not comply with certain minimum filing requirements in Commission Rule 4 CSR 240-3.265(20)(K) and (L).

3. On December 27, 2013, the Commission granted a request by Staff and MGE to respond to Public Counsel's motion no later than January 3, 2014.

4. As explained below, MGE's Application should not be rejected. Staff will conduct its investigation and make its recommendation to the Commission regarding MGE's Application as mandated by Section 393.1015.2(2) RSMo.

5. Commission Rule 4 CSR 240-3.265 sets forth the definitions, parameters and procedures relevant to filing and processing petitions pertaining to an ISRS, including the information that a natural gas utility such as MGE must provide when it files a petition and associated rate schedules to change an ISRS, as MGE seeks to do with this Application.

6. Public Counsel's motion to reject relates to 4 CSR 240-3.265(20), which provides that, at the time that a natural gas utility files a petition seeking to establish, change or reconcile an ISRS, the utility's supporting documentation shall include, at a minimum, certain information.

7. Specifically, Rule 4 CSR 240-3.265(20) subsection (K) requires that a gas utility's petition shall include a breakdown of ISRS costs "identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements" for each:

1. Mains, valves, service lines, regulatory station, vaults and other pipeline system components installed to comply with state safety requirements;
2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;
3. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;

4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;¹

8. In addition, Rule 4 CSR 240-3.265(20) subsection (L) states that a utility's application shall include:

For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project..."

9. In this case Public Counsel argues that MGE's Application should be rejected as insufficient because it does not contain citations pursuant to these subsections (K) and (L). This is the same argument Public Counsel raised in GO-2014-0006, a recent ISRS petition filed by Liberty Utilities.²

10. In its *Report and Order* in GO-2014-0006, the Commission stated that subsection (K) "requires applicants bringing an ISRS request to the Commission to provide information sufficient to identify project categories and their specific costs and requirements."³ The Commission determined that Liberty's petition provided information through headings and project descriptions that demonstrated that the projects were eligible for ISRS recovery. In addition, the Commission noted that Liberty updated its petition with additional documentation and concluded: "Even assuming for the sake of argument that the Petition was deficient when originally filed, that deficiency was cured by Liberty."⁴

¹ This portion of Rule 4 CSR 240-3.265 relates to the definition of "eligible infrastructure system replacements" codified at Section 393.1009(3) and (5)(a)-(c) RSMo.

² *In the Matter of the Verified Application and Petition of Liberty Energy (Midstates) Corp. d/b/a Liberty Utilities to Change Its Infrastructure System Replacement Surcharge.*

³ GO-2014-0006 *Report and Order*, p. 11.

⁴ *Id.*

11. The Commission also addressed subsection (L) in GO-2014-0006. The Commission concluded that “the words ‘if any’ in Subsection L plainly recognize that not all eligible projects are specifically required to be completed by a particular statute, order, or rule... [t]herefore a citation to a statute, order or rule must be provided only in those situations where a particular project is specifically mandated by law.”⁵

12. In this case, the data provided by MGE in its Application is substantially similar to the data provided both in MGE’s most recent ISRS application in GO-2013-0391 and in Liberty Utilities’ application in GO-2014-0006 discussed above. The Commission approved both petitions as adjusted by Staff according to Staff’s recommendations in those cases.

13. While Staff does not necessarily agree with Public Counsel’s interpretation of the requirements of subsections (K) and (L), Staff agrees that MGE’s Application does not contain a breakdown of ISRS costs “identifying which of the following project categories apply *and the specific requirements being satisfied* by the infrastructure replacements” for each of the categories listed in subsection (K) (Emphasis added).⁶

14. If the Commission finds MGE’s Application deficient, Staff recommends the Commission allow MGE to cure the deficiency during Staff’s review process. Staff will review MGE’s Application, review work orders, submit data requests and conduct additional discovery as necessary, and discuss issues with the utility as necessary for Staff to conduct its investigation and make recommendations to the

⁵ *Id.*

⁶ In GO-2014-0006, Liberty provided such citations to the Commission’s gas safety rules during Staff’s 60-day investigation. The Commission found that the gas safety rules cited by Liberty establish project eligibility because the phrase “to comply with state or federal safety requirements” in Section 393.1009(5)(a) and (5)(b) should be read more broadly than what Public Counsel suggests, and does include general gas safety rules. GO-2014-0007, *Report and Order*, p. 13.

Commission as directed by Section 393.1015.2(2) RSMo. Therefore Staff does not support Public Counsel's *Motion to Reject Application*.

WHEREFORE, Staff respectfully submits this response as ordered by the Commission in this matter.

Respectfully Submitted,

**STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION**

/s/ John D. Borgmeyer

John D. Borgmeyer
Deputy Legal Counsel
Missouri Bar No. 61992

Akayla J. Jones
Legal Counsel
Missouri Bar No. 64941

Attorneys for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
Telephone: (573) 751-5472
Fax: (573) 751-9285
Email: John.Borgmeyer@psc.mo.gov
Akayla.Jones@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 3rd day of January, 2014.

/s/ John D. Borgmeyer