

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant	)	
v.	)	Case No. GC-2011-0100
	)	
Missouri Gas Energy, a Division of Southern Union Company,	)	
	)	
Respondent.	)	

**PUBLIC COUNSEL’S REPLY REGARDING  
MGE’S MOTION TO REJECT OPC’S SUGGESTIONS**

**COMES NOW** the Missouri Office of the Public Counsel (OPC) and for its Reply to Southern Union Company d/b/a Missouri Gas Energy’s (MGE) June 17, 2011 Reply to Public Counsel’s Response and Motion to File out of Time, states:

1. As expected, MGE argues that the *Public Counsel’s Suggestions in Support of Staff’s Motion for Summary Determination* (OPC’s Suggestions) do not respond to the *Staff’s Suggestions in Opposition to MGE’s Motion for Summary Determination and Staff’s Reply to MGE’s Response to Staff’s Motion for Summary Determination* (Staff’s Suggestions) filed on May 18, 2011. However, it is apparent from OPC’s Suggestions that they respond to the Staff’s Suggestions rather than the Staff’s Motion for Summary Determination as follows:

- OPC’s Suggestions do not specifically identify or address arguments made in the Staff’s Motion for Summary Determination other than to

state that “Staff and MGE each filed a motion for summary determination”;

- OPC’s Suggestions specifically identify the Staff’s May 18, 2011 Suggestions, and the specific relief requested therein, before asserting in the *next sentence* that OPC supports such relief;
- Since the Staff’s Suggestions are supportive of the Staff’s Motion for Summary Determination, OPC’s concurrence in the relief requested in the Staff’s Suggestions is necessarily supportive of the Staff’s original motion since both address the same subject, which explains the title of OPC’s Suggestions;
- OPC intended to file its Suggestions within ten (10) days of the Staff’s Suggestions, but filed two (2) days late only by mistake.

2. Rejecting OPC’s Suggestions could establish the negative precedent that parties are not allowed to respond to the subject matter of pleadings that address relief sought in prior pleadings. This would be inconsistent with Commission rule 4 CSR 240-2.080(15), which expressly authorizes parties “to respond to any pleading unless otherwise ordered by the Commission.”

3. The Commission should also deny MGE’s request to allow it to file a late response to OPC’s Suggestions. MGE chose not to file a timely response as required by 4 CSR 240-2.080(15), and has not provided good cause as to why it should be given additional time to respond. MGE’s erroneous legal conclusion regarding OPC’s Suggestions does not constitute good cause for allowing MGE to have additional time to respond beyond the procedural timeframe contained in the Commission’s rules.

WHEREFORE, the Office of the Public Counsel respectfully asks the Commission to deny MGE's motion to reject OPC's Suggestions, and deny MGE's request to file a late response to OPC's Suggestions.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston

Marc D. Poston (#45722)

Deputy Public Counsel

P. O. Box 2230

Jefferson City MO 65102

(573) 751-5558

(573) 751-5562 FAX

[marc.poston@ded.mo.gov](mailto:marc.poston@ded.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 27<sup>th</sup> day of June 2011:

/s/ Marc Poston