

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

The Staff of the)	
Missouri Public Service Commission,)	
)	
Complainant,)	
)	
vs.)	File No. GC-2011-0100
)	
Southern Union Company,)	
)	
Respondent.)	

**ORDER DENYING MOTION TO REJECT, AND
GRANTING MOTIONS TO FILE OUT OF TIME, AND TO FILE REPLY**

Issue Date: July 21, 2011

Effective Date: July 21, 2011

The Missouri Public Service Commission is granting the Office of Public Counsel's ("OPC") motion to file suggestions ("OPC's suggestions") out of time. The Commission is also granting the request of Southern Union Company ("the utility") to file a reply to OPC's suggestions. The Commission is denying the utility's motion to reject OPC's suggestions.

The motions ruled on in this order relate to the motions for summary determination filed by Staff ("Staff's motion") and the utility. In opposition to the utility's motion for summary determination, Staff filed suggestions ("Staff's suggestions").¹ In support of Staff's motion, OPC filed suggestions² ("OPC's suggestions").

¹ *Staff's Response and Suggestions in Opposition to [the Utility]'s Cross-Motion for Summary Determination*, filed on May 18. Dates are in 2011 except December dates, which are in 2010.
² *[OPC]'s Suggestions in Support of Staff's Motion for Summary Determination*, filed on June 2.

OPC's suggestions are the subject of the utility's request to file a reply³ and motion to reject.⁴ As to the motion to reject, OPC filed a response, including a motion to file OPC's suggestions out of time,⁵ and the utility filed a reply.⁶ OPC filed a sur-reply to the utility's motion to reject and a reply for the motion to file out of time.⁷

The utility argues that OPC's suggestions are almost six months late, because Staff filed its motion for summary determination on December 1, making December 13 the due date⁸ for OPC's suggestions. OPC's suggestions are titled "[I]n Support of [Staff's Motion,]" yet OPC argues that its suggestions were filed in response, not to Staff's motion, but to Staff's suggestions. Staff's suggestions were filed on May 18 so, OPC argues, OPC's suggestions were only two days late.⁹

As cause for that late filing, OPC alleges a clerical error, which constitutes excusable neglect under the Commission's regulation on late filing.¹⁰ In the alternative, the filing of a reply to OPC's suggestions cures any prejudice to the utility. Therefore, the Commission will deny the utility's motion to reject filing, grant the late filing of OPC's suggestions, and allow the utility to file reply suggestions.

THE COMMISSION ORDERS THAT:

1. The motion of the Office of Public Counsel to file *Public Counsel's Suggestions in Support of Staff's Motion for Summary Determination* ("OPC's suggestions") out of time is granted.

³ In the utility's *Reply to [OPC]'s Response and Motion to File Out of Time*, filed on June 17.

⁴ *Motion to Reject [OPC's Suggestions]*, filed on June 6.

⁵ *[OPC]'s Response and Motion to File out of Time*, filed on June 15.

⁶ *Reply to [OPC]'s Response and Motion to File Out of Time*, filed on June 17.

⁷ *[OPC]'s Reply regarding [the Utility]'s Motion to Reject OPC's Suggestions*, filed on June 27.

⁸ 4 CSR 240-2.080(15) and 4 CSR 240-2.050(1).

⁹ *Id.*

¹⁰ 4 CSR 240-2.050(3)(B).

2. OPC's suggestions are filed as of the date already noted in the Commission's electronic data and information service.

3. The *Motion to Reject [OPC's Suggestions]* is denied.

4. No later than August 1, 2011, Southern Union Company may file a reply to OPC's suggestions.

5. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 21st day of July, 2011.