

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

In the Matter of the Application of)	
Missouri Gas Energy, a division of)	
Southern Union Company, for an)	Case No. GU-2007-0480
Accounting Authority Order Concerning)	
Environmental Compliance Activities.)	

**PUBLIC COUNSEL’S RESPONSE AND
MOTION TO ESTABLISH PROCEDURAL SCHEDULE**

COMES NOW the Missouri Office of the Public Counsel and for its Response to Missouri Gas Energy’s (MGE) Motion to Set Procedural Schedule, and for Public Counsel’s own Motion to Establish a Procedural Schedule, states as follows:

1. On June 13, 2007, MGE filed its Application for an Accounting Authority Order (AAO), requesting “deferred accounting treatment for costs incurred in connection with environmental compliance activities primarily related to investigation, assessment and remediation of former manufactured gas plant sites.” MGE has not incurred these costs, but claims that it may incur expenditures “in the foreseeable future.”

2. On September 7, 2007, the Staff of the Commission (Staff) recommended that the Commission deny MGE’s request.

3. On April 9, 2008, MGE filed a Motion to Set Procedural Schedule, wherein MGE requested that the Commission adopt the following procedural schedule:

Direct Testimony (Applicant)	April 10, 2008
Rebuttal Testimony (Staff/OPC)	May 23, 2008
Surrebuttal Testimony (All Parties)	June 13, 2008
Settlement Conference	June 19-20, 2008

List of Issues, Order of Cross,
Order of Witnesses

June 27, 2008

Parties' Position Statements

July 8, 2008

Evidentiary Hearing

July 14-15, 2008

Public Counsel opposes MGE's proposed procedural schedule for the reasons outlined below.

4. Public Counsel cannot adequately present its case and provide proper representation for the public under the hurried schedule proposed by MGE. More time is needed between MGE's Direct Testimony filing and Public Counsel's Rebuttal Testimony to allow Public Counsel an opportunity for discovery. Public Counsel needs at least two rounds of data requests and time to conduct depositions if necessary.

5. MGE's proposal suggests a sense of urgency that does not exist. MGE is not requesting an AAO for costs it has incurred and is only requesting an AAO for costs MGE believes it will incur in the "foreseeable future." MGE is not requesting a rate adjustment and does not have a pending rate case. No party will be harmed by following a schedule that grants the parties more time between filings.

6. In addition, it is in the public interest to give Public Counsel an opportunity to file a second round of testimony. Under MGE's proposal, Public Counsel would not have an opportunity to respond to MGE's testimony rebutting Public Counsel's evidence. However, MGE would have the opportunity to respond to the testimony by Staff and Public Counsel rebutting MGE's evidence. Public Counsel is concerned that MGE may attempt to respond to Public Counsel's criticisms of MGE's evidence with additional evidence in Surrebuttal Testimony that Public Counsel would not have an opportunity to rebut. In the interest of fairness, and in the interest of carrying

out the Commission's purpose of serving the public interest, Public Counsel believes the ratepayers should have the opportunity to respond to MGE's testimony rebutting Public Counsel's evidence. Public Counsel will also need sufficient time to conduct additional discovery after MGE's Surrebuttal Testimony to allow for at least one round of data requests and possibly depositions before filing Responsive Surrebuttal Testimony. Additional discovery could also serve the useful purpose of lessening the need for cross-examination questions during the evidentiary hearing.

7. To address the above concerns, Public Counsel requests that the Commission approve the following procedural schedule:

Direct Testimony (MGE)	April 10, 2008
Rebuttal Testimony (Staff/OPC)	June 18, 2008
Surrebuttal Testimony (MGE)	July 9, 2008
Responsive Surrebuttal (Staff/OPC)	August 12, 2008
Settlement Conference	August 18-19, 2008
List of Issues, Order of Cross, Order of Witnesses	August 26, 2008
Parties' Position Statements	September 4, 2008
Evidentiary Hearing	September 17-18, 2008

This schedule would allow the parties more time to adequately present this case to the Commission.

8. If the Commission determines that Public Counsel should not be afforded an opportunity to respond to MGE's testimony rebutting Public Counsel's evidence, Public Counsel proposes the following alternative schedule. This schedule was proposed to Public Counsel by the Commission's Staff as an alternative to MGE's proposal:

Direct Testimony (MGE)	April 10, 2008
Rebuttal Testimony (Staff/OPC)	June 18, 2008
Surrebuttal Testimony (MGE)	July 9, 2008
Settlement Conference	July 15-16, 2008
List of Issues, Order of Cross, Order of Witnesses	July 23, 2008
Parties' Position Statements	August 5, 2008
Evidentiary Hearing	August 11-12, 2008

WHEREFORE, the Office of the Public Counsel respectfully offers this response to MGE's proposed procedural schedule and requests that the Commission reject MGE's proposed schedule and adopt Public Counsel's first procedural schedule proposal, or in the alternative adopt Public Counsel's second proposal.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 10th day of April, 2008:

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