

**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 Accounting Authority Order Concerning)
Environmental Compliance Activities)

Case No. GU-2007-0480

STAFF'S POSITION STATEMENT

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its position statement states as follows:

Issues

- 1) Should the Commission grant MGE an Accounting Authority Order (AAO) to allow it to defer costs associated with the clean-up of Former Manufactured Gas Plant (FMGP) sites?
 - a) Are the FMGP costs MGE seeks to defer extraordinary, unusual and unique, and not recurring?

Position: MGE's costs for investigation, assessment, remediation, monitoring, and related litigation of its FMGP sites are ongoing and recurring. MGE's costs related to these activities and sought for deferral fail to meet the definition of "extraordinary items" as defined by the FERC Uniform System of Accounts and adopted by the Commission under 4CSR 240-40.040. These FMGP costs occur with such frequency and commonality in the environment MGE operates they cannot be reasonably considered as "unusual," "unique," "not recurring" or "extraordinary."

- b) Are the FMGP costs material, known and measurable, arising from an extraordinary event?

Position: MGE's current and past levels of un-reimbursed incurred FMGP costs do not meet the level of 5% of net operating income used by the FERC to qualify as "material" under the USOA. These un-reimbursed costs do not distort MGE's current and past year's net income levels. MGE's projected level of future FMGP costs should not be considered in a valid materiality analysis. No extraordinary event has occurred.

- 2) If the Commission should grant MGE an AAO, what conditions, if any, should be ordered?

- a) Should the Commission limit the amount of MGE's deferral to 50% of its un-reimbursed FMGP expenditures pursuant to the sharing provisions of MGE's Environmental Liability Agreement (ELA) with Western Resources, Inc.?

Position: Yes. Under the ELA both companies share up to a maximum of \$15 million dollars of un-reimbursed expenditures. MGE should not be permitted to defer \$7.5 million dollars of costs that are properly assignable to and payable by Western Resources, and Missouri ratepayers should be held harmless from them.

- b) Should the Commission order that nothing in its order shall be considered a finding by the Commission of the reasonableness of the costs and/or expenditures deferred and reserving the Commission's right to consider in a future rate case the ratemaking treatment to be afforded all deferred costs, including the recovery of carrying costs, if any?

Position: Yes. This condition protects Missouri ratepayers from any premature treatment or qualification of costs deferred by MGE.

- c) Should the Commission order MGE to (1) maintain detailed supporting records, work papers, invoices and other documents to support the amount of costs deferred under this AAO, including any related deferred taxes recorded as a result of the cost deferral and (2) provide detailed documentation that includes a complete description of the type of work performed, the specific MGP site and amount of time spent for each invoice submitted for all legal expenses deferred under this AAO?

Position: Yes. This detailed documentation is essential for any future determination of reasonableness in the next rate case proceeding.

Additional Condition: Both MGE and Staff agree a Commission order approving a deferral of FMGP costs should require that MGE file a general rate case within 24 months from the date of the order or forfeit the ability to recover such deferrals in rates.

WHEREFORE, the Staff submits its Position Statement pursuant to the Commission's approved procedural schedule.

Respectfully submitted,

/s/ **Robert S. Berlin**

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record 5th day of August 2008.

/s/ **Robert S. Berlin**