STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 15th day of January, 2009.

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**

ORDER CORRECTING REPORT AND ORDER AND ORDER DENYING APPLICATION FOR REHEARING

Issue Date January 15, 2009 Effective Date: January 15, 2009

The Missouri Public Service Commission issued its Report and Order on December 17, 2008, denying Missouri Gas Energy, a division of Southern Union Company's request for an accounting authority order. Missouri Gas Energy filed a motion for reconsideration and application for rehearing on December 19.[1]

In denying MGE's request for an accounting authority order**,** the Commission concluded that the costs for which MGE sought special accounting treatment were not extraordinary. In order to have been extraordinary, such costs must have, among other things, occurred infrequently. In support of its argument that the cost infrequently occur, MGE asserted that costs for each of the separate sites should be considered separately.[2]

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[1] Because motions for reconsideration relate only to procedural and interlocutory orders, the Commission will treat MGE's filing only as an application for rehearing under Commission rule 4 CSR 240-2.160.

[2] MGE's post hearing brief, p. 10.

Addressing this point, the Commission, in part, relied on the premise that there was no evidence treating, as separate, costs for various cleanup sites and activities at each site.

Although MGE makes several arguments to support its application for rehearing, it notably points out that the Commission erroneously found that the there was "no evidence treating the remediation costs as separate sites and activities[3]" A review of Exhibit 11, page 1, shows a general history of costs associated with MGE's cleanup efforts. However, on subsequent pages of the exhibit, specific costs are in fact delineated**,** separating costs between sites and activities as MGE points out in its application for rehearing.

Although not specifically a "finding" as MGE contests, the Commission does use this flawed premise in its analysis and therefore recognizes MGE's point. However, even considering MGE's point, the conclusion reached by the Commission is not altered.

Relevant to this issue, the following is set out in the definition of an extraordinary item:

> In determining significance, items should be considered individually and not in the aggregate. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate.[4]

For purposes of this case, the "single event" is the Comprehensive Environmental Response, Compensation and Liability Act of Congress (CERCLA) and the "series of related transactions" arising from this event are MGE's separately listed costs at each site. As required by the definition of "extraordinary items," these related transactions should be considered in the aggregate.

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[3] *See* Report and Order, page 11, under the issue of "Infrequent Occurrence."

[4] 18 CFR part 201, General Instruction No. 7.

Furthermore, that MGE has requested deferred treatment, in the aggregate and not site-by-site, for all of the environmental costs arising from CERCLA is evidence that these costs should be treated in the aggregate. Therefore, recognizing as true that MGE has separately set out the costs of remediation for the various sites and items, the Commission should nevertheless treat these items in the aggregate.

The remaining arguments presented by MGE do not present anything new for the Commission to consider. However, to accurately reflect how MGE has recorded its costs of remediation, the Commission shall correct its Report and Order by abandoning the premise "that there is no evidence treating the remediation costs as separate sites and activities." Rather, the Commission sets out the above reasoning to address MGE's contention that costs are treated separately.

Section 386.500.1, RSMo 2000, provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." The Commission finds that MGE does not present sufficient reason to grant its application and will therefore deny MGE's request.

THE COMMISSION ORDERS THAT:

1. The Commission's Report and Order is corrected as set out in the body of this order.

2. Missouri Gas Energy, a division of Southern Union Company's Application for Rehearing is denied.

3. This order shall become effective upon issuance.

4. This case shall be closed on January 16, 2009.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Murray, Davis,
Jarrett, and Gunn, CC., concur.

Jones, Senior Regulatory Law Judge