

**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

RESPONSE TO ORDER DIRECTING FILING ON ISSUES

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

1. On July 23, 2008, pursuant to the Commission approved procedural schedule, the Staff filed its List of Issues, Order of Cross-Examination and Order of Witnesses on behalf of the parties.

2. On July 28, 2008, the Commission issued its Order Directing Filing questioning whether there were factual determinations or legal conclusions that must first be determined in order to reach the final decision of whether the Commission should grant an Accounting Authority Order (AAO) to MGE. In its Order, the Commission directed Staff and MGE to file pleadings not later than August 1, 2008, setting out the issues to be decided by the Commission for it to reach its ultimate decision. (The Order made this pleading optional for Public Counsel).

3. The statutory provisions of Sect. 393.140 authorize the Commission to prescribe the basic organization of a utility's accounting records and to determine the accounting treatment of any particular transaction. In making these accounting treatment determinations, the Commission is guided by the FERC Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Natural Gas Act. Commission Rule 4 CSR 240-40.040 adopts the FERC Uniform System of Accounts (USOA).¹ However, the Commission reaches its ultimate

¹ As prescribed by FERC and published at 18 CFR part 201 (1992) and 2 FERC Stat. & Regs. Para. 20,001 and following (1992).

decision on whether to approve an AAO request based upon a factual inquiry of the expenses sought to be deferred by the utility.

4. The Commission established standards for deferral of costs incurred outside of a rate case test year in its Report and Order in Case Nos. EO-91-358 and EO-91-360. In this Order, the Commission expressed its position that costs incurred outside of a rate case test year should be allowed deferral only on a limited basis. In the Standards for Deferral section of this Order, the Commission described the following criteria to be met for allowing a utility company to defer costs incurred outside of a rate case test year as a regulatory asset:

1. Events occurring during a period that are extraordinary, unusual and unique, and not recurring; and
2. The costs associated with the material event are material.

To this day, the Commission continues to apply the above criteria in its evaluation of AAO requests.²

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

² The FERC USOA which the Commission has adopted defines the term “extraordinary items” in its General Instruction No. 7 and is made part of Staff Witness Paul Harrison’s Rebuttal testimony on pages 5 and 6.

- 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 unreimbursed FMGP expenditures pursuant to the sharing provisions of MGE's Environmental Liability Agreement with Western Resources, Inc.?
 - 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?
 - 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?

WHEREFORE, the Staff prays the Commission accept the above List of Issues.

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 1st day of August 2008.

/s/ **Robert S. Berlin**