

**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 REPLY TO MGE’S
RESPONSE REGARDING PROCEDURAL SCHEDULE**

COMES NOW the Missouri Office of the Public Counsel and for its Reply to Missouri Gas Energy’s April 16, 2008 response to Public Counsel’s Response and Motion to Establish a Procedural Schedule, states as follows:

1. Public Counsel and MGE disagree over the procedure the Commission should follow to resolve this case. Public Counsel’s first proposal would give the Commission more than three (3) months after the evidentiary hearing to issue an order by the end of the year. Public Counsel’s second proposal would give the Commission more than four (4) months after the evidentiary hearing to render a decision by the end of the year. MGE admits that it does not need a Commission decision until the end of the year “to affect treatment...on MGE’s books.” Either procedural schedule proposed by Public Counsel would provide the Commission with more than enough time to consider the case and issue a decision by the end of the year.

2. Public Counsel and MGE also disagree over the time Public Counsel should be afforded for discovery. Given the lack of urgency in this proceeding, there is no reason to place restrictions on the ability of Public Counsel to conduct discovery and challenge MGE’s evidence. MGE argues that since MGE filed its Application on June

13, 2007, Public Counsel had an opportunity for discovery. However, MGE's Application does not contain the evidence upon which MGE will rely to prove its case. Only MGE knew what evidence it would rely on in testimony. Public Counsel's first glimpse at MGE's evidence was with MGE's direct testimony filed on April 10, 2008.

3. MGE's direct case witness testimony contains no evidence supporting the assertions made by MGE's witnesses regarding environmental remediation activity. Without presenting such evidence with its direct case, Public Counsel is left to either challenge whether MGE satisfied its burden of proof, and/or conduct discovery to give Public Counsel an opportunity to see whatever data MGE is relying on for its assertions. Once Public Counsel has seen the evidence MGE is relying upon, Public Counsel needs an opportunity to conduct further discovery to substantiate those claims and answer any questions Public Counsel may have. MGE is asking to allow its customers to foot the bill for environmental remediation activities, while simultaneously attempting to hamper the customer's ability to challenge the evidence that purportedly supports MGE's claims.

4. MGE should look no further than MGE itself for an explanation as to why this case has been before the Commission for ten (10) months with little movement. Public Counsel advised the parties in November 2007 that a stipulation of facts was not likely and recommended that the parties proceed with a procedural schedule. MGE could have proposed a procedural schedule anytime over the course of the past ten (10) months, but chose not to. Public Counsel, and MGE's customers, should not be punished for MGE's decision to let this case sit idle before MGE decided to finally present its evidence.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply and requests that consumers be given a fair opportunity to challenge the evidence relied on by MGE.

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 17th day of April, 2008:

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