

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 22nd day of  
August, 2006.

In the Matter of Missouri Gas Energy's       )  
Purchased Gas Adjustment (PGA) Factors       )  
to be Audited in Its 2002-2003 Actual        )  
Cost Adjustment                                        )

**Case No. GR-2003-0330 et al.**

**ORDER QUASHING NOTICE OF DEPOSITION**

Issue Date: August 22, 2006

Effective Date: August 22, 2006

Missouri Gas Energy, a division of Southern Union Company, (MGE) filed a motion on August 21, 2006, asking the Commission to prevent the Commission's Staff from proceeding with the planned deposition of one of MGE's expert witnesses. The motion explains that the hearing in this case will begin on Monday, August 28. John J. Reed is the Chairman and Chief Executive Officer of Concentric Energy Advisors, Inc., a consulting company located in Massachusetts. MGE has hired Mr. Reed to be an expert witness in this case and he is scheduled to be the first witness to testify at the hearing.

According to MGE's motion, Staff informally contacted counsel for MGE by e-mail on August 16, asking to take Mr. Reed's deposition some time during the week of August 21. Counsel for MGE replied on August 17, indicating that Mr. Reed was testifying before the Connecticut regulatory commission on Monday through Thursday of that week and that he would be traveling on Friday. As a result, he would not be available for a deposition. On August 18, Staff filed a Notice of Deposition stating its intention to take the telephone

deposition of Mr. Reed at noon on Friday, August 25. MGE responded by filing its motion to quash the notice of deposition at 4:00 p.m. on August 21.

As MGE indicates in its motion, Mr. Reed filed prepared direct testimony in this case on November 21, 2005. Rebuttal testimony followed on February 1, 2006, and surrebuttal on July 19, 2006. Yet Staff waited until ten days before the start of the hearing to request to depose Mr. Reed. MGE complains that such short notice immediately before the beginning of the hearing is unreasonable, given the unavailability of the expert witness.

Commission Rule 4 CSR 240-2.090 provides that the Missouri Rule of Civil Procedure will apply to discovery before the Commission. Missouri Rule of Civil Procedure Section 56.01(c) provides that upon motion of a party the court may issue an order protecting a party or witness from discovery that would be unduly burdensome.

MGE's complaint is well founded. Staff had ample opportunity to depose Mr. Reed well before the last day before the start of the hearing. To force a deposition at this point would be unduly burdensome on MGE and particularly on the witness. MGE's motion will be granted and the notice of deposition will be quashed.

**IT IS ORDERED THAT:**

1. The Staff of the Commission's Notice to Depose John J. Reed on August 25, 2006, is quashed.

2. This order shall become effective on August 22, 2006.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Gaw, Clayton and Appling, CC., concur  
Murray, C., absent

Woodruff, Deputy Chief Regulatory Law Judge