

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)	
Missouri Gas Energy, a division of)	
Laclede Gas Company, for Approval to)	Case No. GO-2014-0179
Change its Infrastructure System)	
Replacement Surcharge)	

REQUEST FOR EVIDENTIARY HEARING

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Request for Evidentiary Hearing, states:

1. On December 6, 2013, MGE filed an application to change its Infrastructure System Replacement Surcharge (ISRS). OPC moved to reject the Application because it was not in compliance with Commission Rule 4 CSR 240-3.265(20)(K) and (L). Subsection (20)(K) requires gas companies to file with their ISRS petitions a breakdown of the ISRS eligible costs identifying: (1) which of the three statutory project categories of Section 393.1009(5) authorizes the expense for the ISRS, and (2) the specific safety requirements being satisfied by each replacement project.

2. The Commission denied OPC's motion, but directed MGE to file the information required by the rule. MGE responded on February 3, 2014 by filing a spreadsheet that addressed the two issues identified by OPC in its Motion to Reject. Due to questions raised by the information provided in MGE's new spreadsheet, OPC requests an evidentiary hearing wherein MGE will have the burden of proving that the claimed ISRS-eligible expenses are authorized by law. For the reasons further explained below, at least seven (7) projects do not appear to be eligible for the ISRS.

A. Category of Expense: § 393.1009(5)(a), (b), or (c)

3. Regarding the requirement that MGE identify the category of expense that qualifies each project, MGE's new spreadsheet includes this information in the second to last column, with specific citations for each project. Procedurally, MGE appears to have provided the information required by 4 CSR 240-3.265(20)(K) identifying a category of expense for each project. Substantively, however, it appears MGE included expenses that do not qualify under an allowed category of expense.

4. OPC reminds the Commission that only three categories of expenses are authorized by Section 393.1009(5)(a), (b), or (c):

- (a). Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;
- (b). Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and
- (c). Facilities relocation required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain provided that the costs related to such projects have not been reimbursed to the gas corporation.

5. The ISRS statute does not authorize MGE to include in its ISRS the following projects appearing on MGE's new spreadsheet:

- a. Work Order Number 20808132502, on page 1, described as "*Purchase easement for town border station,*" states that this \$4,500.00 expense qualifies for the ISRS under Section 393.1009(5)(a). An easement purchase is not a main, valve, service

line, regulator station, vault, or any other pipeline system component, and therefore, is not a qualifying ISRS expense.

b. Work Order Number 20401121614, on page 2, described as, “*replace gas pipe due to not being able to evaluate old pipe,*” states that this \$454,476.34 project qualifies under Section 393.1009(5)(a). Replacements under this section are only for pipe that is worn out or deteriorated, not pipe that cannot be evaluated.

c. Work Order Number 20401132489, on page 3, described as, “*replace 2” main due to leak caused by 3rd party damage,*” states that this \$25,675.73 project qualifies under Section 393.1009(5)(a). A damaged pipe is different than a pipe that is “worn out or deteriorated,” and is therefore not authorized by Section 393.1009(5)(a). Moreover, third party damages should be paid by third parties, not MGE customers.

d. Work Order Number 20830132446, on page 4, described as, “*replace exposed pipe due to erosion at creek,*” states that this \$11,660.29 replacement qualifies under Section 393.1009(5)(a). Replacements under this section are only for pipe that is worn out or deteriorated, not pipe that is being replaced due to soil erosion.

e. Work Order Number 21207132670, on page 5, described as, “*replace 10 ft of pipe due to damage,*” states that this \$6,938.31 replacement qualifies under Section 393.1009(5)(a). Replacement under this category is authorized for worn out or deteriorated pipe, not pipe that is damaged.

f. Work Order Number 20401121469, on page 5, described as, “*rebuild regulator station due to being run over by a semi,*” states that this \$8,701.31 expense qualifies under Section 393.1009(5)(a). Damaged pipe is different than a pipe that is

“worn out or deteriorated,” and is therefore not authorized by Section 393.1009(5)(a). Third party damages should be paid by third parties, not MGE customers.

g. Work Order Number 21271132615, on page 8, described as, “*relocate 6” main due to new curb inlet box installation,*” states that this \$15,185.13 expense qualifies under Section 393.1009(5)(a). Replacement under this category is only authorized for worn out or deteriorated pipe and pipeline components, not relocations.

6. The above listed projects, as described, are not lawfully authorized ISRS-eligible projects. Accordingly, MGE’s ISRS should be reduced by \$527,137.11.

B. State and Federal Safety Requirements

7. Regarding the requirement that MGE identify the state or federal safety requirement mandating the investment, MGE’s new spreadsheet includes this information in the last column. Procedurally, MGE appears to have provided the information required by 4 CSR 240-3.265(20)(K) identifying the state or federal law requiring each project. Substantively, however, it appears MGE included expenses that are not mandated by state or federal law.

8. MGE used a “Legend of State or Federal Safety Requirements” and assigned each project a corresponding authority appearing in the Legend. MGE’s Legend identified nine (9) separate safety requirements that it believes qualified its investments for ISRS. OPC takes issue with the first safety requirement identified by MGE, Section 393.130 RSMo requiring safe and adequate service. This statute is not a safety requirement as contemplated by the ISRS statutes. The safe and adequate service portion of the statute states, “Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service

instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.” This statute alone does not include any specific safety requirement that mandates any specific investment by MGE, and cannot be relied upon to satisfy the Section 393.1009(5)(a) or (b) categories of eligible ISRS expense. For the most part, MGE cites to Section 393.130 RSMo as the safety requirement mandating the investment in conjunction with other safety requirements. In those instances, the other authority cited must include the safety requirement qualifying the investment for ISRS.

9. In only one instance does MGE cite to Section 393.130 RSMo as the only basis for the safety requirement mandating the investment. Work Order Number 20401121614, on page 2, described as, “*replace gas pipe due to not being able to evaluate old pipe,*” lists only Section 393.130 RSMo as the safety requirement mandating the investment. If MGE were allowed to cite only to Section 393.130 RSMo as a state safety requirement that mandates a particular ISRS investment, there would be little limitation on what MGE could claim as an ISRS expense since the provision of safe service is a requirement in every facet of MGE’s distribution of natural gas. Section 393.130 RSMo is a general provision that provides no specific safety requirements as contemplated by Section 393.1009(5)(a) and (b). OPC also identified Work Order Number 20401121614 in Paragraph 5.b. above as an expense that does not fall under a qualifying category of ISRS-eligible expenses.

10. OCP also challenges MGE’s Work Order Number 20808132502, on page 1, described as “*Purchase easement for town border station,*” which does not identify any state or federal requirement mandating the investment, and therefore should be rejected.

OPC also identified Work Order Number 20808132502 in Paragraph 5.a. above as an expense that does not fall under a qualifying category of ISRS-eligible expenses.

C. Evidentiary Requirements for Facility Relocations

11. Commission Rule 4 CSR 240-3.265(21)(B) requires ISRS petitions to include “an explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs associated with relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the required ISRS revenues.” MGE’s petition and supporting documentation does not include such an explanation. MGE’s new spreadsheet lists multiple relocations that MGE seeks to include in its ISRS, and the rule requires MGE to explain its efforts to seek reimbursements for each relocation. In addition, MGE’s spreadsheet does not explain whether the relocation was required by the United States, this state, a political subdivision of this state, or another entity, as required by 4 CSR 240-3.265(20)(K)(5)-(8). Without this required information, the Commission should disallow all facility relocations claimed by MGE.

12. OPC brings these issues to the Commission’s attention to protect ratepayers from unlawful and unreasonable rate increases. OPC asks that the Commission schedule an evidentiary hearing and direct MGE to respond with an explanation and any evidence that supports including the projects in MGE’s ISRS.

WHEREFORE, the Office of the Public Counsel respectfully requests an evidentiary hearing to address the issues identified above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 14th day of February 2014:

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