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January 31, 2003

UPS, Next Day Delivery
Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
Jefferson City, Missouri 65102

FILED³
FEB 03 2003

Re: GM-2003-0238

Missouri Public
Service Commission

Dear Mr. Robert:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of *Motion by Intervener PACE, etc.*

This filing has been served by UPS, Next Day Delivery to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

Curtis G. Barnhill

CGB:sab
Enclosures

cc: Counsel of Record

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

FILED³
FEB 03 2003

Missouri Public
Service Commission

In the Matter of Application of Southern)	
Union Company d/b/a Missouri Gas Energy)	
For Authority to acquire Directly or)	
Indirectly, Up to and including One Hundred)	Case No. GM-2003-0238
Percent (100%) of the Equity Interests of)	
Panhandle Eastern Pipeline Company,)	
Including Its Subsidiaries, and to Take All)	
Other Actions Reasonably Necessary to)	
Effectuate Said Transaction)	

**MOTION BY INTERVENER PACE FOR AN ORDER REQUIRING CMS TO HONOR
ALL PENSION COMMITMENTS TO PANHANDLE EASTERN EMPLOYEES AS A
CONDITION OF GRANTING AUTHORITY TO SOUTHERN UNION TO ACQUIRE
PANHANDLE EASTERN PIPELINE COMPANY**

Intervener Local 5-348 of Paper, Allied-Industrial, Chemical and Energy International Union ("PACE"), by and through its attorneys, respectfully requests the Public Service Commission to order CMS Gas Transmission Company ("CMS") to honor all pension benefits and elections provided under a written plan of benefits to the employees of Pipeline Eastern Pipeline Company (Panhandle Eastern") as a condition of granting authority to Southern Union Company ("South Union") to acquire the equity interests of Panhandle Eastern. In support of this Motion, Intervener PACE states:

1. PACE is a voluntary labor organization doing business and representing employees of Panhandle Eastern in the State of Missouri. PACE is the exclusive collective bargaining agent of the bargaining unit employees of Panhandle Eastern in Missouri.

2. CMS is the sponsor of the Pension Plan for Employees of Consumers Energy and other CMS Energy Companies ("Pension Plan"). Panhandle Eastern employees represented by PACE are participants in the Pension Plan.

3. Prior to December 31, 1998, many of the current Panhandle Eastern employees were participants of the Retirement Income Plan of PanEnergy Corp. and Participating Affiliates (the "PEC Plan") when Panhandle Eastern was owned by PanEnergy Corp. and/or an affiliate of PanEnergy Corp.

4. When CMS purchased Panhandle Eastern effective January 1, 1999, the PEC Plan assets for Panhandle Eastern's employees was merged into the Pension Plan. The Pension Plan was amended as follows:

As of the closing date, March 29, 1999, [former Pan Energy Corp. employees] will be covered under the CMS Pension Plan. The Plan has been amended to accept vested pension benefits from the Panhandle Pension Plan and will be fixed as of December 31, 1998. The amount will be calculated using your service and compensation up to December 31. **To the extent of your fixed benefit under your former Plan, the optional form of benefits of that Plan are also retained. Your benefit as a CMS employee will be calculated two ways and you can choose the best one for you.** Under **Choice 1**, the benefit will be your fixed benefit from the former Panhandle Plan plus the benefit based on pay and service from January 1, 1999 under the standard provisions of the CMS Plan. Under **Choice 2**, your benefit will be calculated using the formula, definition of pay and early retirement factors from the former Panhandle Plan including service before and after March 29, 1999. (*Emphasis added*)

Under this provision of the Pension Plan, each Eastern Pipeline employee was provided the right to calculate their pension benefits under the two described ways and the right to elect the pension benefit calculation that is best suited for each individual employee.

5. CMS has told Eastern Pipeline employees that upon the acquisition of Panhandle Eastern by Southern Union, CMS intends to terminate the participation of Eastern Pipeline's employees in the Pension Plan. Additionally, CMS has informed the Panhandle Eastern employees that upon the termination of their participation in the Pension Plan, those employees under the age of 55 shall be given only one pension calculation option. Specifically their pension benefits will be

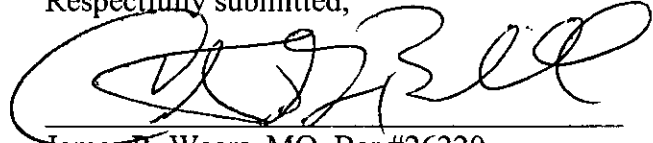
the fixed benefit from the former Panhandle Plan plus the benefits based on pay and service from January 1, 1999 under the standard provisions of the CMS Plan. This is "Choice 1" under the amendment to the Pension Plan as stated in Paragraph 4 above.

6. By only offering the Panhandle Eastern Employees "Choice 1," CMS is denying to the Panhandle Eastern employees under the age of 55 the right to calculate pension benefits both under "Choice 1" and "Choice 2" above, and is further denying to these employees the right to elect the choice that is best for them. Denial of this election is in violation of the written terms of the Pension Plan.

7. The stated intent of CMS to deny this election to the Panhandle Eastern employee is a direct and proximate result of CMS's intent to sell its equity interest in of Panhandle Eastern to Southern Union. It is not in the Public's interest to allow CMS to deny this election under the Pension Plan to Panhandle eastern's employees.

WHEREFORE, pursuant to R.S.Mo. Section 386.250, Intervener PACE prays that the Missouri Public Service Commission enter an order directing CMS to honor all pension benefits and elections provided under the CMS Pension Plan to the employees of Pipeline Eastern as a condition of granting authority to Southern Union to acquire the equity interests of Panhandle Eastern; and specifically order CMS to offer to those Panhandle Eastern employees under the age of 55 the right to calculate their benefit from the two choices provided them under the CMS Pension Plan and the right to elect the benefit calculation that is best for each employee.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Motion by Intervener PACE** was served upon all parties to this action by United Parcel Service, Next Day Delivery, this 31st day of January, 2003, addressed to the following:

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