

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

In the matter of Missouri Gas Energy's )	
Increasing Rates for Gas Service Provided )	Case No. GR-2006-0422
To Customers in the Company's Missouri )	
Service Area )	

**STAFF PLEADING REGARDING MGE'S MOTION FOR ACCOUNTING  
AUTHORITY ORDER CONCERNING THE EMERGENCY COLD WEATHER  
RULE**

**COMES NOW** Staff of the Missouri Public Service Commission (Staff) and respectfully submits as follows:

1. On August 7, 2006, Missouri Gas Energy (MGE) filed its Motion for Accounting Authority Order Concerning the Emergency Cold Weather Rule (Motion) pursuant to 4 CSR 240-13.055(14).
2. On August 14, 2006, Staff filed its Pleading Regarding MGE's Motion stating its general support for the MGE's requested AAO.
3. On August 22, 2006, Staff filed its Supplemental Pleading Regarding MGE's Motion.
4. On September 14, 2006, the Commission issued its Order Directing Filing. In this Order, the Commission stated:

The Commission is concerned that MGE's specific requests may go beyond what is allowed by the Emergency Cold Weather Rule. Although the Staff supports MGE's request, the Commission will require Staff to file a pleading addressing MGE's specific requests, vis-à-vis the rule, and what aspects or elements of the AAO will be dealt with in this rate case.

5. Staff remains generally supportive of the AAO as stated in Staff's pleadings filed on August 14 and 22, 2006. Staff continues to support the AAO, however, Staff's support was based on the Commission granting a general AAO without ratemaking determinations. AAOs are essentially a deferral of issues to be addressed in a later rate case. As required by law, ratemaking determinations are made in rate cases so that all relevant factors are considered. *State ex rel. Office of the Public Counsel v. Public Service Commission of Missouri*, 858 S.W.2d 806, 813 (Mo. App. 1993).

6. Staff interprets the Commission Order to direct Staff to analyze the specific MGE requests in regard to the mandates of the Emergency Cold Weather Rule. Staff's analysis will be presented in two parts. The first part will be an analysis of MGE's requests in regard to the Emergency Cold Weather Rule (as set out in the Commission's Order and MGE's August 7, 2006 Motion) and the second part will be how Staff intends to address these matters in its testimony.

#### **MGE'S REQUESTS UNDER THE EMERGENCY COLD WEATHER RULE**

7. On December 13, 2006, in Case No. GX-2006-0181, the Commission approved an Emergency Amendment to the Cold Weather Rule, 4 CSR 240-13.055. The amendment contained special provisions only applicable to providers of natural gas services to residential customers. The Rule was effective from January 1, 2006 through March 31, 2006.

8. MGE's Motion seeks a Commission Order granting an Accounting Authority Order (AAO) pursuant to this Rule to allow the following:

That MGE is authorized to maintain on its books a regulatory asset representing all costs of complying with the Emergency Rule (4 CSR 240-13.055(14) (Commission Order at p. 1). MGE Motion, p. 2, paragraph 6(a).

9. Staff believes that this is an appropriate request pursuant to 4 CSR 240-13.055 and G(a-b). Emergency Amendment 4 CSR 240-13.055(G)(a-b) specifies that:

a. The Commission shall grant an Accounting Authority Order, as defined below, upon application of a gas utility, and the gas utility may book to Account 186 for review, audit and recovery all incremental expenses incurred and incremental revenues that are caused by this emergency amendment. Any such Accounting Authority Order shall be effective until September 30, 2007.

b. The Commission has adopted the Uniform System of Accounts in 4 CSR 240-4.040. Accounting Authority Orders are Commission orders that allow a utility to defer certain expenses to Account 186 under the Uniform System of Accounts for possible recovery later. *State ex rel. Office of the Public Counsel v. Public Service Commission*, 858 S.W.2d 806 (Mo. App. 1993); *Missouri Gas Energy v. Public Service Commission*, 978 S.W.2d 434 (Mo. App. 1998).

Staff believes that MGE's first request complies with this provision of the Emergency Cold Weather Rule. MGE has asked Commission authorization to book, as a regulatory asset, all costs of complying with the Emergency Rule. The Emergency rule requires that these costs be booked to Account 186 and it is not improper to book such costs as a regulatory asset. Furthermore, the booking of all costs subject to future review is exactly what is contemplated by the Emergency Cold Weather Rule. 4 CSR 240-13.055(G)(a). Accordingly, Staff believes that this request by MGE does not exceed the mandates of the Emergency Cold Weather Rule.

10. MGE next specifically seeks a Commission Order granting an AAO to allow the following:

That the rates established in this case shall include, among other things, treatment of amounts deferred by MGE in accordance with 4 CSR 240-13.055(14) and this Accounting Authority Order. (Commission Order, p. 1; MGE Motion, p. 2).

Staff believes that this provision is appropriate and directly complies with the Emergency Cold Weather Rule 4 CSR 240-13.055(14). MGE is merely requesting that amounts deferred by MGE be treated in accordance with 4 CSR 240-13.055(14) and the Accounting Authority Order that MGE seeks. Staff does not interpret this AAO as seeking preapproval of the amount of Emergency Cold Weather Rule costs granted rate recovery in this proceeding. After conducting an audit of the costs MGE defers, Staff will recommend the amount of Emergency Cold Weather Rule costs to be allowed in rates in its Direct testimony in this proceeding.

11. MGE's third request is:

That an amortization of such amounts be deferred pursuant to this AAO over a period of time ending no later than three years after rates become effective in this case. (Commission Order at 1, MGE Motion at p. 2).

Initially, it would appear that this request that amortization of such amounts over a period of up to three years is not permissible under the provision of the Emergency Cold Weather rule, which specifies that an AAO under the emergency amendment shall be effective until September 30, 2007. 4 CSR 240-13.055 (14)(G)(a). Furthermore, this request may not be appropriate since the length of amortization of such amounts is a matter not specifically addressed in the Emergency Cold Weather Rule. Staff believes that deciding the length of amortization is not an appropriate issue for determination at this time since MGE has a rate case before the Commission and the proper time and place for such a determination is a rate case.

13. Staff notes that MGE relied on other authority for this third request. Staff recommends that the length of amortization for recovery of these costs is a ratemaking determination properly resolved in the context of this case, not the requested AAO.

14. Another relevant authority, beyond the Emergency Cold Weather Rule, is Rule 4 CSR 240-13.055 Amendment as approved by the Commission on August 11, 2006 in Case No. GX-2006-0434. Pursuant to 4 CSR 240-13.055 (F)(4), an extension of an AAO granted pursuant to MGE's Motion would be appropriate.

15. MGE's fourth request is:

That any costs of complying with the 2005 Cold Weather Emergency Rule that are not addressed by the Commission's Report and Order in this case may remain on MGE's books until the effective date of a Report and Order in MGE's next general rate proceeding.

16. It is plausible that additional costs of complying with the 2005 Cold Weather Emergency Rule could be discovered and recovery sought by MGE in the future. Staff suggests that another AAO (separate and distinct from the one currently before the Commission) could be appropriate to cover this matter, perhaps as part of the Commission's Report and Order in this case. However, the Emergency Cold Weather Rule does not specifically address this matter.

17. Staff has addressed each of MGE's requests within the context of the Emergency Cold Weather Rule. Staff also is cognizant of the Commission Order in GA-2002-377. In that case, the Commission approved a Stipulation and Agreement of the Parties regarding a MGE Request for an AAO regarding the Commission's emergency rule modifying the cold-weather rule during the 2001-2002 heating season. The primary difference was that MGE was not then before the Commission for a rate case and there was a Stipulation and Agreement in that case.

### **AAO ISSUES IN RATE CASE**

18. Staff will audit the cost of MGE's compliance with the Emergency Cold Weather Rule in this case. The parameters of such recovery are found in 4 CSR 240-13.055(F). In its Direct testimony in this case, Staff will make its Recommendation regarding such costs, including the amount of costs to include in rates and the length of any amortization of these costs into the cost of service. Staff has already issued Data Requests and consulted with MGE about this issue, will address the costs incurred by MGE to comply with the Emergency Cold Weather Rule and will recommend an amortization period for recovery of such costs that are recoverable under the Emergency Cold Weather Rule.

19. Staff believes that the costs of complying with the Emergency Cold Weather Rule are an issue in this case whether or not the Commission grants an AAO because the costs of complying with the Emergency Cold Weather were costs incurred during the test year (calendar year 2005) and the update period (six months ending June 2006) in this case.

**WHEREFORE,** Staff respectfully submits this pleading in Response to the Commission Order issued on September 14, 2006.

Respectfully submitted,

**/s/ Robert V. Franson**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic email to all counsel of record this 18<sup>th</sup> day of September 2006.

**/s/ Robert V. Franson**