

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

In the Matter of Southern Union Company d/b/a) **File No. GE-2011-0282**
Missouri Gas Energy's Application for Waiver/Variance)

ORDER SETTING PROCEDURAL SCHEDULE

Issue Date: October 24, 2011

Effective Date: October 24, 2011

On October 13, 2011, the Office of the Public Counsel (“Public Counsel”) and the Commission’s Staff jointly filed a proposed procedural schedule. In their proposal, Public Counsel and Staff stated that they were unable to reach agreement with Missouri Gas Energy (“MGE”) as to the schedule; however, they offered no explanation as to the nature of the disagreement, nor did they provide an explanation for their proposal or a reason the Commission should grant their proposal. Public Counsel and Staff recommended a schedule with the evidentiary hearing being held on February 8-9, 2012.

Approximately forty minutes after Staff's and Public Counsel's proposal was filed, MGE filed its proposed procedural schedule. In contrast to Staff and Public Counsel, MGE provided a basis for its proposal stating that the outcome of the Commission's decision could have an impact on its 2011 financial statements. For this reason, MGE's proposed schedule was shorter with the evidentiary hearing on January 10-11, 2012. MGE sought a Commission decision by mid-February 2012. And in further support of its proposal, MGE stated its belief that it was unlikely that new facts or theories will be discovered during the pre-filing of testimony.

Indeed, MGE and Public Counsel had previously filed motions for summary determination delineating what they believed were all facts material to the outcome of this proceeding. Staff had filed suggestions in support of Public Counsel's motion. Because

the Commission determined there were material facts in dispute, it denied the motions and directed the filing of the proposed procedural schedule, which resulted in the current scheduling dispute.

On October 14, 2011, before the Commission could seek clarification on the alternative proposals, MGE filed an additional pleading stating it was willing to accept Staff's and Public Counsel's proposed schedule. MGE's apparent change in position; however, does not change the Commission's statutory requirements to ensure its decisions serve the public interest, which the timing thereof is an integral part. Additionally, Commission Rule 4 CSR 240-2.080 requires that filings made by the parties not be designed to cause unnecessary delay or needlessly increase the cost of litigation. Consequently, the Commission directed Staff and Public Counsel to explain their request.

On October 21, 2011, Staff and Public Counsel provided an explanation stating that under MGE's proposal they would lack sufficient time to prepare rebuttal testimony and to prepare for the evidentiary hearing. Public Counsel specifically adds that additional time is necessary to study MGE's direct testimony, conduct research, plan case strategy, conduct additional discovery and finalize its testimony.

Staff and Public Counsel also note an error in the Commission's October 17, 2011 order requiring direct testimony from all of the parties when only MGE will be filing direct testimony. The Commission will correct that error in this order.

Having a complete explanation that the proposed delay in holding the evidentiary hearing has a proper basis, and with MGE apparently not wishing to pursue its original request, the Commission will adopt Staff's and Public Counsel's proposed schedule. The Commission will further modify the schedule to delineate additional requirements.

THE COMMISSION ORDERS THAT:

1. An evidentiary hearing is scheduled for February 8-9, 2012, beginning at 8:30 a.m. The hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. Any person requiring additional accommodations to participate in the hearing shall call the Missouri Public Service Commission's Hotline at 800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

2. The following procedural schedule is established:

Direct Testimony from Missouri Gas Energy	- October 27, 2011
Rebuttal Testimony from Staff and Public Counsel	- December 15, 2011
Surrebuttal Testimony from Missouri Gas Energy	- January 12, 2012
Cross-Surrebuttal Testimony from Staff and Public Counsel	- January 12, 2012
Issues List, Witness List, Order of Witnesses, Order of Opening Statements	- January 19, 2012
Position Statements	- January 30, 2012
Stipulation of Undisputed Material Facts	- February 2, 2012
Evidentiary Hearing	- February 8-9, 2012 beginning at 8:30 a.m.
Expedited Transcript	- February 13, 2012
Simultaneous Post-Hearing Briefs	- March 9, 2012

**Proposed Findings of Fact and
Conclusions of Law**

- March 12, 2012

3. The parties shall comply with the following additional procedural requirements:
 - A. The Commission waives 4 CSR 240-2.045(2) and 2.080(11) with respect to prefiled testimony and other pleadings, and will treat filings made through the Commission's Electronic Filing and Information System (EFIS) as timely filed if filed before midnight on the date the filing is due.
 - B. Documents filed in EFIS shall be deemed served if e-mailed to counsel of record for all other parties contemporaneously with the EFIS filing.
 - C. The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of party cross-examination for each witness. The list of issues shall be stated with particularity. If the parties are unable to agree to an issues list, each party shall file a separate issues list.
 - D. Each party shall file a simple and concise statement summarizing its position on each disputed issue.
 - E. The parties shall pre-number their hearing exhibits sequentially with individual party designation as follows:
 - a.) MGE Exhibit No. 1, MGE Exhibit No. 2, MGE Exhibit No. 3, etc.
 - b.) OPC Exhibit No. 1, OPC Exhibit No. 2, OPC Exhibit No. 3, etc.
 - c.) Staff Exhibit No. 1, Staff Exhibit No. 2, Staff Exhibit No. 3, etc.
 - F. Each party shall prepare a comprehensive exhibit list before the evidentiary hearing with the listed exhibits numbered sequentially as directed in paragraph E. Copies of the exhibit lists shall be provided to the Commissioners, the Regulatory Law Judge and the Court Reporter at the beginning of the hearing.
 - G. In the event that the parties reach a settlement of all of the issues, such settlement shall not be grounds for a continuance of the hearing unless the agreement is final, has been submitted to the Commission in writing, and there are no objections to the agreement.

4. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Harold Stearley, Deputy Chief Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 24th day of October, 2011.