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March 25, 2003

Mr. Dale Hardy Roberts  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Re: Southern Union Company**  
**Case No. GM-2003-0238**

**FILED<sup>3</sup>**

**MAR 25 2003**

**Missouri Public  
Service Commission**

Dear Mr. Roberts:

I deliver herewith for filing with the Missouri Public Service Commission ("Commission") in the referenced matter an original and eight (8) copies of a Stipulation and Agreement.

Please note that Appendix 2 to the Stipulation and Agreement contains information which has been designated as "Highly Confidential." Consequently, a nonproprietary version of Appendix 2 will be provided with this filing.

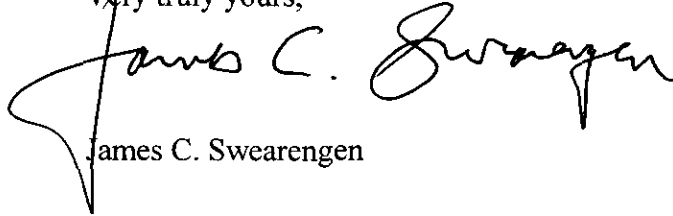
The following parties, Enbridge Pipelines ("KPC"); Jeremiah W. (Jay) Nixon, Attorney General, on behalf of the State of Missouri; Union Electric Company d/b/a AmerenUE; Midwest Gas Users' Association; Laclede Gas Company and Kansas City Power & Light Company, while not executing the Stipulation and Agreement, have indicated to the undersigned that they do not oppose same and each will file a pleading with the Commission stating nonopposition.

Counsel for Local 5-348 of Paper, Allied-Industrial, Chemical and Energy International Union has advised the undersigned that the Union will seek leave to withdraw from this case.

A copy of this Stipulation and Agreement will be provided this date to all parties of record.

Would you please bring this filing to the attention of the appropriate Commission personnel and thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "James C. Swearengen". The signature is fluid and cursive, with a large initial "J" and "S".

James C. Swearengen

JCS/lar

Enclosures

cc: All parties of record  
RLJ Woodruff

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

**FILED<sup>3</sup>**

MAR 25 2003

Missouri Public  
Service Commission

In the Matter of the Application of Southern )  
Union Company d/b/a Missouri Gas Energy )  
For Authority to Acquire Directly or )  
Indirectly, Up to and Including One Hundred )  
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 )

Case No. GM-2003-0238

**STIPULATION AND AGREEMENT**

**I. Procedural History**

On January 13, 2003, Southern Union Company ("Southern Union" or "Company") filed an Application with the Missouri Public Service Commission ("Commission") for authority to acquire directly or indirectly, up to and including one hundred percent (100%) of the equity interests of Panhandle Eastern Pipeline Company ("Panhandle"), including its subsidiaries, and to take all other actions reasonably necessary to effectuate said transaction ("the Transaction"). At the same time, Southern Union filed with the Commission its Motion for Expedited Treatment and a Motion for Issuance of a Protective Order.

On January 15, 2003, the Commission issued its order directing the Commission Staff ("Staff") to either file a recommendation regarding Southern Union's Application by February 3, 2003, or to file a pleading explaining why it could not file a recommendation by that date. Also on January 15, 2003, the Office of the Public Counsel ("Public Counsel") filed its reply to Southern Union's request for expedited treatment. On

January 16, 2003, the Staff filed a Motion for Issuance of Intervention Notice and for Technical Conference.

Thereafter, on January 16, 2003, the Commission issued its Order Providing Notice, Establishing Time for Intervention, Scheduling a Prehearing Conference, and Relieving Staff and Other Parties of the Obligation to File a Recommendation by February 3, 2003. By its Order, the Commission directed that notice of the Application be provided and that interested persons wishing to intervene in this case should file an Application to Intervene on or before January 24, 2003. The Commission scheduled a prehearing conference for January 28, 2003 and relieved the Staff and all other parties of their obligation to file a recommendation by February 3, 2003.

Applications to Intervene in this proceeding were filed by Enbridge Pipelines ("KPC"); Jeremiah W. (Jay) Nixon, Attorney General, on behalf of the State of Missouri; Union Electric Company d/b/a AmerenUE; Local 5-348 of Paper, Allied-Industrial, Chemical and Energy International Union; Midwest Gas Users' Association; Laclede Gas Company; Municipal Gas Commission of Missouri and Kansas City Power & Light Company.

On February 24, 2003, the Commission issued its Order Adopting Procedural Schedule in which the following procedural schedule was established:

Direct Testimony by Southern Union	February 14, 2003
Rebuttal Testimony by All parties wishing to file	March 17, 2003
Prehearing Conference	March 19, 2003
List of Issues	March 20, 2003
Position Statements	March 21, 2003

Hearing

March 26-28 and March  
31, April 1, 2003

Southern Union filed its verified direct testimony in support of the Application on February 14, 2003. The Staff, Public Counsel and Kansas City Power & Light Company filed rebuttal testimony on March 17, 2003. On March 20, 2003, the Municipal Gas Commission of Missouri withdrew as a party.

The parties have engaged in various discovery and discussions and as a consequence, the signatory parties have reached the following agreements which are set forth in this Stipulation and Agreement and which dispose of all issues in this case with respect to the signatory parties.

## **II. Approval of the Transaction**

The parties agree that the Commission should issue its order, subject to the conditions contained herein, authorizing Southern Union to acquire, directly or indirectly, up to and including one hundred percent (100%) of the equity interests of Panhandle, including its subsidiaries. The parties also urge the Commission to issue its order approving the Transaction and this Stipulation and Agreement at its earliest opportunity so as to be effective by April 1, 2003, if possible. The basis for the requested effective date is explained in the Motion for Expedited Treatment filed herein on January 13, 2003. In the event the Transaction is not closed, this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof.

### **III. Conditions of Approval**

#### **1. CUSTOMER SERVICE STANDARDS**

A. Southern Union will, through its Missouri Gas Energy ("MGE") operating division, continue uninterrupted its commitment to customer service performance measures and customer service operating procedures originally agreed to by Southern Union, through MGE, and approved by the Commission in its October 21, 1999, Order Approving Stipulation and Agreement in Case No. GM-2000-43 (and also agreed to by Southern Union and approved by the Commission in Case Nos. GM-2000-500, GM-2000-502 and GM-2000-503) for a period of three full calendar years beyond the conclusion of the calendar year in which the Transaction closes. The data should continue to be presented in a monthly format and provided on a quarterly basis and may be transmitted to the Staff in an electronic format. The MGE response to the customer service measures will remain as agreed to in Case No. GM-2000-43.

B. In addition to the service measures presently being provided, Southern Union will also provide information in a like format on two additional service level indicators and one item of market information. The first indicator pertains to MGE's ability to meet its service appointments. This may be expressed as a percent of appointments kept. The second indicator is the maintenance of the average response time that it takes for MGE to respond to Commission-forwarded complaints. This should initially be maintained and provided by MGE. In the future, the Staff and MGE will evaluate the ability and effectiveness of the Commission's Electronic Filing and Information System ("EFIS") to make the information available on an automated basis.

C. MGE will also provide to requesting parties subject to a Commission protective order (on a highly confidential basis) information related to any contacts or inquiries it receives regarding potential by-pass of MGE's distribution system via direct connection to an interstate or intrastate pipeline system (without regard to whether MGE believes such by-pass would be economic or justified), including—to the extent available—1) the name of the person making the contact or inquiry; 2) the identity and location of the premise about which the contact or inquiry is made; 3) the date of the inquiry; and 4) the identity of the interstate or intrastate pipeline(s) to which the potential direct connection might apply.

D. Other reporting requirements of the Commission orders in Case Nos. GM-2000-43, GM-2000-500, GM-2000-502 and GM-2000-503 are not affected by the provisions of this reporting.

E. All obligations run through to Southern Union Company.

## 2. INSULATION OF SOUTHERN UNION'S MGE OPERATING DIVISION FROM PANHANDLE BUSINESS

To insulate MGE from the Transaction, Southern Union agrees that:

Southern Union Panhandle Corporation ("SUPC") and Successor Entities or any direct or indirect subsidiary of Southern Union that acquires or owns any equity interests in Panhandle, will be owned and operated as a separate subsidiary of Southern Union. Southern Union and MGE will not, directly or indirectly, allow any Panhandle debt to be recourse to them; pledge Southern Union or MGE equity as collateral or security for the debt of any Panhandle entity; give, transfer, invest, contribute or loan to any Panhandle entity, any equities or cash without Commission approval. Southern Union will not

transfer to SUPC and Successor Entities or any subsidiary thereof, directly or indirectly, assets necessary and useful in providing service to MGE's Missouri customers without Commission approval. Southern Union will not enter, directly or indirectly, into any "make-well" agreements, or guarantee the notes, debentures, debt obligations or other securities of any Panhandle entity without Commission approval. Southern Union will not adopt, indemnify, guarantee or assume responsibility for payment of, either directly or indirectly, any of the current or future liabilities of any Panhandle entity without Commission approval. Southern Union will exercise its best efforts to insulate MGE from any adverse consequences from its other operations or the activities of any of its affiliates. Southern Union will submit reports certifying its compliance with this paragraph 2 on a quarterly basis to Staff, Public Counsel, and other interested parties that are subject to a Commission protective order until the Commission determines that MGE is insulated from Southern Union's other operations and the activities of any of its affiliates or that the requirement is no longer needed.

3. CONDITIONS TO FURTHER INSULATE SOUTHERN UNION'S MISSOURI CUSTOMERS FROM ANY POSSIBLE ADVERSE CONSEQUENCES ASSOCIATED WITH THE TRANSACTION

To insulate MGE from the Transaction, Southern Union agrees that:

A. Southern Union will ensure that the Transaction will have no adverse effect on MGE's budget and funds to meet MGE's capital needs, including but not limited to service line and main replacement programs. Southern Union remains committed to the safety line replacement program schedules for MGE currently in effect and approved by the Commission in its Case No. GO-2002-0050.



B. The amount of any asserted acquisition premium (i.e. the amount of the total purchase price and transaction above net book value) paid by Southern Union in connection with the transaction shall be treated below the line for ratemaking purposes in Missouri and not recovered in retail distribution rates. Southern Union shall not seek either direct or indirect rate recovery or recognition of any acquisition premium, including transaction costs, through any purported acquisition savings adjustment (or similar adjustment) in any future general ratemaking proceeding in Missouri. Southern Union reserves the right to seek Missouri rate recovery for internal payroll costs necessary to obtain Missouri regulatory approval of the Transaction, to the extent it can be shown that the savings achieved and allocated to MGE as a result of the Transaction are equal to or in excess of such costs. Other parties to any such proceeding will not be precluded from opposing rate recovery of such costs, regardless of any asserted acquisition savings. In addition, Southern Union shall not seek to recover in Missouri the amount of any asserted acquisition premium in the Transaction as being a "stranded cost" regardless of the terms of any legislation permitting the recovery of stranded cost from Missouri ratepayers.

C. Total joint and common costs allocated to Missouri for purposes of setting retail distribution rates will not increase as a result of the Transaction above the latest levels proposed by MGE in Case No. GR-2001-292, Noack Supplemental Testimony in Support of a Change of Position on Certain Issues dated June 22, 2001. Schedule H-8 Joint and Common Costs increase to Acct 923 of \$6,934,982. Net corporate plant allocated to MGE of \$7,218,655 per Schedule C, page 1 of 2, column e, line 31 minus line 37. Southern Union agrees to make available to the Staff and the Public Counsel,

at reasonable times and places, all books and records and employees and officers of Southern Union and any affiliate, division or subsidiary of Southern Union as provided under applicable law and Commission rules. Southern Union agrees that, in any MGE-initiated general rate proceeding, it has the burden of proving the reasonableness of any allocated or assigned cost to MGE from any Southern Union affiliate, division or subsidiary including all corporate overhead allocations.

D. Southern Union will retain all documentation relative to the analysis of the Transaction and all merger, acquisition, and sale activity that has occurred since January 1, 2002. This documentation will include a list of: (1) all Southern Union and its affiliates' personnel, consultants, legal and financial and accounting advisers; (2) the time (in hours) spent by those individuals on related work; (3) other expenses, costs or expenditures incurred or recognized by Southern Union that are related to the Transaction, the sale of the Southern Union's Texas Division to Oneok, Inc. and the establishment of the Energy Worx Inc. contractual relationship with Southern Star Central; (4) business entity (corporate, subsidiary and division) where the costs were booked, including account number, account description and amount; and (5) description of the nature of the work performed and costs incurred. Southern Union will maintain its books and records so that all acquisition costs (including the Transaction and future Southern Union merger and acquisition transactions) are segregated and recorded separately. During MGE's next general rate proceeding, Southern Union agrees to disclose to the Staff Public Counsel, and other interested parties subject to a Commission protective order acquisition, merger, transition, and transaction costs recorded in Southern Union's books and records in the appropriate test year. This

condition does not restrict Southern Union's right to seek rate recovery of merger and acquisition costs related to future transactions. Other parties to this proceeding may oppose recovery of merger and acquisition costs related to future transactions. Southern Union agrees to create and maintain records listing the names of Southern Union employees (excluding current Panhandle employees), number of hours worked, type of work performed and travel and other expenses incurred for all work related to Panhandle after the closing of the Transaction through the end of the test year, updated test year or true-up test year in MGE's next general gas rate case. Southern Union will submit to the Commission's accounting department and Public Counsel verified journal entries reflecting the recording of the Transaction and all other merger, acquisition since January 1, 2002 of Southern Union's books and records within forty-five (45) days of closing.

E. Southern Union will not recommend an increase or claim Staff should make an adjustment to increase the cost of capital for MGE as a result of the Transaction. Any increases in cost of capital Southern Union seeks for MGE will be supported by documented proof: (1) that the increases are a result of factors not associated with the Transaction; (2) that the increases are not a result of changes in business, market, economic or other conditions for MGE caused by the Transaction; or (3) that the increases are not a result of changes in the risk profile of MGE caused by the Transaction. Southern Union will ensure that the retail distribution rates for MGE ratepayers will not increase as a result of the Transaction.

F. Southern Union agrees that any Stipulation and Agreement to which Southern Union is a signatory with regard to any MGE Actual Cost Adjustment ("ACA")

case that occurs prior to the closing of the Transaction will be adhered to by Southern Union.

G. Southern Union agrees that within six (6) months of the closing of the Transaction, it shall perform, provide, and discuss with all interested parties subject to a Commission protective order a study of the impact of the acquisition and operation of SUPC and its Successor Entities on Southern Union's structure, organization, and costs. This study will address the specific impacts of the acquisition and operation of SUPC and its Successor Entities on Southern Union's administrative and general ("A&G") expense and cost allocation methodology. Southern Union will specifically identify the process used to allocate A&G costs and expenses to its regulated, merger and acquisition, sale and non-regulated functions of its regulated divisions as well as its non-regulated subsidiaries. Southern Union agrees that the types and availability of raw data necessary to perform allocations of corporate overhead costs shall be discussed at the meeting to occur within six (6) months of the close of the Transaction. The raw data to be discussed should include, but not be limited to, regulated and non-regulated information concerning customer numbers and billing information, revenue data, asset information (gross and net plant, etc.), management work time allocations, employee numbers and other payroll data, and the Missouri jurisdictional rate of return on investment ("ROR") and return on equity ("ROE"). The allocation procedures to be disclosed shall include, but need not be limited to, the use of cost allocation manuals, timesheets, time studies, and/or other means of tracking and allocating costs. The allocation procedures agreed upon should provide a means to identify and substantiate

the portions of each individual corporate employee's time and associated payroll cost being allocated to Southern Union's regulated divisions.

#### 4. AFFILIATE TRANSACTION RULES

Effective upon the closing of the Transaction, MGE will comply with the attached affiliate transaction rules attached as Appendix 1 hereto, provided that:

a) To the extent the Federal Energy Regulatory Commission ("FERC") adopts affiliate standards in connection with affiliate relationships between interstate or intrastate pipelines and local distribution companies ("LDCs") that are in direct conflict with any of the referenced provisions, the parties agree to work together collaboratively in an effort to reconcile such differences so as to avoid conflicting requirements; it being understood that any such FERC requirements would not necessarily be binding upon the Commission for state jurisdictional purposes; and

b) Southern Union agrees to the conditions in this paragraph 4 and its attachments even if the Missouri Supreme Court determines the Commission affiliate rules (i.e., 4 CSR 240-40.015 and 4 CSR 240-40.016) to be unlawful. If the Missouri Supreme Court determines the Commission affiliate rules to be lawful, then Southern Union will comply with the Commission affiliate rules and will also comply with the conditions in this paragraph 4 and its attachments to the extent that such conditions go beyond the Commission affiliate rules.

#### 5. INCENTIVE COMPENSATION

##### A. Corporate Employees

Beginning with fiscal years commencing after the date of closing, and continuing for so long as MGE is an affiliate of SUPC and Successor Entities, for Southern Union

employees, and employees of all affiliates, with direct or indirect decision-making authority over SUPC and Successor Entities any affiliate participating in the ownership, operation or management of a natural gas pipeline transporting natural gas to MGE, any earnings-based incentive compensation shall be calculated so that SUPC and Successor Entities revenues from the sale of transportation of natural gas or other services to MGE by those pipelines, are excluded from such earnings measurement.

**B. MGE Employees**

Beginning with fiscal years commencing after the date of closing, and continuing for so long as MGE is an affiliate of SUPC and Successor Entities, for MGE employees with direct/indirect decision-making authority over MGE's traditional gas purchasing department or who supervise any employee of MGE's gas purchasing department, any earnings-based incentive compensation shall be calculated solely on the basis of earnings measurements for the MGE operation.

**6. INTERSTATE AND INTRASTATE TRANSPORTATION AND STORAGE COSTS**

A. MGE agrees, for purposes of calculating its purchase gas adjustment ("PGA") and actual cost adjustment ("ACA") rates, to maintain at least the same percentage of discount it is currently receiving on Panhandle and Southern Star Central for purposes of transportation and storage costs passed through the PGA clause to MGE's ratepayers as provided in Highly Confidential Appendix 2 hereto. This provision does not alter MGE's obligation to obtain the best terms for gas transportation that it can. In addition, for ten years following the closing of this Transaction, MGE agrees not to seek to recover through its PGA rate any component of SUPC and Successor Entities FERC maximum tariff rate resulting from rate base deductions that have been

eliminated by this Transaction; the amount of the offset for the first year shall be MGE's proportional share of the cost-of-service/revenue requirement amount related to the amount of deferred taxes and investment tax credits reflected on Panhandle's books and records as of the closing date of this Transaction (i.e., the amount that would exist on Panhandle's books and records had this transaction not occurred), which amount of deferred taxes and investment tax credits (which is the basis for the calculation of MGE's proportional share of the cost-of-service/revenue requirement) shall reduce by one-tenth on each anniversary date of the closing of this Transaction. To provide a set of data for the Staff and Public Counsel to use in the assessment of whether the expenditure made by MGE to SUPC and Successor Entities is reasonable and prudent, SUPC and Successor Entities customer-specific contracts would be made available to the Staff and Public Counsel on a highly confidential basis following the execution of any new contracts between MGE and SUPC and Successor Entities. This paragraph 6.A. shall apply for only so long as MGE is an affiliate of SUPC and Successor Entities.

B. In making decisions regarding interstate or intrastate pipeline transportation and storage capacity, MGE will continue to evaluate alternatives with the objective of minimizing cost while obtaining adequate assurances of reliability without regard to whether such services are being provided by an interstate or intrastate pipeline that is an affiliate of MGE or by an interstate or intrastate pipeline which has a management agreement in effect with an affiliate of MGE. MGE will formally conduct a comprehensive evaluation at least annually. This evaluation will be submitted and presented to Staff, Public Counsel, and other interested parties subject to a Commission protective order. The evaluation provisions in the last two sentences of

this paragraph 6.B. shall apply for only so long as 1) MGE is an affiliate of SUPC and Successor Entities or 2) Southern Union's Energy Worx subsidiary is providing management or operational services to Southern Star Central.

C. MGE will notify Public Counsel, Staff, and other interested parties subject to a Commission protective order when MGE is considering the addition of new pipeline capacity or a switch in the current mix of pipeline capacity and will keep and provide Public Counsel and Staff, appropriate documentation regarding inquiries made to various pipelines. This documentation will include, but not be limited to all proposed terms, including rates (and any discounts), amount of capacity, delivery and take points, any storage capabilities, maximum storage quantities, maximum daily withdrawal quantities, maximum daily injection quantities, whether the capacity is firm, interruptible, etc., capacity release and off-system sales opportunities, the reason for the additional capacity or switch. This information will be provided within seven (7) days of negotiations with any such pipeline. However, in no event will the providing of this data constitute preapproval by Public Counsel or Staff or any other proper party. In addition, it is understood that MGE's agreement to provide documentation regarding such negotiations is not to be construed as an agreement to permit participation in, or interference with, such negotiations; it is expressly understood that the MGE's ability to undertake such negotiations most effectively is of primary importance and that provision of documentation regarding such negotiations is subordinate thereto.

1) MGE shall create a written or electronic log that documents the date, time, seller, and terms of all offers received (where such offer includes price, delivery dates, delivery location, and delivery specifications), and indicates the selected proposal(s); and



2) MGE shall prepare a written analysis explaining how any winning proposal by SUPC and Successor Entities or Southern Star Central satisfies the needs of MGE's natural gas transportation and storage portfolio when measured against other comparable proposals.

D. Whenever SUPC and Successor Entities applies to FERC for a rate increase, MGE will provide Public Counsel and Staff, and any other proper party, any and all documents filed by MGE that show MGE's opposition to the rate case. Further, MGE will provide Public Counsel and Staff with any documents MGE possesses, that are not otherwise privileged or immune from discovery, discussing any potential settlement of the rate case. MGE will provide a privilege log listing such documents. This paragraph 6.D. shall apply for only so long as MGE is an affiliate of SUPC and Successor Entities.

E. Southern Union agrees that MGE will exercise its best efforts in any FERC proceeding involving an interstate pipeline that is owned, operated, or managed by Southern Union, successor entity, or an affiliate to protect the interest of its customers in manner consistent with the actions of a local gas distribution company that was not associated with an entity that had a financial interests in an interstate pipeline.

## 7. ASSUMPTION OF RISKS

Southern Union agrees that it will not include in its retail distribution rates charged to Missouri consumers any costs related to its execution risk of completing the purchase of Panhandle. Southern Union accepts the risks of the costs associated with obtaining funds to be used to make the acquisition. Southern Union represents that it has and will maintain the financial resources to protect Missouri consumers from the

adverse consequences of these risks. The parties to this agreement are not requesting the Commission to approve the steps that Southern Union will use to implement this Transaction after the Commission approves the Transaction. Southern Union understands that there are risks associated with closing this Transaction after it receives Commission approval. Southern Union accepts full responsibility of these risks. The acquisition and sources of the monies needed to close this Transaction are beyond the scope of the Commission approval in this case.

8. COST ALLOCATION MANUAL

The details of MGE's cost allocation manual are included with the attached affiliate transaction rules, Appendix 1 hereto.

9. SOUTHERN STAR CENTRAL INVESTMENT

Southern Union agrees, so long as it owns, operates or manages Missouri regulated properties, not to make an equity investment in Southern Star Central Pipeline.

10. DIVEST ENERGY WORX

Southern Union agrees to divest Energy Worx not later than June 30, 2003. Until Energy Worx is divested, Southern Union shall provide, on a monthly basis to the Staff, Public Counsel and other requesting parties subject to a Commission protective order, reports setting forth: 1) updates on the status of Southern Union's efforts to divest Energy Worx; 2) the subject matter of any meetings, teleconferences or other communications between MGE gas supply personnel and Southern Star Central personnel and/or Energy Worx personnel; and 3) with the assistance of individuals formerly involved with gas supply for MGE (now ONEOK employees), advisories of any

significant operating changes taking place on the Southern Star Central system relative to MGE. Southern Union also agrees that, as long as it owns Missouri-regulated utility property, neither it nor one of its subsidiaries, divisions or affiliates will manage or operate any pipeline, with the exception of SUPC and Successor Entities, that provides transportation or storage services to MGE. All parties expressly reserve the right to take any position in any other proceeding that may encompass specific issues regarding the creation of Energy Worx or prudence of any actions or inactions of Energy Worx. The parties agree that Southern Union did not initiate or suggest the condition in this Stipulation and Agreement regarding the divestiture of Energy Worx. Southern Union represents to the parties that it only agreed to the divestiture of Energy Worx at the insistence of the Staff among other parties, including potentially the Federal Trade Commission.

#### 11. ADHERENCE TO MISSOURI RULES

Southern Union agrees to comply with all Missouri Commission rules, reporting requirements and other practices, and its filed and approved tariffs. This paragraph 11 shall not be construed as a waiver of any rights or remedies available to Southern Union under the law.

#### 12. NO DETRIMENTAL IMPACT

Southern Union represents that it does not intend to take any action that has a material possibility of having a detrimental effect on MGE's utility customers, but agrees that, should such detrimental effects nevertheless occur, nothing in the approval or implementation of the proposed acquisition shall impair the Commission's ability to protect such customers from such detrimental effects.

### 13. COMMISSION AUTHORITY

Southern Union agrees that the Commission has, and will continue to have, the authority after the proposed acquisition to regulate, through the lawful exercise of its current statutory powers, and ensure the provision of service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable and not jeopardize the ability of Southern Union or MGE to meet its Missouri utility obligations, including MGE's service line replacement program. Southern Union also agrees that the Commission has the authority, through the lawful exercise of its ratemaking powers, to ensure that the rates charged by MGE for regulated utility service are not increased as a result of the unregulated and/or nonjurisdictional activities of Southern Union's affiliates and Southern Union agrees, consistent with such standard, that rates should not be increased due to such activities.

### 14. ACCESS TO INFORMATION

A. Southern Union shall provide the Staff and Public Counsel with access, upon reasonable written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, to all written information provided to common stock, bond, or bond rating analysts, which directly or indirectly pertains to Southern Union or any affiliate that exercises influence or control over MGE or has affiliate transactions with MGE. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes but is not limited to, any written and printed material, audio and videotapes, computer disks and electronically stored information. Nothing in this condition shall be deemed to be a waiver of Southern

Union's or MGE's right to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.

B. Upon request, MGE and Southern Union agree to make available to Staff and Public Counsel, upon written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, all books, records and employees of Southern Union, MGE and its affiliates as may be reasonably required to verify compliance with the Cost Allocation Manual and the conditions set forth in this Stipulation and Agreement. MGE and Southern Union shall also provide Staff and Public Counsel any other such information (including access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over MGE; provided that MGE and any affiliate or subsidiary of Southern Union shall have the right to object to such production of records or personnel on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates or subsidiaries; (a) are not within the possession or control of MGE; or (b) are either not relevant or are not subject to the Commission's jurisdiction and statutory authority by virtue of or as a result of the implementation of the proposed acquisition.

C. MGE, each affiliate and Southern Union will maintain records supporting its affiliated transactions for at least five years.

15. COMMITMENTS AND REPRESENTATIONS ARE MISSOURI JURISDICTIONAL

The commitments and representations made by Southern Union in this Stipulation and Agreement are intended to apply only in the context of Missouri jurisdictional regulatory activities. Commission approval of this Stipulation and Agreement is not intended, and shall not be construed, to restrict in any way the ability of either the Commission, Southern Union or any party hereto to take any position whatsoever regarding matters covered by this Stipulation and Agreement in proceedings before the FERC or any other non-Missouri jurisdictional regulatory authority.

16. PREFILED TESTIMONY TO BE RECEIVED INTO EVIDENCE

The prefiled testimony and schedules submitted by Southern Union, Staff, Public Counsel and Kansas City Power & Light Company shall be received into evidence without the necessity of the witnesses taking the stand.

17. a. This Stipulation and Agreement has resulted from extensive negotiations among the parties and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Agreement in total, then this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof. The stipulations herein are specific to the resolution of this proceeding, and all stipulations are made without prejudice to the rights of the parties to take other positions in other proceedings.

b. This Stipulation and Agreement is being entered into for the purpose of disposing of all issues in this case. None of the parties to this Stipulation and

Agreement shall be deemed to have approved, accepted, agreed, consented or acquiesced to any accounting principle, ratemaking principle or cost of service determination underlying, or supposed to underlie any of the issues provided for herein.

c. All parties further understand and agree that the provisions of this Stipulation and Agreement relate only to the specific matters referred to in the Stipulation and Agreement and no party waives any claim or right which it otherwise may have with respect to any matters not expressly provided for in this Stipulation. All parties further reserve the right to withdraw their support for the settlement in the event that the Commission modifies the Stipulation and Agreement in a manner which is adverse to the party withdrawing its support and further, all parties reserve the right to contest any such Commission order modifying the settlement in a manner which is adverse to the party contesting such Commission order.

18. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; their respective rights to present oral argument or written briefs pursuant to Section 536.080.1, RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo 2000; their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2000; and their respective rights to judicial review pursuant to Section 386.510, RSMo 2000. If this Stipulation and Agreement is not approved by the Commission, the parties request that a revised procedural schedule be established which provides for a hearing, to include the opportunity for cross-examination.

19. The Staff shall, within two (2) days of the filing of this Stipulation and Agreement, file with the Commission suggestions or a memorandum in support of this Stipulation and Agreement and the other parties shall have the right to file responsive suggestions within one (1) day of receipt of Staff's memorandum.

20. The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, promptly provide other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

21. To assist the Commission in its review of this Stipulation and Agreement, the parties also request that the Commission advise them of any additional information that the Commission may desire from the parties relating to the matters addressed in this Stipulation and Agreement, including any procedures for furnishing such information to the Commission.

WHEREFORE, the signatory parties respectfully request that the Commission issue its order approving the Transaction and this Stipulation and Agreement at its earliest opportunity so as to be effective by April 1, 2003, if possible, and by said order:

A. finding that the Transaction, subject to the terms of the Stipulation and Agreement, is not detrimental to the public interest;



- B. authorizing Southern Union to directly or indirectly acquire up to and including one hundred percent (100%) of the equity interests of Panhandle, including its subsidiaries, and to otherwise accomplish the Transaction as permitted by the terms of the Purchase and Sale Agreement, Appendix 5 to the Application;
- C. authorizing Southern Union to enter into, execute and perform in accordance with, or as may be permitted by or result from, the terms of the Purchase and Sale Agreement, Appendix 5 to the Application;
- D. authorizing Southern Union to enter into, execute and perform in accordance with, or as may be permitted by or result from, the terms of all other documents and to take any and all other actions which may be reasonably necessary and incidental to the performance of the Transaction; and,
- E. granting such other relief as may be necessary and appropriate to accomplish the purposes of the Transaction and the Application and to consummate the Transaction and related undertakings in accordance with the Purchase and Sale Agreement, Appendix 5 to the Application.

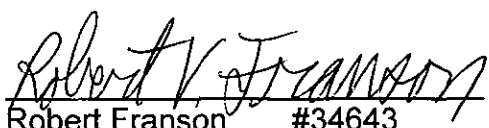
Respectfully submitted,

Dennis K. Morgan                      MO #24278  
General Counsel  
Southern Union Company  
One PEI Center  
Wilkes-Barre, Pennsylvania 18711-0601

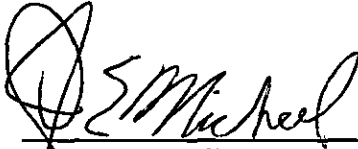
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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery on this 25<sup>th</sup> day of March 2003, to the following:

Mr. Robert Franson  
Office of the General Counsel  
Missouri Public Service Commission  
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Jefferson City, MO 65102-0360

Mr. Jeffrey A. Keevil  
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Mr. Thomas M. Byrne  
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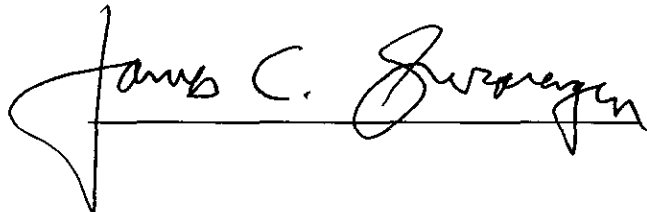
Mr. Douglas Micheel  
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Mr. James Waers  
Blake & Uhlig  
753 State Street  
Suite 475  
Kansas City, KS 66101

A handwritten signature in black ink, reading "James C. Swearingen". The signature is written in a cursive style with a large, sweeping initial "J" and a long horizontal line extending to the right.

## APPENDIX 1

### Affiliate Transactions

#### (1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated gas corporation. In the absence of rules on this topic that apply and by law can be enforced as to Southern Union Company, for Southern Union Company affiliated entity shall include :

1. Southern Union Panhandle Corporation and successor entities;
2. Energy Worx, so long as the management services contract between Southern Union Company's Energy Worx subsidiary and Southern Star Central remains in effect; and
3. Any Southern Union Company divisions, subsidiaries, or other affiliates insofar as strictly related to the provision of corporate support functions.

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated gas corporation and an affiliated entity, and shall include all transactions carried out between any unregulated business operation of a regulated gas corporation and the regulated business operations of a gas corporation. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754, RSMo by the General Assembly of Missouri. In the absence of rules on this topic that apply and by law can be enforced as to Southern Union Company, for Southern Union Company, affiliate transaction shall include its transactions with:

1. Southern Union Panhandle Corporation and successor entities;
2. Energy Worx, so long as the management services contract between Southern Union Company's Energy Worx subsidiary and Southern Star Central remains in effect; and
3. Any Southern Union Company divisions, subsidiaries, or other affiliates regarding the provision of corporate support functions.

(C) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one or more other entities, whether such power is

exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated gas corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(H) Preferential service means information or treatment or actions by the regulated gas corporation which places the affiliated entity at an unfair advantage over its competitors.

(I) Regulated gas corporation means every gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(J) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(K) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Standards.

(A) A regulated gas corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated gas corporation shall be deemed to provide a financial advantage to an affiliated entity if-

1. It compensates an affiliated entity for goods or services above the lesser of-

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation to provide the goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of-

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation.

(B) Except as necessary to provide corporate support functions, the regulated gas corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated gas corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(D) The regulated gas corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (10) of this rule.

(E) If a customer requests information from the regulated gas corporation about goods or services provided by an affiliated entity, the regulated gas corporation may provide information about its affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. The regulated gas corporation may provide reference to other service providers or to commercial listings, but is not required to do so. The regulated gas corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with the rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

(3) Evidentiary Standards for Affiliated Transactions.

(A) When a regulated gas corporation purchases information, assets, goods or services from an affiliated entity, the regulated gas corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated gas corporation from an affiliated entity, the regulated gas corporation shall document both the fair market price of such information, assets, goods and services and the fully distributed cost to the regulated gas corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated gas corporation must demonstrate that it-

1. Considered all costs incurred to complete the transaction;
2. Calculated the costs at times relevant to the transaction;
3. Allocated all joint and common costs appropriately; and
4. Adequately determined the fair market price of the information, assets, goods or services.

(D) In transactions involving the purchase of goods or services by the regulated gas corporation from an affiliated entity, the regulated gas corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(4) Record Keeping Requirements.

(A) A regulated gas corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated gas corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated gas corporation) regarding affiliate transactions on a

calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;
2. A full and complete list of all goods and services provided to or received from affiliated entities;
3. A full and complete list of all contracts entered with affiliated entities;
4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;
5. The amount of all affiliate transactions, by affiliated entity and account charged; and
6. The basis used (e.g., fair market price, FDC, etc.) to record each type of affiliate transaction.

(C) In addition each regulated gas corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, FDC, etc.) to record all affiliate transactions; and
2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(5) Records of Affiliated Entities.

(A) Each regulated gas corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred by the parent or affiliated entity and charged to the regulated gas corporation;
2. Documentation of the methods used to allocate and/or share costs between affiliated entities, including other jurisdictions and/or corporate divisions;
3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;
4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated gas corporation's contracted services or facilities;



5. Names and job descriptions of the employees from the regulated gas corporation that transferred to a nonregulated affiliated entity;

6. Evaluations of the effect on the reliability of services provided by the regulated gas corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;

7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated gas corporation's contracts and facilities; and

8. Descriptions of, and supporting documentation related to, any use of derivatives that may be related to the regulated gas corporation's operation even though obtained by the parent or affiliated entity.

(6) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law, and pursuant to established commission discovery procedures, a regulated gas corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to-

1. Review, inspect and audit books, accounts and other records kept by a regulated gas corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and make findings available to the commission; and

2. Investigate the operations of a regulated gas corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) That this rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.

(7) Record Retention.

(A) Records required under this rule shall be maintained by each regulated gas corporation for a period of not less than six (6) years.

(8) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(9) The regulated gas corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(10) Variances.

(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (10)(A)1. or (10)(A)2. The granting of a variance to one regulated gas corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated gas corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application-

1. The regulated gas corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240- 2.060(11); or

2. A regulated gas corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (2)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs (10)(A)2.A. and (10)(A)2.B. of this rule-

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the noncomplying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (2)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated gas corporation's annual CAM filing the regulated gas corporation shall provide to the secretary of the commission a listing of all noncomplying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(11) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

## Marketing and Interstate Pipeline Affiliate Transactions

### (1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated gas corporation. This term shall also include "marketing affiliate" (as hereinafter defined) and "interstate pipeline affiliate" (as hereinafter defined).

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated gas corporation and an affiliated entity. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754, RSMo by the General Assembly of Missouri. In the absence of rules on this topic that apply and by law can be enforced as to Southern Union Company, affiliate transactions shall include its transactions with:

1. Southern Union Panhandle Corporation and successor entities;
2. Energy Worx, so long as the management services contract between Southern Union Company's Energy Worx subsidiary and Southern Star Central remains in effect; and
3. Any Southern Union Company divisions, subsidiaries, or other affiliates regarding the provision of corporate support functions.

(C) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one (1) or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for a fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated gas corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(H) Interstate pipeline affiliate means an affiliated entity which engages in the sale of interstate natural gas transmission and storage services to Southern Union Company's Missouri operating division. For purposes of subsections (2)(B) through (2)(O) of this rule, subsections (3)(B) through (3)(F) of this rule, and subsection (6)(A)5 of this rule: interstate pipeline affiliate shall also mean an interstate pipeline which has a management services agreement in effect with an affiliate of the regulated gas corporation.

(J) Marketing affiliate means an affiliated entity which engages in or arranges a commission-related sale of any natural gas service or portion of gas service, to a shipper.

(K) Opportunity sales means sales of unused contract entitlements necessarily held by a gas corporation to meet the daily and seasonal swings of its system customers and are intended to maximize utilization of assets that remain under regulation.

(L) Preferential service means information, treatment or actions by the regulated gas corporation which places the affiliated entity at an unfair advantage over its competitors.

(M) Regulated gas corporation means every gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(N) Shippers means all current and potential transportation customers on a regulated gas corporation's natural gas distribution system.

(O) Short-term means a transaction of thirty-one (31) days or less.

(P) Transportation means the receipt of gas at one point on a regulated gas corporation's system and the redelivery of an equivalent volume of gas to the retail customer of the gas at another point on the regulated gas corporation's system including, without limitation, scheduling, balancing, peaking, storage, and exchange to the extent such services are provided pursuant to the regulated gas corporation's tariff, and includes opportunity sales.

(Q) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(R) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Nondiscrimination Standards.

(A) Nondiscrimination standards under this section apply in conjunction with all the standards under this rule and control when a similar standard overlaps.

(B) A regulated gas corporation shall apply all tariff provisions relating to transportation in the same manner to customers similarly situated whether they use affiliated or nonaffiliated, interstate pipelines, marketers or brokers.

(C) A regulated gas corporation shall uniformly enforce its tariff provisions for all shippers.

(D) A regulated gas corporation shall not, through a tariff provision or otherwise, give its interstate pipeline affiliate, its marketing affiliate and/or the customers of its interstate pipeline affiliate or marketing affiliate any preference over a customer using a nonaffiliated marketer in matters relating to transportation or curtailment priority.

(E) A regulated gas corporation shall not give any customer using its interstate pipeline affiliate or its marketing affiliate a preference, in the processing of a request for transportation services, over a customer using a nonaffiliated interstate pipeline or nonaffiliated marketer, specifically including the manner and timing of such processing.

(F) A regulated gas corporation shall not disclose or cause to be disclosed to its interstate pipeline affiliate, or marketing affiliate or any nonaffiliated interstate pipeline or any nonaffiliated marketer any information that it receives through its processing of requests for or provision of transportation.

(G) If a regulated gas corporation provides information related to transportation which is not readily available or generally known to other interstate pipelines or marketers to a customer using an interstate pipeline affiliate or to a customer using a marketing affiliate, it shall provide that information (electronic format, phone call, facsimile, etc.) contemporaneously to all nonaffiliated interstate pipelines delivering to its distribution system or nonaffiliated marketers transporting on its distribution system.

(H) A regulated gas corporation shall not condition or tie an offer or agreement to provide a transportation discount to a shipper to any service in which interstate pipeline affiliate or the marketing affiliate is involved. If the regulated gas corporation seeks to provide a discount for transportation to any shipper using an interstate pipeline affiliate or a marketing affiliate, the regulated gas corporation shall, subject to an appropriate protective order.

1. File for approval of the transaction with the commission and provide a copy to the Office of the Public Counsel;

2. Disclose whether the interstate pipeline affiliate or marketing affiliate of the regulated gas corporation is the gas supplier or broker serving the shipper;

3. File quarterly public reports which provide the aggregate periodic and cumulative number of transportation discounts provided by the regulated gas corporation; and

4. Provide the aggregate number of such agreements which involve shippers for whom the regulated gas corporation's interstate pipeline affiliate or marketing affiliate is or was at the time of the granting of the discount the gas supplier or broker.

(I) A regulated gas corporation shall not make opportunity sales directly to a customer of its interstate pipeline affiliate or marketing affiliate or to its interstate pipeline affiliate or marketing affiliate unless such supplies and/or capacity are made available to other similarly situated customers using nonaffiliated interstate pipelines or nonaffiliated marketers on an identical basis given the nature of the transactions.

(J) A regulated gas corporation shall not condition or tie agreements (including prearranged capacity release) for the release of interstate or intrastate pipeline capacity to any service in which the interstate pipeline affiliate or marketing affiliate is involved under terms not offered to nonaffiliated companies and their customers.

(K) A regulated gas corporation shall maintain its books of account and records completely separate and apart from those of the interstate pipeline affiliate and marketing affiliate.

(L) A regulated gas corporation is prohibited from giving any customer using its interstate pipeline affiliate or marketing affiliate preference with respect to any tariff provisions that provide discretionary waivers.

(M) A regulated gas corporation shall maintain records when it is made aware of any complaint against an affiliated entity-

1. The records should contain a log detailing the date the complaint was received by the regulated gas corporation, the name of the complainant, a brief description of the complaint and, as applicable, how it has been resolved. If the complaint has not been

recorded by the regulated gas corporation within thirty (30) days, an explanation for the delay must be recorded.

(N) A regulated gas corporation will not communicate to any customer, supplier or third parties that any advantage may accrue to such customer, supplier or third party in the use of the regulated gas corporation's services as a result of that customer, supplier or third party dealing with its interstate pipeline affiliate or marketing affiliate and shall refrain from giving any appearance that it speaks on behalf of its affiliated entity.

(O) If a customer requests information about an interstate pipeline affiliate or a marketing affiliate, the regulated gas corporation may provide the requested information but shall also provide a list of all interstate pipelines delivering to its system or all marketers operating on its system.

(3) Standards.

(A) A regulated gas corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated gas corporation shall be deemed to provide a financial advantage to an affiliated entity if-

1. It compensates an affiliated entity for information, assets, goods or services above the lesser of-

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation to provide the information, assets, goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of-

A. The fair market price; or

B. The fully distributed cost to the regulated gas corporation.

(B) Except as necessary to provide corporate support functions, the regulated gas corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated gas corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(D) The regulated gas corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (11) of this rule.

(E) If a customer requests information from the regulated gas corporation about goods or services provided by an affiliated entity, the regulated gas corporation may provide information about the affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. Except with respect to affiliated and nonaffiliated interstate pipelines and affiliated and nonaffiliated gas marketers which are addressed in section (2) of this rule, the regulated gas corporation may provide reference to other service providers or to commercial listings, but is not required to do so. The regulated gas corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with the rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

#### (4) Evidentiary Standards for Affiliate Transactions.

(A) When a regulated gas corporation purchases information, assets, goods or services from an affiliated entity, the regulated gas corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated gas corporation from an affiliated entity, the regulated gas corporation shall document both the fair market price of such information, assets, goods and services and the fully distributed cost to the regulated gas corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated gas corporation must demonstrate that it-

1. Considered all costs incurred to complete the transaction;
2. Calculated the costs at times relevant to the transaction;
3. Allocated all joint and common costs appropriately; and
4. Adequately determined the fair market price of the information, assets, goods or services.



(D) In transactions involving the purchase of information, assets, goods or services by the regulated gas corporation from an affiliated entity, the regulated gas corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use bench marking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(5) Record Keeping Requirements.

(A) A regulated gas corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated gas corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated gas corporation) regarding affiliate transactions on a calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;
2. A full and complete list of all goods and services provided to or received from affiliated entities;
3. A full and complete list of all contracts entered with affiliated entities;
4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;
5. The amount of all affiliate transactions, by affiliated entity and account charged; and
6. The basis used (e.g., market value, book value, etc.) to record each type of affiliate transaction.

(C) In addition each regulated gas corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, fully distributed cost, etc.) to record all affiliate transactions; and
2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(6) Records of Affiliated Entities.

(A) Each regulated gas corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred by the parent or affiliate and charged to the regulated gas corporation;
2. Documentation of the methods used to allocate and/or share costs between affiliated entities, including other jurisdictions and/or corporate divisions;
3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;
4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated gas corporation's contracted services or facilities;
5. Names and job descriptions of the employees from the regulated gas corporation that transferred to a nonregulated affiliated entity;
6. Evaluations of the effect on the reliability of services provided by the regulated gas corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;
7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated gas corporation's contracts and facilities; and
8. Descriptions of, and supporting documentation related to, any use of derivatives that may be related to the regulated gas corporation's operation even though obtained by the parent or affiliated entity.

(7) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law, and pursuant to established commission discovery procedures, a regulated gas corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to-

1. Review, inspect and audit books, accounts and other records kept by a regulated gas corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and make findings available to the commission; and

2. Investigate the operations of a regulated gas corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) This rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.

(8) Record Retention.

(A) Records required under this rule shall be maintained by each regulated gas corporation for a period of not less than six (6) years.

(9) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(10) The regulated gas corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(11) Variances.

(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (11)(A)1. or (11)(A)2. The granting of a variance to one regulated gas corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated gas corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application-

1. The regulated gas corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240- 2.060(11); or

2. A regulated gas corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (3)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs (11)(A)2.A. and (11)(A)2.B. of this rule-

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the noncomplying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (3)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of

the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated gas corporation's annual CAM filing the regulated gas corporation shall provide to the secretary of the commission a listing of all noncomplying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(12) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

#### COST ALLOCATION MANUAL (CAM)

1. Upon implementation of the proposed acquisition, transactions involving transfers of goods or services between Southern Union Company and one or more of Southern Union Company's affiliated entities (as defined in subsection (1)(A) of the Affiliate Transactions rule contained hereinabove) shall be conducted and accounted for in compliance with the provisions of a Cost Allocation Manual ("CAM"). A draft of Southern Union's CAM shall be submitted to Staff and Public Counsel no later than six months after the close of this transaction and the actual working CAM shall be submitted on an annual basis thereafter. The CAM shall be constructed and maintained in accordance with the Affiliate Transactions rule contained hereinabove. In addition, the CAM will include the following:

a. For all Southern Union Company corporate support functions provided to any Southern Union Company divisions, subsidiaries, or other affiliates (as defined in subsection (1)(A) of the Affiliate Transactions rule contained herein above):

- (1) A list and description of each function;
- (2) The positions and numbers of employees providing each function; and
- (3) The procedures used to measure and assign costs to nonregulated affiliates and the parent company for each function.

b. A list and description of each service and good that will be provided to MGE from each affiliate and the parent company.

c. A list and description of each service and good that will be provided by MGE to each affiliate and the parent company.

d. The dollar amount of each service and good that will be provided by MGE, and the total cost related to each service and good listed.

e. The dollar amount of each service and good purchased from each affiliate and the parent company by MGE, and the total cost related to each service and good listed.

f. A detailed discussion of the basis for determining the charges from MGE and each affiliate and the parent company, including:

(1) If costs are allocated, a detailed description of the allocation process employed for each service and good;

(2) Detailed descriptions of how direct, indirect and common activities are assigned for each service and good;

(3) A detailed description of how market values are determined for each service and good; and

(4) A detailed discussion of the criteria used to determine whether volume discounts and other pricing considerations are provided to MGE, affiliates, and the parent company.

2. Southern Union Company agrees to make compliance with the procedures and requirements set forth in the CAM and the other terms of this Stipulation and Agreement a standard element of its Code of Conduct and to provide employee training and oversight in a manner that is reasonably designed to achieve such compliance. Southern Union Company will conduct regularly scheduled audits to confirm compliance with its CAM and will annually review and update the CAM where necessary and submit such updates with its next CAM filing. Southern Union Company will identify the names of all employees who have responsibility for enforcing and updating the CAM.

3. As part of its CAM submittal, MGE will provide a list of all jurisdictions in which MGE, Southern Union Company, divisions and affiliates file affiliate transaction information to a regulatory body.

4. As part of its CAM submittal, Southern Union will include a detailed organization chart with position titles and employee names, individual departments, department heads, and total number of employees assigned to each department for all divisions and affiliates (as defined in section (1)(A) of the Affiliate Transactions rule contained herein above).

## **APPENDIX 2**

It is understood that MGE currently has no discounts on the Southern Star Central System. It is also understood that this discount-preservation mechanism is intended to ensure that MGE's current discount percentage on Panhandle (\*\* \_\_\_\_ \*\* of the FERC maximum tariff rate for transportation and \*\* \_\_\_\_\_ \*\* of the FERC maximum tariff rate for storage) is not exceeded, for purposes of calculating MGE's PGA rates, as a result of subsequent negotiations between MGE and SUPC.

This stipulation and agreement does not represent any agreement between the parties regarding the reasonableness and prudence of the above level of discounts. This matter will be addressed in the related Actual Cost Adjustment (ACA) cases where these costs are requested to be recovered in rates.

**NON-PROPRIETARY**