

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

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

**PUBLIC COUNSEL'S RESPONSE
TO ORDER DIRECTING FILING**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Response to the Commission's Order Directing Filing states:

1. On October 17, 2011 the Commission directed OPC and the Commission's Staff to "explain the reasons behind their recommended procedural schedule." The Commission seeks to establish a procedural schedule following the filing of two different schedules, one filed by Staff and OPC, and another filed by Southern Union Company d/b/a Missouri Gas Energy (MGE). MGE made a second filing stating that the Staff/OPC proposed schedule was acceptable to MGE. MGE's proposed schedule, however, is not acceptable to OPC.

2. Before addressing the merits of the OPC/Staff schedule over the schedule proposed by MGE, OPC wishes to first correct an error in the Commission's Order. The Order states that all parties are to file direct testimony on October 27, 2011, however, both schedules propose having MGE alone file direct testimony. Since MGE has the burden of proof in that MGE is the applicant, and because MGE seeks to set aside a prior Commission order directing MGE to apply the rate discounts that MGE seeks to

discontinue, MGE should come forth with the evidence it believes supports its application. § 386.430 RSMo.

3. OPC asks the Commission to adopt the Staff/OPC procedural schedule because the schedule proposed by MGE does not provide enough time between direct testimony and rebuttal testimony. To properly prepare a rebuttal testimony filing, OPC needs time to: 1) study MGE's Direct Testimony, 2) research the issues it raises, 3) plan/strategize the case with subject matter experts, 4) conduct at least two rounds of discovery/responses regarding issues raised in MGE's direct case, 5) resolve any discovery disputes, and 6) prepare and finalize testimony for filing. MGE has had since March 2011 to prepare its direct testimony, a period of roughly six (6) months. The Staff/OPC schedule would give the parties 31 working days (excluding holidays, weekends, and the filing date) to complete this work, whereas MGE's schedule gives the parties only 16 working days. Due to the limited resources available to OPC to handle this and all other Commission cases, MGE's shorted schedule places an extreme burden on OPC's ability to properly present its case to the Commission.

4. For these reasons, including the reason that MGE find the Staff/OPC schedule acceptable, OPC urges the Commission to order the parties to follow the procedural schedule proposed by Staff and OPC.

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission adopt the Staff/OPC procedural schedule.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 21st day of October 2011:

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