

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

In the Matter of Missouri Gas Utility, Inc.'s, )	
Request for Waiver Concerning Its Annual )	<b>Case No. GE-2009-0398</b>
Report Filing. )	
)	

**STAFF MOTION TO CORRECT ORDER**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), and for its Motion to Correct Order, respectfully states as follows:

1. On May 6, 2009, Missouri Gas Utility, Inc. (MGU or Company) filed its Application For Waiver Concerning Annual Report Filing (Application) asking the Commission to grant the Company a waiver from filing FERC Form 2 with its annual report and allowing it to file in its place FERC Form 2-A.

2. In its Application, the Company properly requested a waiver of Commission Rule 4 CSR 240-3.245(2) which states "Gas utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission."

3. On its internet site, the Commission provides the FERC Form 2 in its entirety as "the form provided by the Commission" under the annual report form required by the Commission in its rule. On page 2 of the annual report form, under the header Missouri Jurisdictional Gas Annual Report, the instructions state "The complete FERC Form 2 must be submitted by the certificated company in addition to the Missouri Jurisdictional Supplement." Two pages later, the Commission again instructs the company to complete the FERC Form 2 for the remaining portion of the Gas Annual Report to the Missouri Public Service Commission. The entire annual report form, as provided by the Commission, has 141 pages including the FERC Form 2 pages. The annual report form does not provide a FERC Form 2-A.

4. While 141 pages may seem long, Companies fill in blanks and should be familiar with the form and its format since, for years, this is the "form provided by the Commission" for gas companies to use when filing annual reports.

5. On May 27, 2009, the Commission issued its Order Accepting Missouri Gas Utility's Annual Report (Order). In that Order, the Commission states:

MGU, as well as Staff, suggest the Commission grant MGU a waiver from the requirement that it file a FERC Form 2 as part of its annual report. However, the Commission approved annual report filing form's requirement that a gas utility submit a FERC Form 2 as part of its annual report filing is neither a rule of the Commission, nor is it a tariff of the company. As a result, there is nothing for the Commission to waive.

It is not an accurate statement that the gas utility's filing of the FERC Form 2 is not required by Commission rule. The FERC Form 2 is the form provided by the Commission to gas utilities.

6. As may be seen on the Commission's internet site, the FERC Form 2 is made an integral part of the gas annual report form required by the Commission. The Commission provides the gas annual report form as required under Commission Rule 4 CSR 240-3.245(2) which states "Gas utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission." (*emphasis added*) The Commission provides the FERC Form 2 pages with its annual report form and provides instructions that the FERC Form 2 be filed with the gas annual report.

7. In addition, the Commission's inclusion of the FERC Form 2 in its annual reporting requirement is clearly permitted under Section 393.140(6) RSMo 2000 which states in pertinent part:

The report shall show in detail...such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms.

The Commission has provided FERC Form 2 to gas companies as an integral part of the Commission's annual report form for a number of years. Most Missouri certificated gas companies have been in compliance with the Commission's annual reporting requirements and most companies submit their annual report with a completed FERC Form 2.

8. Staff's concern with the Commission's Order is not with the relief provided MGU but with accurate interpretation of the Commission's annual report rule. Of even greater concern, the language of the Order may be viewed as telling certificated gas companies that the Commission rule does not require companies to adhere to the Commission's annual report filing requirements. The Commission rule and years of Commission practice show otherwise. Both rule and practice are consistent with the broad discretion provided the Commission to set annual reporting requirements under Section 393.140(6) RSMo 2000.

**WHEREFORE**, for the reasons stated above, the Staff respectfully requests the Commission correct its order to reflect that MGU, in seeking to substitute the FERC Form 2-A for the FERC Form 2 that is required by the Commission in its annual report form, properly applied for a waiver from Commission Rule 4 CSR 240-3.245(2).

Respectfully submitted,

/s/ **Robert S. Berlin**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record this 29th day of May 2009.

**/s/ Robert S. Berlin**