

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

In the Matter Of Missouri Gas Energy's)	
Tariffs Increasing Rates for Gas Service)	Case No. GR-2006-0422
Provided to Customers in the Company's)	
Missouri Service Area.)	

MOTION TO STRIKE AND MOTION FOR EXPEDITED TREATMENT

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

1. The Commission's rules regarding the prefiling of testimony can be found at 4 C.S.R. 240-2.130. These rules state, in part:

- (7) For the purposes of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:
 - (A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;
 - (B) Where all parties file direct testimony, rebuttal testimony shall include all testimony and schedules which are responsive to the testimony and schedules contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;
 - (C) Where only the moving party files direct testimony, rebuttal testimony and schedules shall include all testimony and schedules which explain why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and
 - (D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony and schedules.

2. The Commission's rules further state:

- (8) No party shall be permitted to supplement prefiled prepared direct, rebuttal or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously

disclosed which arise at the hearing. This does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results. (4 C.S.R. 240-2.130(8))

The Commission's rule prohibiting the supplementation of prefiled testimony is clearly intended to prohibit a company from presenting new information, not previously provided to the other parties, at this late stage in the proceeding, thus creating an inequitable situation for those parties who have complied with the Commission's rules.

3. On November 21, 2006, Missouri Gas Energy (MGE) filed the Rebuttal testimony of Thomas Sullivan on the issue of depreciation rates. Mr. Sullivan, in his prefiled direct testimony, stated that: "Based on the Commission and Staff's historical use of the whole life methodology, the Company is proposing the whole life rates developed in my Report." (Sullivan Direct, p. 3, lines 8-9). Mr. Sullivan, in his prefiled rebuttal testimony, stated: "The depreciation rates in Column H are not remaining life rates but rather whole life rates reflecting a reserve adjustment. As such I should have recommended the depreciation rates in Column H of Table 4-2..." (Sullivan Rebuttal, p. 4, lines 7-10)

4. This fundamental change in methodology explained in the attached affidavit of Greg Macias, is not permitted by Commission Rules. 4 CSR 240-2.130(7)(A-B). Allowing MGE to change methodologies allows MGE to supplement its testimony as well as fundamentally change its direct case by adding about \$618,848 to its Depreciation issue. Staff requests that the Commission to strike the following parts of Mr. Sullivan's rebuttal testimony prefiled on November 21, 2006:

<u>Page Number</u>	<u>Line Number(s)</u>
4	3-16
5	1-2
5	19-20
8	8-10
12	17-19
14	5-9
14	20-23
15	1-9
22	10-15
23	12-13
51	11
52	19-20
54	19-21
55	1-7
55	10
55	12
Schedule TJS-2 Revised Table 4-1	
Schedule TJS-2 Revised Table 4-2	
Rebuttal Schedule TJS-1	
Rebuttal Schedule TJS-9	

5. Staff seeks expedited treatment of this motion pursuant to 4 CSR 240-2.080(16). In his motion Staff asks the Commission to shorten and response for MGE to no later than December 4, 2006 and to rule on this Motion as soon thereafter as possible. Surrebuttal testimony is due on December 11, 2006. The granting of this Motion will prevent Staff from being unable to respond to a change in depreciation methodology introduced by MGE that adds \$618,848 to the depreciation issue. This pleading was filed as soon as Mr. Macias discovered

this problem and confirmed it with Mr. Sullivan. This Motion was filed as soon as it could have been.

WHEREFORE, Staff respectfully requests that the Commission issue an Order granting expedited treatment of Staff's Motion to Strike and ordering MGE to file its response by December 4, 2006; and, thereafter, Order those parts of Mr. Sullivan's Rebuttal Testimony listed above stricken.

Respectfully submitted,

/s/ Robert V. Franson

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 30th day of November 2006.

/s/ Robert V. Franson

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

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

I, Gregory E. Macias, witness for the Staff of the Commission in Case No. GR-2006-0422 concerning depreciation expense, state:

In the filed direct testimony of MGE witness Thomas J. Sullivan at page 3, lines 1-11, he states:

A. In my report, I recommend the Company implement the depreciation expense rates contained in column (H) of Table 4-2, which are based on the remaining life methodology.

A. No, I am not. Based on the Commission and Staff's historical use of the whole life methodology, the Company is proposing the whole life rates developed in my Report. Therefore, for the purposes of this case, I recommend that the Company implement the whole life rates contained in column (J) of Table 4-1."

“Q. Is there another difference between the depreciation rates you are recommending in your rebuttal testimony and your recommendation on Page 3, Lines 1-11 of your direct testimony?”

- A. Yes, I misspoke on Page 3, Lines 3-5 of my direct testimony when I referred to the depreciation rates in Column H of Table 4-2 as remaining life rates. The depreciation rates in Column H of Table 4-2 are not remaining life rates but rather whole life rates reflecting a reserve adjustment. As such, I should have recommended the depreciation rates in Column H of Table 4-2, not the depreciation rates shown in Column J of Table 4-1 as stated on Page 3, Line 11 of my direct testimony."

In his direct testimony Mr. Sullivan recommends whole life depreciation rates without an adjustment for the depreciation reserve. However, in his rebuttal testimony he recommends whole life depreciation rates with an adjustment to amortize the depreciation reserve imbalance. This is a material change in techniques between MGE's direct and rebuttal cases. In my opinion, the depreciation rates recommended by Mr. Sullivan in his rebuttal testimony are substantially equivalent to remaining life depreciation rates in the sense that both techniques amortize the depreciation reserve imbalance over the remaining life of the plant accounts.

I telephoned Mr. Sullivan to confirm that his new recommendation has an adjustment for the depreciation reserve imbalance even though his initial recommendation did not. Mr. Sullivan admitted that this was true.

Mr. Sullivan may have erroneously sponsored whole life depreciation rates in his direct testimony; however, his recommendation in his rebuttal testimony for whole life depreciation rates reflecting a reserve adjustment is a change in technique for calculating depreciation expense (i.e., a change from no adjustment for depreciation reserve imbalance to including an adjustment). This change results in an increase to annual depreciation expense of \$618,848.


Gregory Macias

Subscribed and sworn to before me this 30th day of November 2006.


Notary Public

My commission expires: June 7, 2008

