

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

Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	
)	
Southern Missouri Gas Company, L.P., d/b/a)	Case No. GC-2011-
Southern Missouri Natural Gas)	
)	
Respondents.)	

COMPLAINT

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”), by counsel, and for its Complaint against Southern Missouri Gas Company, L.P., d/b/a Southern Missouri Natural Gas (SMNG), states as follows:

General Allegations

1. SMNG is a gas corporation as defined in Section 386.020(18) and a public utility as defined in Section 386.020(42).¹

2. SMNG is subject to the jurisdiction, control and regulation of the Commission pursuant to Chapters 386 and 393. Section 386.390.1 provides that:

Complaint may be made... ..by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any... ..public utility... ..in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission....

3. Commission Rule 4 CSR 240-2.070 (1) provides that “...the commission staff through the general counsel... ..may file a complaint....”

4. Commission Rule 4 CSR 240-2.070 (3) provides that “...[f]ormal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be

¹ All statutory citations are to RSMo 2000, unless otherwise noted.

done by any person, corporation or public utility, including any rule or charge established or fixed by or for any person, corporation or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission....”

5. Commission Rule 4 CSR 240-2.070 (4) provides that “[t]he commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.”

6. Commission Rule 4 CSR 240-2.070 goes on to state as follows:

(7) Upon the filing of a complaint in compliance with these rules, the secretary of the commission shall serve by certified mail, postage prepaid, a copy of the complaint upon the person, corporation or public utility against whom the complaint has been filed, which shall be accompanied by a notice that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice.

(8) The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.

(9) If the respondent in a complaint case fails to file a timely answer, the complainant’s averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

(11) When the commission determines that a hearing should be held, the commission shall fix the time and place of the hearing. The commission shall serve notice upon the affected person, corporation or public utility not fewer than ten (10) days before the time set for the hearing, unless the commission finds the public necessity requires that the hearing be held at an earlier date.

(12) All matters upon which a complaint may be founded may be joined in one (1) hearing and no motion for dismissal shall be entertained against a complainant for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties.

7. Pursuant to 4 CSR 240-2.070 (5)(E), Staff contacted SMNG regarding the subject of this complaint on August 20, 2010.

Count I

8. Complainant hereby realleges the allegations contained in paragraphs 1 - 8.

9. Section 393.140 (11) provides that the Commission shall:

Have power to require every gas corporation... ..to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such gas corporation.... Unless the commission otherwise orders, no change shall be made in any rate or charge, or in any form of contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed and published by a gas corporation... .. in compliance with an order or decision of the commission, except after thirty days' notice to the commission and publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect.... No corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances. The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations, to carry into effect the provisions of this subdivision, as it may deem necessary, and to modify and amend such rules or regulations from time to time.

10. Section 386.020 (46) defines "Rate," as follows:

[E]very individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any schedule or tariff thereof[.]

11. During the course of its audit in Case No. GR-2010-0347, Staff discovered that SMNG has been charging a rate for checks made payable to the company, that do not have sufficient funds available for payment.

12. SMNG has been charging this rate in the amount of \$30 per returned check.

13. From August of 2008 through July of 2010, SMNG collected under this untariffed returned check rate 330 times.

14. SMNG's currently effective tariff does not include this rate.

15. SMNG's charging of this untariffed rate is a violation of Section 393.140.

Penalties

16. Complainant hereby realleges the allegations contained in paragraphs 1 - 15.

17. Section 386.570.1 provides that:

Any... ..public utility which violates or fails to comply with any provision of... ..this or any other law... ..is subject to a penalty of not less than one hundred dollars nor more than two thousand dollars for each offense.

18. Section 386.570.2 provides that:

Every violation of the provisions of this or any other law or of any order, decision, decree, rule, direction, demand or requirement of the commission, or any part or portion thereof, by any corporation or person or public utility is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

19. SMNG's application of an untariffed rate on at least 330 occasions constitutes 330 violations of Section 393.140.

WHEREFORE Staff prays that the Commission will give such notice to the Respondents as is required by law and, after hearing, in the event that any of the conduct herein described is determined to be a violation of any law of the State of Missouri or of any order, decision, or rule of the Commission, order SMNG to cease such conduct, deem each violation existed to be a

separate offense and authorize its General Counsel to proceed in Circuit Court to seek such penalties as are authorized by law.

Respectfully Submitted,

THE STAFF OF THE
MISSOURI PUBLIC SERVICE COMMISSION

/s/ Kevin Thompson

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