

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

In the Matter of Missouri Gas Energy and    )  
Its Tariff Filing to Implement a General    )                    Case No. GR-2009-0355  
Rate Increase for Natural Gas Service    )

**STAFF’S RESPONSE TO MISSOURI GAS ENERGY’S RESPONSE TO  
STAFF’S MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and in Response to Missouri Gas Energy’s (MGE) Response (Response) to Staff’s Motion to Compel Board of Directors’ Minutes states:

1. On April 2, 2009, in Case No. GR-2009-0355, MGE filed tariff sheets to increase rates by \$32,416,997. MGE’s proposed rates include various allocated costs from its parent company, Southern Union Company (SU).
2. For example, SU allocates legal fees and management time to MGE which, in its pending rate case, MGE proposes to pass through to its customers.
3. As is its usual practice as part of a rate case audit, on May 13, 2009, the Staff submitted DR No. 30 to MGE. DR 30 requested copies of all approved SU Board of Directors’ (Board) meeting minutes for the period June 30, 2006 to present: “Please provide a copy or make available (in electronic format, if possible) for Staff review: a) the minutes of the Board of Directors meetings for Southern Union and MGE (if applicable) held between June 30, 2006 and the present; b) any handouts and/or financial analysis used at the meetings; c) any available Board Committee meetings minutes.”

4. The Staff requested copies of all SU Board meeting minutes because MGE, as a division of SU (its parent company), does not have a separate corporate governing body.

5. MGE did not object to the Data Request, then did not fully answer the Data Request. Instead, MGE responded with Board meeting minutes, which they assert are the only minutes having a relationship to MGE.

6. In its Response, MGE's argues that "MGE responded to Staff DR 30 by providing those SU Board of Directors meeting materials having a relationship to MGE." This statement implies that MGE either objected to providing all meeting minutes Staff requested, or that MGE otherwise informed the Staff that it was withholding the Board minutes MGE claims do not directly involve MGE.

7. Neither implication is true. As is its standard practice, in DR No. 30, the Staff asked for all SU Board of Directors' minutes. MGE's response makes no mention of the fact that it withheld some of the requested materials.

8. At least equally important, is the fact that MGE did not make a timely objection to Staff's DR 30, and has now waived its ability to do so. Instead of timely objecting, MGE refused to answer, when on July 13, 2009, MGE responded to Staff Data Request No. 30.3 by stating that the requested meeting minutes would not be provided.

9. The Commission acts in the public interest under the police powers of the state and consequently, has broad powers of discovery. Commission Rule 4 CSR 240-2.090(1) provides as follows: "Discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the

discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.”

10. Utilities should not be allowed to evade the Commission's review of its books and records when it allocates costs from its parent company to the regulated utility and expects the Commission to permit recovery of these costs in rates.

11. As briefly discussed in the Staff's Motion to Compel, SU corporate decisions, even those not which do not directly involve MGE, may still affect the reasonableness of the method and the amount of total corporate costs allocated to MGE for rate recovery from MGE's customers. For example, such decisions may have an impact on the reasonableness of SU's decisions on what costs to direct charge to its divisions, including MGE, and what costs to assign to its divisions through application of a general allocator.

12. Without having access, Staff cannot agree with the basis for SU's and Mr. Kerrigan's characterization that the withheld minutes do not directly involve MGE. This is essentially the opinion of one man, and Mr. Kerrigan's affidavit does not establish, in and of itself, the reasonableness of that opinion.

13. SU has not asserted any real harm to itself in allowing the Staff to review the requested minutes; any incremental costs incurred by SU to allow the Staff to review the requested minutes would be presumptively recoverable in rates. MGE should be directed to provide all responsive Board meeting minutes.

WHEREFORE the Staff respectfully requests, pursuant to the Commission's broad powers of discovery to protect the public interest, and in light of the fact that MGE

did not make a timely objection to answering DR 30, that: (1) MGE be directed to fully respond to DR 30 and produce all Board meeting minutes for the requested period.

Respectfully submitted,

/s/ Lera L. Shemwell

Lera L. Shemwell  
Deputy General Counsel  
Missouri Bar No. 43792

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-7431 (Telephone)  
(573) 751-9285 (Fax)  
[lera.shemwell@psc.mo.gov](mailto:lera.shemwell@psc.mo.gov)

### Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 4<sup>th</sup> day of September, 2009.

/s/ Lera L. Shemwell