

DIRECT TESTIMONY
OF
KIMBERLY K. BOLIN

MISSOURI GAS ENERGY
CASE NO. GR-2004-0209

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. Kimberly K. Bolin, P.O. Box 2230, Jefferson City, Missouri 65102.

3 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

4 A. I am employed by the Office of the Public Counsel of the State of Missouri (OPC or Public
5 Counsel) as a Public Utility Accountant I.

6 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

7 A. I graduated from Central Missouri State University in Warrensburg, Missouri, with a Bachelor of
8 Science in Business Administration, major in Accounting, in May, 1993.

9 **Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WITH THE OFFICE OF**
10 **THE PUBLIC COUNSEL?**

11 A. Under the direction of the Chief Public Utility Accountant, I am responsible for performing audits
12 and examinations of the books and records of public utilities operating within the state of Missouri.

13 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MISSOURI PUBLIC**
14 **SERVICE COMMISSION?**

15 A. Yes. Please refer to Schedule KKB-1, attached to this direct testimony, for a listing of cases in
16 which I have previously submitted testimony.

17

1 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

2 A. The purpose of my direct testimony is to express the Public Counsel's position regarding several
3 issues affecting the revenue requirement for Missouri Gas Energy (MGE). These include the safety
4 line replacement program, the proposed environmental response fund, dues and donations expense,
5 payroll and payroll taxes, the costs for the Customer and Governmental Relations Department, and
6 outside lobbying expenses.

7
8 **SAFETY LINE REPLACEMENT PROGRAM**

9 **Q. IS THE COMPANY SEEKING RECOVERY OF FIVE ACCOUNTING AUTHORITY**
10 **ORDERS FOR ITS SAFETY LINE REPLACEMENT PROGRAM?**

11 A. Yes. Pursuant to Commission decisions in Accounting Authority Order (AAO) Case Nos. GO-92-
12 182 (2nd Order), Case No. GO-94-234 (3rd Order), Case No. GO-97-301 (4th Order) and the general
13 rate increase cases of GR-98-140 (5th Order) and Case No. GR-2001-292 (6th Order), the Company
14 is authorized to defer carrying costs, property tax expense, and depreciation expense on investments
15 related to its Safety Line Replacement Program during the period from when the plant is initially
16 placed in-service until its costs is included in rates. The Company has calculated a total
17 unamortized Safety Line Replacement Program (SLRP) deferral of \$18,974,317 which it proposes
18 to include as an addition to its rate base. The Company also proposes that the unamortized deferred
19 balance be amortized over 10 years, or \$3,125,831 per year.

20 **Q. PLEASE DESCRIBE THE SAFETY LINE REPLACEMENT PROGRAM.**

21 A. The safety line replacement program was mandated by Commission Rule 4 CSR 240-40.030. The
22 program required all gas companies to establish a gas main and line replacement program.

1 **Q. WHAT IS AN ACCOUNTING AUTHORITY ORDER?**

2 A. An accounting authority order is an accounting mechanism that permits deferral of costs from one
3 period to another. The items deferred are booked as an asset rather than as an expense, thus
4 improving the financial picture of the utility in question during the deferral period. During a
5 subsequent rate case, the Commission determines what portion, if any, of the deferred amounts will
6 be recovered in rates. AAOs should be used sparingly because they permit ratemaking
7 consideration of items from outside the test year. An AAO allows an utility to increase reported
8 earnings for the financial period in which the deferral occurs and subsequently recover those
9 earnings in future period to the extent the deferred amounts are included in future rates.

10 **Q. WHAT HAPPENS WHEN A COST IS DEFERRED?**

11 A. When a cost (expense) is deferred, it is removed from the income statement and entered on the
12 balance sheet (e.g., Account 186, Miscellaneous Deferred Debits), pending the final disposition of
13 these costs at some future time, usually a rate case. The Federal Energy Regulatory Commission
14 Uniform System of Account number 186, Miscellaneous Deferred Debits states:

15 A. This account shall include all debits not elsewhere provided for,
16 such as miscellaneous work in progress, construction certificate,
17 application fees paid prior to final disposition of the application as
18 provided for in gas plan instruction 15A, and unusual or extraordinary
19 expenses not included in other accounts which are in process of
20 amortization, and items the final disposition of which is uncertain.

21 B. The records supporting the entries to this account shall be so kept
22 that the utility can furnish full information as to each deferred debit
23 included herein.\

24 **Q. YOU STATED EARLIER THAT THE COMPANY HAS INCLUDED THE SLRP**
25 **DEFERRED BALANCE IN RATE BASE, IS THAT AN APPROPRIATE**
26 **RECOMMENDATION?**

1 A. No. The Public Counsel recommends that the SLRP deferred balance not be included in the
2 Company's rate base. The rationale for this position is that the Company is being given an effective
3 guaranteed "return of" the deferrals associated with the Safety Line Replacement Program;
4 therefore, it should not be also provided with a guaranteed return on those same amounts.

5 **Q. PLEASE EXPLAIN THE TERMS "RETURN OF" AND "RETURN ON."**

6 A. If an expenditure is recorded on the income statement as an expense it is compared dollar for dollar
7 to revenues. This comparison is referred to as a "return of" because a dollar of expense is matched
8 by a dollar of revenue in the determination of revenue requirement.

9 "Return on" occurs when an expenditure is capitalized within the balance sheet because it increased
10 the value of a balance sheet asset or investment. This capitalization is then included in the rate base
11 calculation, which is a preliminary step in determining the earnings the company achieves on its
12 total regulatory investment.

13 **Q. IS IT TRUE THAT SLRP DEFERRED CARRYING COST AND DEPRECIATION**
14 **EXPENSE ARE NOT ACTUALLY FUNDED BY THE COMPANY?**

15 A. Yes. The carrying cost and depreciation expense associated with the SLRP deferral are not actually
16 dollars of investment funded by the Company, they are merely paper accounting entries on the
17 financial books of the Company. Neither the carrying cost nor the depreciation expense causes the
18 Company to make any actual outlay of cash (i.e. an expenditure).

19 **Q. IF THE SLRP DEFERRAL BALANCE IS INCLUDED IN RATE BASE WOULD**
20 **THAT PERMIT THE COMPANY TO EARN A RETURN ON AMOUNTS FOR WHICH**
21 **THERE WAS NO ACTUAL INVESTMENT MADE BY THE COMPANY?**

1 A. Yes. In fact, allowing the Company to earn a return on the SLRP deferrals has the same effect of
2 allowing it to earn a return on a return. Stated another way, the Company, absent the recording of
3 the deferrals, would have experienced lower equity returns in financial periods prior to the effective
4 date of the new rates. Inclusion of deferral balances in rate base would result in deferred earnings
5 from prior period being multiplied by the overall cost of capital and collected from future
6 customers.

7 **Q. DOES THE AAO INSULATE THE COMPANY FROM THE EFFECTS OF**
8 **REGULATORY LAG?**

9 A. Yes. The safety line replacement program AAO insulates the Company's shareholders from a
10 significant majority of the risks associated with regulatory lag that may occur if the SLRP
11 construction projects are completed and placed in service before the operation of law date of a
12 general rate increase case.

13 **Q. PLEASE EXPLAIN THE CONCEPT OF REGULATORY LAG.**

14 A. This concept is based on the difference in timing of a decision by management and the
15 Commission's recognition of that decision and its effect on the rate base/rate of return relationship
16 in determination of a company's revenue requirement. Prudent management decisions which
17 reduce the cost of service without changing revenues result in a change in the rate base/rate or
18 return relationship. This change increases the profitability of the firm in the short-run, and until
19 such time when the Commission reestablishes rates which properly match the new level of service
20 cost. Companies are allowed to retain cost savings, i.e., excess profits during the lag period
21 between rate cases. When faced with escalating costs (expenses or investments) which will change
22 the rate base/rate of return relationship adversely with respect to profits, regulatory lag places

1 pressure on management to minimize the change in the relationship, by filing an application for a
2 rate increase.

3 **Q. HAS THIS COMMISSION RULED THAT IT IS NOT REASONABLE TO**
4 **PROTECT SHAREHOLDERS FROM ALL REGULATORY LAG?**

5 A. Yes. In Missouri Public Service Company, Cases Nos. EO-91-348 and EO-91-360, the
6 Commission stated:

7 Lessening the effect of regulatory lag by deferring costs is beneficial to a
8 company but not particularly beneficial to ratepayers. Companies do not
9 propose to defer profits to subsequent rate cases to lessen the effects of
10 regulatory lag, but insists it is a benefit to defer costs. Regulatory lag is a
11 part of the regulatory process and can be a benefit as well as a detriment.
12 Lessening regulatory lag by deferring costs is not a reasonable goal unless
13 the costs are associated with an extraordinary event.

14 Maintaining the financial integrity of a utility is also a reasonable goal.
15 The deferral of costs to maintain current financial integrity though is of
16 questionable benefit. If a utility's financial integrity is threatened by high
17 costs so that its ability to provide service is threatened, then it should seek
18 interim rate relief. If maintaining financial integrity means sustaining a
19 specific return on equity, this is not the purpose of regulation. It is not
20 reasonable to defer costs to insulate shareholders from any risks.

21 **Q. SHOULD RATEPAYERS BE REQUIRED TO PROVIDE THE COMPANY WITH AN**
22 **EFFECTIVE GUARANTEED RETURN ON THE SLRP CONSTRUCTION**
23 **EXPENDITURES JUST BECAUSE THE COMPANY'S MANAGEMENT CHOOSES**
24 **NOT TO EXERCISE ITS PLANNING AND OPERATING RESPONSIBILITIES?**

25 A. No. ratepayers should not be required to fund such a return. Planning and operation of the
26 Company's construction projects are a fundamental responsibility of Missouri Gas Energy's
27 management. Only management has complete access to the data and resource necessary to fulfill
28 these responsibilities, and as such, management should be able to implement a SLRP construction

1 program that minimizes the effects of regulatory lag on the Company's finances. To the extent
2 regulatory lag moves against the Company, the Commission has already decided, as mentioned
3 earlier, that lessening regulatory lag by deferring costs is not a reasonable goal.

4 The effect of an accounting variance is to protect the Company from adverse financial impact
5 caused by the regulatory delay period, and to afford it the opportunity to recover these charges. The
6 accounting variance should not be used to place the Company in a better position than it would have
7 been in if normal plant investment and rate synchronization had been achieved.

8 **Q. HAS THE COMPANY REQUESTED AN ACCOUNTING AUTHORITY ORDER FOR**
9 **FUTURE SAFETY LINE REPLACEMENT COSTS?**

10 A. No. Accounting authority orders (AAOs) for SLRP costs will no longer be needed. In 2003, the
11 Missouri General Assembly approved three new Missouri statutory sections. These sections,
12 393.1009, 393.1012 and 393.1015 provide gas corporations with the ability to recover certain safety
13 line replacement costs outside of a formal rate case filing via the implementation of an
14 Infrastructure System Replacement Surcharge (ISRS).

15 **Q. HAS THE COMPANY FILED FOR AN INFRASTRUCTURE SYSTEM**
16 **REPLACEMENT SURCHARGE SINCE THE COMPANY'S LAST RATE CASE, GR-**
17 **2001-282?**

18 A Yes. The Company filed for ISRS on December 3, 2003 for eligible safety line replacement costs
19 for the period July 2001 through September 2003, which are the same costs the Company is
20 requesting be recovered through the 6th Accounting Authority Order issued in the last rate case.

1 **Q. PLEASE EXPLAIN.**

2 A. In Case No. GR-2001-292, the last rate case filed by MGE, the 6th AAO was granted for costs
3 related to the Safety Line Replacement Program (carrying costs, depreciation expense and property
4 taxes) beginning July 1, 2001 through December 31, 2003 or until another rate case was filed by
5 Missouri Gas Energy.

6 **Q. DID THE COMMISSION ISSUE AN ORDER APPROVING THE COMPANY'S**
7 **ISRS FILING?**

8 A. Yes. The Commission authorized the Company in Case No. GO-2004-0242 to establish an ISRS to
9 recover annual pre-tax revenue of \$3, 072,903. Depreciation expense, property taxes and carrying
10 costs for the same plant replacements that were to be deferred in the 6th AAO will be recovered
11 through the ISRS.

12 **Q. SHOULD THE COMPANY ALSO BE ALLOWED TO RECOVER THE SAME COSTS**
13 **THROUGH THE 6TH AAO ORDERED IN THE LAST RATE CASE?**

14 A. No. To allow recovery of these same costs already recovered through the ISRS would be
15 considered double counting. When the Commission granted the Company its 6th AAO for safety
16 line replacement costs the ISRS recovery vehicle was not in place, however the Company is now
17 utilizing the ISRS to recover safety line replacement costs.

18 **Q. PLEASE RECAP THE PUBLIC COUNSEL'S RECOMMENDATION REGARDING**
19 **MGE'S SLRP ACCOUNTING AUTHORITY ORDER.**

20 A. Public Counsel continues to believe that an amortization period of 20 years or longer is appropriate
21 and no rate base treatment of the unamortized SLRP deferral. This view is based on the fact that

1 OPC believes management is responsible for planning and operating the activities of the Company.
2 If management is unable to or chooses not to implement processes and procedures which would
3 limit the effect of regulatory lag on its finances, the Company should not be protected by the
4 Commission with an effective guarantee of earnings. Therefore, in order that ratepayers and
5 shareholders both share in the effect of regulatory lag, the Public Counsel is recommending that the
6 Company be allowed to earn a return of the SLRP deferred balance, but not a return on the SLRP
7 deferred balance. Also all costs related to the 6th AAO should be disallowed since these costs are
8 being recovered through the Company's Infrastructure System Replacement Surcharge.

9
10 **ENVIRONMENTAL RESPONSE FUND**

11 **Q. WHAT COSTS ARE INCLUDED IN COMPANY'S PROPOSED ENVIRONMENTAL**
12 **RESPONSE FUND?**

13 A. Manufactured gas plant (MGP) remediation costs are included in Company's proposed
14 environmental response fund. MGP remediation costs can be defined as all investigations, testing,
15 land acquisition if appropriate, remediation and/or litigation costs, and expenses or other liabilities,
16 excluding personal injury claims, specifically relating to gas manufacturing facility sites, disposal
17 sites, or sites to which material may have migrated, as a result of the operation or decommissioning of
18 gas manufacturing facilities.

19 **Q. WHY IS THE COMPANY POTENTIALLY LIABLE TO INCUR MANUFACTURED**
20 **GAS PLANT CLEANUP EXPENDITURES?**

21 A. To deal with the contamination and cleanup problems presented by abandoned and/or inactive
22 hazardous waste sites, Congress in 1980 enacted the Comprehensive Environment Compensation

1 and Liability Act (CERCLA or Superfund). CERCLA provided funding and enforcement authority
2 to the Environmental Protection Agency (EPA) to enable it to respond to hazardous substance
3 releases and to enable the EPA to undertake or regulate the cleanup of those hazardous sites where
4 owners/operators were either without resources or unwilling to implement such cleanups. In 1986
5 CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA) which
6 intensified Superfund activities and set a goal of achieving “permanent” solutions at Superfund
7 sites. CERCLA imposes strict, joint and several liability on present or former owners or operators
8 of facilities where substances have been or are threatened to be released into the environment.
9 Potentially responsible parties (PRP) included owners of contaminated land from point of
10 contamination to date, operators (which is interpreted as any party that had possession, control, or
11 influence over the premises during the same period), transporters, and generators of the
12 contaminants regardless of whether they directly released such substances into the environment.

13 **Q. HOW MANY MGP SITES IS MISSOURI GAS ENERGY A POTENTIALLY**
14 **RESPONSIBLE PARTY?**

15 A. Missouri Gas Energy has recognized that is currently has ownership interests in six sites that could
16 require potential responsibility for cleanup efforts. In addition to the currently owned sites, the
17 Company has identified 14 unowned facilities which may or may not involve it as a potentially
18 responsible party under the Superfund statute. A list of the MGP sites are contained in the
19 attached highly confidential Schedule KKB-2, which is Missouri Office of Public Counsel data
20 request number 1030.

1 **Q. WHAT IS THE AMOUNT THAT MISSOURI GAS ENERGY PROPOSES**
2 **INCLUDING IN ITS COST OF SERVICE FOR MANUFACTURED GAS PLANT**
3 **REMEDATION COSTS?**

4 A. The Company has proposed including \$750,000 annually.

5 **Q. IS PUBLIC COUNSEL OPPOSED TO INCLUDING MGP REMEDIATION COSTS**
6 **IN MISSOURI GAS ENERGY'S COST OF SERVICE.**

7 A Yes.

8 **Q. PLEASE EXPLAIN WHY.**

9 A. Public Counsel's opposition to the inclusion of the manufactured gas plant site remediation costs in
10 Missouri Gas Energy's cost of service is based on several reasons. MGE and Western Resources
11 Inc., (WRI) have already recognized and accepted that they, their insurers and potentially other
12 PRP's are responsible for the costs of the MGP remediation (WRI is the former owner of the
13 Missouri gas utility assets). Pursuant to the terms of the *Environmental Liability Agreement*
14 attached to the *Agreement for Purchase of Assets* between Southern Union Company and Western
15 Resources Inc., the companies have agreed to share the liability for payment of any costs associated
16 with any MGP remediation that might occur subsequent to Southern Union Company buying the
17 Missouri gas utility assets.

18 Also, Public Counsel believes that the costs should not be included in customer's rates for
19 additional reasons, 1) to my knowledge none of the manufactured gas plants are currently in
20 operation. Therefore, these sites are not used and useful in providing service to current customers.
21 If current customers are required to pay for the cost of service not recovered from past customers
22 (e.g., past rates were set too low), the result is intergenerational inequity, and possibly retroactive

1 ratemaking. 2) Present customers should not be required to pay for past deficits of the Company in
2 future rates. 3) The investigation expenditures associated with potential superfund sites are a non-
3 recurring cost of operation. Shareholders are compensated for this particular business risk through
4 the risk premium applied to the equity portion of the Company's weighted average rate of return. 4)
5 shareholders, not ratepayers, receive the benefits of gains or losses (below-the line treatment) of any
6 sale or removal from service of Company-owned land or investment. Since it is the shareholder
7 who receives with the gain or the loss on an investment's disposal, it is the shareholder who should
8 shoulder the responsibility for any legal liability that arises at a later date related to the investment.
9 The liability for the remediation costs are not incurred because of the service Missouri Gas Energy
10 currently provides to its customers. Missouri Gas Energy is a potentially responsible party because
11 it either owns the property now or its predecessor owned the property at sometime in the past.
12 Automatic recovery of the remediation costs from Missouri Gas Energy's customers reduces the
13 incentive for the Company to seek partial or complete recovery of the costs from other past owners
14 of the plant sites or Company insurers.

15
16 **DUES AND DONATIONS**

17 **Q. WHAT ADJUSTMENT DO YOU PROPOSE TO THE TEST YEAR FOR DUES AND**
18 **DONATIONS EXPENSE?**

19 **A.** I recommend disallowing \$96,620 from the test year expenses for dues and donations.(See Schedule
20 KKB-3) This amount includes the \$40,000 of Missouri Energy Developers Association (MEDA)
21 dues the Company in its direct testimony has also proposed removing from the cost of service.

1 **Q. PLEASE EXPLAIN WHY YOU PROPOSE REMOVING CERTAIN DUES AND**
2 **DONATIONS EXPENSE FROM THE TEST YEAR.**

3 A. I propose removing certain dues and donations expenses because the expenditures are either:

4 1. Related to lobbying activities;

5 2. Representative of involuntary ratepayer contributions;

6 3. Supportive of activities which are duplicative of those performed by other organizations to
7 which the Company belongs and pays dues;

8 4. The cost of the organization's activities do not provide any direct benefit to the ratepayers;

9 5. Membership to the organization is not necessary for the utility to provide safe and adequate
10 service.

11 **PAYROLL AND PAYROLL TAXES**

12 **Q. DID YOU PREPARE AN ANALYSIS OF ANNUALIZED UPDATED TEST YEAR**
13 **PAYROLL?**

14 A. Yes. I have prepared an analysis to determine a proper and reasonable annualized payroll expense
15 level. OPC's annualized payroll consists of payroll related charges for all employees as of
16 December 31, 2003, including the wage, salary and associated payroll taxes. OPC's annualized
17 level of payroll expense is \$25,038,891 and the associated payroll tax expense is \$2,008,486. (See
18 Schedule KKB-4 and KKB-5)

19 **Q. WHAT COMPENSATION ITEMS ARE INCLUDED IN YOUR PAYROLL**
20 **ANNUALIZATION?**

21 A. I have included all employees' (as of December 31, 2003) hourly wage rates multiplied by 2088
22 hours to arrive at a total base payroll. Safety and performance awards were included in my

1 annualization along with sales commissions. I also included a three year average of overtime
2 payroll in my payroll annualization. I used the calendar years 2001, 2002 and 2003 to arrive at my
3 average. I did not include Christmas bonuses or the Customer Service Bonuses.

4 **Q. WHY DID YOU USE A THREE AVERAGE OVERTIME COST INSTEAD OF THE**
5 **UPDATED TEST YEAR OVERTIME COST?**

6 A. The overtime costs have varied from year to year with no discernable trend indicating the level will
7 increase or decrease in the future. Therefore I felt an average of the past three calendar years would
8 be more appropriate and would levelize the fluctuating levels of actual expense.

9 **Q. PLEASE STATE THE OVERTIME COSTS INCURRED IN THE LAST THREE**
10 **YEARS .**

11 A. The following are the overtime costs for the last three years:

<u>Year</u>	<u>Overtime Amount</u>
2001	\$1,873,850
2002	\$1,489,239
2003	\$1,847,867

16 **Q. WHY DID YOU NOT INCLUDE CHRISTMAS BONUSES IN YOUR PAYROLL**
17 **CALCULATION?**

18 A. Christmas bonuses are in the nature of gifts made employees at the discretion of the Company,
19 therefore they are not a contractual obligation and necessary to provide safe and adequate service.

A. ^{**} _____

_____ ^{**}

A. Yes. The Company attained an average speed of answer of ** ____ * seconds.

A. Public Counsel feels the goal of ** __ *seconds for average speed of answer is too low of a goal to achieve, much less a goal to use to reward employees. This goal is nothing better than the average industry standard.

A. I used an expense ratio of 75.43%, which is the updated test year expense ratio.

A. I examined the three previous years and found the 75.45% to be reasonable.

Q. IS PUBLIC COUNSEL RECOMMENDING A DISALLOWANCE FOR A PORTION OF THE OPERATING AND STAFFING COSTS OF THE CUSTOMER AND GOVERNMENTAL RELATIONS DEPARTMENT?

15

which are not properly chargeable to ratepayers include promotion of MGE's corporate image, legislative/lobbying contacts, various civic functions and charitable activities.

Q. WAS THIS DEPARTMENT PREVIOUSLY CALLED THE PUBLIC AFFAIRS AND COMMUNITY RELATIONS DEPARTMENT?

A. Yes.

Q. PLEASE IDENTIFY THE DEPARTMENT'S EMPLOYEES.

A. The following is a listing of the department's employees by name and title:

<u>Employee Name</u>	<u>Position</u>
Pamela Levetzow	Director of Customer & Governmental Relations
Joy Hurt	Administrative Assistant – Customer & Governmental Relation
Paul Snider	Legislative Liaison
Susan Crockett	Community Relations Specialist
Barbara Labass	Public Affairs Specialist
Craig Daniels	Communications Specialist
Rae Lewis	Customer Advisor – Sr.
Carlotta Roberts	Customer Advisor – Sr.
Renee Paluka	Customer Advisor – Sr.

Q. ARE ANY OF THE EMPLOYEES IN THIS DIVISION REGISTER LOBBYISTS?

A. Yes. Barbara Labass, Pam Levetzow, and Paul Snider are register lobbyists.

Q. DOES PUBLIC COUNSEL BELIEVE THAT A PRIMARY FUNCTION DRIVING THESE EMPLOYEE'S ACTIVITIES IS CORPORATE IMAGE BUILDING?

A. Yes. The Company's mission statement for the Customer and Governmental Relations is:

1 “The Customer and Governmental Relations Department provides a
2 variety of services to customers and employees that are essential to the
3 delivery of natural gas service. It is our goal to provide effective safety
4 education materials and critical customer service information through
5 advertisement, bill inserts, and one-on-one interaction. It is our goal to
6 work with our communities and assist them to grow their business base
7 and contribute to the overall quality of life. It is our goal to proactively
8 collaborate with others to create programs that assist low income, fixed
9 income, elderly and disabled customers and to do community outreach
10 regarding LIHEAP, EITC, energy conservation and safety education. We
11 work diligently to provide a point of contact for opinion leaders such as
12 local, county and state elected officials should they need energy subject
13 matter information or assistance with energy issues of their constituents.
14 Our internal communication goal is to provide accurate, timely and regular
15 information to our employees so that they in turn can communicate
16 effectively with each other and our customers. In addition, we work to
17 maintain a positive working relationship with news organizations in our
18 service area. And we work with state legislators to represent the business
19 interest of MGE and its customers

20 Also while examining dues and donations expense, I discovered costs related to certain civic and
21 charitable organizations that were incurred by employees of this department. Such costs include
22 membership to Rotary Clubs, Economic Development Councils and Chamber of Commerces. Also
23 incurred were meal costs incurred to attend various functions of these organizations.

24 **Q. DOES THE CUSTOMER AND GOVERNMENTAL RELATIONS DEPARTMENT**
25 **SUPERVISE THE OUTSIDE LOBBYISTS HIRED BY MGE?**

26 **A.** Yes.

27 **Q. HAVE YOU REVIEWED THE LEGISLATIVE LIAISON, PAUL SNIDER’S**
28 **CALENDAR?**

29 **A.** Yes, I have reviewed the work calendar of Paul Snider, (See Schedule KKB-6). Most if not all of
30 his time is spent contacting legislators and political groups, such as Missouri Energy Development
31 Association (MEDA). Therefore, I believe a disallowance of all of his salary and reimbursed

1 expenses from the cost of service is appropriate. Later in my testimony I will discuss why lobbying
2 costs should not be included in the cost of service.

3 **Q. HAVE YOU REVIEWED MR. SNIDER EXPENSE REPORTS?**

4 A. Yes.

5 **Q. PLEASE GIVE EXAMPLES OF ITEMS INCLUDED ON MR. SNIDER'S**
6 **EXPENSE REPORT.**

7 A. Mr. Snider has included golf fees for fundraisers, meals with legislators and staff, meals and
8 Personal Digital Assistants (PDA's) two for outside lobbyists hired by Missouri Gas Energy. (See
9 Schedule KKB-7)

10 **Q. HAS THIS COMMISSION TRADITIONALLY EXCLUDED FROM RATES THE**
11 **IMAGE ENHANCING EXPENSES OF PUBLIC UTILITY COMPANIES?**

12 A. Yes. Re: Kansas City Power and Light Company, 75 PUR4th (1986), the Commission defined
13 institutional image enhancing activities as those, ". . . used to improve the company's public
14 image." The Commission also stated, "If the company desires to improve its public image, that is
15 management's business, but the costs will not be borne by the ratepayers under the rates established
16 in this case."

17 The Commission also excluded 50 percent of costs relating to the activities of the Public Affairs
18 and Community Relations Department in Missouri Gas Energy Case No. GR-98-140.

19 **Q. HAVE YOU REVIEWED THE TIME SHEETS FOR THE CUSTOMER AND**
20 **GOVERNMENTAL RELATIONS DEPARTMENT?**

1 A. Yes. The time sheets for this department break down the work description of this department into
2 the following categories:

3 Communication – Public Policy (Political Action Committee activities are
4 included)

5 Charitable Activities

6 Communication- Customer Education and Safety/Informational/General

7 Communications – MGE Internal/Media Related

8 Telecommunications

9 Industry Research

10 Special Projects

11 **Q. DOES PUBLIC COUNSEL BELIEVE THE FUNCTIONS OF THIS DEPARTMENT**
12 **HAVE CHANGED SINCE MISSOURI GAS ENERGY'S LAST LITIGATED RATE**
13 **CASE?**

14 A. No. This department still participates in lobbying activities and charitable organizations, just as it
15 as in the past.

16 **Q. HOW MUCH OF THE OPERATING AND STAFFING COSTS OF THE CUSTOMER**
17 **AND GOVERNMENTAL RELATIONS DEPARTMENT ARE YOU RECOMMENDING BE**
18 **DISALLOWED FROM THE COMPANY'S COST OF SERVICE?**

19 A. I am recommending that \$387,640 be disallowed from the operating and staffing cost of this
20 Customer and Governmental Relations Department . This adjustment removes all of Paul Snider's
21 salary and expenses and also removes 50 percent of the remaining costs of the department.

OUTSIDE LOBBYING COSTS

Q. WHY ARE COSTS ASSOCIATED WITH LEGISLATIVE/LOBBYING ACTIVITIES NOT APPROPRIATE FOR RECOVERY FROM RATEPAYERS?

A. For regulatory purposes, legislative and lobbying activities such as those incurred by the Company should be reported as a below-the-line cost in the Uniform System of Accounts (USOA) Account 426.4 – Expenditures for certain civic, political and related activities. The Federal Energy Commission (FERC), Department of Energy, Part 201-USOA prescribed for natural gas companies subject to the provisions of the natural gas act states:

This account [426.4] shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal of modification of existing referenda, legislation, or ordinances) or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.

Q. WHAT IS THE STANDARD THAT THE COMMISSION UTILITIES TO DEFINE LOBBYING EXPENSE?

A. The Commission has defined lobbying as “an attempt to influence the decisions of regulators and legislators in general.” Re: Kansas City Power & Light Company, 24 Mo. P.S.C. (N.S) 386, 400 (1981)

Q. SHOULD RATEPAYERS BE REQUIRED TO REIMBURSE THE COMPANY FOR EXPENSES RELATED TO ITS LOBBYING/LEGISLATIVE ACTIVITIES?

A. No, ratepayers should not be required to reimburse the Company for actions it took to influence legislators or legislation without their knowledge or consent, nor should ratepayers be made

1 unwitting contributors to the political activities preferred by the Company. The issue is not the
2 legislative worthiness of the activities to which the Company contributes, but rather the fact that
3 ratepayer dollars are flowed through to any organization the individual customer might have
4 supported or not supported. Utility customers should not be made unwilling participants, through
5 payment of utility rates. The Company may find it appropriate and desirable to contribute
6 shareholders dollars to legislative causes in the communities it serves; however, the Company's rate
7 should not recover these contributions from ratepayers.

8 **Q. HOW MUCH DID MISSOURI GAS ENERGY PAY FOR OUTSIDE LOBBYING**
9 **SERVICES DURING THE UPDATED TEST YEAR PERIOD OF TWELVE MONTHS**
10 **ENDING DECEMBER 31, 2003?**

11 A. Missouri Gas Energy paid three outside lobbyist a total of \$95,250 during the updated test year ,
12 this amount includes \$10,000 in bonuses (See Schedule KKB-8) paid to two of the outside lobbyist.

13 **Q. IS PUBLIC COUNSEL RECOMMENDING THAT ALL OF THESE COSTS BE**
14 **DISALLOWED FROM THE COST OF SERVICE?**

15 A. Yes.

16 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

17 A. Yes.