

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

In the Matter of Missouri Gas Energy Inc.'s)	
Filing of Revised Tariffs to Increase its Annual)	<u>Case No. GR-2014-0007</u>
Revenues for Natural Gas)	

**MOTION TO COMPEL DISCOVERY, MOTION FOR
DISCOVERY CONFERENCE AND MOTION TO EXPEDITE RESPONSES**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Motion to Compel Discovery and Motion for Discovery Conference* hereby respectfully states:

1. On November 13, 2013, the Commission issued its *Order Adopting Recommended Procedural Schedule* in this matter, which contained several provisions regarding the conduct of discovery.

2. Paragraph 5 of the procedural schedule provides for monthly discovery conferences in which written discovery motions may be taken up, and waives the requirement of Commission Rule 4 CSR 240-2.090 that a party must seek a telephone conference with the presiding officer before filing a discovery motion. The last scheduled discovery conference was scheduled for March 12, 2014.

3. Staff submitted data requests to Missouri Gas Energy, Inc. ("MGE") in this case seeking discovery related to an MGE proposal to outsource its call center and data requests seeking discovery related to recent terminations and hires. MGE has objected to those data requests.

4. Since there are no further discovery conferences scheduled in this matter, this motion requests that the Commission expedite responses to this motion to compel

and to schedule a discovery conference with the presiding officer as soon as practicable to resolve this discovery dispute.

Data requests related to MGE’s call center

5. Very recently, Staff learned that MGE is planning to make changes to its Kansas City call center, including possibly outsourcing call center functions to a third party. Staff sent DRs 0216, 0217, 0218, 0219, 0220, 0221, 0222, 0223, 0224, 0225, 0226, 0227, 0228, 0235, 0236, 0237, 0238, 0239, and 0240 in order to obtain more information about MGE’s plans. The data requests at issue and MGE’s objections are attached hereto as Appendix A and designated highly confidential. Non-confidential portions of MGE’s response indicate that MGE objects to these data requests because they seek discovery of information “which is irrelevant, immaterial and inadmissible in GR-2014-0007, and which discovery is not reasonably calculated to lead to the production of relevant and admissible evidence in GR-2014-0007.”

6. On March 25, Staff counsel sent an email to MGE counsel explaining why the requested information is relevant to this rate case, and that Staff has the duty to seek and review the requested information. An informal telephone conference between the parties did not resolve the issue.

Data requests related to terminations and hires

7. Staff has also submitted data requests 0232, 0233, and 0234 relating to employees recently added or terminated at MGE, Laclede Gas Company (“Laclede”), and The Laclede Group. These data requests and MGE’s objections and response are attached hereto as Appendix B.

8. Data request 0232 seeks positions added and eliminated at MGE for the period January 1 through February 28, 2014, and planned/expected additions and terminations for the period March 1 through April 30, 2014. In addition, this data request seeks actual and planned promotions and demotions during these time periods.

9. Data request 0233 seeks identification of each and every job position eliminated and added for Laclede Gas Company and The Laclede Group for the period from March 2013 (the end of the update period from Laclede's previous rate case¹) through February 28, 2014, as well as positions planned to be eliminated and added from March 1, 2014 through April 30, 2014.

10. Data request 0234 seeks identification of all individuals who have been given notice of termination and/or separation from MGE to be effective from January 1, 2014 through December 31, 2014, as well as identification of all individuals who have been given notice of termination or separation from Laclede Gas Company to be effective during the period January 1, 2014 through December 31, 2014.

11. Data requests 0232-0234 also seek wage and salary information for the identified employees.

12. MGE has objected that each of these data requests "seek information which is irrelevant, immaterial and inadmissible in GR-2014-0007, and which discovery is not reasonably calculated to lead to the production of relevant and admissible evidence in GR-2014-0007." Without waiving that objection, MGE responded to each of these data requests by referring to monthly reports Laclede has provided pursuant to its obligations under GM-2013-0254. These reports do not satisfy data requests because they only show employee reductions/additions through January 2014.

¹ GR-2013-0171

Motion to Compel data requests in Appendix A

13. Commission Rule 4 CSR 240-2.090 allows for discovery under the same conditions as civil actions. Missouri Supreme Court Rule 56.01(a)(1) provides:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action... It is not ground for objection that the information will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

14. Each of Staff's data requests attached as Appendix A meet this standard for several reasons.

15. First, the purpose of this rate case is to determine just and reasonable rates to be paid by MGE customers for safe and adequate utility service. MGE's current rates, as well as the rates contemplated in this case, are designed to produce revenue sufficient to support a call center located in Kansas City and staffed by MGE's own employees, who are familiar with MGE's operations and able to assist customers with their utility service. Staff has the obligation to ensure that the call center service that MGE customers will receive is reasonable considering the rates that MGE's customers are paying—and will continue to pay—for this service.

16. Call center performance is an especially important aspect of safe and adequate service, because the call center functions as the "front door" of the utility for customers with questions about their bill, customers who are reporting leaks or other service issues, or for customers who are faced with disconnection. Because the call center responds to these and other potentially urgent matters, Commission Rule 4 CSR 240-13.040 requires utilities to adopt procedures "which will ensure the prompt and thorough receipt, investigation and, where possible, resolution of inquiries," and that "[a]

utility shall establish personnel procedures which, at a minimum, insure that [q]ualified personnel shall be available and prepared at all times during normal business hours to receive and respond to all customer inquiries, service requests and complaints.” The data requests listed in Appendix A seek to fulfill Staff’s obligation to review MGE’s plans for its call center in order to verify that they are reasonable in light of the requirements of this rule.

17. The documents sought by Staff relate to process and analysis MGE has already completed, so MGE should be able to respond without conducting any additional study or perform any additional work.

Motion to Compel data requests 0232-0234

18. These data requests also meet the standard for discovery pursuant to Missouri Supreme Court Rule 56.01(a)(1), because these data requests seek information that will rebut the Company’s request for an \$800,000 allocation requiring MGE ratepayers to pay for what MGE witness Glenn Buck calls “a reasonably conservative estimate of what [corporate service costs] have been and will be going forward.”²

19. Asking MGE ratepayers to pay for “estimated services” is especially inappropriate because (as these data requests will show) MGE will likely be realizing savings in excess of \$800,000 in employee reductions going forward. Staff does not seek to reduce MGE’s cost of service for these reductions outside the update period in this case; rather, these data requests show why MGE should not be allowed to increase its costs of service for estimated corporate services.

² Buck Rebuttal p. 5 Ins 16-21.

20. This matter illustrates the doctrine prohibiting single-issue ratemaking, because it shows how increased costs in one area of a utility's operations can be offset by savings in another area, and therefore it is unlawful to consider costs in isolation. These data requests will show that such a balancing of costs and savings is at work here, and therefore MGE should not be allowed to increase rates by \$800,000 a year for "estimated services."

Motion to Expedite Response

21. Pursuant to the Commission-approved procedural schedule in this case, discovery will close on April 7, 2014. All motions to compel a response to any discovery request related to the direct case shall be filed no later than April 11, 2014. The evidentiary hearing is scheduled to begin April 14, 2014.

22. Therefore, in order to have the information available in time for the hearing, Staff requests that the Commission order responses to this motion be provided on an expedited basis and a discovery conference be set as soon as practical.

WHEREFORE, Staff requests the Commission issue an order requiring MGE respond to this motion to compel on an expedited basis, setting a discovery conference with the presiding officer, and compelling MGE to provide the discovery requested in the data requests attached as Appendix A and Appendix B.

Respectfully submitted,

/s/ John D. Borgmeyer

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 27th day of March, 2014.

/s/ John D. Borgmeyer