

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

In the matter of Missouri Gas Energy's)
Purchased Gas Cost Adjustment (PGA))
Factors to be Audited in its 2003-)
2004 Actual Cost Adjustment.)

Case No. GR-2005-0104

MGE'S RESPONSE TO ORDER DIRECTING RESPONSE

Comes now Southern Union Company, through its Missouri Gas Energy ("MGE") division, and for its response to the Order Directing Response ("the Order") issued March 8, 2006, respectfully states the following:

1. The Order said: "since the issues in this case seem to be identical to those in GR-2003-0330, the obvious question that arises is whether this case should be consolidated with GR-2003-0330." It asked the parties to address that question. MGE's response is that consolidation of Case No. GR-2005-0104 with the already consolidated cases of GR-2002-0348 and GR-2003-0330 is not appropriate, as further explained below.

2. The Commission's goal in consolidating cases is to "avoid unnecessary costs or delay." The Commission's rule says "When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay." See 4 CSR 240-2.110(3). The issues raised by Staff in ACA cases are usually the primary drivers in whether consolidations are appropriate. MGE has sought or supported consolidation of ACA cases where there is an apparent savings from the elimination of duplicate efforts, such as with the consolidation of GR-2002-0348 and

GR-2003-0330, and earlier with the consolidation of four ACA periods into Case No. GR-2001-382. That latter case has been fully briefed and submitted and is awaiting decision by the Commission. MGE's observation in this particular instance, however, is that consolidation of GR-2005-0104 with GR-2003-0330 would produce exactly the *opposite* effect. The consolidation of GR-2005-0104 with GR-2003-0330 would definitely produce a substantial delay in the resolution of GR-2003-0330.

3. The reason that a substantial delay would occur is that while some issues may appear to be similar at this stage, the procedural status of the two cases is definitely quite different. Case No. GR-2003-0330 is already consolidated with GR-2002-0348, so it covers the two ACA periods from July 1, 2001 through June 30, 2003. There has been extensive discovery by Staff and MGE, and both direct and rebuttal testimony has been filed which has served to narrow the issues. It has progressed to the point where only the filing of surrebuttal testimony, the issue list, and prehearing briefs remain before a hearing. It was only the recent unavoidable unavailability of a key Staff witness that required a hiatus and caused the rescheduling of surrebuttal and the hearing that had been set for early April.

4. In stark contrast to that, Case No. GR-2005-0104 is at the earliest possible procedural stage. The Staff memorandum / recommendation was only filed three months ago. MGE filed its response to the Staff memorandum on January 30, 2006. Typically, to produce such a response, MGE has to react quickly to what appears in the Staff's filing and craft a response. This is normally done without the benefit of discovery to more fully explore Staff positions. In MGE's experience, Staff positions as stated in these memoranda/recommendations cannot be fully comprehended without discovery

and even then have been known to undergo considerable changes as cases progress. This is why MGE's response contained phrases such as "initial response" and "first impression." Only after there has been adequate discovery can there be an accurate assessment of the true scope and breadth of particular issues, and a determination of how they may compare or contrast to those presented in another case. Accordingly, there would have to be a period of discovery in GR-2005-0104, and the opportunity for the filing of direct and rebuttal testimony on matters unique to the time period of July 1, 2003 through June 30, 2004, or to unique aspects of the Staff's case applicable to that time period, before GR-2005-0104 would even be at the same procedural stage as GR-2003-0330 is right now. For example, one unique aspect of Staff's case in GR-2005-0104 is the apparent use of a fixed five year period from 2001 to 2006, rather than the use of a moving "five year planning horizon" that Staff utilized in a previous memorandum. This difference can have impacts on both the issues of what constitutes prudent planning and the proper quantification of the suggested disallowance. Another area of factual uncertainty is the exact composition of what Staff alleges to have been imprudent contracting decisions. MGE will have to engage in discovery to fully determine and assess the impact of these differences.

5. In short, MGE estimates that GR-2003-0330 could be heard and submitted to the Commission for decision before GR-2005-0104 could be brought to the same procedural position GR-2003-0330 is in today. MGE believes that a consolidation with GR-2005-0104 would necessarily push any consolidated hearing back at least until sometime in late 2006.

6. MGE believes Case No. GR-2003-0330 is making reasonable progress toward submission considering the two unusual breaks necessitated by unforeseen medical issues. MGE also believes the time it spent with Staff in the summer of 2005 exploring possible settlement was beneficial. MGE and Staff are having discussions at the present regarding a discovery dispute and the implementation of a procedural schedule that would provide for a hearing in GR-2003-0330 sometime within the next few months. The availability of witnesses and the requirements of the Commission (such as the production of a prehearing brief) must be taken into consideration in such scheduling. Weighing the pros and cons leads MGE to conclude that consolidation would cause, rather than avoid, delay in the timely resolution of GR-2003-0330. On the other hand, the possibility of consolidation of GR-2005-0104 with the succeeding case, GR-2005-0169, could be explored at an appropriate time in the future when they are more fully developed.

WHEREFORE, MGE respectfully suggests that the Commission decline to consolidate GR-2005-0104 and GR-2003-0330 because there is no assurance that such a combination would avoid unnecessary costs or delay and a strong indication that it would produce unnecessary delay.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was either mailed or hand delivered this 28th day of March, 2006, to:

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