

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of)	
Southern Union Company d/b/a)	<u>File No. GO-2012-0144</u>
Missouri Gas Energy, for)	
Approval to Change its)	Tracking No. JG-2012-0207
Infrastructure System Replacement Surcharge)	

ORDER SUSPENDING TARIFF, ORDER DIRECTING FILINGS AND PUBLICATION OF NOTICE, AND NOTICE OF CONTESTED CASE

Issue Date: November 10, 2011

Effective Date: November 10, 2011

The Missouri Public Service Commission is:

- Suspending the tariff that accompanies the application,
- Giving notice of a contested case, and
- Setting deadlines for filings.

The Commission is also directing the publication of this notice and order.

A. Tariff Suspension and Contested Case

The application was filed on November 8, 2011, with a tariff. Upon such filing:

. . . the commission shall conduct an examination of the
proposed [Infrastructure System Replacement Surcharge;¹]

and decide whether the:

. . . petition complies with the requirements of sections
393.1009 to 393.1015 [²]

The tariff bears an effective date of December 8, 2011, which is not time enough for the
Commission to discharge the statutory duties we described.

But the statutes also provide that Commission must decide the petition as follows:

¹ Section 393.1015.2(1), RSMo Supp. 2010.

² Section 393.1015.2(4), RSMo Supp. 2010.

The commission may hold a hearing on the petition and any associated rate schedules and shall issue an order to become effective not later than one hundred twenty days after the petition is filed. [³]

The statutes also allow the Commission to suspend the tariff for a period of 120 days beyond the tariff's effective date.⁴ Therefore, the Commission will suspend the tariff until 120 days after the petition's filing date.

The statutes allow the Commission to suspend the tariff only pending a "full" hearing and decision on the tariff's propriety.⁵ The provision for a full pre-decision hearing signifies that this action must now be a "contested case."⁶ A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities and a decision without a hearing,⁷ including by stipulation and agreement.⁸ The Commission has published regulations on discovery at 4 CSR 240-2.090. This order and notice requires the parties to file responsive pleadings⁹ as follows.

B. Responsive Filings

The petition certifies compliance with the requirement to:

. . . . serve the office of the public counsel with a copy of its petition, its [tariff], and its supporting documentation.[¹⁰]

The Commission's regulations provide:

[T]he office of the public counsel may, within ten (10) days of the gas utility's filing of this information, submit comments

³ Section 393.1015.1.2(3), RSMo Supp. 2010.

⁴ Section 393.150.1, RSMo 2000.

⁵ Section 393.150.1, RSMo 2000.

⁶ Section 536.010(4), RSMo Supp. 2010.

⁷ Sections 536.060, RSMo 2000.

⁸ 4 CSR 240-2.115.

⁹ Section 536.067(2)(d), RSMo 2000.

¹⁰ Section 393.1015.1(1), RSMo Supp. 2010.

regarding these notices to the commission [¹¹]

Therefore, the Commission will set forth the date for filing such comments.

The petition also certifies service on the Commission's General Counsel. The General Counsel represents the Commission's staff ("Staff").¹² Staff's authority is as follows:

The staff of the commission may examine information of the gas corporation to confirm that the underlying costs are in accordance with the provisions of sections 393.1009 to 393.1015, and to confirm proper calculation of the proposed charge, and may submit a report regarding its examination to the commission not later than sixty days after the petition is filed. No other revenue requirement or ratemaking issues may be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 393.1009 to 393.1015. [¹³]

Therefore, the Commission will order Staff to file a report as described in that statute.

The Commission will also set forth the deadlines for any application to intervene, any response to an application to intervene, and any reply to any of those filings.

C. Notice of this Action

The statutes also require the Commission to "publish notice of the filing[.]"¹⁴ so the Commission will order publication of this notice and order.

THE COMMISSION ORDERS THAT:

1. The tariff sheet assigned tracking number JG-2012-0207, is suspended through March 8, 2012. The tariff sheet suspended is:

¹¹ 4 CSR 240-3.265(9).

¹² 4 CSR 240-2.040(1).

¹³ Section 393.1015.2(2), RSMo Supp. 2010.

¹⁴ Section 393.1015.1(2), RSMo Supp. 2010.

P.S.C. MO. No. 1

Thirteenth Revised Sheet No. 110, Canceling Twenty-Ninth Revised Sheet No. 10

2. No later than November 18, 2011, the Office of Public Counsel shall file any comment as to the example notices that accompany the application and petition.

3. No later than November 28, 2011, any response to any comment of the Office of Public Counsel shall be filed.

4. No later than December 8, 2011, any application for intervention shall be filed by delivery to:

Secretary, Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

or by entry into the Commission's electronic filing and information system ("EFIS").

5. No later than December 19, 2011, any response to any application for intervention shall be filed.

6. No later than January 9, 2012, the Commission's staff shall file a report as described in the body of this order.

7. No later than January 19, 2012, any response to the report of the Commission's staff shall be filed.

8. The Commission's Data Center shall mail a copy of this notice and order to the county commission of any counties served by the applicant and to all parties in applicant's most recent general rate case.

9. The Commission's Public Information Office shall make notice of this order available to the media serving the counties served by applicant and to the members of the General Assembly representing the counties served by applicant.

10. This order shall become effective immediately on issuance.

BY THE COMMISSION

(S E A L)

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the signatory.

Steven C. Reed
Secretary

Jordan, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 10th day of November, 2011.