

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

In the Matter of Missouri Gas Energy's)	
Tariff Sheets Designed to Increase Rates)	
for Gas Service in the Company's)	Case No. GR-2009-0355
Missouri Service Area.)	

**PUBLIC COUNSEL'S OBJECTIONS
TO ALLOWING NEW EVIDENCE INTO THE
RECORD REGARDING LACLEDE'S RATE DESIGN**

COMES NOW the Missouri Office of the Public Counsel and offers the following objections:

1. On November 2, 2009, during the last day of the evidentiary hearing, Commissioner Davis requested a late-filed exhibit from Missouri Gas Energy ("MGE") witness Mr. Michael Noack. Commissioner Davis asked Mr. Naock to submit a draft rate schedule that maintains the current \$24.62 customer charge and that collects the amount of any rate increase through a volumetric block rate. This blocked rate design is similar to the residential rate design of Laclede Gas Company.

2. Public Counsel objects to these last-minute efforts to enter evidence into the record regarding a rate design methodology that was neither proposed nor addressed in any party's Direct, Rebuttal, or Surrebuttal testimony. Commission rule 4 CSR 240-2.130(7) requires all parties to assert and explain their case-in-chief in their Direct Testimony, and to respond to Direct and Rebuttal Testimony through Rebuttal and Surrebuttal Testimony respectively. This process, as it relates to fashioning a rate design, provides parties with a sufficient opportunity to investigate the rate design proposals of all other parties through discovery requests, extensive analysis, and the hiring of expert

witnesses. Introducing new rate design evidence last-minute after the conclusion of the evidentiary hearing harms consumers by taking away these necessary opportunities to address and challenge all proposals before the Commission.

3. Public Counsel believes the Commission would need to waive 4 CSR 240-2.130(7) to allow a new rate design proposal to be submitted into evidence because the due dates for Direct, Rebuttal and Surrebuttal testimony has passed. No waiver has been issued, which would need to be approved by a majority of Commissioners.

4. Commission rule 4 CSR 240-2.130(8) states that “[a] party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing.” Designing rates for a large natural gas utility such as MGE requires extensive analysis, which is why the Commission’s procedures give the parties several months to investigate all proposals to be considered by the Commission. A “reasonable opportunity to address” a new rate design proposal should include sufficient time for discovery and prefiled testimony. The Commission should not allow any late-filed exhibits regarding a new rate design proposal because there is not sufficient time for a “reasonable opportunity” to address these new matters.

5. Public Counsel also objects because Laclede’s rate design is tied to Laclede’s Purchased Gas Adjustment (PGA), and moving to a Laclede rate design would impact MGE’s PGA. The parties have not entered any evidence regarding MGE’s PGA. Furthermore, ratepayers were informed in the customer notice that MGE’s rate case would not have *any* impact on MGE’s PGA rates. Moving to the Laclede rate design would confuse and likely anger MGE’s residential ratepayers because it would impact MGE’s PGA rates contrary to the Commission’s notice.

6. The Laclede rate design involves different block rates based on usage and tied to the PGA rate. Before changing the rates of 450,000 MGE customers, the Commission should ensure that a thorough process is employed that considers all relevant evidence available, not just the evidence of how Laclede's rate design would look on an MGE tariff sheet. Laclede's rate design is complex and confusing, and it should not be adopted for MGE without extensive analysis and debate.

7. If the evidence is allowed into the record, Public Counsel will not have an opportunity to provide rebuttal and surrebuttal testimony that explains the impacts such a rate design would have on MGE's business risks. Public Counsel's expert consultant in this area, Mr. Daniel Lawton, provided risk reduction testimony in response to MGE's proposal to utilize the Straight Fixed Variable (SFV) rate design. Public Counsel will not have an opportunity to conduct another risk analysis and the impact on MGE's revenues or its return on equity if the Commission were to adopt Laclede's rate design for MGE.

8. On November 5, 2009, the majority of parties entered into a Partial Stipulation and Agreement ("Agreement") that resolves all issues not addressed in the evidentiary hearing. Public Counsel's decision to enter into the agreement is based in part on the rate design proposals of MGE and Public Counsel and the evidence properly before the Commission on these proposals. To allow a last-minute change to the rate designs to be considered by the Commission compromises Public Counsel's assessment of the remaining issues that caused Public Counsel to enter into the Agreement. In other words, had a third rate design proposal been properly presented to the Commission in testimony, Public Counsel would have had a different assessment of the Agreement and may or may not have ultimately agreed to the same terms.

9. For all these reasons, Public Counsel hereby objects to the submission of additional evidence to serve the purpose of providing the Commission with an additional decoupling rate design methodology to consider. Allowing this evidence into the record would violate the due process rights of Public Counsel and the public.

WHEREFORE, the Office of the Public Counsel respectfully objects to the submission of late-filed exhibits that purport to present the Commission with a new decoupling methodology for consideration in this case.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 6th day of November 2009:

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