

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of)	File No. GT-2012-0183
Southern Union Company,[¹])	
Liability Tariff Filing)	Tariff No. YG-2012-0261

ORDER ALLOWING RESPONSE TO RECOMMENDATION AND MOTION

Issue Date: January 3, 2012

Effective Date: January 3, 2012

The Missouri Public Service Commission is granting the request of Southern Union Company ("the Company") to file a response to *Staff's Recommendation to Reject Proposed Compliance Tariff* ("recommendation"),² and *Public Counsel's Motion to Suspend Tariff* ("motion").³

In the motion and recommendation, Staff and OPC argue that the pending tariff does not comply with the Commission's decision in File No. GC-2011-0100.⁴ In that decision, the Commission ordered the Company to file a new tariff sheet replacing certain terms governing liability at Company's tariff sheet R-34, rule 3.19 ("current tariff sheet").⁵ The current tariff sheet included terms that were unjust and unfair so the Commission declared those terms void and unenforceable ("deficiencies"). The

¹ The caption originally named applicant as "Missouri Gas Energy, a Division of Southern Union Company," but an unincorporated division of a corporation is not a legal entity, and, therefore, lacks legal capacity to sue or be sued. *ADP Dealer Services Group v. Carroll Motor Co.*, 195 S.W.3d 1, 7 (Mo. App. E.D., 2005). The Commission corrects the misnomer sua sponte.

² Filed on December 29, 2011.

³ Also filed on December 29, 2011.

⁴ *Staff of the Missouri Public Serv. Comm'n v. Southern Union Co.*, Final Decision and Order to File a New Tariff Sheets, effective on November 19, 2011.

⁵ The pending tariff sheets also include a Rule 3.20. Rule 3.20 forgives charges for reconnection required by the Joplin tornado of May 22, 2001. That matter was not part of File No. GC-2011-0100.

deficiencies included the current tariff sheet's first paragraph, which provided that customers shall indemnify the Company for the Company's negligence to third persons.

Staff and OPC argue that the pending tariff sheets' first paragraph remains deficient.⁶ The Company filed a request⁷ to respond to the motion and the recommendation with an extension of the pending tariff sheets' proposed effective date from January 8, 2012, to January 19, 2012. Therefore, the Commission will set dates for filing as follows.

THE COMMISSION ORDERS THAT:

1. No later than January 6, 2012, Southern Union Company ("the Company") shall file a response to *Staff's Recommendation to Reject Proposed Compliance Tariff* and *Public Counsel's Motion to Suspend Tariff*.
2. No later than January 12, 2012, any party other than the Company shall file a reply to the response described in paragraph 1.
3. This order shall become effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

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

Dated at Jefferson City, Missouri,
on this 3rd day of January, 2012.

⁶ As shown in the Appendix to this order.

⁷ On December 30, 2011.

Appendix: Sheet R-34

Plain text shows the current tariff sheet with deficiencies in bold. Brackets show language deleted in the pending tariff sheets. Underline shows language added in the pending tariff sheets.

3.19 COMPANY LIABILITY: Customer shall **save** Company **harmless** from **all claims** for trespass, injury to persons, or damage to lawns, trees, shrubs, buildings or other property that may be caused by reason of the installation, operation, or replacement of the service line, yard line and other necessary appurtenances to serve customer unless it shall affirmatively appear that the injury to persons or damage to property complained of has been caused by [**willful default or gross**] **negligence** on the part of Company or its accredited personnel.

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