

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

In the Matter of Southern Union Company)	
d/b/a Missouri Gas Energy's Tariff Sheets)	Case No. GT-2012-0170
Designed to Implement an Experimental)	Tariff File No. JG-2011-0051
Pilot Program)	

**PUBLIC COUNSEL'S REPLY TO
RESPONSES TO MOTION TO SUSPEND TARIFF**

COMES NOW the Missouri Office of the Public Counsel ("OPC") and for its Reply to the Responses to Public Counsel's Motion to Suspend Tariff, states as follows:

1. There is a factual dispute between the parties that presents four issues for Commission resolution: 1) Should new homes where natural gas is not the primary heating source be eligible for MGE rebates even though this causes the proposed Energy Star® Homes Program to not be cost effective?; 2) Should program participants be required to install natural gas water heaters in the new homes eligible for MGE rebates?; 3) Should rebate levels on most energy efficient appliances be set at a level that is twice as high for MGE customers in the Joplin areas as they are for all other MGE customers?; and 4) Is \$1,000,000 a reasonable cap on expenditures for a program that would only be available in the Joplin area? Since ratepayers supplied the energy efficiency funds that MGE seeks to reallocate to Joplin, OPC asks that the Commission afford OPC an opportunity to present evidence on the above questions.

A. OPC Response to the Commission Staff

2. OPC cautions the Commission not to be misled by the Staff's misstatement of OPC's Motion to Suspend Tariff ("Motion"). The Staff's response

states, “OPC comments the proposed incentive energy efficiency program is “barely cost effective under the Utility Cost Test.”¹ By taking that portion of a sentence from OPC’s Motion out of context, Staff has completely mischaracterized the statements in OPC’s Motion about cost effectiveness. OPC’s motion stated in paragraph 8:

Cost effectiveness analysis performed by MGE’s consultant showed that the program would be barely cost effective under the Utility Cost Test (UTC), **but only for new homes that used natural gas as the primary heating source.** (Even with this additional eligibility restriction limiting participation to homes where natural gas is the primary heating source, the program still failed to achieve cost effectiveness under the Total Resource Cost (TRC) test.) Despite the fact that the use of natural gas as the primary source of space heat is needed for this program to achieve cost effectiveness even under the more lenient UTC cost effectiveness test, MGE’s proposed tariffs for this program do not require newly constructed homes that are eligible for this rebate to use natural gas as the primary source of space heat.

OPC clearly stated that the program would be cost effective only where natural gas is the primary source of space heat, and even then only barely. OPC reiterated its assessment that the proposed Energy Star® New Homes Program is not cost effective later in OPC’s Motion when OPC states, “Offering the Energy Star New Homes Program as a tariffed promotional practice when it is not cost effective is not just and reasonable and not permitted by the Commission’s Promotional Practices Rule.”²

3. The Staff’s misstatement of OPC’s Motion should cause concern that the Staff’s response is not based on a careful review of OPC’s Motion. The Staff’s misstatement of the UTC test results should also cause concern that the Staff is unaware of the fact that MGE’s consultant did not perform a cost effectiveness analysis of the proposed Energy Star® Homes Program that permits customers to receive rebates for newly constructed homes when natural gas is not the primary heat source. MGE’s

¹ Staff Response, ¶ 6.

² OPC Motion, ¶ 10.d.

consultant only performed a cost effectiveness analysis demonstrating that an Energy Star Homes Program would be cost effective under a program design different than the one proposed by MGE, and where eligibility for rebates is restricted to newly constructed homes that use natural gas as the primary heat source.

4. The Staff's two-page response provides little guidance to the Commission because it does not address the claims made in OPC's Motion. The Staff's response notes that "Staff shares some of OPC's concerns and does not necessarily agree with all the details of MGE's program." Staff does not address or refute the following claims:

- Staff does not refute OPC's claim that MGE's consultant determined the program would not be cost effective unless the new homes use natural gas as the primary source of space heat (or that Staff, OPC and MDNR all supported adding this eligibility requirement so that the program would be cost effective);
- Staff does not refute OPC's claim that requiring program participants to install natural gas water heaters creates an arbitrary barrier to participation in the program (or that Staff, OPC and MDNR all supported removing this requirement); and
- Staff does not refute OPC's claim that the \$1,000,000 cap on program expenditures is excessively high (or that Staff, OPC and MDNR all supported removing this cap).

B. OPC Response to MGE

5. Unlike Staff, MGE conceded that the results of the UTC analysis performed by MGE's consultant shows that the proposed program is cost effective "when

natural gas is the primary source of heat.”³ This is essentially an admission that the proposal is not cost effective in that it does not require natural gas as the primary source of heat. MGE’s response is that providing programs that are not cost effective (the costs outweigh the benefits) is acceptable to MGE because “MGE wanted to be sensitive to concerns electricity providers in the area might have, and for that reason, MGE did not exclude electricity as the primary source of space heat.”⁴ It is unacceptable to force hundreds of thousands of natural gas customers to pay for programs that do not provide cost-effective benefits simply because MGE wants to be sensitive to unstated “concerns” of electric providers. MGE’s response also raises concerns about whether electric provider(s) in the area may have agreed not to oppose the doubling of natural gas appliance rebates (even though those rebates could encourage electric customers to switch to natural gas) in return for the concession that MGE would permit homes that are heated by an electric heat pump as the primary heating source to be eligible for \$800 rebates from MGE.

6. In MGE’s last rate case, the Commission recognized that MGE has “the least amount of experience in energy efficiency programs of any of the collaborative members.”⁵ MGE’s inexperience is one possible reason why MGE would propose to target funding on a program that is not cost effective. MGE’s inexperience in creating and analyzing energy efficiency programs is obvious from MGE’s response to OPC’s concerns. For example, OPC raised the concern that the low price of natural gas would make the proposed programs even less cost effective than they would be with higher gas

³ MGE Response, p. 7.

⁴ *Id.*

⁵ In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service, Case No. GR-2009-0355, *Report and Order*, February 10, 2010, p. 66.

prices. MGE's response accuses OPC of viewing low gas prices as an "obstacle to energy efficiency programs" rather than a "benefit to consumers."⁶ This response misses OPC's point entirely, suggesting a concerning lack of understanding by MGE on how to develop cost effective programs. MGE's argument that the low natural gas prices "will not last forever" may be an accurate statement, but it does nothing to address how energy efficiency programs should respond to those low gas prices, which forecasts suggest will remain low for years. MGE's shortsighted approach should be a red flag to the Commission that MGE's proposals need to be thoroughly scrutinized.

7. MGE's inexperience is also evident in MGE's response to OPC's concern that simply doubling the rebate levels will not achieve greater energy efficiencies. MGE provided no data to support MGE's claim that doubling rebate levels would make the programs more efficient. MGE states, "Anecdotally, heating and cooling contractors have indicated that higher incentives serve to move the market toward greater energy efficient appliances, particularly with respect to the higher efficiency units." This is exactly why OPC and the rest of the collaborative members agreed to implement tiered rebates in the Joplin area and throughout the rest of MGE's service territory, which offer greater rebate levels for appliances with greater efficiency ratings. MGE has provided no evidence to the collaborative to suggest that increasing the rebate levels as proposed would incent more customers to purchase more efficient appliances. MGE's simple approach and belief that throwing more dollars at rebates will increase efficiency is grossly inadequate, and does not present the Commission with a sound basis for approving the proposed tariff changes.

⁶ MGE Response, p. 4.

8. If MGE were truly committed to helping rebuild Joplin as it claims, MGE would offer shareholder funds to help rebuild Joplin. Instead, MGE wants praise for its willingness to reallocate *ratepayer funds* collected for energy efficiency purposes to now fund disaster relief efforts in Joplin, while giving itself the added benefit of incentivizing customers to choose natural gas appliances over electric appliances. This will only increase earnings for shareholders of Southern Union Company without providing true benefits for ratepayers.

C. OPC Response to MDNR

9. The Missouri Department of Revenue's (MDNR) does not directly address most of the concerns raised in OPC's Motion, and provides little guidance to the Commission. In fact, MDNR's response could act to mislead the Commission because it includes an incorrect statement in paragraph 4 where it states:

MGE is coordinating the Rebuild Joplin initiatives with Empire Electric Company. This action is similar to the partnership currently in place for the Energy Star® New Homes program currently supported by MGE and Kansas City Power & Light Company in the Kansas City, Missouri area.

This paragraph is incorrect because MGE does not currently offer and never has offered an Energy Star® New Homes program in the Kansas City, Missouri area either on its own or in partnership with Kansas City Power & Light Company. MDNR's lack of knowledge regarding MGE's programs suggests a need to fully explore MGE's proposal in an evidentiary hearing where all facts, and misstatements of facts, can be considered by the Commission.

WHEREFORE, the Office of the Public Counsel respectfully offers this response and renews its request to suspend MGE's proposed tariff changes and direct the parties to file a proposed procedural schedule that includes dates for an evidentiary hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 6th day of December 2011:

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