

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

In the Matter of Missouri Gas Energy's            )  
a Division of Southern Union Company,        )     **Case No. GT-2012-0183**  
Liability Tariff Filing.                                )

**STAFF RESPONSE TO RESPONSE OF MISSOURI GAS ENERGY  
IN OPPOSITION TO STAFF'S RECOMMENDATION  
TO REJECT PROPOSED COMPLIANCE TARIFF**

**COMES NOW** the Staff of the Missouri Public Service Commission and for its Response to Missouri Gas Energy's Response in Opposition to Staff's Recommendation to Reject Proposed Compliance Tariff states:

1. This case was opened by Commission Order on December 12, 2011, to process Missouri Gas Energy's (MGE) liability tariff filing (Tariff File No. YG-2012-0261).
2. MGE filed a tariff revision on December 12, 2011 (YG-2012-0261).
3. On December 29, 2011, as directed by the Commission, Staff Responded to MGE's revised tariff with its Recommendation to REJECT the tariff as failing to comply with the Commission's Order.
4. Staff also noted its operational concerns, which it clearly stated were "**not related to the recommendation for rejection.**" Nor did Staff attempt to "reargue" those points as MGE has suggested. (MGE Response p. 3-4).
5. Staff continues to recommend rejection of MGE's Revised Tariff because, despite modest changes, paragraph 1 fails to comply with the Commission's Order. The language of paragraph 1 remains unchanged, even with the "underline for customer's" and deletion of the word, "all" as set out by MGE. <sup>1</sup> Staff has reviewed those tariff sheets and notes they still do not

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<sup>1</sup> Tariff R-34 date of issue December 9, 2011 reads 1: COMPANY LIABILITY: Customer shall save Company harmless from customer's claims of trespass...Tariff R-34 as amended and attached in MGE's reads: COMPANY LIABILITY: Customer shall save Company harmless from ~~at~~ customer's claims of trespass.

comply with the Commission's November 9th Order. On page 26 of the Order, the Commission states paragraph 1 on Sheet R-34 is unjust and unreasonable. The Commission's Order states on page 26 of the Order that the provision in paragraph 1 "goes beyond Company immunity from customer claims of negligence (Sheet R-34 Paragraph 5) and customer indemnity for persons on the premises (Sheet R-34 Paragraph 4). It makes the customer liable to third persons, like an all electric neighbor, for the Company's negligence." In addition, The Commission's Order states that the provision "is unjust and unreasonable because it makes the customer liable to third persons for the Company's conduct. To indemnify the Company from those losses is the purpose of commercial liability insurance, which is a cost of doing business. No public policy supports making an insurer out of a customer who is powerless - and is not paid - to control those risks." MGE recovers the cost of its liability insurance in base rates.

**WHEREFORE**, Staff prays that the Commission will continue to accept Staff's renewed recommendation and reject MGE's proposed Fifth revised tariff, Tariff File NO. YG-2012-0261, and order MGE to file a compliant revised liability tariff within five days; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully Submitted

**/s/Annette E. Slack**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage paid, on this 13<sup>th</sup> day of January, 2012, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

**/s/ Annette E. Slack**