

**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)
Missouri Service Area.)

Case No. GR-2009-0355

**PUBLIC COUNSEL'S REPLY TO
MGE'S MOTION FOR CLARIFICATION**

COMES NOW the Office of the Public Counsel ("OPC") and for its reply to MGE's Motion for Clarification states:

1. On February 19, 2010, MGE filed a Motion for Clarification, requesting "clarification as to the carrying cost rate applicable to the regulatory asset associated with energy efficiency (EE) programs funded by the Company."
2. OPC opposes MGE's attempt to introduce this as an issue after the close of the evidentiary record because this was not an issue before the Commission.
3. The record before the Commission contains no evidence on the issue of whether a carrying cost rate should be applicable to the regulatory asset associated with Company funding of energy efficiency. Had this issue been raised during the evidentiary hearing, OPC and all other parties would have had an opportunity to provide evidence regarding the appropriateness of such a rate and how such a rate, if appropriate, would be determined.
4. The only lawful time and place to address this new issue is in the subsequent rate case where MGE will attempt to recover in rates the amounts included in the regulatory asset account.

5. If MGE wanted a certain interest rate applied to the deferral account they should have raised the issue in response to Mr. Kind's Direct Testimony that recommended the creation of a regulatory asset account for MGE's efficiency spending.

6. MGE's Motion for Clarification states that the Commission's intentions were "apparent" and that it is "logical and fair" to clarify the Commission's Order as requested by MGE. OPC strongly disagrees with MGE's characterization. The fact remains that there are *no facts* upon which MGE cites, and no facts upon which the Commission could base such a clarification. In sum, a clarification as requested by MGE would open up the Commission's Report and Order for reversal because no facts support the requested clarification and it was not appropriately presented as an issue in the case.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to MGE's Motion for Clarification.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston

Marc D. Poston (#45722)

Deputy Public Counsel

P. O. Box 2230

Jefferson City MO 65102

(573) 751-5558

(573) 751-5562 FAX

marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 24th day of February 2010:

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Shemwell Lera
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Lera.Shemwell@psc.mo.gov

Finnegan D Jeremiah
Central Missouri State University
(CMSU)
3100 Broadway, Suite 1209
Kansas City, MO 64111
jfinnegan@fcplaw.com

Young Mary Ann
Constellation NewEnergy-Gas Division,
LLC
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
MYoung0654@aol.com

Steinmeier D William
Constellation NewEnergy-Gas Division,
LLC
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
wds@wdspc.com

Woodsmall David
Midwest Gas Users Association
428 E. Capitol Ave., Suite 300
Jefferson City, MO 65101
dwoodsmall@fcplaw.com

Conrad Stuart
Midwest Gas Users Association
3100 Broadway, Suite 1209
Kansas City, MO 64111
stucon@fcplaw.com

Woods A Shelley
Missouri Department of Natural Resources
P.O. Box 899
Jefferson City, MO 65102-0899
shelley.woods@ago.mo.gov

Callier B Sarah
Missouri Department of Natural
Resources
P.O. Box 899
Jefferson City, MO 65102
sarah.callier@ago.mo.gov

Cooper L Dean
Missouri Gas Energy
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Swearengen C James
Missouri Gas Energy
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
LRackers@brydonlaw.com

Hale C Vivian
Oneok Energy Marketing Company
100 W. 5th
Tulsa, OK 74102
vhale@oneok.com

Hatfield W Charles
Oneok Energy Marketing Company
230 W. McCarty Street
Jefferson City, MO 65101-1553
chatfield@stinson.com

/s/ Marc Poston