

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 3rd day of  
May, 2007.

In the Matter of Missouri Gas Energy's Tariffs	)	
Increasing Rates for Gas Service Provided to	)	<b><u>Case No. GR-2006-0422</u></b>
Customers in the Company's Missouri Service	)	Tariff File No. YG-2006-0845
Area.	)	

**ORDER DENYING APPLICATIONS FOR REHEARING**

Issue Date: May 3, 2007

Effective Date: May 3, 2007

On March 22, 2007, the Missouri Public Service Commission issued its Report and Order in this matter with an effective date of March 30. On March 29, both Missouri Gas Energy and the Office of the Public Counsel filed applications for rehearing. MGE requests a rehearing on the issues of weather normalization and capital structure. Public Counsel requests a rehearing on the issues of rate design, natural gas conservation, Infinium Software, the Emergency Cold Weather Rule AAO recovery, the Kansas Property Tax AAO and the Commission's procedure with regard to prehearing briefing requirements.

**MGE's Application for Rehearing**

**30-year weather average v. 10-year rolling average**

MGE argues that the 10-year rolling average is a better predictor of weather than is the 30-year weather average. The background and findings of this issue are considered in the Commission's Report and Order and need not be restated in this order. The Commission's reasons for adopting the 30-year average rather than the 10-year rolling average are also clearly set out in its Report and Order.

## Capital Structure

The background and findings on this issue are set out in great detail in the Commission's Report and Order. MGE points out that the Commission erred in its finding that MGE was willing to accept the actual capital structure of Southern Union as of October 31, 2006 if the Commission did not adopt the proposed hypothetical capital structure. Rather, MGE argues in its application, that it simply *suggested* that the Commission use the actual capital structure of Southern Union Company as of October 31, 2006 in the event that the Commission did not adopt the Company's position. MGE emphasizes that it did not agree to accept the actual capital structure. The Commission notes that the use of the word "accept" was not meant to infer MGE's acquiescence. The word was used colloquially, reasonably assuming that MGE would *accept* what it in fact *suggested*.

Section 386.500.1 provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefore be made to appear." Unable to find sufficient reason to grant MGE's request, the Commission shall deny MGE's requests for a rehearing.

### **OPC's Application for Rehearing**

## Rate Design

OPC opposes the Commission's adoption of a Straight-Fixed Variable rate design to be implemented for MGE. In its application for rehearing, OPC states that the Commission's decision on this issue does not contain sufficient findings of fact and conclusions of law. OPC then goes on to restate the arguments it presented to the Commission that were considered by the Commission in rendering its decision.

### Natural Gas Conservation

OPC argues that the Commission's order provides no findings of fact or conclusions of law on this issue. OPC goes on to argue that because the Commission's Report and Order states that the conservation programs approved by the Commission "provides an incentive for customers to switch from electric to gas water heaters," the program is in violation of Commission's rules 4 CSR 240-3.255, 14.010, 14.020 and 14.030. Finally, because the order does not require that replacement water heaters be more efficient than those to be replaced, the result could be a conservation rebate program that decreases, rather than increases, efficiency. In this sense, OPC argues, the order is unjust, unreasonable and unlawful and in violation of Section 393.130.1, RSMo 2000.

MGE's Natural Gas Conservation program is not included in the Commission's definitions of what constitutes promotional practices. Therefore, the rule referred to by OPC is not applicable. Also, OPC's argument that the conservation program will be ineffective is speculative. The dispositive facts, with regard to this issue, are recited in the Commission's Report and Order. OPC's arguments are in the transcript and were considered. Those arguments, however, were not dispositive in reaching a decision on this issue.

### Infinium Software

OPC argues that the Commission decision with regard to the Infinium Software is unjust and unreasonable and in violation of Section 393.130, RSMo Supp. 2005. OPC also argues that the Commission order contains insufficient finding of facts in violation of 386.420.2 and 536.090.

The facts, with regard to this issue, were not in dispute and the Commission cites where the facts are located in the record. OPC's legal argument is that the system was not "used and useful." In its order, the Commission analyzed this argument and decided against it.

#### Emergency Cold Weather Rule AAO

OPC argues that this portion of the order contains insufficient finding of facts. The facts of this issue were not in dispute, The Commission cited where the facts are located in the record and incorporated, by reference, its September 21, 2006 order wherein this issue initially discussed and decided.

#### Kansas Property Tax AAO

OPC argues that the Commission resolution of this issue is unjust, unreasonable and contains insufficient findings of fact. This issue is fully discussed in the Commission's order and will not be recited here.

#### Commission's Procedure

OPC argues that MGE violated a Commission order with regard to the filing of prehearing briefs and that such violation prejudiced the other parties. This issue was raised by OPC through a motion requesting that the Commission deny MGE's prehearing brief. The Commission ruled on the motion through an order denying the motion issued on January 11, 2007. Therein, the Commission fully discussed OPC's assertions and denied the motion.

Section 386.500.1 provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefore be made to appear." Unable to find

sufficient reason to grant OPC's request, the Commission shall deny OPC's requests for a rehearing.

**IT IS ORDERED THAT:**

1. The Applications for Rehearing filed by Missouri Gas Energy, a division of Southern Union Company, and the Office of the Public Counsel are denied.
2. This order shall become effective on May 3, 2007
3. This case may be closed on May 4, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, and Appling, CC., concur.  
Gaw and Clayton, CC., dissent.

Jones, Senior Regulatory Law Judge