

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

In the matter of Missouri Gas Energy's)
Increasing Rates for Gas Service Provided)
To Customers in the Company's Missouri)
Service Area)

Case No. GR-2006-0422

**STAFF'S RESPONSE IN OPPOSITION TO OPC'S MOTION TO REJECT
TARIFF FILING AND MOTION FOR DIRECTED VERDICT**

COMES NOW Staff of the Missouri Public Service Commission (Staff) and respectfully submits as follows:

1. On May 1, 2006, Missouri Gas Energy (MGE) filed its Natural Gas Increase Request with the Missouri Public Service Commission (Commission).

2. On August 17, 2006, the Office of the Public Counsel (OPC) filed its Motion to Reject Tariff Filing and Motion for Directed Verdict (Motion).

3. Staff believes that a clear reading of the relevant statutes and rules show that OPC's Motion should be overruled.

4. The first question is what did MGE file in its tariffs on May 1, 2006 regarding MGE's Infrastructure System Replacement Surcharge (ISRS). Attached hereto as Attachment A is SHEET No. 10. This document shows that MGE clearly did not reset the ISRS to zero as OPC opines is required at the beginning of a rate case.

5. Staff agrees that MGE did not file tariffs resetting the ISRS to zero at the BEGINNING of the case. Staff, however, does not agree that MGE was required to file tariffs resetting the ISRS to zero at the BEGINNING of the case.

6. Section 393.1015.6(1) provides as follows:

6. (1) A gas corporation that has implemented an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall file revised rate schedules to reset the ISRS to zero when new base rates and charges become effective for the gas corporation following a commission order establishing customer rates in a general rate proceeding that incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible costs previously reflected in an ISRS.
7. Courts reviewing statutes ascertain the legislative intent from the language used and to give effect to the words based on their plain and ordinary meaning. *Johnson v. Missouri Department of Corrections*, 166 S.W.3d 110, 111 (Mo. App. 2005). The legislature is presumed to have intended what the statute says and when the legislative intent is apparent from the words used and no ambiguity exists, there is no room for statutory construction. (Id. at 112).
8. By the clear terms of this statute, MGE's obligation to file revised rate schedules to reset the ISRS to zero has not yet arisen. That specific obligation does not arise until AFTER a Commission order establishing customer rates in a general rate proceeding. Accordingly, no change in the ISRS tariff sheet is required and therefore OPC's reliance on Commission Rules such as 4 CSR 240-2.065(1) is misplaced.
9. Accordingly, MGE did not violate any legal provision by filing the tariffs that it did regarding ISRS. In fact, the ISRS remains in effect until the Commission issues its Report and Order in this case. Section 393.1015.6(1).
10. For the foregoing reasons, Staff does not agree with OPC's Motion and it should be overruled for the legal reasons set out above.

WHEREFORE, Staff respectfully submits OPC's Motion should be overruled.

Respectfully submitted,

/s/ Robert V. Franson

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or emailed to all counsel of record this 22nd day of August 2006.

/s/ Robert V. Franson

Missouri Gas Energy,
a Division of Southern Union Company

For: All Missouri Service Areas

INFRASTRUCTURE REPLACEMENT SURCHARGE (ISRS)

Description: Rate ISRS is designed to recover the costs associated with the Company's eligible infrastructure replacements in accordance with the provisions of sections 393.1009, 393.1012 and 393.1015 RSMo.

Applicability: Rate ISRS is applicable to each customer billing for service during the effectiveness of the ISRS rate element.

ISRS Rate Element: In addition to the other charges provided for in the Company's tariff, a monthly ISRS Rate Element shall be added to each bill for service on and after the effective date of the ISRS rate. The amount of the ISRS Rate Element, by customer class, is as follows:

Residential	\$0.36 per month
Small General Service	\$0.48 per month
Large General Service	\$2.86 per month
Large Volume Service	\$14.74 per month
Whiteman Air Force Base	\$14.74 per month
Intrastate Transportation Service	\$14.74 per month
CNG for use as a fuel in vehicles	\$0.48 per month

DATE OF ISSUE January 20 2006

DATE EFFECTIVE ~~February 19 2006~~

January 29, 2006

ISSUED BY Michael R. Noack

Director, Pricing and Regulatory Affairs

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GO-2006-0201

FILED
MO PSC

Attachment A