

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

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant	)	
v.	)	Case No. GT-2012-0183
	)	Tariff No. YG-2012-0261
Missouri Gas Energy, a Division of Southern Union Company,	)	
	)	
Respondent.	)	

**REPLY TO MGE’S RESPONSE OPPOSING  
PUBLIC COUNSEL’S APPLICATION FOR REHEARING**

**COMES NOW** the Office of the Public Counsel (“OPC” or “Public Counsel”) and for its Reply to the Response of Missouri Gas Energy in Opposition to Public Counsel’s Application for Rehearing, states:

1. On March 6, 2012, Southern Union Company d/b/a Missouri Gas Energy (“MGE”) filed a reply to Public Counsel’s March 4, 2012 Application for Rehearing. MGE asserts, *without reference to any statute or legal principle*, that Public Counsel waived arguments raised in its Application for Rehearing that it did not raise in Case No. GC-2011-0100.

2. Contrary to MGE’s baseless assertion, Section 386.500.1 RSMo states:

After an order or decision has been made by the commission, the public counsel or any corporation or person or public utility interested therein shall have the right to apply for a rehearing in respect to any matter determined therein, and the commission shall grant and hold such rehearing, if in its judgment sufficient reason therefor be made to appear; if a rehearing shall be granted the same shall be determined by the commission within thirty days after the same shall be finally submitted. [emphasis added].

3. The Commission's February 3, 2012 Order Approving Compliance Tariff Sheets ("Order") is "an order or decision...made by the commission" and therefore Public Counsel has "the right to apply for rehearing in respect to any matter determined therein." §386.500. All issues raised by Public Counsel in its Application for Rehearing were matters necessarily determined by the Commission in approving the tariff changes. This includes all issues raised in Public Counsel's two motions to suspend the tariff, which the Commission's Order determined it would deny, and all issues raised in the Staff's Recommendation to Reject Proposed Compliance Tariff, which the Commission also determined it would deny. While this case is related to the Complaint case, this tariff filing case stands alone with its own case number, and involves new tariff language not specifically contemplated in any other case.

4. Apparently MGE wants the Commission to ignore the important public policy points raised in Public Counsel's Application for Rehearing, including the specific examples where actual harm occurred on the downstream side of the meter - caused solely by the gas company, but where the tariff change would force that liability on consumers rather than the company that negligently caused the harm. These matters were not specifically contemplated by the Commission in Case No. GC-2011-0100, and deserve thorough consideration to ensure the Commission is making the wisest decision given the serious public policy implications at play when giving blanket immunity to a monopoly provider of a highly dangerous gas service.

5. With the Complaint case now on appeal, this case represents the Commission's last opportunity to give the proper attention to this extremely significant public policy issue. This case also presents the Commission's last opportunity to *explain*

the basis for shifting responsibility for negligent damages from the causer of that harm, the company, to the victim of that harm, the consumer.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to the Response of Missouri Gas Energy in Opposition to Public Counsel's Application for Rehearing

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 6<sup>th</sup> day of March 2012:

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**/s/ Marc Poston**

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