

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

In the Matter of the Application of Missouri Gas     )  
Energy, a division of Southern Union Company,     )     Case No. \_\_\_\_\_  
for an Accounting Authority Order Concerning     )  
Environmental Compliance Activities.             )

**APPLICATION FOR AN  
ACCOUNTING AUTHORITY ORDER**

Comes now Missouri Gas Energy, a division of Southern Union Company (“MGE” or “Company”), and for its application for an accounting authority order (“AAO”), respectfully states as follows to the Missouri Public Service Commission (“Commission”):

**SUMMARY**

This application requests an order which authorizes deferred accounting treatment for costs incurred in connection with environmental compliance activities primarily related to investigation, assessment and remediation of former manufactured gas plant sites.

**APPLICANT**

1.     Applicant is Missouri Gas Energy, a division of Southern Union Company. MGE’s principal office is located at 3420 Broadway, Kansas City, Missouri 64111.
2.     Southern Union Company is a corporation duly incorporated under the laws of the State of Delaware and conducts business in Missouri under the fictitious name of Missouri Gas Energy. A copy of a certificate from the Missouri Secretary of State that Southern Union Company is authorized to do business in Missouri as a foreign corporation was submitted in Case No. GA-2001-509 and is incorporated by reference. A copy of a certificate from the Missouri Secretary of State that Missouri Gas Energy is a registered fictitious name of Southern Union Company was submitted in Case No. GA-2001-509 and is incorporated herein by

reference. Other than cases that have been docketed at the Commission, MGE has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three (3) years that involve customer service or rates. MGE has no annual report or assessment fees that are overdue.

3. MGE conducts the business of a “gas corporation” and provides natural gas service in the Missouri counties of Andrew, Barry, Barton, Bates, Buchanan, Carroll, Cass, Cedar, Christian, Clay, Clinton, Cooper, Dade, Dekalb, Greene, Henry, Howard, Jackson, Jasper, Johnson, Lafayette, Lawrence, McDonald, Moniteau, Cedar, Pettis, Platte, Ray, Saline, Stone, and Vernon, subject to the jurisdiction of the Missouri Public Service Commission (Commission).

4. All correspondence, communications, notices, orders and decisions of the Commission with respect to this matter should be sent to the undersigned counsel and:

Mr. Michael R. Noack  
Director, Pricing and Regulatory Affairs  
Missouri Gas Energy  
3420 Broadway  
Kansas City, Missouri 64111  
Telephone: (816) 360-5560  
Facsimile: (816) 360-5536  
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#### **COMMISSION AUTHORITY**

5. The Commission, pursuant to Section 393.140, RSMo, has promulgated Commission Rule 4 CSR 240-40.040, which prescribes the use of the Uniform System of Accounts (“USOA”) adopted by the Federal Energy Regulatory Commission. The USOA provides for the deferred treatment of extraordinary costs. An application for an AAO contains a single factual issue -- whether the costs, which are asked to be deferred, are extraordinary in

nature. *In the matter of the application of Missouri Public Service*, 1 Mo.P.S.C.3d 200, 203-204 (1991). “By seeking a Commission decision [regarding the issuance of an AAO] the utility would be removing the issue of whether the item is extraordinary from the next rate case. All other issues would still remain, including, but not limited to, the prudence of any expenditures, the amount of recovery, if any, whether carrying costs should be recovered, and if there are any offsets to recovery.” *Id.*

6. The Commission has in the past issued AAO’s for costs “caused by unpredictable events, acts of government and other matters outside the control of the utility or the Commission.” *In the matter of St. Louis County Water Company’s Tariff Designed to Increase Rates*, MoPSC Case No. WR-96-263, p. 13 (December 31, 1996) (emphasis added). The Commission has further stated that it “has periodically granted AAOs and subsequent ratemaking treatment for various unusual occurrences such as flood-related costs, changes in accounting standards, and other matters which are unpredictable and cannot adequately or appropriately be addressed within normal budgeting parameters.” *Id.* at p. 14.

7. There are many examples of AAO’s based upon government actions and regulation. This includes compliance with environmental regulations such as the Clean Air Act (*In the matter of the application of Missouri Public Service*, 1 Mo.P.S.C.3d 200, 203-204 (1991)). In fact, the Commission has granted AAO’s to natural gas company’s in the past related to environmental activities. *See In the Matter of Laclede Gas Company*, Case No. GR-96-193, 5 Mo. P.S.C. 3d 108 (1996) (Laclede given authority to defer “costs incurred to comply with Environmental Protection Agency regulations and orders in connection with: (1) the investigation, assessment, removal, disposal, storage, remediation or other treatment of residues,

substances, materials and/or property that are associated with former manufactured gas operations or located on former manufactured gas sites; (2) the dismantling and/or removal of facilities formerly utilized in manufactured gas operations; (3) efforts to recover such costs from potentially responsible third parties and insurance companies; and, (4) payments received by Laclede as a result of such efforts.); *In the Matter of the Application of United Cities Gas Company, a Division of Atmos Energy Corporation, for an Accounting Authority Order Related to Investigation and Response Actions Associated with Its Former Manufactured Gas Plant Site in Hannibal, Missouri*, Accounting Authority Order, Case GA-98-464 (1999).

### **ENVIRONMENTAL COSTS**

8. The most significant environmental costs for MGE are those associated with remediation of former manufactured gas plant (MGP) sites. MGE has made MGP-related expenditures in the past and will continue to incur such costs in the future.

9. Between February 1, 1994, and June 30, 2006, MGE incurred costs of approximately \$9.9 million in connection with environmental activities, the vast majority of which pertained to former MGP sites. These were costs to investigate and/or remediate MGP-impacted soil and groundwater at the MGP sites located at 1<sup>st</sup> & Campbell (Station A) and 223 Gillis (Station B) in Kansas City, Missouri, and included, but were not limited to: records and historical maps research; excavation test trenching; installation of soil borings; installation of groundwater monitoring wells; soil and groundwater laboratory analysis; evaluation of field and laboratory data; risk evaluation; excavation and hauling of impacted soil and debris; landfill disposal; water pumping, storage, treatment and/or disposal; report preparation and submittal of completed documentation to the appropriate regulatory agencies.

10. MGE is certain to continue to incur MGP-related expenditures in the future. MGE has received proposals and is proceeding with additional investigations at and around the Station A and B MGP sites in Kansas City. This additional investigation work is being completed at the request of the Missouri Department of Natural Resources (MDNR). Upon completion of the additional investigations, a remedial action plan will be developed by MGE to address any additional soil, materials or groundwater issues at Station A and B as required by MDNR. Costs associated with the remediation activities will be known for certain only when the work is complete, but are estimated to be between \$1 million and \$10 million in order to achieve site closure on Station A and Station B.

11. MGE's St. Joseph, Missouri MGP site has been the subject of underground storage tank removal and remediation activities and, as a result, MGE has recently learned that this site will be the subject of MGP-related investigation, assessment and perhaps remediation activities in the foreseeable future. It is estimated that the cost of these investigation, assessment and remediation efforts may exceed \$1 million.

12. Other MGP sites owned by MGE/Southern Union Company in Missouri that are included on the MDNR's list of sites to investigate include East 5<sup>th</sup> Street in Joplin, Missouri and 23<sup>rd</sup> and Pleasant Street in Independence, Missouri. It is not known whether, or when, MGP investigation activities may be undertaken at these sites. However, to the extent that MGP investigation and remediation activities become necessary at these sites, amounts in excess of \$1 million may be spent on each such site in order to obtain MDNR site closure.

13. In addition, there are other MGP sites located within MGE's service territory that are not owned by MGE, but for which MGE may have some potential liability.

14. It is not possible to predict the timing and magnitude of MGP investigation at this time. Even once the investigative and remedial process has been initiated, the timing of any investigative and remedial activity at MGP sites is subject to numerous variables.

15. One of the factors that greatly influences the timing and magnitude of any investigative and remedial action is the actions of the state and/or federal environmental agencies which exercise jurisdiction over the MGP sites and regulate the investigative and remedial activities. Companies performing investigative and remedial activity submit proposals to the oversight agency for approval in each step of the investigative and remedial process. Rejection of the submittal typically revolves around the agency's desire for additional investigation or remediation activities; hence, affecting the scope of the activities and the magnitude of the associated costs. The timing of an agency response to a submittal can vary significantly ranging from a few weeks to a few years.

16. MGP sites operated up to 125 years ago and have been lying dormant and generally undetected/unnoticed for up to 100 years in some cases. The remnants of the MGPs are generally no longer visible; they have been covered over long ago and are below the ground. As such, it is impossible to ascertain the magnitude of something that cannot be seen. No one can ascertain the scope of the investigation, assessment and remediation activities -- or the magnitude of the associated costs -- until the investigation, assessment and remediation activities are conducted. Thus, there is uncertainty as to the ultimate cost of the remediation efforts.

#### **RECENT RATE CASE**

17. MGE proposed an Environmental Response Fund as a part of its most recent rate case (GR-2006-0422) that would have been designed to provide funding for the clean-up of the

identified sites. In its decision issued on March 22, 2007, effective March 30, 2007, the Commission found that the fact “[t]hat these costs are not known and measurable precludes their inclusion in rates.” Report and Order, Case No. GR-2006-0422, p. 19.

18. The fact that costs may not be known or measurable does not prohibit the issuance of an accounting authority order concerning those costs. *See In the Matter of the Application of Missouri Gas Energy*, Report and Order, Case No. GU-2005-0095 (September 8, 2005).

19. Moreover, the Commission Staff’s prefiled testimony in MGE’s last rate case suggested that one avenue that MGE might pursue in regard to these costs was the issuance of an accounting authority order. Case No. GR-2006-0422, Exh. 120, Harrison Reb., p. 7 (“ . . . if MGE’s MGP costs meet the Commission’s requirements for accounting authority orders (AAOs), MGE is free to seek a Commission AAO for these costs). This testimony also suggested that MGE could “seek recovery of [MGP costs] at an appropriate time.” *Id.* The AAO requested herein will provide a method by which MGE may seek recovery of these costs at an appropriate time.

### **RECOVERY CONSISTENT WITH POLICY**

20. Section 386.266.2, RSMo provides for the possibility of a mechanism by which a gas corporation may make “periodic adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred costs, whether capital or expense, to comply with any federal, state or local environmental law, regulation, or rule.”

21. If a utility is unable to recovery these costs as a result of an annual cap in the statute, the statute states that such costs “may be deferred . . . for recovery in a subsequent year

or in the corporation's next general rate case or complaint proceeding." Section 386.266.2, RSMo.

22. Unfortunately, while rules to implement this aspect of Section 386.266 have been discussed, they have not yet been promulgated. MGE seeks an accounting authority order to defer its environmental compliance costs until such time as they can be considered for recovery in a rate proceeding.

### **AAO**

23. Accordingly, the Company requests a Commission order granting an AAO containing the following language:

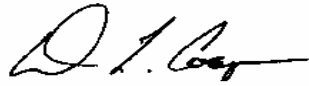
The Company is authorized to record on its books a regulatory asset, which represents its incurred costs and payments received associated with the evaluation, remedial and clean-up obligations of MGE arising out of utility-related ownership and/or operation of manufactured gas plants and sites associated with the operation and disposal activities from such gas plants. In addition to the actual remedial and clean-up costs, this regulatory asset shall also include costs of acquiring property associated with the clean up of such sites as well as litigation costs, claims, judgments, expenditures made in efforts to obtain insurance reimbursements, and settlements – including the costs of obtaining such settlements – associated with such sites. MGE may maintain this regulatory asset on its books until the effective date of the Report and Order in MGE's next general rate proceeding.

**WHEREFORE**, MGE respectfully requests that the Commission issue an Accounting Authority Order as described, and such further orders as the Commission should find reasonable



and just.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI GAS ENERGY,  
A DIVISION OF SOUTHERN UNION COMPANY

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was hand-delivered, or sent by electronic mail, on June 13, 2007, to the following:

Lera Shemwell  
Office of the General Counsel  
Governor Office Building, 8<sup>th</sup> Floor  
Jefferson City, Mo 65101

Marc Poston  
Office of the Public Counsel  
Governor Office Building, 6<sup>th</sup> Floor  
Jefferson City, MO 65101



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