

In the Matter of Missouri Gas Energy's)
Application for Waiver Concerning) Case No. _____
Commission Rule 4 CSR 240-3.235.)

Comes now Southern Union Company d/b/a Missouri Gas Energy (“MGE” or “Company”), by counsel, pursuant to 4 CSR 240-2.015, 4 CSR 240-2.060 and 4 CSR 240-3.015 and for its Application for Waiver in the captioned-proceeding, states as follows to the Missouri Public Service Commission (“Commission”).

1. MGE is a division of Southern Union Company, which is duly incorporated under the laws of the State of Delaware and conducts business in Missouri under the fictitious name of "Missouri Gas Energy." MGE's principal office and place of business is located at 3420 Broadway, Kansas City, Missouri 64111. A copy of a certificate from the Missouri Secretary of State indicating that Southern Union Company is authorized to do business in Missouri as a foreign corporation was submitted in Case No. GU-2010-0015. A copy of a certificate from the Missouri Secretary of State indicating that Missouri Gas Energy is a registered fictitious name of Southern Union Company was submitted in Case No. GU-2010-0015. Both documents are incorporated herein by reference and made a part hereof for all purposes in accordance with 4 CSR 240-060(1)(G).

2. Other than cases that have been docketed at the Commission, MGE has no pending action or final unsatisfied judgments against it from any state or federal agency or court within the past three (3) years that involve customer service. MGE has

no annual report or assessment fees that are overdue. MGE currently conducts business as a “gas corporation” and provides natural gas service to approximately 500,000 customers in the Missouri counties of Andrew, Barry, Barton, Bates, Buchanan, Carroll, Cass, Cedar, Christian, Clay, Clinton, Dade, Dekalb, Greene, Henry, Howard, Jackson, Jasper, Johnson, Lafayette, Lawrence, McDonald, Moniteau, Pettis, Platte, Ray, Saline, Stone, and Vernon, subject to the jurisdiction of the Missouri Public Service Commission as provided by law.

3. Communications in regard to this Application should be addressed to the undersigned counsel as well as to:

Todd J. Jacobs
Senior Attorney
Missouri Gas Energy
3420 Broadway
Kansas City, Missouri 64111
816-360-5560
Fax: 816-360-5903
E-mail: todd.jacobs@sug.com

Michael R. Noack
Director, Pricing and Regulatory Affairs
Missouri Gas Energy
3420 Broadway
Kansas City, Missouri 64111
816-360-5560
Fax: 816-360-5536
E-mail: mike.noack@sug.com

4. By letters dated June 29, 2005, and July 5, 2005, MGE submitted to the Staff of the Commission and to the Office of the Public Counsel a depreciation study, database and property unit catalog all in accordance with 4 CSR 240-3.275. On April 2, 2009, MGE filed with the Commission tariffs designed to implement a general rate increase, which tariff filing is the subject of Commission Case No. GR-2009-0355.

5. Commission Rule 4 CSR 240-3.235 concerns the subject of filing requirements for gas utility general rate increase requests. That rule provides, in part, as follows:

(1) In addition to the requirements of 4 CSR 240-3.030, any gas utility which submits a general rate increase request shall submit the following:

(A) Its depreciation study, database and property unit catalog. However, a gas utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database and property unit catalog from the utility... (Emphasis added).

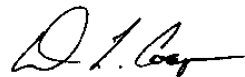
6. On April 2, 2009, when the subject rate case was initiated, five (5) years had not elapsed since the last time the Commission's Staff received from MGE a depreciation study, database and property unit catalog. Accordingly, based upon the plain, clear and unambiguous meaning of 4 CSR 240-3.235, MGE is of the opinion and belief that the Company is not required, in the context of the current general rate case proceeding, to submit to the Staff said study and materials. MGE intends to complete a new depreciation study and to submit it to the Staff, along with a database and property unit catalog, by June 2010 in accordance with 4 CSR 240-3.275. The Staff, however, has indicated to MGE that in accordance with 4 CSR 240-3.235, it believes that the Company must now submit to the Staff, in the context of Case No. GR-2009-0355, a depreciation study, database and property unit catalog based on the Staff's interpretation of that rule.

7. Given these circumstances, and to resolve this question, MGE requests that the Commission either: 1) grant the Company a waiver from the requirements of 4 CSR 240-3.235; or, alternatively, 2) issue its Order denying this application because MGE submitted a depreciation study, database and property unit catalog to the Staff in June and July 2005, and since five (5) years have not elapsed since that time and, thus, in accordance with 4 CSR 240-3.235, no such submission is required in this proceeding.

8. MGE's direct testimony in Case No. GR-2009-0355 has referenced the 2005 depreciation study in support of its limited depreciation rate recommendations. The depreciation rates proposed by MGE in the rate case do not constitute new positions on MGE's part, but rather are a continuation of positions MGE took in its last rate case, Case No. GR-2006-0422. The raw depreciation data within MGE's possession is available to Staff and any other party. Presumably, Staff, and any other party, could perform a depreciation study if they so desired. Thus, regardless of the Commission's interpretation of its regulation, no party would be prejudiced by a grant of the requested waiver. This lack of prejudice and MGE's reasonable interpretation of the subject regulation constitute good cause for a grant of the requested waiver should the Commission determine that MGE's interpretation is in error.

WHEREFORE, MGE respectfully moves the Commission to grant the relief requested in paragraph 7 supra.

Respectfully submitted,



James C. Swearngen Mo. Bar 21510
Dean L. Cooper Mo. Bar 36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
Telephone: (573) 635-7166
Facsimile: (573) 635-0427
dcooper@brydonlaw.com

ATTORNEYS FOR SOUTHERN UNION
COMPANY D/B/A MISSOURI GAS ENERGY

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 16th day of July, 2009, to:

Lera Shemwell
Missouri Public Service Commission
Governor's Office Building
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102
Lera.shemwell@psc.mo.gov

Marc Poston
Governor's Office Building
200 Madison Street
P.O. Box 7800
Jefferson City, Missouri 65102
marc.poston@ded.mo.gov

Stuart Conrad
Finnegan, Conrad & Peterson, LC
3100 Broadway, Suite 1209
Kansas City, MO 64111
stucon@fcplaw.com

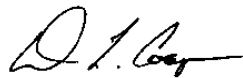
Jeremiah Finnegan
Finnegan, Conrad & Peterson, LC
3100 Broadway, Suite 1209
Kansas City, MO 64111
jfinnegan@fcplaw.com

William D. Steinmeier
William D. Steinmeier, P.C.
2031 Tower Drive
P.O. Box 104595
Jefferson City, MO 65110-4595
wds@wdspc.com

Sarah B. Callier
Shelley A. Woods
Assistant Attorney General
P.O. Box 899
Jefferson City, Missouri 65102
sarah.callier@ago.mo.gov
shelley.woods@ago.mo.gov

Charles W. Hatfield
Stinson Morrison Hecker LLP
230 West McCarty Street
Jefferson City, MO 65101
chatfield@stinson.com

Mark Comley
Newman, Comley & Ruth P.C.
P.O. Box 537
Jefferson City, MO 65102
comleym@ncrpc.com



AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF Jackson)

ss

I, Michael R. Noack, having been duly sworn upon my oath, state that I am Director of Pricing and Regulatory Affairs of Missouri Gas Energy, that I am duly authorized to make this affidavit on behalf of Missouri Gas Energy, and that the matters and things stated in the foregoing application are true and correct to the best of my information, knowledge and belief.

Michael R. Noack

Subscribed and sworn to before me this 15th day of July, 2009.

Kim W. Henzi
Notary Public

My Commission Expires:

Feb. 3, 2011

