

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy's)	
Proposed Tariff Sheets to Administer)	Case No. GT-2008-0005
Natural Gas Conservation Program.)	Tariff File No. JG-2008-0010

**SUGGESTIONS OF MISSOURI GAS ENERGY IN OPPOSITION
TO MOTION TO SUSPEND TARIFF AND MOTION
TO TAKE ADMINISTRATIVE NOTICE**

Comes now Southern Union Company d/b/a Missouri Gas Energy ("MGE") and offers the following suggestions in opposition to the Office of the Public Counsel's ("OPC") Motion to Suspend Tariff and Motion to Take Administrative Notice:

1. On July 3, 2007, MGE filed tariff sheets the stated purpose of which was to provide for the administration of the Company's residential natural gas conservation initiatives, including an energy efficient water heater rebate program. As noted in an accompanying Motion Regarding Tariff Sheets ("MGE's Motion"), the filing was in lieu of those filed by MGE on June 1, 2007 and docketed as Case No. GT-2007-0477. The proceedings in Case No. GT-2007-0477 (and the accompanying Tariff File No. YG-2007-0880) were effectively mooted on June 31, 2007, when MGE withdrew those tariffs from consideration.

Motion to Suspend Tariff

2. On July 9, 2007, OPC filed its Motion to Suspend Tariff and Motion to Take Administrative Notice in the captioned proceeding. OPC alleges, generally, that MGE filing does not provide documentation that claims are

required under the Commission's promotional practices rule and, consequently, that the tariff should be suspended until MGE has "fully complied" with the rule.

3. In addition to the reasons set forth in MGE's Motion, OPC's Motion to suspend the effective date of the tariffs (currently August 3, 2007) should be denied because that requested effective date is several days beyond the date to which the original tariff filing in Case No. GT-2007-0477 was suspended by the Commission (i.e., July 31, 2007).¹ OPC has provided no justification for suspending the tariffs in this case beyond the date originally contemplated by the Commission particularly in light of the fact the a prehearing conference concerning this case was convened on July 10, 2007.

Motion To Take Administrative Notice

4. OPC also has requested that the Commission take administrative notice of a number of pleadings (and associated responses) filed in Case No. GT-2007-0477 including, without limitation, an Affidavit of OPC's Chief Energy Economist, Ryan Kind. This request should be denied. In Case No. GT-2007-0477, MGE filed an objection to the Kind Affidavit in accordance with the provisions of §536.070(12) RSMo 2000. It would be in error to take administrative notice of an Affidavit (and any associated pleading) with respect to which a party has timely objected under the terms of the Missouri Administrative Procedure Act. Also, it is problematic at best for a party to attempt to create an evidentiary record in one case merely by cross-referencing an affidavit filed in an entirely different case. In any event, MGE believes its objection to the Kind Affidavit in Case No. GT-2007-0477 is solidly grounded in applicable law and that

¹ See Order Suspending Tariff, June 26, 2007, Paragraph ORDERED 1.

OPC's request to take administrative notice of that Affidavit in this case is an effort to circumvent that objection in violation of the Commission's rules which specifically incorporate the applicable provisions of the Missouri Administrative Procedure Act. See, 4 CSR 240-2.130(1)

WHEREFORE, MGE requests that the Commission deny OPC's Motion to Suspend Tariff and Motion to Take Administrative Notice in the above-referenced case for the reasons aforesaid.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was electronically transmitted, sent by U.S. Mail, postage prepaid, or hand-delivered, on this 16th day of July, 2007, to:

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