

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

In the Matter of the Application of Missouri Gas Energy, a division of Laclede Gas Company, for Approval to Change its Infrastructure System Replacement Surcharge.) Case No. GO-2014-0179)

MGE'S RESPONSE TO OPC'S MOTION TO REJECT APPLICATION

COMES NOW Missouri Gas Energy ("MGE"), a division of Laclede Gas Company, and in response to the Office of Public Counsel's ("OPC") Motion to Reject Application, states:

1. Introduction.

a. On December 6, 2013, MGE filed an application to adjust its Infrastructure System Replacement Surcharge (ISRS) ("MGE's December ISRS Filing").

b. On December 18, 2013, OPC filed a Motion to Reject Application in which OPC asserts that MGE did not meet certain minimum filing requirements for ISRS applications.

c. On December 28, 2013, Staff of the Public Service Commission ("Staff") and MGE filed a Joint Motion for Extension of Time, which the Commission granted by extending the reply deadline to January 3rd, 2014.

d. The minimum filing requirements for a natural gas utility seeking to establish, change, or reconcile an ISRS are contained in Commission Rule 4 CSR 240-3.265(20)(A) - (L). In its Motion to Reject Application, OPC asserts that MGE did not comply with certain provisions of Commission Rules 4 CSR 240-3.265(20)(K) and (L).

e. MGE's December ISRS Filing met the necessary minimum filing requirements. MGE's filing contains the same level of detail, in all material respects, that MGE has provided in its twelve previous ISRS applications submitted since 2004. MGE's filing serves as a sufficient basis for any party – including the OPC – to understand the basis for its request, provides

references to the categories required by the rules, and provides a sufficient basis for any party to further audit MGE's request for ISRS treatment of qualified projects. The difference of opinion here seems to be what level of detail is required and where that detail should appear. OPC does not provide a sufficient reason to reject MGE's December ISRS filing and should be denied.

f. Attachment A is the Affidavit of Mike Noack, the Senior Director of Pricing and Regulatory Affairs at MGE. In his Affidavit, Mr. Noack describes MGE's December ISRS Filing, provides some detail on what information is contained in the filing, how he categorizes costs, and how MGE structures its ISRS filings to make them consistent with the minimum filing requirements.

2. MGE Identified How its Projects Were ISRS-Eligible in its Application.

a. Commission Rule 4 CSR 240-3.265(20)(K) ("Subsection 20(K)") requires that any ISRS application contain the following information:

For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

The categories of expense include:

- (1) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements;
- (2) Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state or federal safety requirements;
- (3) Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, state of Missouri, a political subdivision of Missouri, or any entity having the power of eminent domain; (See Subsection (20)(K)(1)-(8)).

b. In its Motion to Reject Application, OPC asserts that MGE did not identify “which of the three categories qualifies each investment for ISRS recovery.” In fact, MGE’s December ISRS Filing specifically references Subsection (20)(K), noting (on p. 5, paragraph 9) that the ISRS replacements listed in the appendices were eligible under that rule. As required by Subsection (20)(K), MGE’s December ISRS filing further provides “breakdown of those costs identifying which of the ...project categories apply and the specific requirements being satisfied by the infrastructure replacements for each... .” (See Appendix A, Page 1 of MGE’s December ISRS Filing). The “project categories” found on Page 1 of Appendix A of MGE’s December ISRS Filing include:

- Public Improvements (“facilities relocations” under the rule)(See Subsection (20)(K)(5)-(8))
- “SLRP” or Service Line Replacement Program work required by the Commission’s Order in Case No. GO-2002-0048 (pipeline component replacement to comply with state and federal safety regulations, in this case stemming from a Commission order)(See also Subsections (20)(K)(1)-(4))
- Blanket Work Orders - Service Line Replacements, (pipeline component replacement to comply with state and federal safety regulations)(See Subsection (20)(K)(1)-(4))
- Blanket Work Orders - Encapsulation and Services (encapsulation, relining, and service line insertion projects designed to comply with safety regulations) (See Subsection (20)(K)(1)-(4)) and
- Blanket Work Orders - Meter and Regulator Settings (pipeline component replacement to comply with state and federal safety regulations)(See Subsection (20)(K)(1)-(4)).

c. For each category of costs, as required by Subsection (20)(K), MGE details the cost of removal, original cost, depreciation expense, or retirement costs for all of the projects in each category. (See Appendix A of MGE's December ISRS Filing).

d. Also in accordance with the requirements of Subsection (20)(K), Appendices B, C, and D of MGE's December ISRS Filing contain descriptions of each ISRS-eligible project, detailing when the projects were completed, when they became used and useful; the net original cost, costs eligible for recovery and a breakdown of those costs; as well as a high-level description of the projects. Individual work orders are identified in those appendices so that, as discussed in Appendix A, further detail may be found in each individual work order packet.

e. As MGE understands OPC's argument, OPC's issue relates to the rule's requirement to provide "a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each...". While MGE has provided descriptions of amounts sought "for each category," (See Appendix A, Page 1 of MGE's December ISRS Filing) and descriptions of individual work orders in Appendices B-D of MGE's December ISRS filing, OPC argues that "for each" requires detail on how each project or work order fits into the broad categories.

f. The phrase "for each" in the rule is followed by a colon, which is followed by a listing of categories that are ISRS-eligible. MGE has interpreted "for each" to require a tie-in of costs in "each category," which is consistent with MGE's table on Appendix A, Page 1 of MGE's December ISRS Filing (See paragraph 8 of Mr. Noack's Affidavit). MGE has not interpreted "for each" to require an additional rule reference to each individual project. (Id.) In part, this effort appears duplicative, since the categories are described in Appendix A of MGE's December ISRS Filing, the project listings in Appendix B-D provide high-level descriptions, the work orders contain detailed information, and therefore the applicability of the projects to the rule should be evident when looking at the information as a whole. (Id.)

g. The Commission addressed a similar issue in its Report and Order in a Liberty Utilities ISRS filing in GO-2014-0006 ("Liberty Utilities ISRS Order"). In that Order, the Commission noted that the filing "provided detailed information through headings and project descriptions," that the "project descriptions in the work orders and costs included in the project sub-ledger were detailed enough to understand the activities and costs incurred for each job." (See the Liberty Utilities ISRS Order, p. 11). MGE respectfully submits that the information it has provided in its December ISRS Filing provides sufficient detail for OPC or any other party to review its application. As noted in Mr. Noack's affidavit, the underlying work order, which may be made available to OPC, provides even more detailed information should OPC ever desire to audit MGE's ISRS submissions.

h. MGE has provided description of its ISRS projects in the materially same manner since 2004 without objection from OPC. (See Mr. Noack's Affidavit at paras. 4 and 11). MGE's description of its ISRS-eligible projects is a reasonable interpretation and application of the rule. As such, there is no basis for OPC's request to reject MGE's December ISRS application.

3. MGE Complied with Statutory and Other Requirements in Its Filing.

a. Subsection 20(L) specifies that:

For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the project are still to be completed; and the beginning and planned end date of the project.

b. OPC focuses on one clause in this subsection, arguing that MGE failed to provide a citation to the statute, commission order, rule, or regulation (if any) requiring the project. OPC asserts that references to statute, commission order, rule, or regulation (if any) are also required in Subsection 20(L).

c. The Commission considered a similar issue in its Liberty Utilities ISRS Order. In that order, the Commission found that a utility must provide “a citation to a statute, order or rule ... only in those situations where a particular project is specifically mandated by law.” (p. 11, emphasis added). The Commission further noted that OPC’s concerns were rendered moot because Liberty updated its petition by adding references, noting that “assuming for the sake of argument that the Petition was deficient when originally filed, that deficiency was cured by Liberty.” (Id.)

d. MGE has cited a “particular project” “specifically mandated by law” in its December ISRS Filing. Specifically, MGE notes that certain of its ISRS-eligible projects were service line replacements, which were specifically required by Commission Order in No. GO-2002-0048. MGE has construed the requirement to list a “particular project” “specifically mandated by law” from the Commission’s Liberty Utilities order as a narrow directive which only requires citations on specific projects that are mandated by a specific legal requirement (such as the service line replacement program required by Commission order) as opposed to a requirement to provide general citations to safety statutes or regulations for each individual ISRS-eligible work order. Even facility relocations required by state, federal, or local jurisdictions are matters of general applicability – the specific requirement for relocations are found broadly in franchise agreements, case law, statute, or by directive of the local jurisdiction on a particular project. Detail on the specific directive may be found in each work order, which are, at times, voluminous.

e. Section 393.130.1 RSMO provides a clear Missouri state safety requirement by requiring every gas corporation to provide “safe and adequate” service. As part to that broad mandate, MGE is required to follow the Commission’s gas safety rules, which are in turn derived from federal safety rules. OPC’s assertion that MGE must identify rules for every project appears to be inconsistent with the Commission’s findings in the Liberty Utilities ISRS order, which appears more narrowly focused. Further, such specific references are a significant

departure from how MGE has drafted each ISRS application prior to this one, which contain the same level of detail that exists here.

4. **Conclusion.**

a. MGE respectfully suggests that its December ISRS Filing complied with the Commission Rules 4 CSR 240-3.265(20)(K) and (L), was materially consistent with its previous ISRS filings, and was consistent with the Commission's decision in the Liberty Utilities ISRS Order. MGE has made a good faith effort to comply with the rules.

b. OPC does not offer a sufficient reason – policy or otherwise – as to why MGE's application should be denied. Consistent with the requirements of 3.265(20)(K) and (L), MGE provided a great deal of information on its ISRS eligible projects. If OPC desires to see more information on any particular project, it has been, and is, free to seek such information through a data request.

c. The Commission has a sufficient basis to deny OPC's Motion to Reject Application in that MGE complied in all material respects with the rule and recent Commission order.

WHEREFORE, MGE respectfully requests that the Commission deny OPC's Motion to Reject Application.

Respectfully Submitted,



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

In the Matter of the Application of Missouri Gas) Case No. GO-2014-00179
Energy, a division of Laclede Gas Company, for)
Approval to Change its Infrastructure System)
Replacement Surcharge.)

AFFIDAVIT

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

Michael R. Noack, of lawful age, being first duly sworn, deposes and states:

1. My name is Michael R. Noack. My business address is 3420 Broadway, Kansas City, Missouri 64111. I am employed as the Senior Director of Pricing and Regulatory Affairs for Missouri Gas Energy, a division of Laclede Gas Company (“MGE” or “Company”). I have been employed at MGE and its predecessor company since 2000.

2. I have been primarily responsible for each of MGE’s Infrastructure Replacement Surcharge (“ISRS”) applications since the Company’s first such filing in 2004. Accordingly, I am familiar with the information that MGE has provided in each of its ISRS filings.

3. MGE filed a Verified Application and Petition of MGE to Change Its ISRS on December 6, 2013 (“MGE’s December ISRS Filing”). The Office of Public Counsel (“OPC”) filed a motion to reject MGE’s December ISRS Filing, stating that it did not meet certain minimum filing requirements found in Commission Rule 4 CSR 240-3.265(20).

4. MGE’s December ISRS Filing is consistent with every other ISRS filing that the Company has submitted since the ISRS statute first became effective in 2003. In other words, MGE has provided materially the same information in each previous ISRS filing that it has provided in this one. This is the first time that the OPC – or any party, to my knowledge – has objected to the sufficiency of the project descriptions or requirement citations found in the minimum filing requirements.

5. The type of information that MGE provides to support its minimum filing requirements are, of course, described in some detail in MGE’s December ISRS Filing. Appendix A of the filing provides a Summary of Plant Additions, and breaks down costs between Public Improvements, the Service Line Replacement Program required by the Commission’s Order in Case No. GO-2002-0048, Blanket Work Orders - Service Line

Replacements, Blanket Work Orders - Encapsulation and Services, and Blanket Work Orders - Meter and Regulator Settings. Appendices B, C, and D further describe the ISRS projects, detailing when the projects were completed, when they became used and useful; the net original cost, costs eligible for recovery and a breakdown of those costs; as well as a description of the projects. The Application itself explains the legal and factual basis for the request and further describes the minimum filing requirements.

6. Appendices B, C, and D are high-level descriptions of MGE's ISRS projects and are intended, from a regulatory standpoint, to address certain of the Commission's minimum filing requirements. From a practical standpoint, the descriptions are intended to provide sufficient detail to serve as a basis for identification and description as an ISRS-eligible project, and then to provide a basis for further audit by any interested party. The detail for each ISRS project is contained in each individual work order packet. The documents from each work order packet are not submitted with the ISRS filing because of the sheer volume of the information, which would be several hundred - to thousands- of documents in each case. The work order packets contain detailed descriptions of the projects, the reason for the project, and detailed costs.

7. Work order packets are created by field operations personnel. I work with field operations and accounting personnel to ensure that they are trained to identify what projects are eligible for inclusion in an ISRS filing. Specifically, they understand the broad parameters of ISRS eligibility, in that eligible gas utility plant projects are either a) mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition; or b) main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; or c) unreimbursed infrastructure facility relocations due to the construction or improvement of a highway, road, street, public way or other public work required by or on behalf of the United States, the State of Missouri, a political subdivision of the State of Missouri, or another entity having the power of eminent domain. I also ensure that field operations and accounting personnel are trained to understand that ISRS-eligible gas utility plant projects a) did not increase revenues by directly connecting to new customers; b) currently are in service and are used and useful; c) were not included in MGE's rate base in its most recent rate case; and d) replaced and/or extended the useful life of existing infrastructure. Appendices B, C, and D are intended to highlight how the projects fit into these requirements.

8. In preparing an ISRS application, in conjunction with legal counsel, I review the Commission's minimum filing requirements found in Rule 4 CSR 240-3.265(20)(A) - (L) to ensure that our filing meets those requirements. I have reviewed OPC's Motion to Reject Application, which asserts that MGE did not provide information on the category of expense each project fits into to make it ISRS-eligible. MGE provided that information in Appendix A to the application. I have never read Rule 4 CSR 240-3.265(20)(K) to require a natural gas utility to tie the specific requirements

met for each individual project, as that information should be apparent on its face. In other words, if a project is described as infrastructure facility relocation or a service line replacement, I have never deemed it necessary to identify how each project fits under the ISRS statute, as it should be apparent from the description. As described above, Appendix A of MGE's ISRS filing provides detail on broad categories of replacements, and break down costs between public improvements, service line replacement programs, encapsulation and services, and equipment replacements. Further detail is provided in the work order packets and is routinely made available to Staff in its regular audits of our ISRS filings. That same information can be made available to OPC should it ever request an audit. I have prepared and submitted MGE's ISRS filings in all of the same material respects since 2004.

9. In its previous ISRS applications, MGE has not provided citations to each individual work order to a statute, commission order, rule, or regulation (if any) requiring a project. I have never interpreted 4 CSR 240-3.265(20)(L) to require citations for each separate project. The projects are generally described in the application by broad categories (found in Appendix A), and the projects are individually described in the application (found in Appendices B-D) and then described in full detail for each work order within the work order packet. Work order packets are not filed due to the volume of the material. The level of detail that MGE has provided in its ISRS applications has not been questioned prior to this filing.

10. The Staff of the Public Service Commission ("Staff") has audited each of MGE's prior ISRS applications. In previous cases, Staff auditors submit data requests, interview Company personnel, conduct audits of work order packets, and review data contained in MGE's databases. Staff auditors have routinely requested either a percentage of work order packets or all work order packets over a certain dollar amount for more detailed review.

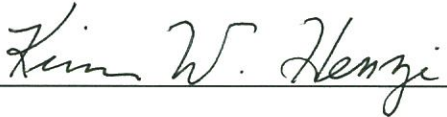
11. I recently reviewed MGE's records of its prior ISRS proceedings. I found no record that OPC has submitted a data request in any of those cases. OPC has never, to the best of my recollection, requested a review of work orders or other information in any of MGE's prior ISRS filings. OPC has requested a review of ISRS-related work orders in MGE's pending rate case, which is the first such request that I can recall by OPC. This is the 13th ISRS that MGE has filed with the Commission. To the best of my recollection, the OPC has never previously questioned the sufficiency of the information that MGE has provided in ISRS filings.

12. I hereby swear and affirm that the information contained in this affidavit are true and correct to the best of my knowledge and belief.

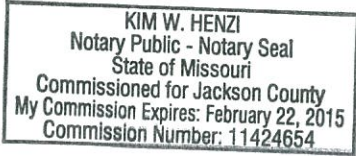


Michael R. Noack

Subscribed and sworn to before me this 3rd day of January, 2014.

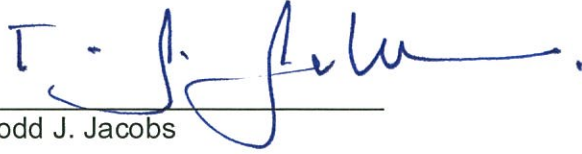


Notary Public



Certificate of Service

I hereby certify that copies of the above and foregoing document were sent by electronic mail on this 3rd day of January, 2014, to counsel of record.

A handwritten signature in blue ink, appearing to read "T. J. Jacobs", is written over a horizontal line.

Todd J. Jacobs