

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

In the Matter of the Application of Missouri Gas Energy,)
a Division of Southern Union Company, for a Certificate)
of Public Convenience and Necessity Authorizing it to)
Construct, Install, Own, Operate, Control, Manager and) Case No. GA-2007-0289
Maintain a Natural Gas Distribution System to Provide)
Gas Service in Platte County, Missouri, as an Expansion)
Of its Existing Certified Area)

MISSOURI GAS ENERGY'S STATEMENT OF POSITION

COMES NOW Missouri Gas Energy (MGE) and for its Statement of Position states as follows:

1. Who has a certificate of convenience and necessity (CCN) to serve T52N, R35W sections 1, 2, 3, 10, 11, and 12 and T52N, R34W sections 4, 5 and 6, all in Platte County, Missouri?

RESPONSE: On May 14, 1997 the Commission approved MGE's tariff which included the above sections as part of MGE's index of certificated areas. MGE made the tariff filing in response to a Commission order. In Case No. GA-96-130 the Commission found that the extent and boundaries of MGE's service area were uncertain and ordered Staff and MGE to cooperate in preparing and filing a tariff settling out the plat and legal description of the MGE service area and cancelling all prior certificates. MGE and Staff reviewed dozens of Commission orders and facilities maps to make this tariff filing. At the time of the tariff filing, MGE was serving customers that it had inherited from its predecessor (Gas Service) in sections 10 and 12.

A tariff that has been approved becomes Missouri law, with the same force and effect as a statute directly prescribed by the legislature. In 2006 the developer of the Seven Bridges subdivision asked MGE provide service in sections 11 and 12. Because its tariff indicated that sections 11 and 12 was in its service territory, MGE had a legal obligation to provide service

pursuant to the developer's request. MGE's provision of service in sections 10, 11 and 12 was not hidden from EDG or its predecessor, Aquila. Yet neither utility has filed a complaint with the Commission alleging that MGE's tariff, insofar as it describes MGE's certificated areas including sections 11 and 12 (T52N, R35W, where Seven Bridges subdivision is situated in part) as well as other sections (i.e., sections 1, 2, 3, and 10 of T52N, R35W and sections 4,5 and 6 of T52N, R34W) is unlawful or unreasonable or otherwise seeking to stop MGE's actions..

2. Should Missouri Gas Energy (MGE) be granted a CCN to serve T52N, R35W sections 13 and 14 in Platte County, Missouri?

RESPONSE: Yes. As explained in the testimony of MGE witness Michael Noack, MGE meets the Commission's requirements for issuance of a CCN. There is a need for service demonstrated by the fact that MGE was asked by the developer of Seven Bridges to provide service. The Seven Bridges subdivision encompasses sections 11, 12, 13 and 14 in Platte County. MGE is already providing service in Missouri and therefore has the technical, managerial and financial qualifications to provide service in sections 13 and 14. The extension of facilities in sections 13 and 14 is economically feasible as it provides margin to MGE. The public interest test is also met since MGE is already serving the portions of the Seven Bridges subdivision in sections 11 and 12 and granting MGE authority to serve sections 13 and 14 would ensure that the entire subdivision is served by one provider.

3. Should Empire District Gas (EDG) be granted a CCN to serve T52N, R35W sections 13, 14, 15, 22, 23 and 24, in Platte County, Missouri?

RESPONSE: No. As far as sections 15, 22, 23 and 24 there has been no showing by Empire that a request for gas service has been made in these sections and therefore there is no need for the Commission to grant a CCN for those sections. Regarding 13 and 14, the only request for service has come from the developer of the Seven Bridges subdivision. MGE has

already responded to that request and already provides safe and adequate service in the adjoining section 12. Granting EDG a CCN would result in the duplication of services and is not in the public interest.

4. Has the Commission granted MGE a CCN authorizing MGE to provide natural gas service for Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Township 52 North, Range 35 West; Sections 1, 2, 3, 4, 5 and 6 of Township 52 North, Range 34 West; Sections 1 and 12 of Township 52 North, Range 36 West; and Sections 4, 5 and 6 of Township 52 North, Range 33 West, all in Platte County, Missouri? If the Commission has not granted MGE a CCN authorizing MGE to provide natural gas service in these Sections of land, authorizing MGE to provide natural gas service in these Sections of land, should the Commission order MGE to correct the service territory descriptions in its existing tariffs by excluding references to these Sections?

RESPONSE: MGE believes that this issue is beyond the scope of this proceeding as this issue was not raised in MGE's application nor were many of the sections above mentioned in Empire's application. However, if the Commission wishes to address this issue and decides that MGE does not have authority, MGE will revise its tariffs to reflect that all of the above sections except sections 10, 11 and 12 of Township 52 North, Range 35 West are not part of its certificated area. For sections 10, 11 and 12 MGE has already undertaken the responsibilities, pursuant to its tariff, of a public utility and should be allowed to serve those areas in sections 10, 11 and 12 where it serves existing customers and that are needed to serve the Seven Bridges subdivision. EDG and its predecessor Aquila knew of MGE's operations in these sections and did not file a complaint with the Commission to stop MGE's actions.

5. Has MGE constructed, installed, owned, operated, controlled, managed and/or maintained natural gas distribution facilities (gas plant) and/or provided natural gas service without first obtaining the required authorization from the Commission in Sections 10, 11, 12, 13 and 14 of Township 52 North, Range 35 West, in Platte County, Missouri? If so, what remedy(ies) or relief should the Commission order?

RESPONSE: MGE's predecessor (Gas Service) began serving customers in sections 10 and 12 as early 1960 and MGE continued to serve those customers when it purchased Gas

Service in 1993. The Commission authorized the transfer of all Gas Service customers to MGE when it approved the purchase. As explained in response to earlier issues, MGE's Commission approved tariff had the effect of law and gave MGE the authority to serve in sections 10, 11 and 12. Because the Seven Bridges subdivision encompasses several sections and there are no boundary markers between the sections, MGE inadvertently built facilities approximately 1,200 feet into sections 13 and 14. After it realized that construction activities had taken place in an area not approved by the Commission as MGE service territory, MGE filed this application to become certified in these sections. MGE should not be penalized for this inadvertent mistake.

6. Should the Commission order MGE to formally provide notice to EDG of any future contact MGE has with developers in areas adjacent to the Empire service area boundaries in Platte County so that Empire can determine where and when future development is occurring along its boundaries?

RESPONSE: MGE does not believe this is a valid issue for this proceeding. It was not raised in EDG's application, nor is there a need for such an order as MGE has only served in areas pursuant to its Commission approved tariff.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was emailed to counsel of record this 16th day of October, 2007.

/s/ Roger W. Steiner