

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2011-0100
)	
Missouri Gas Energy, a Division of Southern Union Company)	
)	
)	
Respondent.)	

MOTION TO STRIKE STAFF'S REPLY

COMES NOW Respondent Missouri Gas Energy ("MGE") and moves that the Commission strike Staff's Reply as an unauthorized pleading under Commission rule 4 CSR 240-2.070. In support thereof, MGE states as follows:

1. In response to a Complaint filed by Staff that commenced the captioned matter, MGE filed an Answer on November 12, 2010, all as contemplated by Commission rule 4 CSR 240-2.070 ("Complaints").

2. Thereafter on November 17, 2010, Staff filed a so-called "Reply" to MGE's Answer purporting to respond to a number of affirmative defenses contained in MGE's Answer.

3. Staff's Reply should be stricken as an inappropriate and unauthorized pleading. The Commission's rule 4 CSR 240-2.070 provides for the filing of formal complaints (subsections (3) through (7)) and the filing of an

answer (subsections (8) and (9)). The rule has no provision for the filing of a “Reply” to a Respondent’s Answer.

4. The “Reply” requests no relief with respect to the affirmative defenses that are addressed therein and is, consequently, nothing more than a prehearing brief on the issues raised by the affirmative defenses. Commission rule 4 CSR 240-2.140 addresses the filing of briefs as follows:

(1) The Commission or presiding officer shall determine whether the parties may file briefs or present oral argument or both in any case. (emphasis added).

The filing of a brief is not a matter of right. It is, rather, permissive only. Neither the Commission or the presiding officer has authorized the filing of legal briefs at this stage of the case. Consequently, the “Reply” is not a permitted filing. Additionally, the filing of a legal brief at this stage of the case, before any evidence has been received, is premature and prejudicial.

WHEREFORE, Staff’s Reply to MGE’s Answer should be stricken for the reasons aforesaid.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission to all counsel of record on this 29th day of November, 2010.

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