

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

In the Matter of Southern Union Company)	
d/b/a Missouri Gas Energy's Tariff Sheets)	
Designed to Implement an Experimental)	Case No. GT-2012-0170
Pilot Program to Assist Rebuilding in the)	
Area of Joplin, Missouri)	

**MISSOURI GAS ENERGY'S RESPONSE IN OPPOSITION TO THE OFFICE
OF THE PUBLIC COUNSEL'S MOTION TO SUSPEND TARIFF**

Comes now Southern Union Company d/b/a Missouri Gas Energy ("MGE") and for its response in opposition to the motion to suspend tariff filed by the Office of the Public Counsel ("OPC") herein on November 30, 2011, respectfully states the following:

Introduction

1. As indicated in the cover letter accompanying this tariff sheet filing, MGE has proposed its Rebuild Joplin Program, an experimental pilot consisting of enhanced energy efficiency incentives for residential and small general service customers and Energy Star New Homes program ("ESNH") all for the Joplin region, on account of the devastation wrought by the May 22, 2011, tornado and the intensive construction activity that will ensue. MGE's Rebuild Joplin Program, for which three of the four members of MGE's energy efficiency collaborative ("EEC") voted in favor, was submitted for Commission approval only after extensive discussion among the EEC which led to substantial revision and refinement. As filed, MGE's Rebuild Joplin Program strikes an appropriate balance between the interests of all of MGE's customers both inside and outside the Joplin area.

2. Remarkably, in its Motion to Suspend Tariff, OPC fails to mention even once the tornado which struck and devastated Joplin on May 22, 2011. OPC's blindness to the destruction visited upon Joplin by this tragedy leads it to conclude that enhanced energy efficiency incentives for the Joplin area would violate 4 CSR 240-14.030(2), and

sections 393.130(2), 393.130(3) and 393.140(11) because participating customers in Newton and Jasper counties would receive higher incentives than customers in the rest of MGE's service territory. In response, MGE would simply state that the regulations and statutes OPC cites do not absolutely bar differential treatment of customers. Rather, those provisions prohibit differential treatment of customers that is unreasonable or undue. In this instance, the damage caused by the tornado and the subsequent reconstruction activities in Joplin provide a sufficient, reasonable and due basis for treating participating customers in the Joplin area differently for the time- and money-limited duration of the experimental pilot program (i.e., the program will end on the sooner of December 31, 2012 or when \$1 million has been spent, although the \$1 million dollar limit may be re-visited by the EEC and the Commission).

3. OPC's opposition to the Rebuild Joplin Program also oddly fails to focus on the consumer benefit of energy efficiency programs and the point of having these programs in the first place. These programs are designed to "generat[e] direct cost savings to natural gas customers, which will be reflected in rates."¹ The programs have both a societal and consumer benefit, in that they are "designed to encourage more effective utilization of natural gas by encouraging energy efficiency improvements through the replacement of less efficient natural gas equipment with high efficiency Energy Star qualified natural gas equipment and other high efficiency equipment and measures."² These programs permit consumers to afford more energy efficient appliances, reduce upfront appliance costs, reduce energy use, and thereby reduce energy bills. Here, there is an opportunity to use these goals in a unique way to further transform the market. In this instance, OPC seems to "not see the forest for the trees." As a consumer advocate, OPC has placed itself in the unique position of opposing a

¹ Report and Order, Case No. GR-2009-0355, In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service, February 10, 2010, p. 56.

² Id. at p. 55.

utility's efforts to put in place energy efficiency programs that benefit consumers that OPC purports to represent.

Argument

4. OPC levels a host of other objections at MGE's Rebuild Joplin Program. MGE will address each of these OPC objections in turn.

A. System-wide Tiered Rebates Alone are Not Adequate. Taking OPC's Motion to Suspend at face value might lead one to believe that the enhanced energy efficiency incentives proposed in MGE's Rebuild Joplin Program are "two to three times as high as the rebates that were available to the rest of MGE's customers."³ This is not accurate, however, because four rebate levels (for tank water heaters .62 to less than .67 EF, for tank water heaters .67 to less than .80 EF, for combination furnace/water heater that meets Energy Star criteria and for programmable thermostats) are *exactly the same* in both the system-wide tiered rebate filing and MGE's Rebuild Joplin Program while the remaining four rebate levels in MGE's Rebuild Joplin Program are twice as high as in the system-wide tiered rebate filing.⁴ The entire point of the Rebuild Joplin Program is to specifically target an area devastated by a natural disaster and that is now in the midst of massive rebuilding. It is perfectly appropriate for the Commission to permit a targeted program specifically designed for that area.⁵ These tariffs have the potential to transform the market, which is precisely what MGE's energy efficiency programs are designed in part to do. Further, the Rebuild Joplin Program also provides the EEC and the Commission the ability to see how tiered rebates and targeted rebates

³ OPC Motion to Suspend, paragraph 5, p. 3

⁴ See MGE's cover letter filed November 9, 2011, p. 2

⁵ By way of comparison, Alagasco offered enhanced energy efficiency incentives to the victims of the April 27th 2011 tornadoes in Alabama in which water heater incentives were increased from \$200 to \$800 and heating systems increased from \$100 to \$1,200.

in Joplin meet the Utility Cost Test, Total Resource Cost test, or other cost effectiveness measures. MGE has concerns that the Total Resource Cost test is not the appropriate cost effectiveness measure and the experimental pilot basis of this program will allow MGE, the EEC, and the Commission the opportunity to assess the Utility Cost Test as well.

B. Higher Incentive Levels are Appropriate for Joplin. OPC's argues that there is "no evidence to suggest that the higher rebate levels proposed for a limited portion of MGE's service territory in the Joplin area will result in the purchase of a greater number of energy efficient appliances."⁶ To state the obvious, the entire purpose of an energy efficiency incentive program is to motivate consumers to purchase and install energy efficient appliances. Common sense would dictate that higher incentive amounts would provide further motivation. Anecdotally, heating and cooling contractors have indicated that higher incentives serve to move the market toward greater energy efficient appliances, particularly with respect to the higher efficiency units. From the Commission's perspective, the fact that this program is forecast to be cost effective, is of limited duration, and is classified as an experimental pilot program should provide a sound legal and policy basis to permit these tariffs to go into effect on December 9th without the need for a procedural schedule or an evidentiary hearing.

C. The Low Cost of Natural Gas is a Benefit, Not an Obstacle. OPC's opposition to MGE's Rebuild Joplin Program based on the current low cost of natural gas⁷ is unfortunate and short-sighted. Low natural gas prices should be viewed as a benefit to consumers, rather than an obstacle to energy efficiency programs, as OPC would seem to suggest. Under any current natural gas rate design, including the Straight Fixed

⁶ OPC Motion to Suspend Tariff, p. 6.

⁷ OPC Motion to Suspend, paragraph 10.c., pp. 6-7

Variable rate design, the largest component of a customer's bill is the cost of natural gas.⁸ Any effort to reduce energy use (and accordingly, the largest portion of customer bills regardless of the current price of natural gas) should, of course, be viewed as beneficial to consumers. This aim is, as noted above, one of the main purposes of MGE's energy efficiency program. MGE agrees that natural gas prices are currently low, that relatively low natural gas prices are likely to remain available for an indeterminate period of time and that low natural gas prices are good for both MGE's customers and MGE. It is unreasonable, however, to use currently prevailing low natural gas prices to block energy efficiency efforts that will conserve scarce resources and benefit customers over the long haul. History has proven that natural gas prices can swing wildly and unpredictably. It is a virtual certainty that the current low-price regime will not last forever. The homes and businesses to be rebuilt in the aftermath of the Joplin tornado will stand for decades and the appliances to be installed in those structures will last 10 – 20 years. It would be a shame to miss this opportunity to provide incentives that are likely to spur the widespread and intensive installation of high-efficiency appliances. Further, the reduction of natural gas use continues to serve the Commission's stated goal to strive to reduce the wholesale price of natural gas.⁹

D. There is Adequate Program Funding. OPC also suggests, without any substantiation, that the \$1 million cap on Rebuild Joplin Program expenditures may have the effect of "depleting funds available for non-Joplin customers . . .".¹⁰ This suggestion is baseless. The most MGE has expended on energy efficiency programs in any one

⁸ See Report and Order in GR-2009-0355, p. 60, in which the Commission, in discussing the appropriate level of energy efficiency funding, noted that they wanted funding that would allow "MGE [to] implement a slate of cost effective energy efficiency programs considered to be significant in size and sufficient to help customers reduce the most substantial component of their monthly utility bill."

⁹ Report and Order, GR-2009-0355, p. 57. The Commission recognized that "MGE alone cannot have a significant impact on wholesale prices through its energy efficiency programs. But MGE can and should contribute in a more meaningful way toward a regional reduction in natural gas consumption." *Id.* at p. 58.

¹⁰ OPC Motion, paragraph 10.b. on p. 6.

year is \$2.5 million, the forecast amount for 2011. The target expenditure level for MGE, according to the Commission's Report and Order in Case No. GR-2009-0355 is 0.5% of gross annual revenues, approximately \$4 million/year.¹¹ So, even if expenditures under the Rebuild Joplin Program reach the \$1 million cap prior to the end of 2012, non-Joplin expenditures would need to exceed \$3 million for MGE to approach the target. Given current circumstances, MGE does not believe this scenario is at all likely. This OPC concern provides no basis whatsoever for the Commission to suspend MGE's Rebuild Joplin Program tariff sheet filing.

E. Incentives Specifically for Natural Gas Appliances Have Been Authorized by the Commission. The Commission has authorized MGE to provide incentives only for natural gas appliances, not appliances designed for other energy sources. The fact that MGE's energy efficiency programs only provide for natural gas appliance incentives (apart from building envelope improvements under the ESNH program) should be self-evident. This fact should also effectively rebut OPC's argument that MGE's programs are designed to "induce the purchase of natural gas appliances (specifically a natural gas water heater) over electric appliances...".¹² The point that OPC misses here is that MGE, through the Commission's order and previous authorization in its last rate case, is trying to encourage purchases of **energy efficient** natural gas appliances, not just natural gas appliances.

F. The Reasoning for Requiring Energy Efficient Natural Gas Appliances is Sound. OPC is also wrong in arguing that the Energy Star New Homes Program

¹¹ Per the Report and Order in GR-2009-0355, p. 59, based on FY 2008 revenues.

¹² OPC Motion to Suspend, para. 10e, p. 8.

proposed by MGE should not be approved unless it requires natural gas as the primary source of space heat and does not require natural gas water heat.

(1) As OPC concedes, MGE's ESNH program is cost effective and passes the Utility Cost Test when natural gas is the primary source of space heat.¹³ In designing its ESNH program, MGE wanted to be sensitive to concerns electricity providers in the area might have and, for that reason, MGE did not exclude electricity as the primary source of space heat.¹⁴ On a side note, if MGE had wanted its ESNH program to be a load-building program (as OPC alleges it to be), then MGE would have required natural gas as the primary source of space heat.

(2) OPC also complains that MGE's proposed ESNH program should not require natural gas water heat.¹⁵ According to OPC, this will inappropriately induce the purchase of gas as opposed to electric water heaters in violation of the promotional practices rule and put upward pressure on natural gas prices by increasing gas consumption.

a. First addressing OPC's promotional practices argument, MGE filed the Rebuild Joplin Program tariff sheets under the promotional practices rule which expressly permits the offering of promotional practices "so long as they are first filed on a tariff with the commission".¹⁶ The standard applicable to such tariff filings is found in 4 CSR 240-14.030(1) and (2).

b. According to subsection (1) the promotional practice must "be just and reasonable, reasonable as a business practice, economically feasible and compensatory and reasonably calculated to benefit both the utility and its customers." In this case, MGE's Rebuild Joplin Program (both the enhanced

¹³ OPC Motion to Suspend, paragraph 8, p. 4.

¹⁴ In the proposed tariff, customers are eligible under the program even if they install a heat pump, as long as it has natural gas backup.

¹⁵ OPC Motion to Suspend, paragraphs 10.e., f. and g. on pp. 7 and 8.

¹⁶ See 4 CSR 240-14.030(3).

energy efficiency incentives and the ESNH program) is forecast to be cost effective under the Utility Cost Test, which means it is likely to benefit both the utility and its customers. With specific reference to the ESNH program's requirement that natural gas be the primary source of water heat, this will encourage the installation of appliances that are used year-round, increasing the likelihood that premises with such appliances will retain natural gas service year-round. This is good for MGE and all of its customers because the fixed cost nature of MGE's distribution system means that the costs to serve a customer remain in place whether or not a seasonal customer is on or off the system. Having customers on the system year-round ensures the provision of greater contribution to fixed cost recovery compared to customers who take gas service on a seasonal basis. Having customers in the system year-round is to the ultimate benefit of all customers by reducing the overall price to be paid by all customers. Because all aspects of MGE's Rebuild Joplin Program are forecast to be cost effective and because the gas water heater requirement in the ESNH program is designed to benefit all customers and MGE, too, 4 CSR 240-14.030(1) does not bar the offering of MGE's Rebuild Joplin Program.

c. According to subsection (2), a promotional practice: shall be "extended to all persons in a reasonably defined class"; shall not "subject any person to any undue or unreasonable prejudice or disadvantage"; and shall not "establish or maintain any unreasonable difference in the offering or granting of promotional practices either as between localities or as between classes to whom promotional practices are offered or granted." As discussed earlier in paragraph 2, MGE's Rebuild Joplin Program is justified by the tornado damage suffered by the Joplin area as well as the experimental pilot nature of the program which is limited in both time and money to be expended. Consequently, 4 CSR 240-

14.030(2) provides no basis to bar the offering of MGE's Rebuild Joplin Program.

CONCLUSION

Stepping back from OPC's arguments, it is important to maintain perspective that the Rebuild Joplin Program tariffs are designed to provide enhanced energy efficiency incentives to a community where they are most needed. The Commission has the opportunity to profoundly impact the marketplace by providing enhanced incentives to a community that is literally rebuilding from the ground up. Simply put, OPC has provided no rational basis for suspending these tariffs or for moving this matter to a procedural schedule and hearing. The Rebuild Joplin Program is limited in time, limited in duration, and limited in overall cost. This is an experimental pilot program subject to the ongoing supervision of the Energy Efficiency Collaborative. The tariffs provide an opportunity to impact the reconstruction that is taking place now in Joplin. This Commission should not take up OPC's invitation to miss that opportunity by needlessly suspending these tariffs.

WHEREFORE, MGE respectfully requests that the Commission deny OPC's Motion to Suspend Tariff and permit the Rebuild Joplin Program tariffs to become effective on December 9, 2011.

Respectfully submitted,

/s/

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was either mailed or hand delivered this 2nd day of December, 2011, to:

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