BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy's Tariff Sheets Designed to Increase the Rebate Level for Tank Water Heaters.	)))	 Case No. GT-2011-0049 Tariff File No. JG-2011-0051

PUBLIC COUNSEL'S REPLY TO MGE'S
RESPONSE TO THE COMMISSION'S ORDER
DIRECTING FILING OF STATUS REPORT

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Reply to Missouri Gas Energy's Response to the Commission's Order Directing Filing of Status Report, states:

1. The Commission's December 3, 2010 Order Directing Filing of Status Report ordered the parties to file a status report by January 7, 2011. The Commission requested the status report as a follow up to MGE's statement in its September 2, 2010 Motion for Expedited Treatment that "MGE will make a future filing to bring the water heater rebate issue raised by the OPC before the Commission for decision."

2. Rather than file a status report from the parties, MGE filed a status report from MGE's perspective along with arguments regarding changes MGE wants to make to its energy efficiency tariffs. OPC offers this reply to MGE's assertions and arguments to give the Commission an understanding of the issues raised by MGE from the perspective of the ratepayers that would be required to pay for the changes sought by MGE.

3. In paragraph 3 of MGE's filing, the Company asserts that the Energy Efficiency Collaborative (EEC) "voted" on the water heater rebate incentive levels in July 2010. OPC reviewed the minutes from the July 7, 2010 EEC meeting and there is no

mention of any vote taking place for water heater rebate incentive levels. The only statement in the minutes that references water heater rebate levels are the following two sentences: “Sue Nathan stated that during the transition from .62 EF to .67 EF for Energy Star rated water heaters, it may be reasonable to have rebates available for both .62 and .67 water heaters. Perhaps keep rebates on .62 water heaters until 12/30/10 and have ongoing rebates for water heaters at the .67 EF level.” Ms. Nathan is an energy efficiency consultant who was helping to assist the EEC at that time.

4. Beginning with paragraph 6 of its filing, MGE presents its viewpoint of “actions subsequent to the withdrawal of the increased water heater incentive”. In paragraphs 6 and 7, MGE discusses its “market research” and a purported change in tax incentives for appliances that “support” the need for higher water heater incentives. In paragraph 6, the Company lists proposed incentives for various water heaters that range from $100 to $850 and are much higher than the incentive levels for water heater rebates that were offered by most other gas utilities in 2010.

5. Incredibly, the Commission’s Staff’s response appears to indicate that it supports these “higher rebate” levels for the purpose of determining “whether the higher incentive is sufficient to persuade consumers to purchase the higher efficiency (and higher cost) water heaters.” OPC is somewhat amazed to see that the Staff would support the unusually higher rebate levels for the purpose of doing market research. Staff did not state that this research should be done in a limited pilot program; to the contrary, this expensive research would permit unlimited participation from potentially hundreds of thousands of customers. This position that Staff articulated in its response raises a number of questions. Is Staff confident that a gas water heater energy efficiency program

is cost effective if gas prices remain in the range of $4 to $6 per MMbtu? Has Staff done any research to see if any other gas utilities are offering water heater rebates of up to $850? Has Staff performed any analysis to determine the total amount of water heater rebate costs that could be booked to MGE's regulatory asset account and ultimately included in customer rates if the proposed rebate levels are approved and participation levels are high?

6. While MGE's filing describes the proposal that it made for new water heater rebate levels at the October 6, 2010 EEC meeting, it makes no mention of the water heater rebate proposal made by OPC at that same meeting where OPC attempted to forge a compromise among EEC members by proposing the following rebate levels for tank storage water heaters:

a.) $50 for .62 EF water heaters.

b.) $125 for tank water heaters meeting the new Energy Star criteria of .67 EF.

These are the same tank storage water heater rebate levels that were recently agreed upon by the Laclede Gas and Ameren Missouri gas energy efficiency collaboratives.

7. The information that MGE references in paragraphs 6 and 7 of its filing to "support" higher incentive levels is not sufficient to show that ratepayers should be paying for a water heater rebate program with these high incentive levels. First of all, MGE's assertion that it is a "fact that tax incentives for energy efficient appliance purchases would end on December 31, 2010" is not correct. Tax incentives for gas water heaters and other energy efficient appliances will continue to be available for purchases in 2011. Second, before one begins to consider the type of "market research" that MGE references in paragraph 6, it is essential to determine whether it is cost effective from a

societal perspective and a utility perspective to use any amount of rebates or other incentives to encourage utility customers to purchase more efficient gas appliances.

8. MGE observed in its recent testimony in Case No. ER-2010-0355 (see pages 35 and 36 of the direct testimony of MGE witness John J. Reed), “natural gas prices are forecasted to be much more stable than historical prices” and presented information showing that natural gas prices are expected to be at or below $6/MMbtu through 2015. Those who expect stable low natural gas prices for the foreseeable future should realize that certain programs like water heater efficiency programs which do not generally have very high Total Resource Cost (TRC) test results when analyzed with gas prices at the $8 to $10 level may no longer be cost effective with stable low natural gas prices. MGE has not presented any information to demonstrate that a water heater energy efficiency program would be cost effective from a societal perspective (TRC) or a utility perspective (utility cost test or UTC) if natural gas process remain in the range of $5 to $6/MMBtu. Such cost effectiveness information is required by 4 CSR 240-3.255(2)(B), and as OPC noted in “Public Counsel’s Response to Order Shortening Time for Response and Directing Filing” which was filed in this case on August 27, 2010, was one of the problems with MGE’s July 30, 2010 tariff filing.

9. In paragraph 10 of its filing, MGE states that “facing a lack of consensus on its water heater program incentive levels [at the October 6, 2010 EEC meeting], MGE chose to focus on the immediate need to design and implement a new program for its Small General Service Class…” OPC notes that MGE’s energy efficiency efforts also began to focus on pursuing its fuel switching initiative in the KCP&L and GMO rate cases at this same time (Case Numbers ER-2010-0355 and ER-2010-0356). As part of

that initiative, MGE has pursued a fuel switching initiative that included "proposed rebates/bill credits that KCP&L would offer its customers to convert from electric water heaters…to natural gas units." The rebate level proposed by MGE for this purpose was $700 per water heater. According to MGE's testimony, this fuel switching program is supported by full-fuel-cycle analysis. However, MGE witness John J. Reed admitted on page 40 of his direct testimony, that he had not "analyzed the cost effectiveness of the proposed fuel switching program for KCP&L."

10. Although not related to water heater rebate levels except with respect to the fuel switching issue, MGE's filing also discusses a Request for Proposal (RFP) "for the evaluation of MGE's residential space heat program as well as MGE's Home Performance with Energy Star Program (HPw/ES)." OPC agrees with MGE's statement that the reason the EEC has not agreed on the RFP is due to MGE's efforts to include a "full fuel cycle analysis" as part of the RFP. OPC opposes MGE's attempts to include a full fuel cycle analysis as part of the required evaluations of its space heating or HPw/ES programs because such an analysis is way beyond to scope of issues that should be addressed by the EEC. Furthermore, such an analysis is not relevant to performing a process evaluation or an impact evaluation that assesses the load reductions that can be attributed to MGE's space heating and HPw/ES programs. Finally, the scope of work in the RFPs should be limited to the analysis relevant to evaluations that are required for these programs so that the evaluator is focused on providing a credible and reliable evaluation of information needed to help guide future program design and funding.

11. OPC would be pleased to see further consideration of full-fuel-cycle and fuel switching issues in Missouri. We do not, however, believe that the MGE EEC is the

proper place to have further consideration of these issues. These issues could be addressed by the Commission opening a workshop docket where all of the regulated gas and electric utilities, along with other stakeholders, could begin a dialogue about whether and how Missouri's regulated energy utilities should develop programs to address fuel switching issues.

12. MGE's filing raises concerns about how the Commission has moved forward with policy initiatives to support the expansion of natural gas energy efficiency programs in Missouri. None should be surprised to see that when gas utilities have been ordered to attempt to reach .5% of total revenue spending goals that some utilities will suggest programs that are more focused on spending ratepayer dollars than they are on seeking to achieve the maximum gas usage reductions per dollar spent. OPC continues to believe that it makes more sense to set goals that directly measure the outcomes you are seeking to achieve (usage or load reductions) than setting a goal (energy efficiency program spending levels) which only serves as a proxy for the load reduction outcomes you are seeking to achieve. Perhaps the Commission can revisit the energy efficiency spending goals that it has set for gas utilities once its DSM potential study is complete since this study should provide guidance on the level of load reductions that could be achieved by Missouri gas utilities through energy efficiency programs.

13. The other policy initiative the Commission has promoted to support natural gas utility energy efficiency programs is the straight-fixed variable (SFV) rate design. The promoters of this rate design argue that it will make gas utilities strong supporters of cost effective energy efficiency programs. If that were true, then why does MGE appear to be supporting extremely high water heater rebates that appear to be

designed to help it defend and expand its market share in the water heating end use market in the Kansas City area? If the SFV rate design has made MGE lose interest in maintaining or expanding its level of sales then why is MGE aggressively supporting the use of full-fuel-cycle analysis and fuel switching from electric to gas appliances and space heating systems?

14. OPC has one final issue to bring to the attention of this Commission. This Commission's decisions to support setting .5% of total revenue expenditure goals for Missouri gas utilities was premised on the assumption that "energy efficiency programs that are designed to reduce natural gas consumption by customers can lead to the reduction of wholesale natural gas prices as well as generating direct cost savings to those customers." [Empire order p. 7] If such gas price reductions actually materialized, then both participants and non-participants could benefit from ratepayer expenditures on efficiency programs. The Commission drew this conclusion by relying on an ACEEE study that was based on data from 2002. The natural gas market has changed dramatically since 2002 with the increasing amount of gas being extracted from shale gas deposits with hydraulic fracturing techniques. With the major changes in the gas market and today's low gas price levels can non-participants still be expected to benefit from these programs through lower gas prices? Should customers be forced to absorb rate increases to fund water heater rebates of up to $850 for some of their neighbors for a program that may not even pass the TRC test when there is no reason to believe that non-participants may indirectly benefit from lower gas prices as a result of the water heater program?

15. The issues that have been outlined in this reply and other problems that OPC has experienced with the implementation of energy efficiency programs at other Missouri gas utilities leads OPC to suggest to the Commission that it consider promulgating a rule to provide guidance to gas utilities in the process of designing energy efficiency programs, screening them for cost effectiveness, and performing evaluations of the programs that have been implemented. Absent such a rule, there is a great burden placed on OPC and other participants in Collaboratives and Advisory Groups to see that natural gas energy efficiency programs are designed, screened, operated and evaluated in a manner that benefits ratepayers. While rulemakings require a significant amount of work for all of the utilities and interested parties, OPC believes that a gas energy efficiency rule could provide guidance that greatly reduces this stakeholder burden and leads to greater consistency and fewer disagreements of the type that have been associated with MGE's programs.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to MGE's Response to the Commission's Order Directing Filing of Status Report.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: **/s/ Marc D. Poston**

Marc D. Poston (#45722)
Deputy Public Counsel
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 18th day of January 2011:

Missouri Public Service Commission
General Counsel
PO Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102
gencounsel@psc.mo.gov

Missouri Gas Energy
Todd Jacobs
3420 Broadway
Kansas City, MO 64111
Todd.Jacobs@SUG.com

Missouri Gas Energy
Dean L Cooper
312 East Capitol
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

Missouri Department of Natural Resources
Sarah B Mangelsdorf
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
sarah.mangelsdorf@ago.mo.gov

Missouri Public Service Commission
Shemwell Lera
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Lera.Shemwell@psc.mo.gov

/s/ Marc Poston