

**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	)	<b><u>File No. GT-2011-0049</u></b>
Heaters.	)	Tariff No. JG-2011-0051

**ORDER GRANTING MOTION TO SUSPEND TARIFF AND SETTING  
PREHEARING CONFERENCE**

Issue Date: August 27, 2010

Effective Date: August 30, 2010

On August 24, 2010, the Office of the Public Counsel filed a Motion to Suspend and Motion for Expedited Treatment regarding Tariff File No. JG 2011-0051 submitted by Missouri Gas Energy on July 30, 2010. The motion requests that the Commission suspend MGE's tariff no later than August 27, 2010, so that it does not become effective on August 30, 2010.

The tariff sheets at issue relate to energy efficiency incentives. The tariff sheets would make several incentives available to MGE's Small General Service Class (SGS) that were not previously available and they would increase from \$40 to \$100 rebates for tank gas hot water heating systems meeting Energy Star® criteria.

Public Counsel objects only to the portion of the tariff sheets setting the tank hot water system rebates at \$100. Public Counsel objects because the current Energy Factor (EF) of .62 will change on September 1, 2010, to a .67 EF. Public Counsel argues that the "\$100 rebates for water heaters meeting the new Energy Star criteria . . . [may not] be sufficient to effectively incent customers to buy the more expensive water heaters with a .67 EF rating." Public Counsel was the only member of the EEC to object to the rebate change.

Public Counsel also states that MGE has not complied with 4 CSR 240-3.255.3.<sup>1</sup> That rule requires MGE to provide “documentation of the criteria used and the analysis performed to determine that the demand-side resources are cost effective” at the time it files its revised tariff sheets.

Public Counsel also indicates that clarification is necessary regarding the procedure to be followed when the EEC does not reach a consensus. In the Commission’s Report and Order in File No. GR-2009-0355, the Commission directed that:

The energy efficiency collaborative formed after MGE’s most recently concluded rate case should remain a consensus group, and should not be modified to an advisory group.<sup>2</sup>

Further, MGE’s tariff states that:

. . . where consensus cannot be reached, any of the charter members may petition the Commission to resolve, in accordance with its normal procedural rules, any differences over the selection of specific future programs for implementation, funding or any other aspects of the energy efficiency program development and evaluation process.<sup>3</sup>

Public Counsel believes that MGE should have filed a petition requesting that the Commission resolve this issue before the tariff sheets were filed.

MGE, the Staff of the Commission, and the Department of Natural Resources each filed responses to Public Counsel’s motion urging the Commission to deny the motion. These parties all argue that because the Energy Star® appliances with the new

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<sup>1</sup> Public Counsel’s Response to Order Shortening Time for Response and Directing Filing, filed August 26, 2010.

<sup>2</sup> In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service, Report and Order, (Issued February 10, 2010), p. 67.

<sup>3</sup> MGE’s P.S.C. MO. No. 1 Sheets 99 and 103.1; also, In the Matter of Missouri Gas Energy Proposed Tariff Sheets to Administer Natural Gas Conservation Initiatives, Case No. GT-2008-0005, Unanimous Stipulation and Agreement, p. 2..

EF factor may not be readily available and because the market price and availability may not be known for a number of months, the Commission should not delay the effective date of the tariffs. MGE indicates that pricing data and other information concerning appliances with the new EF will likely be known in the next six to eight months and should be considered at that time.

MGE, with the other parties concurring, argues that its method of filing a tariff for the Commission's consideration is consistent with the Commission's "normal procedural rules" and thus was the proper procedure to follow.

Public Counsel indicated that there would be no negative effect on MGE's customers or the general public if the Commission suspends the tariff as requested and that the customers would benefit from a careful study of the implications of the proposed tariff change. The parties opposing the suspension argue that suspending the tariffs will cause harm to the public because these incentives will not be available to SGS customers.

The Commission is in agreement that the procedure followed (filing a tariff and bringing a motion to suspend) is an appropriate method of bringing the issue before the Commission when the EEC cannot reach a consensus. That is not to say that this is the only method that may be employed. The disadvantage to the current method is purely in the timing. There is not sufficient time, given the fast-approaching effective date for the Commission to review all the factors that may prove this tariff to be just and reasonable and compliant with Commission orders and the law.

Each of the parties in their responses cited many facts and conclusions about the rebates and their application, but the Commission has had no time to truly review

those facts or receive any support for them. In addition, many facts (such as how much money is at stake, and how many rebates are expected to be distributed) were not provided. Therefore, the Commission determines that a short suspension of this tariff to give adequate time for a review is necessary.

Even though Public Counsel did not raise the point in its original motion, the Commission must also suspend the tariff for failing to comply with 4 CSR 240-3.255.(2)(B)3. Nowhere in the Commission's files are the supporting documents to adequately explain the criteria for choosing this rebate.

The Commission would prefer not to suspend all the rebate provisions, but because MGE chose to couple the controversial rebate with the noncontroversial provisions, the Commission has no choice but to suspend the tariff sheets in their entirety. The Commission will also set a time for a prehearing conference and reserve a date for a hearing if one should become necessary.

**THE COMMISSION ORDERS THAT:**

1. The Motion to Suspend and Motion for Expedited Treatment is granted.
2. The tariff sheets filed by Missouri Gas Energy, a division of Southern Union Company on July 30, 2010, Tariff File No. JG-2011-0051, are suspended for 30 days from August 30, 2010, to September 29, 2010, unless otherwise ordered by the Commission. The tariff sheets suspended are:

**P.S.C. MO. No. 1**

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**Eighth Revised Sheet No. 98, Cancelling Seventh Revised Sheet No. 98  
Eighth Revised Sheet No. 99, Cancelling Seventh Revised Sheet No. 99  
Seventh Revised Sheet No. 100, Cancelling Sixth Revised Sheet No. 100  
Second Revised Sheet No. 103, Cancelling First Revised Sheet No. 103  
Second Revised Sheet No. 103.1, Cancelling First Revised Sheet No. 103.1  
Second Revised Sheet No. 103.2, Cancelling First Revised Sheet No. 103.2**

3. The parties shall appear at a prehearing conference on September 2, 2010, at 10:00 a.m. The conference shall be held in the Commission's offices in the Governor Office Building, 200 Madison Street, Room 305, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. Any person who needs specific accessibility accommodations may call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the prehearing.

4. If a hearing is necessary it shall be held on September 14, 2010, in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri.

5. This order shall become effective on August 30, 2010.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Nancy Dippell, Deputy Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 27th day of August, 2010.