

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 7th day
of December, 2011.

In the Matter of Southern Union Company d/b/a)	
Missouri Gas Energy's Tariff Sheets Designed)	
to Implement an Experimental Pilot Program to)	<u>File No. GT-2012-0170</u>
Assist Rebuilding in the Area of Joplin, Missouri)	Tariff No. JG-2012-0211

NOTICE REGARDING TARIFF FILING

Issue Date: December 7, 2011

On November 9, 2011¹, Southern Union Company, d/b/a Missouri Gas Energy ("MGE"), filed a tariff designed to implement an experimental pilot program entitled the "Rebuild Joplin Program". That tariff carries a December 9 effective date.

MGE indicates the proposed tariff filing is designed to assist Joplin recover from the May 22 tornado, which was the deadliest tornado to strike the United States in over sixty years. MGE proposes to feature enhanced energy efficiency incentives for residential and small general service customers. MGE further proposes an Energy Star New Homes pilot program.

On November 30, the Office of the Public Counsel ("OPC") filed a Motion to Suspend Tariff. OPC complains that the tariff fails to require that natural gas be the primary heating source in the new homes eligible for rebates, the tariff has an unnecessary requirement that participants install natural gas water heaters, and the tariff contains an excessively high \$1,000,000 cap on program expenditures that would

¹ Calendar references are to 2011 unless otherwise noted.

only be available in the Joplin area. OPC further complains that MGE is merely trying to increase its customer base, and that MGE's tariff violates the Commission's Promotional Practices Rule.

On December 2, MGE, the Missouri Department of Natural Resources ("MDNR") and the Staff of the Commission ("Staff") responded. They all recommend that the Commission approve the tariff. Staff points out that the Commission's rule allows for implementation of pilot programs, which is what MGE is proposing.²

OPC's argument is unpersuasive. The legal authority OPC cites prevents MGE from demanding lesser compensation for gas from any other person "under the same or substantially similar circumstances or conditions".³ A similar statute prevents MGE from giving any "undue or unreasonable preference".⁴ The Commission finds that Joplin is not under the same or substantially similar circumstances or conditions as the remainder of MGE's service territory due to the destruction from the May 22 tornado. Likewise, also due to the devastation that Joplin suffered in the tornado, the Commission finds that the Rebuild Joplin Program would not give Joplin an undue or unreasonable preference.

² Commission Rule 4 CSR 240-14.010(4) states in pertinent part that "(n)othing contained in this chapter shall be construed to prohibit . . . **pilot programs** . . . " (emphasis added).

³ Section 393.130.2 RSMo Cum. Supp. 2010.

⁴ Section 393.130.3 RSMo Cum. Supp. 2010.

The Commission understands that OPC and Staff share some concerns about the tariff. However, the Commission will take no action to prevent the tariff from going into effect by operation of law on its effective date, December 9, 2011.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Davis, Jarrett,
and Kenney, CC., concur.

Pridgin, Senior Regulatory Law Judge