

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

In the Matter of the Application of Missouri Gas Energy, a division of Laclede Gas Company, for Approval to Change its Infrastructure System Replacement Surcharge.) Case No. GO-2014-0179)

MGE’S RESPONSE TO OPC’S REPLY

COMES NOW Missouri Gas Energy, a division of Laclede Gas Company, (“MGE”) and in response to the Office of Public Counsel’s (“OPC”) Reply to Staff and MGE Responses to Public Counsel’s Motion to Reject Application (“OPC’s Reply,”) states:

1. MGE wishes to respond to certain points in OPC’s Reply, however, as detailed below, agrees with Staff’s recommendation and seeks Commission approval to permit MGE to supplement the descriptions of its ISRS-eligible projects to Staff and OPC during Staff’s review process.

2. Response to OPC’s Reply.

a. OPC’s Reply overstates the issue that it has presented for Commission consideration. This is not a matter of asking the Commission to “not enforce its consumer protection rules.” (OPC Reply, para. 11, p. 7). OPC simply questions whether the level of detail that MGE has provided with its application is sufficient – information that MGE has submitted in the same way since 2003. (MGE’s Response to OPC’s Motion to Reject Application, Att. A, Noack Affidavit, para. 4). In its response, Staff agrees that MGE’s recent filing was not a deviation from prior practice – noting that “the data provided by MGE in its Application is substantially similar to the data provided both in MGE’s most recent ISRS application in GO-2013-0391 and in Liberty Utilities’ application in GO-2014-0006 ...”. (Staff Response to OPC’s Motion to Reject Application, para. 12) (“Staff Response”).

b. OPC misstates MGE's position, stating that "MGE responded by stating that this basic information is available if OPC requests and reviews all MGE work orders in Kansas City." (OPC Reply, para. 1). To the contrary, MGE's position is that MGE's filing met the minimum filing requirements, contains detail sufficient for a party to understand the basis for its request, references categories required by the rule, and provides a sufficient basis for any party to further audit MGE's request. (MGE's Response, paragraph 1.e.). MGE's intent was to comply with the Commission's minimum filing requirements – not to flout them. As described in MGE's Response to OPC's Motion to Reject Application, MGE's Application was aimed at providing information to the parties consistent with the rules, not to insist that the parties divine the information for themselves. MGE's ISRS Application is in no way a departure from past practice.

c. Regulatory filings are not made in a vacuum. As Mr. Noack describes in his affidavit, work order packets are created by MGE field operations personnel, he trains field operations and accounting staff how to identify ISRS-eligible projects, what information to include in the descriptions for the projects, and then puts that information in an ISRS application. (MGE's Response to OPC's Motion to Reject Application, Att. A, Noack Affidavit, para. 6-8). OPC breezily asserts that its efforts to change past practice are "not burdensome for the utility," (OPC Reply, para. 12). Changing MGE's internal practices in this instance is not an impossible task – but it is not an inconsequential one. MGE will have to review each work order, retrain its field operations and accounting personnel on the type of information required, and revise its internal record-keeping in order to change how ISRS-eligible projects are described. Again, OPC does not question the type of costs included in MGE's ISRS Application, except as addressed in paragraph 2.d below. Instead, OPC has rather suddenly disagreed with the form of the application – and offers the extreme remedy of rejecting an ISRS application as a cure. MGE does not view form or filing requirements as irrelevant. Instead, MGE submits that its ISRS Application met the minimum filing requirements, provided detail as

to its ISRS-eligible costs, provided necessary information to the parties, and represents a good faith effort to comply with the rules in a manner consistent with its previous ISRS applications. MGE is not trying to break new ground here. OPC's request for a change in practice does not warrant the rejection of MGE's Application.

d. In response to OPC's assertion that MGE has no basis for its inclusion of Safety Line Replacement Program costs in its ISRS application, MGE responds that the request stems from Case Number GO-2002-0050 as opposed to the case number cited in its Application, GO-2002-0048. One case is styled as "In the Matter of MGE's Application for Approval of Certain Matters Pertaining to Ongoing Cast Iron Main and Service/Yard Replacement as a Part of its *Safety Line Replacement Program*" (GO-2002-0050, Order and Application attached as Attachment A, emphasis added) while the other is styled as "In the Matter of MGE's Application for Approval of Certain Matters Pertaining to its *Safety Line Replacement Program*" (GO-2002-0048, Order and Application attached as Attachment B, emphasis added). With both case styles referencing "Safety Line Replacement Programs," the 0048 case was cited in error in MGE's previous ISRS applications. This citation will be corrected in future filings. Accordingly, there is a basis for inclusion of these costs by Commission order and under relevant statutes and rules, including MGE's requirement to provide "safe and adequate service pursuant to Section 393.130.1 and compliance with state or federal safety requirements under 4 CSR 240-3.265(20)(K).

e. MGE has submitted its ISRS Applications without controversy as to the form of its minimum filing requirements since 2003. In that light, OPC's stark request for the outright rejection of MGE's filing is extreme and unwarranted.

3. Request for Time to Provide Information to Staff and OPC.

a. While MGE respectfully suggests that its December ISRS Filing complied with Commission rules and was materially consistent with its previous ISRS filings, the Company seeks time to supplement information on its ISRS-eligible projects in accordance with Staff's

suggestion. In its Response, Staff does not support OPC's request to reject MGE's ISRS Application, but rather asks the Commission to allow MGE time to cure any alleged deficiencies during Staff's review process. (Staff Response, para. 14).

b. While Staff agrees that the type of data provided by MGE and Liberty in recent ISRS filings are "substantially similar," (Staff Response, para. 12), Staff notes that Liberty supplemented its filing with additional citations and information during Staff's review process. (Staff Response, FN 6).

c. The Commission's Report and Order in GO-2014-0006 did not find that Liberty's filing was deficient – nor did it mandate the type of information required in an ISRS filing - noting that "*even assuming for the sake of argument that the Petition was deficient when originally filed, that deficiency was cured by Liberty.*" (Report and Order, GO-2014-0006, p. 11, emphasis added).

d. That said, the Commission determined that the documents provided by Liberty in GO-2014-0006 contained "all of the information required," (*Id.* at p. 12). While MGE believes that the information it provided was appropriate, the Company believes that the Commission's time and resources are best served elsewhere until such time that it has an opportunity to supplement its supporting documentation in a manner that the Commission recently found sufficient. MGE will use the time during Staff's review to modify the descriptions of its ISRS-eligible projects in a form consistent with Liberty's in the GO-2014-0006 case and will endeavor to work with OPC and Staff to come up with a mutually-agreeable format. Should those efforts not result in agreement, MGE respectfully suggests that the parties can raise the matter at that point for Commission consideration. By Commission Order dated December 9, 2013, Staff was directed to file its recommendation regarding MGE's Application and Petition by February 4, 2014. That time frame should permit MGE sufficient time to supplement its documentation.

WHEREFORE, MGE respectfully requests that the Commission (a) permit MGE to cure any alleged defect in its ISRS filing by providing additional information to Staff and OPC and (b) defer its consideration of OPC's Motion to Reject MGE's Application until after Staff submits its recommendation, thereby permitting the parties to raise any concerns at that time for Commission consideration.

Respectfully Submitted,



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Certificate of Service

I hereby certify that copies of the above and foregoing document were sent by electronic mail on this 18th day of January, 2014 to counsel of record.


Todd J. Jacobs