

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

Roy Smith,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. GC-2004-0281
	)	
Missouri Gas Energy,	)	
	)	
Respondent.	)	

**MGE’S WITHDRAWAL OF WAIVER**

COMES NOW Missouri Gas Energy, a division of Southern Union Company (“MGE”), and, hereby withdraws its earlier waiver of its right to hearing for the following reasons:

1. On March 17, 2004, in Missouri Gas Energy’s Response to Staff Report, MGE indicated its willingness to allow the Commission to decide this matter based upon the pleadings that had been filed as of that time. On April 12, 2004, in response to the Commission’s order, MGE clarified its response as indicating “its intent to waive its right to a hearing and allow this matter to be submitted to the Commission based solely on the information in the pleadings, including Staff’s Report.”

2. On May 6, 2004, the Commission issued its Order Setting Hearing, which, among other things, set this matter for an evidentiary hearing on July 19, 2004.

3. Since receiving the Commission’s Order Setting Hearing, MGE has spent time and resources to gather additional information in preparation for the hearing of this matter.

4. MGE has obtained Department of Revenue documents that show Mr. Smith represented to the Department of Revenue as early as January 23, 2003, that his address was 5823

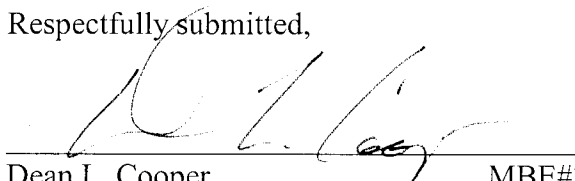
E. 16<sup>th</sup> Street.

5. MGE has also taken the deposition of a Kansas City Power & Light Company employee concerning electric service to this address. This deposition will show that the electric service to 5823 E. 16<sup>th</sup> Street was maintained in the name of Jeffrey Elders from November 2002 through March of 2004, although Mr. Smith claims to have moved to the residence in June of 2003. Additionally, the deposition will further show that Mr. Smith made a \$134.90 payment on the "Elder" account.

6. Because MGE has taken the time to obtain the above information and now desires to offer this information as evidence in this case, MGE hereby withdraws its earlier waiver of its right to hearing and states its desire to proceed with the evidentiary hearing in this matter.

WHEREFORE, Respondent, Missouri Gas Energy, hereby withdraw its waiver of hearing and further requests that the Commission proceed with the evidentiary hearing in this matter.

Respectfully submitted,



Dean L. Cooper MBE#36592  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 E. Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
(573) 635-7166  
(573) 635-3847 facsimile  
[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)  
ATTORNEYS FOR MISSOURI GAS ENERGY

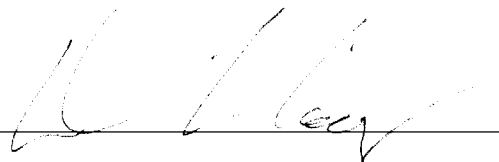
## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail or by U.S. Mail, postage prepaid, on July 13<sup>th</sup>, 2004, to the following:

Office of the General Counsel  
Governor Office Building  
Jefferson City, MO 65101

Office of the Public Counsel  
Governor Office Building  
Jefferson City, MO 65101

Mr. Roy Smith  
5823 E. 16<sup>th</sup> Street  
Kansas City, MO 64126

A handwritten signature in black ink, appearing to read "H. L. Leary", is written over a horizontal line.