

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

In the Matter of Southern Union Company )	
d/b/a Missouri Gas Energy's Tariff Sheets )	Case No. _____
Designed to Implement an Experimental )	Tariff Filing No. YG-2013-0255
Pilot Program. )	

**MOTION TO REJECT TARIFF FILING,  
OR IN THE ALTERNATIVE, MOTION TO SUSPEND TARIFF,  
AND MOTION FOR AN EVIDENTIARY HEARING**

**COMES NOW** the Office of the Public Counsel (OPC) and for its Motion to Reject Tariff Filing, or in the Alternative, Motion to Suspend Tariff and Motion for an Evidentiary Hearing, states:

1. On November 30, 2012, Southern Union Company d/b/a Missouri Gas Energy filed proposed changes to its tariff in Tariff Filing Number YG-2013-0255 (see attachment).<sup>1</sup> MGE states that the purpose is to extend its Rebuild Joplin Program to May 1, 2013, four months beyond its current termination date of December 31, 2012.

**Motion to Reject**

2. OPC moves to reject MGE's filing because it violates Commission Rule 4 CSR 240-4.020(2) in that MGE failed to file the required notification of its intention to file a case likely to be contested. The rule states, "Any regulated entity that intends to file a case likely to be a contested case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case." The rule further

---

<sup>1</sup> MGE filed its tariff proposal in Case Number GT-2012-0170, however, OPC is filing this pleading as a new case because it involves a new proposed tariff, different from the tariff addressed in GT-2012-0170. OPC asks the Commission to open a new case to address this tariff proposal.

states that, “Any case filed which is not in compliance with this section shall not be permitted and the secretary of the commission shall reject such filing.” MGE did not file the required notice, and rejection is required under the rules.

3. MGE was aware of OPC’s objection to extending the Program, which MGE acknowledged in its November 30, 2012 cover letter accompanying its tariff filing, where it states that OPC “voted against the extension.” MGE was also aware of OPC’s prior objection to the existing tariff, which the Commission allowed to go into effect by operation of law without granting OPC’s request for an evidentiary hearing.

4. MGE knew, or should have known, that OPC would object to its extension request due to (1) OPC’s prior objections to the 2012 Joplin program and (2) the response from OPC employee Ryan Kind to MGE’s extension proposal in the November 2<sup>nd</sup> and November 19, 2012 EEC calls where the proposed 2013 extension was discussed with collaborative members, and that such request would become a contested case. By not following the rule, the consumer protections provided by the Commission’s ex parte rules have been lost. Rejecting MGE’s tariff filing is in the public interest because strict adherence to the rule is necessary to ensure that no improper ex parte communication occurs, and to ensure that MGE follows the ex parte rules in the future. Instead, MGE simply ignored the Commission’s rule and made its filing without the required notice. For these reasons, OPC urges the Commission to reject the tariff filing and direct MGE to issue a 60-day notice should MGE wish to resubmit its tariff change proposal.

### **Motion to Suspend**

5. If the Commission denies OPC’s Motion to Reject, OPC respectfully requests suspension of MGE’s proposed tariff changes. OPC opposes the proposed

program extension and urges the Commission to suspend the tariff and schedule this matter for an evidentiary hearing. There are a number of issues and problems with the proposed tariff and the lackluster Joplin program results that have been achieved thus far that should be examined before the proposed tariff should be allowed to go into effect.

6. OPC opposes MGE's request to extend the water-heater rebate portion of the Program because an independent evaluation of MGE's Program delivered throughout its entire service territory revealed that the water heater rebate program is not cost-effective. MGE's justification for its proposal is suspect in that it relies upon outdated cost benefit information to support the filing (see Appendix B to MGE's tariff filing) when it had the results from a detailed evaluation completed just months ago that provides better and more current information on the cost effectiveness of MGE's water heating and space heating programs. The current information contained in the August 10, 2012 Nexant evaluation report shows that some of the measures are far from being cost effective based on either the Total Resource Cost Test or MGE's preferred Utility Cost Test (also referred to as the Program Administrator Cost Test). The more current Utility Cost Test score of .42 shows that water heater measures only provide 42 cents in benefits for every dollar spent. The .42 result would be even poorer if adjusted to reflect the much higher level of tankless water heater rebates (\$400 instead of \$200) that are available in the Joplin area and the enormous \$1,160 marketing expenditure per participant for the Joplin program.

7. Cost-effectiveness is the single most-important measure for evaluating energy efficiency programs, and continuing programs that are not cost effective is harmful to rate-paying consumers and should be discontinued. Continuation of this

program will force wasteful spending of energy efficiency dollars on programs that are not cost justified. Requiring MGE's customers to fund a program that does not provide cost-effective benefits is not just and reasonable as required by Section 393.130 RSMo.

8. OPC also seeks suspension because MGE has mismanaged its oversight of the Program by overspending on marketing the water heater rebate program. MGE overspent significantly on marketing even after MGE had the evaluation results and knew the water heater rebate program was not cost effective. One of the most glaring signs of this mismanagement is the results to date in the Joplin water heater program where the company has only succeed in getting 21 participants so far after spending \$24,380 on marketing the water heater program. These expenditures mean that MGE has spent \$1,160 on water heater marketing per program participant. While updated cost benefit information from both the MGE evaluation and from Ameren Missouri show that water heater measures are not cost effective even when marketing expenditures are at drastically lower levels, even the outdated MGE cost benefit information would show that water heaters are not cost effective when a utility spends more than \$1,000 per participant on marketing alone. It is important to note that the Ameren Missouri Gas Energy Efficiency Advisory Group recently supported a tariff filing by Ameren that eliminated all gas water heaters from its 2013 program after reviewing the Ameren cost benefit information which showed that gas water heaters do not pass cost effectiveness tests.

9. MGE's proposal seeks to continue wasting ratepayer funds on a Joplin Appliance rebate program where ratepayers have received only 54% of the program expenditures in the form of rebates when the original program plan/budget that was

assumed when cost effectiveness tests were performed assumed ratepayers would be receiving most of the program budget through rebates. MGE's project plan/budget for the 2012 Joplin Appliance Rebate program projected that MGE would process 850 Joplin water heater rebates in 2012 but during the first 9 months of 2012, only 21 water heater rebates were processed. An evaluation should be performed to determine what went wrong before more ratepayer funds are wasted on this effort in 2013. The cost effectiveness tests that MGE relied upon in 2012 and which MGE proposes to again rely upon for the extended program in 2013 were premised upon a level of customer participation that was at least 20 times the amount of participation that will actually occur in 2012. Since we now know that the assumptions in the cost benefit analysis were totally invalid, why would we continue to rely upon the outdated and inaccurate November 2011 cost benefit analysis to support continuing this program?

10. MGE is in the process of spending 175% of its 2012 energy efficiency marketing budget without consulting the EEG about this budget over run. Suspension of the tariff will allow this to be addressed by the Commission and the parties. It will also allow the Commission and the parties to question MGE as to why it embarked on a new million dollar energy efficiency advertising campaign without telling the EEG about it until the campaign was well under way.

11. MGE is also in violation of the requirement in its tariff that it prepare its 2013 Energy Efficiency Budget "on or around November 1" so that the EEC can consider whether it wants to approve the proposed budget. Ryan Kind of OPC requested on 11/19/12 that MGE provide this required budget so he could consider the proposed 2013 Joplin tariffs in the context of MGE's overall energy efficiency plans for 2013. Mike

Noack from MGE stated that it was almost ready and would be provided within a week. This budget has not yet been provided to OPC. This is an additional reason to suspend the tariff to address this violation.

12. MGE's request states that it seeks to extend the program "to coincide" with the City of Joplin's plan to redevelop portions of Joplin damaged by the May 2011 tornado. In attempting to link its extension request with the City of Joplin's redevelopment plan, MGE's cover letter claims that the first 400 homes to be built in the target areas are to be built in the first year. Data provided to the City of Joplin on December 10, 2012 by its consultant Wallace & Bajjali, however, shows that the consultant projects no new homes will be built in 2013 under the redevelopment plan, and that the first homes to be built under the redevelopment plan will not be built until 2014 when 350 homes are projected to be built. Wallace & Bajjali's projections show that the bulk of the new home construction will not occur until 2015, when it projects 600 new homes will be built along with an additional 200 apartments. This data is significant to MGE's request for an extension through May 1, 2013 because MGE has tied its request to the City of Joplin's redevelopment plan, but the redevelopment plan does not project the building of new homes until 2014.

13. In summary, OPC urges the Commission to enforce its ex parte rules and reject MGE's filing. In the alternative, OPC urges the Commission to suspend the proposed tariff changes and set this matter for an evidentiary hearing to address whether the Commission should extend a program that is not cost-effective. Rejection or suspension will not deprive MGE customers in the Joplin area of access to energy

efficiency rebates for water heaters and space heating equipment since such rebates are available under the territory-wide MGE energy efficiency tariff.

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission reject MGE's proposed tariff changes, or in the alternative, suspend MGE's proposed tariff changes and direct the parties to file a proposed procedural schedule that includes dates for an evidentiary hearing.

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](mailto:marc.poston@ded.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 11<sup>th</sup> day of December 2012:

/s/ Marc Poston