

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. GC-2011-0100
	)	
Missouri Gas Energy, a Division of Southern Union Company	)	
	)	
	)	
Respondent.	)	

**MOTION FOR EXTENSION OF TIME TO FILE RESPONSE AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Respondent Missouri Gas Energy (“MGE”) by and through counsel, and for its response to Staff’s Motion for Summary Determination, states as follows:

1. Staff has filed a Motion for Summary Determination (“Motion”) in this case pursuant to Commission rule 4 CSR 240-2.117 before the opportunity to undertake any discovery. Apparently, Staff wants the Commission to overturn centuries of Anglo-American jurisprudence and disregard even the most fundamental elements of due process and fairness by asking the Commission to make a summary determination on contested facts without a hearing. MGE will file its response to the Motion at an appropriate time, however, MGE should be granted an extension of time to file its response for good cause, as explained herein.

2. MGE has filed a Motion to Dismiss Staff's Complaint on the grounds that it is an unauthorized filing and Staff has no standing to file a complaint with regard to the Company's tariff R-34. The Commission has not ruled on Respondent's Motion to Dismiss and MGE should not be required to respond to an unauthorized Complaint. This goes directly to one of the standard elements in 4 CSR 240-2.117(E), that is, that the party filing a motion for summary determination is, among other things, "entitled to relief as a matter of law." If the Commission grants MGE's Motion to Dismiss, it follows that Staff is not entitled to the relief requested in the Complaint.

3. Additionally, the Motion is premature and improper because no discovery has been taken in this case. This is a predicate clearly contemplated in a case where there is a dispute about the facts alleged. MGE's Answer denies that the tariff sheet in question is unlawful, unjust or unreasonable as alleged by Staff.<sup>1</sup> These are questions which need to be sorted out based on an evidentiary record, not on Staff's one-sided legal memorandum. The Commission's rule regarding summary determination states that a response shall include, among other things, "testimony, discovery or affidavits not previously filed that are relied on."

4. It would be an unjustified waste of MGE's resources at this time to put together a detailed response to point out that it has in its Answer denied Staff's claim that the disputed tariff sheet is unreasonable and, consequently, there is a dispute of material fact. MGE is prepared to make such a filing at such

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<sup>1</sup> See, paragraphs 9, 10 and 11.

time as the facts are better developed, but to do so now would put the cart well before the horse.

5. The parties filed a proposed procedural schedule on December 13, 2010. MGE's obligation to file a response to the Motion should be extended until after it has had a reasonable opportunity to complete discovery in advance of filing rebuttal testimony, which is anticipated to be March 30, 2011. MGE submits that giving it fifteen (15) days from that date until April 14, 2011, is reasonably in advance of the evidentiary hearing in this matter. No party will be prejudiced by granting the relief requested.

6. Pursuant to Commission rule 4 CSR 240-2.080(16), MGE requests that the Commission grant the relief requested herein on an expedited basis. Specifically, MGE requests that the Commission issue an order by no later than Thursday, December 23, 2010. Unless the Commission takes this matter up without delay, MGE will be faced with preparing and filing a response to Staff's Motion on or before December 31, 2010, New Year's Eve. This will entail a great deal of effort through the heart of the holiday season when the persons necessary to the effort will not be readily available to assist counsel. Also, as noted above, responding to the Motion at this time is an essentially pointless endeavor because no discovery has been undertaken by any party. Granting the relief requested will have no negative effect on MGE's customers or the general public. This request is being made as soon as practical after the filing of the joint proposed procedural schedule setting forth the parties' consensus on key dates.

WHEREFORE, for good cause shown, MGE requests that the Commission issue an order by no later than December 23, 2010, granting it an extension of time until April 14, 2011, to file its response to Staff's Motion for Summary Disposition and for such other orders and relief as are appropriate in the circumstances.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission to all counsel of record on this 21<sup>st</sup> day of December, 2010.

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