

Exhibit No.: \_\_\_\_\_  
Issue: Accounting Authority  
Order  
Witness: Michael R. Noack  
Type of Exhibit: Rebuttal Testimony  
Sponsoring Party: Missouri Gas Energy  
Case No.: GU-2005-0095  
Date Filed: February 5, 2005

MISSOURI PUBLIC SERVICE COMMISSION

MISSOURI GAS ENERGY

CASE NO. GU-2005-0095

REBUTTAL TESTIMONY

OF

MICHAEL R. NOACK

ON BEHALF OF MISSOURI GAS ENERGY

Jefferson City, Missouri

February 2005

**REBUTTAL TESTIMONY OF MICHAEL R. NOACK  
ON BEHALF OF  
MISSOURI GAS ENERGY**

1   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2   A.   My name is Michael R. Noack. My business address is 3400 Broadway, Kansas City  
3       Missouri, 64111.

4  
5   **Q.   DID YOU SUBMIT DIRECT TESTIMONY IN THIS PROCEEDING BEFORE THE**  
6       **MISSOURI PUBLIC SERVICE COMMISSION ON BEHALF OF THE MISSOURI**  
7       **GAS ENERGY OPERATING DIVISION OF SOUTHERN UNION COMPANY?**

8   A.   Yes I did.

9  
10  **Q.   WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11  A.   In my rebuttal testimony, I will address that portion of Commission Staff witness Hyneman's  
12       direct testimony regarding when, if the AAO is granted, the amortization of the deferred asset  
13       should begin.

14  
15  **Q.   WHEN WOULD AMORTIZAION OF THE AAO BEGIN ACCORDING TO MR.**  
16       **HYNEMAN'S RECOMMENDATION?**

17  A.   Mr. Hyneman recommends that the Commission order MGE to begin amortization of the  
18       AAO the month following a final judicial resolution of the legality of the Kansas tax.

19  
20  **Q.   DO YOU AGREE WITH MR HYNEMAN'S RECOMMENDATION?**

1 A. No. Mr. Hyneman in his direct testimony on Page 3, lines 23-26 uses language out of the  
2 Commission's Report and Order on Remand in Case No. WO-2002-273 to describe the  
3 purpose of an AAO. As taken from the order, "...primary benefit of an AAO to the utility is  
4 that the deferred item is booked as a regulatory asset rather than as an expense, thereby  
5 improving the financial picture of the utility during the deferral period." The order goes on  
6 to say "A secondary and more remote benefit of an AAO is that, during a subsequent rate  
7 case, the Commission may permit recovery in rates of some portion of the amount deferred."

8  
9 MGE is requesting this AAO because this property tax expense was not allowed as a cost in  
10 setting rates in Case No. GR-2004-0209. MGE is requesting that any property taxes assessed  
11 by the State of Kansas on the value of the natural gas held in storage for MGE's account be  
12 deferred through the use of an AAO and ultimately included in the next rate case filed by  
13 MGE.

14  
15 **Q. IF THE AMORTIZATION PERIOD BEGAN BEFORE THE NEXT RATE CASE,**  
16 **WOULD MGE RECOVER ALL OF THESE COSTS IN RATES?**

17 A. No. MGE would only be allowed to recover that portion remaining to be amortized at the  
18 time of MGE's next rate case, if the Commission allowed recovery of the deferral. The  
19 amortization already recorded under Mr. Hyneman's recommendation would be a cost to the  
20 Southern Union shareholders.

1   **Q.    IS MGE INCLUDING ANY COSTS OTHER THAN THE TAXES THEMSELVES IN**  
2       **THE AAO REQUEST?**

3   A.   No. None of the litigation costs or any other costs associated with fighting the legality of the  
4       tax are being included in this AAO request.

5  
6   **Q.    DO YOU HAVE ANY OTHER INFORMATION DEMONSTRATING THE**  
7       **UNREASONABLENESS OF MR. HYNEMAN'S PROPOSAL TO BEGIN**  
8       **AMORTIZING THE DEFERRAL THE MONTH AFTER A FINAL, NON-**  
9       **APPEALABLE JUDICIAL RULING DECLARING THE TAX LAWFUL?**

10  A.   Yes. It appears that a final ruling on the legality of the tax could reasonably be expected  
11       some time in the summer of 2006. Although MGE believes its arguments will persuade the  
12       Kansas courts that the tax is unlawful, the outcome of that appeal is by no means certain and  
13       substantial risk remains that MGE will not prevail on appeal. In that event, MGE would  
14       need to file a general rate proceeding some time in the latter half of 2005 to be in a position  
15       to include the amortization of the deferrals in rates and protect itself from the significant  
16       negative financial impact of commencing such amortization. Absent such a rate case filing,  
17       Mr. Hyneman's proposal poses a significant risk that MGE will be required to begin  
18       amortizing about \$57,000<sup>1</sup> to expense each month (or \$680,000 on an annual basis) with no  
19       provision for such expenses in current rates.

20  

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1       The 2004 assessment is approximately \$1.7 million. Assuming the 2005 assessment is comparable, total dollars deferred as of the summer of 2006 would total approximately \$3.4 million. Dividing this amount by 60 months, as would be required under Mr. Hyneman's amortization proposal, produces a monthly expense amount of \$56,666



1 Rates from MGE's most recent case took effect on October 2, 2004. To protect itself from  
2 significant unrecovered costs under Mr. Hyneman's proposal, MGE would be required to file  
3 a rate case little more than one year after the conclusion of its most recent rate case. General  
4 rate cases are time consuming and costly to all involved, including MGE, the Commission  
5 and MGE's customers, and it is not a good or efficient use of resources to take regulatory  
6 action – as Mr. Hyneman suggests – that would effectively require MGE to file a rate case  
7 little more than one year after the conclusion of its last rate case.  
8

9 **Q. DO YOU HAVE ANY FURTHER COMMENTS ON MR. HYNEMAN'S PROPOSAL?**

10 A. Yes. If the Commission believes that the deferral of these Kansas taxes should be time  
11 limited in some way so as to ensure that they do not build up indefinitely, then MGE would  
12 suggest the following language:

13 In the event that MGE does not file a general rate case by May 31, 2008, MGE  
14 will commence amortization of these deferrals beginning June 1, 2008, over a  
15 five-year period, and will cease further deferrals unless the Commission grants a  
16 new accounting authority order.  
17

18 This concept has been used before by the Commission (*See* Case No. GR-2001-292, Second  
19 Revised Stipulation and Agreement, paragraph 11, pages 6-7) and the time frame is generally  
20 consistent with when MGE believes it would be required to file its next general rate case  
21 according to the ISRS (infrastructure system replacement surcharge) legislation.  
22

23 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

24 A. Yes, at this time.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Application of Missouri Gas  
Energy, a Division of Southern Union Company,  
for an Accounting Authority Order Concerning the  
Kansas Property Tax for Gas in Storage

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Case No. GU-2005-0095

AFFIDAVIT OF MICHAEL R. NOACK

STATE OF MISSOURI

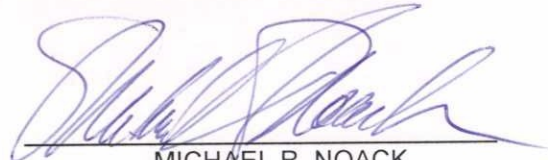
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ss.

COUNTY OF JACKSON

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Michael R. Noack, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.



MICHAEL R. NOACK

Subscribed and sworn to before me this 4<sup>th</sup> day of February ~~January~~ 2005.

  
Notary Public

My Commission Expires: Feb. 3, 2007

