BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed Emergency Amendment To Commission Rule 4 CSR 240-13.055.	))	Case No. GX-2006-0181

APPLICATION FOR REHEARING,
MOTION FOR RECONSIDERATION, MOTION FOR STAY
AND MOTION FOR EXPEDITED TREATMENT

COME NOW Missouri Gas Energy ("MGE"), a division of Southern Union Company, a corporation, Atmos Energy Corporation ("Atmos") and Laclede Gas Company ("Laclede") (collectively the "Joint Applicants"), by counsel, pursuant to §386.500 RSMo 2000, 4 CSR 240-2.160 and 4 CSR 240-2.080(17), and for their Application for Rehearing, Motion for Reconsideration, Motion for Stay and Motion for Expedited Treatment, respectfully states as follows to the Missouri Public Service Commission ("Commission"):

PROCEDURAL BACKGROUND

1. On or about October 21, 2005, the Office of the Public Counsel ("OPC") filed with the Commission a Motion to Open a New Case and for a Finding of Necessity for Rulemaking with a draft rule attached. OPC proposed that the Commission promulgate an emergency amendment to the Cold Weather Rule (4 CSR 240-13.055). Pursuant to Commission order dated October 25, 2005, numerous entities (including MGE, Laclede, Atmos, Aquila, AmerenUE, the Staff of the Commission ("Staff") and the Missouri Attorney General) filed comments with the Commission as to whether a necessity exists such that the Commission should pursue the amendments sought by OPC. On December 6, 2005, the Commission convened a hearing "for the purpose of taking comments on whether an emergency rule is necessary, as well as comments on what an emergency rule (if one is found to be necessary)

should accomplish and what it should say." This hearing was a "legislative style" proceeding where cross-examination was not allowed.

2. On December 13, 2005, the Commission issued an order (the "Adopting Order") approving an emergency amendment to 4 CSR 240-13.055 (the "Emergency Rule") after finding that an emergency exists necessitating such emergency amendment. In the Adopting Order, which bore an effective date of December 16, 2005, the Commission directed that the amended version of 4 CSR 240-13.055 be transmitted to the Missouri Secretary of State for filing as an emergency amendment. According to the relevant statute (Section 536.025.9 RSMo 2000), the Emergency Rule may become effective not less than ten (10) days after its transmittal to the Secretary of State.

REHEARING

3. Both the Adopting Order and the Emergency Rule are unlawful, unjust, unreasonable, arbitrary, and not supported by competent and substantial evidence, all in material matters of fact and law, individually or cumulatively, or both, in several respects, all as indicated below.

A. Unlawful Consecutive Emergency Rule

4. Section 536.025.8 RSMo 2000 provides that "[A] rule adopted under the provisions of this section shall not be renewable, nor shall an agency adopt consecutive emergency rules that have substantially the same effect, although a state agency may, at any time, adopt an identical rule under normal rulemaking procedures." In the instant proceeding, the Commission has violated this subsection because the Emergency Rule has substantially the same effect as the emergency amendments to the Cold Weather Rule adopted by the Commission in 2001 in Case No. AX-2002-0203. This is particularly true in light of the fact that the

Commission adopted permanent changes to the Cold Weather Rule in 2004 pursuant to the normal rulemaking process in Case No. GX-2004-0492.

B. Improper Method for Addressing Tariffs

5. The provisions of the Emergency Rule are contrary to express provisions of the Joint Applicants' tariffs and, therefore, purport to alter the terms of such tariffs. The Joint Applicants' tariffs have been filed with and approved by the Commission pursuant to the substantive provisions of §393.140, RSMo 2000 and the procedural provisions of the Commission's "contested case" procedure set forth in §§386.390 - 386.610, RSMo 2000. Thus, the Joint Applicants' tariffs are deemed to be just and reasonable until altered in a way that is in accordance with statutory provisions.

6. Other than a company-initiated change to the provisions found in Joint Applicants' filed and approved tariffs, changes to said tariffs must be made in accordance with the "contested case" proceedings set forth in §§386.390-386.610, RSMo 2000.

7. The procedures the Commission has followed in this case do not conform to the requirements of §§386.390 - 386.610, RSMo 2000.

C. The $500 Cap Will Result in Additional Revenue Losses

8. By imposing a $500 cap on the initial payment that may be required to initiate service for a customer who is disconnected and in default of a cold weather rule payment agreement, the Commission has automatically restricted the amount of funds that will be available on behalf of Joint Applicants' (and other similarly situated Missouri gas companies') customers from federal programs such as LIHEAP and ECIP. These programs generally pay only what is required either to initiate service or to avoid disconnection of service. Revenue losses from the Emergency Amendment will therefore be considerably greater than if the $500

cap did not exist. Joint Applicants expect that the Commission is unaware of, and did not intend, this unreasonable result, but it is a very real outcome of the Commission's precipitous action. As a matter of fact, MGE and Laclede both presented comments noting that, based on their experience from 2001, the emergency amendments – which at the time did not include the $500 cap – could result in increased expenses, reduced revenues, reduced income and reduced achieved returns of approximately $2.25 to $3.375 million for MGE, and $4.1 to $6 million for Laclede. Adding the $500 cap provision only serves to increase the negative financial impacts. Rehearing or reconsideration should therefore be granted on this component of the Emergency Amendment.

D. Revenue Neutrality and Confiscation

9. The Emergency Rule operates as a change to Joint Applicants' tariffs and rates in a way that will result in a reduction in the future revenues of Joint Applicants, as well as all similarly situated public utilities. The most recent example of such Commission action occurred in 2001, when the Cole County Circuit Court stayed an emergency amendment to the Cold Weather Rule as to MGE and Atmos. (See Attachment 1) The rationale and judicial precedent underlying the Cole County Circuit Court's stay of the 2001 emergency cold weather rule amendment is discussed in *State ex rel. Alma Telephone Company, et al. v. Public Service Commission*, 40 S.W.3d 381 (Mo.App. 2001).

10. In *Alma Telephone*, the subject telephone companies suffered reduced revenues as the result of the Commission's elimination of the Primary Toll Carrier ("PTC") Plan. The law of the case was based upon the court's finding:

> . . . that the Commission did not calculate the financial impact of eliminating the PTC Plan on the Telephone Companies. The court noted that the Commission did

not find any of the Telephone Companies' tariffed rates or revenues to be unreasonable, unlawful, or excessive although it recognized that the change from the PTC Plan to an ORP could cause the Telephone Companies to lose revenues and incur new expenses. Finally, the court found that the Commission provided in its order that any of the Telephone Companies that subsequently experienced revenue losses could file a rate case under the Commission's existing rate base/rate of return regulation procedures to attempt to recover the loss or, in other words, that the Commission determined that the Telephone Companies were "not entitled to be kept whole for the revenue losses that [would] be experienced as part of the process of replacing the PTC Plan with an ORP."

In its conclusions of law, *the trial court determined that the Commission's denial of revenue neutrality to those companies that would experience revenue losses as a result of the transition to an ORP arrangement was an unconstitutional taking of revenues without due process and was a revenue reduction imposed by the Commission without considering all relevant factors.* It held that the Telephone Companies' tariffed access and billing and collection rates and revenues were *prima facie* lawful and reasonable until found otherwise; that the Commission's Report and Order did not find any of the Telephone Companies' rates or revenues to be unlawful or unreasonable; and that the Commission's invitation to the companies to file rate proceedings if they were adversely affected by its decision was an unlawful shifting of the burden of proof to the companies. The court concluded that the Commission could not lawfully eliminate the PTC Plan and require the Telephone Companies to provide intraLATA toll service in

> their respective exchanges without either engaging in a financial analysis of the companies or providing a *revenue neutrality* mechanism assuring that the companies' earnings would not be financially impacted. Thus, the court reversed the Commission's Report and Order and remanded the case to the Commission for the purpose of conducting a new hearing in a manner consistent with its judgment.

Id. at 385 (emphasis added). The Cole County Circuit Court found similar principles required revenue neutrality in striking down the Commission's Community Optional Service orders. *See State ex re. Contel of Missouri, et al. v. Public Service Commission*, Cases Nos. CV190-190CC, CV190-191CC and CV190-193CC and *State ex rel. Choctaw Telephone Company v. Public Service Commission*, Case No. CV193-66CC.

11. The Emergency Rule in the present case has similar problems. Joint Applicants' present rates are based, in part, upon the collection policies currently found within the existing Commission rules and the Joint Applicants' tariffs. The Amended Rule serves to reduce those revenues by requiring lesser payments of past due amounts in order to reconnect, or maintain, utility service for those customers who have previously failed to follow through on payment plans under existing rules. Also, by requiring the reconnection, or preventing the disconnection, of customers that would otherwise not be on the system, the Emergency Rule requires the Joint Applicants to incur greater bad debts than otherwise would exist and thereby incur new expenses. The Emergency Rule creates an "unconstitutional taking of revenues without due process and is a revenue reduction imposed by the Commission without considering all relevant factors," as the Commission has not found, nor does it have any basis to find, that Joint Applicants' rates are unreasonable or unjust.

12. The Emergency Rule attempts to address the increased expenses, reduced revenues, reduced income and reduced achieved returns resulting from this rule change in an accounting authority order ("AAO"). This mechanism would permit the booking of expenses and revenues caused by the Emergency Rule "for possible recovery in [the] next general rate case." Unfortunately, it suffers the same deficiency as that found in the *Alma Telephone* case. That is, it is an "unlawful shifting of the burden of proof" to Joint Applicants to prove they are due revenues to which they are already entitled.

13. The only constitutional solution to this problem can be found by again looking to the Commission's response to the *Alma Telephone* decision. In light of that decision, the companies were allowed to file tariffs containing interim rates, subject to refund, designed to achieve "revenue neutrality." The deficiencies in the Emergency Rule can only be corrected by using a similar approach. Such a mechanism would allow the Commission to achieve an emergency solution to the issues before it in a way that would also address the constitutional issues involved in such a fundamental change in the collection and reconnection practices upon which the rates of the joint applicants were established.

E. No Reasonable Opportunity to File Application For Rehearing

14. The Commission's Adopting Order (and the resulting Emergency Rule) is unlawful and made upon unlawful procedure in that it was made effective three (3) days after issuance. Section 386.500.2 RSMo 2000 provides that an application for rehearing must be made "before the effective date" of the order or decision. The Missouri Supreme Court stated in *State ex rel. St. Louis County v. Public Service Commission*, 228 S.W.2d 1, 2 (1950), that an order or decision of the Commission effective the day after it was issued was unlawful in that it deprived those interested of the reasonable opportunity to prepare and file applications for

rehearing.[1] An application for rehearing in a case before the Commission is particularly important and requires careful consideration and preparation because an application for rehearing must set forth "specifically" all the grounds on which the order or decision allegedly is unlawful, unjust or unreasonable in that the appellant may not on appeal "urge or rely on any ground not so set forth in said application." *Lusk v. Public Service Commission*, 210 S.W. 72, 75 (*banc* 1919). The Adopting Order in this case, effective just three (3) days after it was issued is thus unlawful in that it deprived the Joint Applicants of the reasonable opportunity to prepare and file an application for rehearing of the Commission's Adopting Order.

F. No "Emergency"

15. In order to use the emergency rulemaking process, the Commission must find an "*immediate* danger." Section 536.025.1(1) RSMo 2000. The circumstance giving rise to the emergency, according to the Emergency Statement in Attachment A to the Adopting Order, is that the "price of natural gas has risen sharply throughout the fall to a new high level, requiring many households to spend a much higher percentage of their overall budgets on home heating than in previous winters." However, the Cold Weather Rule was amended pursuant to the normal rulemaking process very recently (with those changes taking effect on October 30, 2004) and the pricing situation has been known for months now. This rulemaking was not initiated until October 21, 2005. If the Commission can decline to employ the normal rulemaking process for months during the presence of record-high summertime natural gas prices and then, upon the expected advent of cold weather, claim an emergency under §536.025 RSMo 2000, then the procedural protections of the normal rulemaking process would be rendered meaningless. For

[1] Other appellate cases have stated that ten (10) days is sufficient to allow preparation of applications for rehearing. *See, State ex rel. Kansas City, Independence & Fairmount Stage Lines Co. v. Public Service Commission*, 63 S.W.2d 88, 93 (Mo. 1933); *State ex rel. Toedebusch Transfer, Inc. v. Public Service Commission*, 144 S.W.2d 836 (Mo.App. 1940).

this reason, the Commission has violated §536.025.1(1), RSMo 2000. Joint Applicants would further note that even now there is little or no evidence that the higher natural gas prices underlying the Commission's determination that an emergency exists have actually resulted in such an emergency. To the contrary, the Commission's own Staff in its pleadings in the case has taken the position that no such emergency exists.

G. Remedy Exceeds Any Basis for Such Rule

16. Section 536.025.1(4), RSMo 2000 requires that the agency "[l]imit the scope of [an emergency] rule to the circumstances creating an emergency and requiring emergency action." To the extent there is an emergency, the Emergency Rule exceeds the provisions necessary to address the situation. According to the Emergency Statement in Attachment A to the Adopting Order, the circumstance giving rise to the alleged emergency is that the "price of natural gas has risen sharply throughout the fall to a new high level, requiring many households to spend a much higher percentage of their overall budgets on home heating than in previous winters."

17. Subsection (14)(D) of the Emergency Rule provides that "[A]ny customer who enters into a cold weather rule payment agreement during the time this emergency rule is in effect and fully complies with the terms of the payment plan shall be treated, going forward, as not having defaulted on ***any*** cold weather rule payment agreement." (emphasis supplied) It is not uncommon for a customer to have defaulted on more than one previous cold weather rule payment agreement. To the extent that a customer has defaulted on a cold weather rule payment agreement prior to the current heating season, such default has nothing at all to do with the circumstances alleged to have created the emergency situation (i.e., high gas prices this winter). By permitting a customer to "clean the slate" of such prior cold weather rule payment agreement

defaults, the Emergency Rule goes beyond the circumstances creating the emergency in violation of section 536.021.1(4).

18. The $500 cap for initial payments of preexisting arrears under Section 14(A) of the Emergency Rule also exceeds the scope required to address the basis given for the emergency. Pleadings filed by both Staff and utilities indicated that circumstances did not warrant a change to the existing Cold Weather Rule, while Public Counsel filed proposed changes that included a reduction in the initial payment to 50% of arrears. No party in comments or pleadings submitted prior to the December 6 hearing, or at the hearing itself, advocated a $500 cap, until such comments were received from Jacqueline A. Hutchinson on December 12, 2005, the day before the Adopting Order was issued. Given the weight of the evidence and the circumstances given for the emergency, the $500 cap goes beyond the scope of these circumstances in violation of section 536.021.1(4).

H. Conclusion

19. A Commission rule is invalid to the extent it is in conflict with state law. Section 536.014(2), RSMo 2000. The above sections point out the violation of various state statutes. The amendment to 4 CSR 240-13.055 adopted in this case also constitutes a taking from Joint Applicants of their property without due process of law, in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States and in violation of Article I, §10 of the Constitution of the State of Missouri.

20. Additionally, for all of the above-named reasons, the amendment to 4 CSR 240-13.055 adopted in this case denies Joint Applicants equal protection of the laws in violation of the Fourteenth Amendment to the Constitution of the United States and of Article I, §2 of the Constitution of the State of Missouri.

MOTION FOR STAY

21. Pending rehearing and a decision by this Commission on rehearing, Joint Applicants request that this Commission stay the promulgation and implementation of the Adopting Order and Amended Rule. In support of this request for stay, Joint Applicants state that as a result of the adopting rule (and the errors specified above), great and irreparable damage will result to the Joint Applicants should the Commission allow the Amended Rule to be promulgated and implemented as provided in the Adopting Order.

MOTION TO EXPEDITE

22. The Joint Applicants request that the Commission expedite its treatment of the above application for rehearing and motion for stay such that they may be ruled upon by December 15, 2005.

23. This case was initiated by an OPC filing on October 21, 2005 and has resulted in the issuance of the Adopting Order approximately seven weeks later. The Adopting Order bears an effective date of December 16, 2005, and the subject Emergency Rule is designed to become effective on December 26, 2005. For the due process provided by statute and regulation to have any import and to provide any opportunity for review, the Commission must consider and rule upon these requests prior to December 16, 2005.

24. The providing of this due process is good cause for the Commission to expedite its treatment of the application and motion and give meaningful consideration to and rule upon these requests.

25. This motion is being filed as soon as it reasonably could have, only two (2) days after the Commission's issuance of its Adopting Order.

WHEREFORE, the Joint Applicants request that this Commission grant a rehearing and reconsideration herein on an expedited basis and pending hearing, that the Commission stay its order in Case No. GX-2006-0181 and hold the emergency amendment to 4 CSR 240-13.055 in abeyance.

Respectfully submitted,

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ATTORNEYS FOR ATMOS ENERGY CORPORATION

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic mail on this 15th day of December, 2005, to:

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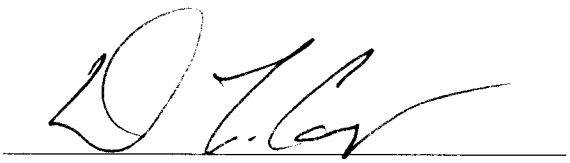

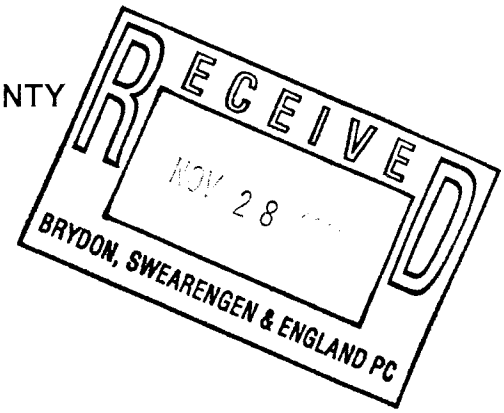

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

STATE OF MISSOURI ex rel. MISSOURI GAS ENERGY, a division of SOUTHERN UNION COMPANY, Relator, v. PUBLIC SERVICE COMMISSION of the State of Missouri, Respondent.	)	Case No. 01CV325865, lead case
STATE OF MISSOURI ex rel. ATMOS ENERGY CORPORATION, D/B/A UNITED CITIES GAS COMPANY AND GREELEY GAS COMPANY, Relator, v. PUBLIC SERVICE COMMISSION of the State of Missouri, Respondent.	)	Case No. 01CV325866, consolidated

ORDER GRANTING STAY

On the 27th day of November, 2001, a hearing was held at which evidence was submitted to the Court on the Motions for Stay made by the Relators in the above-entitled causes which have been consolidated. Appearing for Relator Atmos Energy Corporation d/b/a United Cities Gas Company and Greeley Gas Company was Mr. James M. Fischer. Appearing for Relator Missouri Gas Energy, a division of Southern Union Company, were Mr. Dean L. Cooper and Mr. Robert J. Hack. Appearing for Intervenor Office of the Public Counsel was Mr. Douglas Micheel. Appearing for

Respondent Missouri Public Service Commission were Mr. Dana Joyce and Mr. Eric Anderson. The record reflects that Respondent had at least three day's notice of the hearing as required by Section 386.520 RSMo 2000.

The parties jointly offered the transcript and exhibits from the preliminary injunction hearing conducted by the Circuit Court in Case No. 01 CV325788 on November 21, 2001, for the Court's consideration in regard to the motions for stay. The Court admitted the transcript and exhibits into the record. At the proceeding which was the subject of the transcript, the Relators called Mr. Michael Noack, Mr. Jerry Williams and Mr. Charles Steven Green, who were cross-examined by counsel for the Intervenor Office of the Public Counsel and Respondent and also answered questions directed by the Court. These witnesses provided testimony regarding the impact a certain emergency rule of the Respondent will have on the operations of Missouri Gas Energy and Atmos Energy Corporation. The Respondent called Ms. Janet Hoerschgen and Mr. Robert Schallenberg as witnesses, who were cross-examined by counsel for Relators and also answered questions directed by the Court. Intervenor Office of the Public Counsel called Mr. Russ Trippensee as a witness, who was cross-examined by counsel for Relators. Having received evidence offered regarding the Motions for Stay and also having heard the statements of counsel and being fully advised in the premises, the Court finds as follows:

1. That this action is properly before the Court pursuant to Section 386.510 RSMo 2000, pursuant to applications for writs of review properly and timely filed by Relators under §386.510 RSMo 2000, and that Relators are all public utilities subject to the jurisdiction of the Respondent, Missouri Public Service Commission ("Commission" or "Respondent").

2. That pursuant to the provisions of Section 386.520.1 RSMo 2000, this Court in its discretion may "stay or suspend, in whole or in part, the operation of" an order or decision of the Commission upon a finding of great or irreparable damage.

3. That the Relators have moved this Court to issue a stay of the effectiveness of a certain Order of Rulemaking ("the Order") and the resulting emergency administrative rule of Respondent. The Order was issued by Respondent

on November 8, 2001, and filed by Respondent with the Missouri Secretary of State on November 8, 2001. The Order was issued in proceedings before the Commission styled – Case No. AX-2002-203 -- "In the Matter of the Proposed Emergency Amendment to Commission Rule 4 CSR 240-13.055." The emergency rule resulting from this Order was to take effect on November 18, 2001, pursuant to law, unless stayed by this Court. See, 4 CSR 240–13.055(13), of which this Court took judicial notice.

4. That the evidence shows that the provisions of the Order and the resulting emergency rule would impose significant new financial and operational requirements upon each of the Relators. Specifically, the emergency rule will require Relators to institute new and relaxed collection procedures for their customers who are: 1) disconnected and in default on a cold weather rule (4 CSR 240-13.055) payment plan; and, 2) threatened with disconnection. These new requirements will limit the payments that Relators may require of such customers prior to disconnecting, connecting or reconnecting natural gas service. In so doing, the emergency rule will lower Relators' existing revenues, income and achieved returns by reducing the amount of cash they are able to collect before: 1) connecting or reconnecting service; or, 2) disconnecting service to a customer threatened with disconnection. In addition, the emergency rule will further lower Relators' existing income and achieved returns by requiring increased expenses for computer programming necessary to comply with the amendment.

5. That the evidence presented by the Relators shows that the emergency rule will significantly lower Relators existing revenue, income and achieved returns - by way of reduced cash collections and increased computer programming expenses. The evidence presented by the Relators also establishes that Respondent has provided no reasonable assurance that such reduced revenues, income and achieved returns will be compensated. As such, the evidence presented by the Relators establishes that the emergency rule will cause them great or irreparable harm.

6. That the evidence presented by the Relators indicates that there is no mechanism in place by which they can unilaterally and timely increase their rates or charges for public utility service to recover the costs of compliance with these new

procedures and, thus, have no adequate remedy at law.

7. That the evidence presented shows that if the effectiveness of the Order and the associated emergency rule is not stayed with regard to the Relators, the Relators will each suffer lower revenue, income and achieved return levels in the magnitude of hundreds of thousands of dollars to comply with the emergency rule while judicial review of the Order is pending.

8. That the pleadings show the Relators have presented several challenges to the lawfulness of the Order and the associated emergency rule. This Court is not ruling on the merits of those challenges in this order.

9. That the Relators wish to maintain the status quo through this Court issuing a stay order to prevent the new requirements going into effect as to them prior to a final resolution of the judicial review of the Commission's decision.

10. This Court finds that each of the Relators will suffer great or irreparable damage unless the Commission's Order of November 8, 2001, and the resulting administrative emergency rule is stayed as requested by Relators. The Commission, unless stayed, will likely seek to require Relators to comply with this emergency rule. If Relators expend the time and funds necessary to comply with this emergency rule, but are successful on appeal: 1) there is at present no assurance that Relators will be able to recoup the expenditures made in compliance with the emergency rule and recoup the lost revenues, income and achieved earning resulting from the emergency rule; 2) such expenditures and losses are great; and, 3) these factors present great or irreparable damage to Relators as contemplated by Section 386.520 RSMo 2000. The Court finds that the Motions for Stay in essence ask the Court to invoke its equity jurisdiction to maintain the status quo pending the final outcome of the judicial review of the lawfulness of the emergency rule and the procedure by which they were promulgated. The Court finds that it can do so by ordering that the effectiveness of the emergency rule, namely: 4 CSR 240-13.055(13), be stayed as to these Relators pending the final outcome of judicial review.

11. That the Relators, in compliance with subsection 3 of section 386.520 RSMo, shall submit a joint suspending bond in the amount of $1,000.00, payable to the

State of Missouri to secure the prompt payment of all damages caused by the delay in enforcement of the Orders of the Commission. The form of signature bond by an officer of one of the Relators proposed by Relators is hereby approved for such purpose.

NOW, THEREFORE, IT IS HEREBY ORDERED AND DECREED BY THE COURT THAT:

1. The Motions for Stay of the Relators are hereby granted.

2. The effectiveness of 4 CSR 240-13.055(13) as to each of the Relators in this cause is hereby stayed, and the Commission is also hereby stayed from requiring any Relator herein to comply with any of the provisions of those rules, either directly or indirectly, such stay to remain in full force and effect until further order of this Court.

3. This stay order is issued to preserve the status quo existing prior to the effectiveness of 4 CSR 240-13.055(13), so as to prevent great or irreparable damage to Relators pending a final ruling on the merits of the petitions for writ of review filed by Relators. This stay order is not intended to be a determination of the substantive rights of any party arising from the Orders.

4. That the form of suspending bond presented by Relators in the amount of $1,000.00 is hereby approved.

SO ORDERED:

Thomas J. Brown III, Circuit Judge, Division I

Dated: November 27, 2001

BOND

STATE OF MISSOURI)
)SS.
COUNTY OF COLE)

KNOW ALL MEN BY THESE PRESENTS: that Missouri Gas Energy, a division of Southern Union Company, a Delaware Corporation, is held and firmly bound unto the State of Missouri to pay $1,000.00 as damages due to any harm that may be caused to Respondent by the delay in implementation of its Order of November 8, 2001, in Case No. AX-2002-203.

Dated this 27th day of November, 2001.

Missouri Gas Energy

By: Robert J Hack
Robert J. Hack
VP, Pricing and Regulatory Affairs

Before me, the undersigned, a notary public in the State of Missouri, County of Cole, on the 27th day of November, 2001, the identical person who subscribed that name of the maker thereof to the foregoing Bond as the VP, Pricing and Regulatory Affairs of Missouri Gas Energy, and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of such corporation for the uses and purposes therein set forth.

ROBIN HENLEY GRIFFITH NOTARY SEAL MY COMMISSION EXPIRES DEC. 28, 2001 NOTARY PUBLIC COUNTY OF MILLER STATE OF MISSOURI

Robin Henley Griffith
Notary Public

My Commission Expires:

12-28-01