

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

In the Matter of the Application of Southern Union Company, d/b/a Missouri Gas Energy, for Approval to Change its Infrastructure System Replacement Surcharge.))	File No. GO-2013-0391
))	Tracking YG-2013-0450
))	

**NOTICE OF AGREEMENT, MOTION FOR EXPEDITED TREATMENT AND
RESPONSE TO ORDER DIRECTING FILING**

COMES NOW Southern Union Company d/b/a Missouri Gas Energy (MGE), and hereby notifies the Missouri Public Service Commission (Commission) of MGE's Agreement with the Staff Recommendation; Pursuant to Rules 4 CSR 240-2.080(16) and 4 CSR 240-2.065(2), moves the Commission for expedited treatment of MGE's tariff sheet filed on April 15, 2013 and Responds to the Commission's Order Directing Filing:

AGREEMENT

1. On April 9, 20123, the Staff of the Commission (Staff) filed a Staff Recommendation.
2. The Staff Recommendation recommended that the Commission issue an order that:
 - Rejects the tariff sheet filed by MGE on February 8, 2013, (assigned Tariff No. JG-2013-0355);
 - Authorizes MGE to file a tariff to impose an Infrastructure System Replacement Surcharge that is sufficient to recover appropriate annual pre-tax revenues in the amount of \$1,741,740;
 - Authorizes MGE to file an ISRS rate for each customer class as shown in Appendix B attached to the Staff Recommendation; and
 - Approves MGE's motion for waiver of 4 CSR 240-4.020(2).

3. Having reviewed the April 9, 2013 Staff Recommendation, MGE hereby notifies the Commission that it accepts, and is in agreement with, the above recommendations and rates.¹ MGE therefore asks that the Commission issue an order as requested by the Staff.

EXPEDITED TREATMENT

4. Concurrently, with the filing of this Motion, MGE has filed a tariff sheet in order to comply with the Staff Recommendation (Fifteenth Revised Sheet No. 10) (provided herewith as **Appendix A**). This tariff sheet carried a proposed effective date of May 15, 2013 (30 days), and was assigned tracking number YG-2013-0450. It further includes the ISRS rate for each customer class as shown in Appendix B attached to the Staff Recommendation

5. MGE seeks the Commission's order allowing the proposed tariff sheet to go into effect as soon as it may be acted on by the Commission.

6. The ISRS process is authorized by Sections 393.1009, 393.1012 and 393.1015, RSMo, and Commission Rule 4 CSR 240-3.265. Its goal is to provide eligible gas corporations with the ability to recover, on a timely basis, certain infrastructure replacement costs outside of a formal rate case filing via the ISRS. The Staff has recommended such an ISRS in this case and, unless there are objections to that Staff Recommendation, there are no further procedures to be completed. Granting this Motion will afford MGE the timely rate relief which is in accordance with statutes. As

¹ MGE's agreement with the recommendations and rates, however, should not be interpreted as agreement with all of the underlying methodologies used by the Staff. MGE reserves the opportunity to challenge those methodologies in future cases if differences should become material.

such, Commission action as requested will be consistent with the public interest as established by the General Assembly.

7. The subject tariff sheet and this Motion have been filed as soon as possible after the receipt of the Staff Recommendation.

RESPONSE TO ORDER DIRECTING FILING

8. On April 10, 2013, the Commission issued its Order Establishing Time to Respond to Staff's Recommendation and Directing Filing. That Order directed that MGE, and any other party wishing to respond to the Staff Recommendation, do so by April 19, 2013. The Order further directed that the parties file a response, also by April 19, 2013, as to whether MGE's ISRS filing is timely.

9. The Commission's Order described the timeliness issue as follows:

Subsection 393.1012.2, RSMo Supp. 2012, states that "[t]he commission shall not approve an ISRS for any gas corporation that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three years, unless the gas corporation has filed for or is the subject of a new general rate proceeding." MGE's most recent general rate case, GR-2009-0355, was decided by a Commission Report and Order issued on February 10, 2010. MGE filed its petition in this case on February 8, 2013. The statute cited above does not clarify whether a gas utility must file a petition requesting an ISRS within three years of the most recent rate case decision in order to comply with the statute, or whether the issuance of a Commission order approving such a petition is the relevant date in determining the Commission's statutory authority under that subsection. The Commission will require the parties to file a response regarding whether the Commission has the statutory authority to approve MGE's petition in this case under Subsection 393.1012.2, RSMo Supp. 2012.

10. In answer to the Commission's inquiry -- the Commission DOES have the statutory authority to approve MGE's petition in this case.

11. The statutory provision cited by the Order must be read in conjunction with the entire section. Section 393.1012 reads as follows:

393.1012. 1. Notwithstanding any provisions of chapter 386 and this chapter to the contrary, beginning August 28, 2003, a gas corporation providing gas service may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the gas corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements. The commission may not approve an ISRS to the extent it would produce total annualized ISRS revenues below the lesser of one million dollars or one-half of one percent of the gas corporation's base revenue level approved by the commission in the gas corporation's most recent general rate proceeding. The commission may not approve an ISRS to the extent it would produce total annualized ISRS revenues exceeding ten percent of the gas corporation's base revenue level approved by the commission in the gas corporation's most recent general rate proceeding. An ISRS and any future changes thereto shall be calculated and implemented in accordance with the provisions of sections 393.1009 to 393.1015. ISRS revenues shall be subject to a refund based upon a finding and order of the commission to the extent provided in subsections 5 and 8 of section 393.1009.

2. The commission shall not approve an ISRS for any gas corporation that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three years, unless the gas corporation has filed for or is the subject of a new general rate proceeding.

3. In no event shall a gas corporation collect an ISRS for a period exceeding three years unless the gas corporation has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(emphasis added).

12. The establishment of an ISRS and changes to an ISRS are treated differently by the statute (“ . . . petition and proposed rate schedules with the commission *to establish or change* ISRS rate schedules” – “*An ISRS and any future changes . . .*”).

13. As stated by the Commission, MGE’s last general rate proceeding (Case No. GR-2009-0355) was decided by a Report and Order issued on

February 10, 2010.² In that case, MGE's prior ISRS was reset to zero, in accordance with Section 393.1015.6, RSMo.

14. Well within three years after that last rate case decision, as required by subsection 393.1012.2, MGE filed a petition to establish an ISRS on July 2, 2010, in Case No. GO-2011-0003. An ISRS was established as a result of that case, effective September 10, 2010.

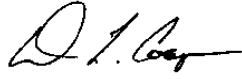
15. The petition initiating this case was for the purpose of changing the established ISRS. Because MGE's current ISRS was established within the time frame called for by subsection 393.1012.2, the statute provides the authority for the Commission to approve MGE's petition in this case.

16. A different timing question is posed by subsection 393.1012.3. That is, once established, how long may an ISRS stay in effect? Subsection 393.1012.3 states, in part, "In no event shall a gas corporation collect an ISRS for a period exceeding three years_unless the gas corporation has filed for or is the subject of a new general rate proceeding" Because MGE's current ISRS went into effect September 10, 2010, the statute calls for a rate case filing by September 9, 2013, in order to continue collecting the ISRS.

WHEREFORE, MGE respectfully requests that the Commission consider this Notice of Agreement, Motion for Expedited Treatment and Response to Order Directing Filing and, thereafter, issue an order consistent with the Staff Recommendation, granting MGE's Motion for Expedited Treatment and approving MGE's proposed tariff sheet (YG-2013-0450), for service on less than thirty days notice.

² The Report and Order was not effective until February 20, 2010. The Order Approving Tariffs in Compliance with the Report and Order was issued on February 24, 2010 (effective February 28, 2010).

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
Email: dcooper@brydonlaw.com

ATTORNEYS FOR SOUTHERN UNION COMPANY,
d/b/a MISSOURI GAS ENERGY,

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on April 15, 2013, to the following:

Robert S. Berlin
Office of the General Counsel
Governor Office Building
Jefferson City, MO 65101
bob.berlin@psc.mo.gov
goldie.tompkins@psc.mo.gov

Marc Poston
Office of the Public Counsel
Governor Office Building
Jefferson City, MO 65101
marc.poston@ded.mo.gov

