

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

The Staff of the Missouri Public Service Commission	)	
	)	
	)	
Complainant	)	
	)	
v.	)	Case No. GC-2014-0216
	)	
Laclede Gas Company, d/b/a Missouri Gas Energy,	)	
	)	
and	)	
	)	
Southern Union Company, formerly doing business as Missouri Gas Energy	)	
	)	
	)	
Respondent.	)	

**REPLY TO STAFF’S RESPONSE TO MOTION TO DISMISS**

COMES NOW Southern Union Company (Southern Union), by way of its successor, Panhandle Eastern Pipe Line Company, LP (Panhandle), by and through counsel, and, in reply to Staff’s Response to Respondents’ Motion to Dismiss, states as follows to the Missouri Public Service Commission (Commission):

1. On March 10, 2014, Southern Union, by way of Panhandle, filed a Motion to Dismiss asking that Southern Union be dismissed from this Complaint. On the same day, Laclede Gas Company (Laclede) also filed a Motion to Dismiss. On March 20, 2014, the Staff of the Commission (Staff) filed a document titled “Staff’s Response to Respondents’ Motion to Dismiss” (Staff’s Response). Therein, the Staff replied to both the Southern Union Motion to Dismiss and the Laclede Motion to Dismiss.

2. Staff's Response generally confuses civil liability with administrative penalties. Staff wrongly accuses Panhandle of asserting that "the Commission absolved PEPL of all responsibility and liability for the explosion." (Staff's Response, para. 6) It further discusses the Court decision concerning the effect of tariff provisions on civil liability and argues "that the Commission also cannot so immunize a public utility by approving a stipulation and agreement . . . ." (Staff's Response, para. 8) The Staff further speaks in terms of whether Southern Union has "evaded liability for the explosion" and calls forth the rights of those injured in the explosion at issue. (Staff's Response, para. 9, 10)

3. The question before this Commission is not one of civil liability. There is a forum for that question that is entirely separate from this Commission. It is a forum to which many persons have already availed themselves and which will be unaffected by the Commission's decision as to the Motion to Dismiss. The question raised by Panhandle's Motion to Dismiss is whether there is Commission jurisdiction over Southern Union for purposes of administrative penalties.

4. Staff's Response seems to suggest that Southern Union's Motion to Dismiss rests upon the Purchase and Sale Agreement (PSA) between Southern Union and Laclede, which was approved by the Commission. While the PSA has import in regard to certain liability issues, it is not the primary basis for Southern Union's Motion. The Commission's Order Approving Unanimous Stipulation and Agreement in Case No. GM-2013-0254, wherein the Commission approved the sale of Southern Union's Missouri Gas Energy (MGE) assets to Laclede, stated, in part, that "Southern Union

Company, effective upon the closing of the transaction, is authorized to terminate its responsibilities as a gas corporation in Missouri subject to the jurisdiction of the Commission.” (Order, para. 11, p. 5) The referenced transaction was closed on September 1, 2013. Therefore, as of that date, Southern Union’s responsibilities as a gas corporation subject to the jurisdiction of the Commission were terminated and Southern Union ceased to be an entity subject to the Commission’s jurisdiction, as a result of the Commission’s Order. Staff’s Response does not explain why jurisdiction continues over Southern Union in the face of this Commission order.

5. The Staff responds to the real question to be determined by the Commission – does the Commission have complaint jurisdiction over Southern Union -- with one simple declaration and no citation to authority. Staff states that “PEPL need not be a regulated entity now to be held to answer by the Commission for the violations of its regulated predecessor-in-interest . . . .” (Staff’s Response, para., 7)

6. Contrary to Staff’s simple declaration, this Commission has previously reached a contrary result. In *Smith v. Lenzenhuber*, WC-2001-417, 2002 Mo PSC Lexis 806 (June 13, 2002), this Commission considered the issue of whether the Commission had subject matter or personal jurisdiction over a respondent after the sale of the water system in controversy. The Staff suggested in that case that the Commission had jurisdiction over the respondent, if the evidentiary facts showed that he met the definition of a “water corporation.” However, during the pendency of the complaint, the respondent’s water system was sold to a public water supply district. The Commission dismissed the complaint, finding as follows:

The Commission holds that good cause exists to dismiss the complaint, i.e., that the Commission no longer has jurisdiction over the original subject matter of the complaint since the purchaser of the water system is not regulated by the Commission; it has no personal jurisdiction over Lenzenhuber since he no longer owns or operates a water system; and it does not have personal jurisdiction over the new owner of the water system.

7. Similarly, the Commission has no jurisdiction over Southern Union (or its successor). Southern Union has sold the gas system that is the subject of this complaint. Thus, there is no personal jurisdiction over Southern Union or its successor.

8. Unlike *Smith*, however, subject matter jurisdiction over the complaint remains even in Southern Union's absence, because Laclede is subject to the Commission's jurisdiction, remains as a respondent and has assumed responsibility for this matter under the terms of the PSA approved by the Commission. Laclede has effectively stepped into Southern Union's shoes so, unlike *Smith*, there remains an entity subject to the Commission's jurisdiction as a respondent in the Staff's complaint.


9. Laclede/MGE's reply to the Staff's Response establishes that it is not contesting the Commission's jurisdiction over it or the subject matter of the Complaint. This result makes sense, given the Commission's role in the regulation of gas corporations. Laclede/MGE is the only entity that can be influenced by the results of this complaint case. In fact, Laclede/MGE's reply indicates a willingness to do just that as Laclede/MGE states it is "willing to meet with Staff to discuss Staff's recommendation in its February 6 Gas Incident

Report regarding additional or revised procedures going forward.” (Respondent MGE’s Reply, para. 5)

10. The Commission has no jurisdiction over Southern Union and no purpose is served by Southern Union’s presence in the matter. Accordingly, the Commission should grant Southern Union’s Motion to Dismiss.

WHEREFORE, Panhandle respectfully requests that the Commission issue its order dismissing Southern Union from the complaint.

Respectfully submitted,



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James C. Swearngen Mo. Bar 21510  
Dean L. Cooper Mo. Bar 36592  
Brydon, Swearngen & England P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102-0456  
573/635-7166  
Email: [dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

Attorneys for Panhandle Eastern Pipe Line Company, LP

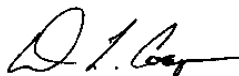
## **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission to the following on this 28<sup>th</sup> day of March, 2014.

John D. Borgmeyer  
Office of the General Counsel  
[john.borgmeyer@psc.mo.gov](mailto:john.borgmeyer@psc.mo.gov)  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

Marc Poston  
Office of the Public Counsel  
[marc.poston@ded.mo.gov](mailto:marc.poston@ded.mo.gov)  
[opc@ded.mo.gov](mailto:opc@ded.mo.gov)

Todd J. Jacobs  
Rick E. Zucker  
[Todd.jacobs@thelacledgroup.com](mailto:Todd.jacobs@thelacledgroup.com)  
[Rick.zucker@thelacledgroup.com](mailto:Rick.zucker@thelacledgroup.com)



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