

Exhibit No.: _____

Issues: Environmental Remediation
Costs; Uncollectibles Expense;
SLRP Amortization;
Miscellaneous Service
Charges; Depreciation
Expense; Infinium; Rate
Case/Regulatory Expense;
Limitation of Liability Tariff;
Storage Gas Property Taxes;
Corporate Allocations; Energy
Efficiency Funding

Witness: Michael R. Noack

Sponsoring Party: Missouri Gas Energy

Case No.: GR-2009-0355

Date Testimony Prepared: September 28, 2009

MISSOURI PUBLIC SERVICE COMMISSION

MISSOURI GAS ENERGY

CASE NO. GR-2009-0355

REBUTTAL TESTIMONY OF

MICHAEL R. NOACK

Jefferson City, Missouri

September 2009

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SEPTEMBER 2009

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REBUTTAL TESTIMONY OF MICHAEL R. NOACK

CASE NO. GR-2009-0355

SEPTEMBER 2009

INTRODUCTION

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Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?

A. My name is Michael R. Noack and my business address is 3420 Broadway, Kansas City, Missouri 64111.

Q. ARE YOU THE SAME MICHAEL R. NOACK THAT PREVIOUSLY FILED DIRECT TESTIMONY IN THIS CASE?

A. Yes.

PURPOSE

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to respond to certain matters contained in the Staff Report – Cost of Service, Staff Report – Class Cost-of-Service and Rate Design and the direct testimony of Office of the Public Counsel (Public Counsel) witnesses Ted Robertson and Russ Trippensee.

ENVIRONMENTAL REMEDIATION COSTS

Q. PUBLIC COUNSEL WITNESS ROBERTSON SUGGESTS IN HIS DIRECT TESTIMONY (P. 25-30) THAT MGE’S COSTS ASSOCIATED WITH THE REMEDIATION OF FORMER MANUFACTURED GAS PLANT SITES

1 **SHOULD NOT BE UTILIZED IN SETTING RATES FOR THE COMPANY. ON**
2 **WHAT BASIS DOES MR. ROBERTSON MAKE THIS RECOMMENDATION?**

3 A. Mr. Robertson identifies a series of reasons for his opposition. The Company will
4 respond to these arguments utilizing my testimony as well as the testimony of Company
5 witnesses Dennis Morgan and Derek Tomka.

6
7 **Q. ONE OF MR. ROBERTSON'S ARGUMENTS IS THAT THE SITES TO BE**
8 **REMEDiated ARE NOT USED AND USEFUL IN PROVIDING SERVICE TO**
9 **CURRENT CUSTOMERS. ARE THE SUBJECT SITES CURRENTLY USED BY**
10 **MGE TO PROVIDE NATURAL GAS SERVICE?**

11 A. Yes. While the manufacture of gas has long ago ceased, the sites themselves are, or prior
12 to remediation were, used for various aspects of MGE's current operations.

13
14 **Q. PLEASE DESCRIBE THE CURRENT USE OF THOSE SITES.**

15 A. The St. Joseph FMGP #1 site was previously the St. Joseph service center. Shortly
16 before the remediation of that site began, MGE leased another facility in St. Joseph and
17 temporarily moved its operations to the leased facility. The clean-up of the St. Joseph
18 site is underway and MGE employees are scheduled to move back to that location
19 following substantial completion of the remediation and approval by the MDNR.

20
21 The Independence FMGP site currently houses the MGE training facilities and it is the
22 fleet headquarters. Clean-up has not begun at that site at this time, but the site has been
23 entered into the Voluntary Clean-up Program.

1 The Joplin FMGP site is the location of the Joplin service center and public business
2 office. Remediation activities have not begun at that site at this time.

3
4 The last two Company owned sites are what is known as Station A and Station B in
5 Kansas City, Mo. The Company's Kansas City service center (known as the "Central
6 Plant") was previously housed at this location. A substantial portion of the planned
7 environmental remediation activity has been completed at this location and it currently
8 serves as an inventory facility where the Company stores pipe and other construction
9 materials.

10
11 **Q. HAS THE COMMISSION RECENTLY HAD THE OPPORTUNITY TO**
12 **ADDRESS THIS MATTER IN DETAIL?**

13 **A.** Yes. I indicated in my Direct Testimony that in Commission Case No. GU-2007-0480,
14 the Commission found, among other things, that "Remediation of former manufactured
15 gas plant sites is a normal cost of doing business for a local distribution gas company."

16
17 **Q. THE STAFF REPORT – COST OF SERVICE SUGGESTS THAT MGE SHOULD**
18 **RECEIVE RECOVERY OF THESE COSTS (P. 108-111). HOWEVER, THE**
19 **STAFF FURTHER SUGGESTS THAT THE FMGP EXPENSES SHOULD BE**
20 **NORMALIZED BY AVERAGING THE ANNUAL COSTS EXPERIENCED**
21 **OVER THE LAST THREE YEAR PERIOD, REDUCING THOSE AVERAGE**
22 **COSTS BY THE ANNUAL AVERAGE OF MGE'S INSURANCE RECOVERIES**
23 **OVER THE LAST THREE YEARS AND THEN FURTHER REDUCING THOSE**
24 **COSTS BY FIFTY PERCENT BASED ON AN ENVIRONMENTAL LIABILITY**

1 **AGREEMENT THAT EXISTS BETWEEN SOUTHERN UNION AND WESTERN**
2 **RESOURCES (NOW WESTAR). DO AGREE WITH THE STAFF'S**
3 **NORMALIZATION PROCESS?**

4 A. I find the use of the average of the last three years expenses to normalize the
5 environmental costs to be reasonable. However, I do not agree with the use of the past
6 insurance proceeds or the Environmental Liability Agreement (ELA) to further reduce
7 the normalized amount.

8
9 **Q. WHY NOT?**

10 A. First, as is explained in the Rebuttal Testimony of MGE witness Dennis Morgan, the
11 insurance recovery process has been under way for many years. Such recoveries are
12 necessarily limited and, at some point, will cease. MGE has no way of knowing or
13 controlling what, if any, insurance recoveries may be made during the period of time
14 these rates will be in effect.

15
16 **Q. WHY DO YOU BELIEVE IT IS NOT APPROPRIATE TO REDUCE THE**
17 **EXPENSE BASED ON THE ELA?**

18 A. As also explained in the Rebuttal Testimony of MGE witness Dennis Morgan, the ELA
19 has no applicability to environmental expenses that MGE incurs after January 31, 2009.
20 The primary purpose of a rate case is to set rates prospectively. It is clear that the ELA
21 will provide no recovery to MGE concerning the environmental expenses it may incur in
22 future periods. Thus, it should not be used to normalize environmental expense.

23

1 **Q. WHAT WOULD BE YOUR RECOMMENDATION AS TO THE AMOUNT OF**
2 **ENVIRONMENTAL EXPENSE TO BE USED IN THIS CASE FOR THE**
3 **PURPOSE OF SETTING RATES?**

4 A. I believe a reasonable amount would be the three year average of such costs, or the
5 \$2.546 million normalized level computed by Staff, without regard to insurance
6 recoveries or the ELA adjustment.

7
8 **Q. DO YOU HAVE AN ALTERNATE PROPOSAL FOR THE HANDLING OF THE**
9 **ENVIRONMENTAL COSTS?**

10 A. Yes. If there is a concern about the possible variability of the environmental costs and
11 insurance recoveries, MGE would propose as an alternative the use of a tracker to address
12 these costs. This approach would account for the costs in a way that would reduce the
13 chances that the Company would either under or over-recover its environmental costs.
14 Such an approach would also mitigate somewhat the significance of what number is used
15 for the purpose of setting rates in this case.

16
17 **Q. IN CONJUNCTION WITH A TRACKER, WHAT AMOUNT WOULD YOU**
18 **SUGGEST BE USED FOR THE PURPOSE OF SETTING RATES IN THIS**
19 **CASE?**

20 A. I would suggest using \$1,882,944, which is Staff's normalized level, including a three
21 year average of insurance recoveries but excluding an adjustment to reflect that on a
22 prospective basis no costs will be subject to sharing with Westar under the ELA.

23

1 **Q. WHAT LANGUAGE WOULD YOU PROPOSE FOR AN ENVIRONMENTAL**
2 **COSTS TRACKER?**

3 A. If a tracker were implemented, I would propose that MGE be authorized to include the
4 following language in its tariffs:

5 Missouri Gas Energy shall be authorized to record on its books a
6 regulatory asset/liability associated with the evaluation, remedial and
7 clean-up obligations of MGE arising out of utility-related ownership
8 and/or operation of manufactured gas plants and sites associated with the
9 operation and disposal activities from such gas plants. In addition to the
10 actual remedial and clean-up costs, this regulatory asset/liability shall also
11 include costs of acquiring property associated with the clean up of such
12 sites as well as litigation costs, claims, judgments, expenditures made in
13 efforts to obtain insurance reimbursements, and settlements – including
14 the costs of obtaining such settlements – associated with such sites.

15 The Company shall create a regulatory liability in any year where
16 MGE net expenditures (expenses less recoveries) are under the annual
17 allowance by more than \$1,000,000 and a regulatory asset in any year
18 where the Company's net expenditures are more than \$1,000,000 over the
19 allowance. The assets and liabilities shall then be netted against each
20 other and shall be subject to recovery from or return to customers in future
21 rates. The difference between any regulatory asset or liability and the
22 allowance in MGE's rates and the amount expended by MGE shall be
23 included in the Company's rate base in future rate proceedings.

24 \$1,882,994 is the annual allowance which MGE shall be allowed
25 to recover in its current rates.
26

27 **Q. CAN YOU PROVIDE SOME EXAMPLES OF HOW THE TRACKER WOULD**
28 **WORK?**

29 A. Yes. Three examples follow that demonstrate my intent for the application of the
30 proposed tracker:

31 Example 1: If \$3,000,000 is spent, \$117,006 gets added to a deferred asset account for
32 recovery in future rate case proceedings. The \$117,006 is \$3,000,000 minus \$2,882,994
33 or the excess over the annual allowance plus \$1,000,000.

34 Example 2: If \$500,000 is spent, \$382,994 gets put into a deferred liability account for
35 refund in future rate case proceedings.

1 Example 3: If only recoveries are received in the amount of \$500,000, \$1,382,994 gets
2 added to the deferred liability account.

3
4 **UNCOLLECTIBLES EXPENSE**
5

6 **Q. WHAT IS AT ISSUE WITH UNCOLLECTIBLES EXPENSE?**

7 A. One of the issues has to do with the period of time to be used for the purpose of
8 normalizing uncollectible expense. Staff and Company are both recommending that a
9 three year average of net write-offs be used to normalize uncollectible expense. Public
10 Counsel witness Trippensee recommends using a 5 year average. MGE agrees with Staff
11 that three years is more representative of future uncollectible levels.

12
13 **Q. WHY IS THREE YEARS MORE APPROPRIATE?**

14 A. There are a couple of reasons three years is an appropriate period of time to use to
15 normalize uncollectible write-offs. The cold weather rule was changed in late 2005
16 which affected the amount of money the company could collect before reconnecting a
17 customer. Therefore the three year period incorporates the same cold weather conditions
18 throughout. The time between MGE rate cases has averaged about three years so
19 normalizing the write-offs between rate cases is a reasonable period of time. There is
20 also an upward trend in the write-offs when compared to the test year results and a three
21 year average would be appropriate.

22
23 **Q. HAS PUBLIC COUNSEL WITNESS TRIPPENSEE THEN MADE A FURTHER**
24 **ADJUSTMENT TO LOWER UNCOLLECTIBLE EXPENSE?**

1 A. Yes. Mr. Trippensee makes another adjustment to lower uncollectible expense by
2 \$232,354 to reflect collection of Emergency Cold Weather Rule (ECWR) costs included
3 in rates as authorized by the Commission in Case No. GR-2006-0422.
4

5 **Q. DO YOU AGREE WITH MR. TRIPPENSEE'S SECOND ADJUSTMENT?**

6 A. No. First it should be pointed out that the three year amortization period granted by the
7 Commission in Case No. GR-2006-0422 associated with the ECWR cost recovery will be
8 over shortly after rates from this case go into effect. As a result, MGE has made an
9 adjustment to take that amortization out of the test year so that it will not be used for the
10 purpose of calculating rates in this case. The only expense MGE has requested for
11 uncollectibles is the normalized level based on the average of the last three years.
12

13 Second, it appears that Mr. Trippensee's contention with regard to his second adjustment
14 is that the costs which the Company received amortization of represented a pre-recovery
15 of uncollectible costs and that if the test year is not adjusted downward, the Company
16 will double-recover bad debt expense in the amount of the ECWR amortization. In
17 computing the costs of the ECWR the Company was not including an additional amount
18 for uncollectibles but was instead measuring the amount of recoveries of the previous
19 uncollectibles that we would never receive because of the lower payment requirements of
20 the ECWR. If the Commission were to accept Mr. Trippensee's adjustment they would
21 in essence be ordering a refund of costs which they previously found to be justified in
22 Case No. GR-2006-0422.
23

1 **Q. WHAT WAS THE PURPOSE OF THE ECWR COST RECOVERY**
2 **AMORTIZATION?**

3 A. The purpose of that recovery was to address “the costs of complying with the 2005 Cold
4 Weather Emergency Rule (4 CSR 240-13.055(14)).” *See Order Granting Accounting*
5 *Authority Order*, Case No. GR-2009-0422 (Issued September 21, 2006).

6

7 **Q. WAS THE ECWR PROMULGATED?**

8 A. Yes.

9

10 **Q. ARE YOU AWARE OF ANY REASON TO REFUND COST RECOVERIES**
11 **ASSOCIATED WITH COMPLIANCE WITH THAT RULE?**

12 A. No, I am not.

13

14 **Q. DID OPC CHALLENGE THE INCLUSION OF ECWR COSTS IN MGE’S LAST**
15 **RATE CASE?**

16 A. Yes.

17

18 **Q. WHAT HAPPENED IN THAT CASE?**

19 A. In Case No. GR-2006-0422, the Commission rejected OPC’s position and included
20 ECWR costs in rates.

21

22 **Q. DID OPC SEEK JUDICIAL REVIEW OF THAT ASPECT OF THE**
23 **COMMISSION’S REPORT AND ORDER IN CASE NO. GR-2006-0422?**

24 A. Yes.

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Q. WHAT HAPPENED IN THAT CASE?

A. I am advised by counsel that the southern district of the Missouri Court of Appeals affirmed the Commission’s order in all respects, including its findings and conclusions relating to the ECWR.

SLRP AMORTIZATION

Q. WHAT IS THE SAFETY LINE REPLACEMENT PROGRAM (SLRP)?

A. This phrase is used to refer to a large line replacement program that was undertaken in the 1990’s in response to a series of Gas Line Safety Rules promulgated by the Commission. As the name implies, the rules required gas utilities to substantially replace all of their older service lines and mains.

Q. WHAT EFFECT DID THIS HAVE ON THE COMPANY?

A. The effect of this requirement was to cause MGE's predecessor and MGE to incur a new and substantial expense not envisioned by them or accounted for in the then- current rates as previously approved by the Commission. In response, the Commission granted the Company an accounting authority order (AAO) to allow MGE to book certain costs related to those improvements.

Q. WHAT IS THE STATUS OF THE AMORTIZATION OF THE COSTS THAT HAVE BEEN DEFERED AS A RESULT OF THE SLRP?

1 A. There were ultimately six SLRP deferrals. The first deferral has been fully amortized for
2 several years. SLRP deferrals 2, 3 and 4 were fully amortized as of August 2008. SLRP
3 deferrals 5 and 6 are still being amortized and will not be fully amortized until sometime
4 in 2011 for the 5th deferral and 2014 for the 6th deferral.

5

6 **Q. PUBLIC COUNSEL WITNESS TED ROBERTSON SUGGESTS IN HIS DIRECT**
7 **TESTIMONY (P. 32-33) THAT AMOUNTS ASSOCIATED WITH THE**
8 **AMORTIZATION OF SLRP DEFERRALS 2, 3 AND 4 ARGUABLY**
9 **RECOVERED BY THE COMPANY BETWEEN JULY 2008 AND THE TIME**
10 **NEW RATES GO INTO EFFECT SHOULD BE USED TO REDUCE THE**
11 **BALANCES OF SLRP DEFERRALS 5 AND 6. DO YOU AGREE?**

12 A. No.

13

14 **Q. WHY NOT?**

15 A. What Mr. Robertson is describing is a product of regulatory lag and the fact that such
16 amortizations do not always neatly match the beginning and ending of rate periods.

17

18 **Q. DID THE COMMISSION RECOGNIZE THIS EFFECT WHEN IT FIRST**
19 **PROVIDED FOR RATE TREATMENT OF THE SLRP DEFERRALS?**

20 A. Yes. There is generally a question in these situations whether a Company should be
21 allowed to include the unamortized balance of such deferrals in rate base such that it is
22 allowed to earn a return on the balance. This matter was no exception. In Commission
23 Case No. GR-98-140, MGE requested that the unamortized balance of the SLRP deferrals
24 be given rate base treatment. The Commission denied rate base treatment and, in doing

1 so, stated that “AAOs are not intended to eliminate regulatory lag but are intended to
2 mitigate the cost incurred by the Company because of regulatory lag. Given that the
3 Company will recover the amortized amount of the SLRP deferral at the AFUDC rate in
4 ten years, instead of the previous 20 years' amortization period, it is proper for the
5 ratepayers and shareholders to share the effect of regulatory lag by allowing the
6 Company to earn a return of the SLRP deferred balance but not a return on the SLRP
7 deferred balance.”

8
9 **Q. GIVEN THIS DECISION, HOW WOULD YOU DESCRIBE THE SITUATION**
10 **ABOUT WHICH MR. ROBERTSON COMPLAINS?**

11 A. The fact that the subject amortization periods did not match the periods the rates were in
12 effect, is a form of regulatory lag that, in this case, may advantage the Company.
13 However, the Commission found these types of regulatory lag effects to be acceptable
14 when it denied MGE rate base treatment of the unamortized balance and accepted the fact
15 that some forms of regulatory lag associated with these deferrals would disadvantage the
16 Company. Accordingly, Mr. Robertson’s proposed adjustment to the SLRP amortization
17 should be denied.

18
19 **MISCELLANEOUS SERVICE CHARGES**

20 **Q. THE STAFF REPORT – CLASS COST-OF-SERVICE AND RATE DESIGN (P.**
21 **28-30) ADDRESSES MGE’S PROPOSED COLLECTION AND**
22 **DISCONNECTION CHARGE, TRANSFER CHARGE; RECONNECTION**

1 **CHARGE; AND CONNECTION – NEW CHARGE. WHAT CHARGES DOES**
2 **STAFF PROPOSE FOR THESE ITEMS?**

3 A. Staff suggests the following charges:

4 Collection & Disconnection - \$42

5 Reconnection Charge – \$65

6 Service Initiation Fee - \$32

7 The “Service Initiation Fee” would replace MGE’s existing Transfer and Connection –
8 New charges.

9
10 **Q. DOES MGE FIND THESE CHARGES TO BE ACCEPTABLE?**

11 A. Yes, with one exception. MGE would add a “revert to owner fee” in the amount of
12 \$15.00 associated with situation where service must be transferred from landlord to
13 tenant or from tenant to landlord without the necessity of actually disconnecting service
14 as provided on Sheet No. R-39 of MGE’s tariff.

15
16 **Q. WHY IS THIS ADDITIONAL CHARGE NECESSARY?**

17 A. Currently the MGE transfer or succession fee is \$6.50. This occurs when a simple read
18 of the electronic meter is made and the name on the account is changed. No trip to the
19 customers premise is made to disconnect, nor another trip made to reconnect. The
20 concern for landlords and owners of rental property is that such a large increase from
21 \$6.50 to \$32.00 would discourage the simple transfer of the account from one name to
22 another.

1 DEPRECIATION

2 Q. THE STAFF REPORT – COST OF SERVICE (P. 86-87) LISTS SEVERAL
3 CONDITIONS REGARDING THE DEPRECIATION RATES THAT WERE
4 AGREED TO IN COMMISSION CASE NO. GE-2010-0030. IS IT YOUR
5 UNDERSTANDING THAT THESE CONDITIONS SHOULD GOVERN THE
6 DEPRECIATION RATES TO BE ORDERED IN THIS CASE?

7 A. Yes, it is.

8
9 Q. AS A RESULT, DO YOU BELIEVE THERE ARE ANY ISSUES IN
10 CONTROVERSY RELATED TO THE DETERMINATION OF THE
11 COMPANY’S DEPRECIATION RATES?

12 A. No.

13
14 INFINIUM

15 Q. ON PAGES 37-42 OF HIS DIRECT TESTIMONY, PUBLIC COUNSEL WITNESS
16 ROBERTSON ARGUES THAT THE UNRECOVERED COST ASSOCIATED
17 WITH MGE’S INFINIUM SOFTWARE SHOULD NOT BE INCLUDED IN
18 RATES THROUGH AN AMORTIZATION TO EXPENSE. PLEASE RESPOND.

19 A. The reason advanced by Mr. Robertson is that “. . . Without the investment actually
20 being in-service to ratepayers, the utility should never be allowed a “return on” or a
21 “return of” the investment” (Robertson Direct, page 41, lines 10-12). This reasoning is
22 still wrong, however.

1 MGE has continued to make use of the Infinium software, albeit on a somewhat limited
2 basis for time-entry purposes only since the last rate case. However, because the
3 Infinium software was being used for such a limited purpose, MGE did not include
4 those costs in rate base in GR-2006-0422 and is not proposing to include it in rate base
5 in this case and thus not requesting a “return on” the investment. MGE is proposing to
6 continue to amortize the remaining balance of the Infinium software (“return of”).
7

8 **Q. HAS THIS ISSUE BEEN PREVIOUSLY ADDRESSED BY THE COMMISSION?**

9 A. Yes. The current treatment was directed in Commission Case No. GR-2006-0422.

10 **Q. MR. ROBERTSON ASSERTS THAT THE COMMISSION “ERRED IN ITS**
11 **RATIONALE” (P. 38) AND “ERRED IN ITS EARLIER DECISION-MAKING”**
12 **(P. 41). ARE YOU AWARE OF ANY FACTUAL CHANGES IN**
13 **CIRCUMSTANCES SURROUNDING THIS AMORTIZATION?**

14 A. No.
15

16 **Q. HAS THE COMMISSION’S DECISION SINCE BEEN REVIEWED BY THE**
17 **COURTS?**

18 A. Yes. I have been advised by legal counsel that the Commission’s decision in Case No.
19 GR-2006-0422 directing the Infinium software amortization was recently affirmed by the
20 Court of Appeals in Case No. SD29278, et al., issued on August 28, 2009.
21

22 **Q. ON PAGE 42 OF HIS DIRECT TESTIMONY, PUBLIC COUNSEL WITNESS**
23 **ROBERTSON FURTHER STATED THAT HE DOES NOT BELIEVE THAT IT**
24 **IS APPROPRIATE FOR THE COMMISSION TO “KNOWINGLY ENCOURAGE**

1 **OR SUPPORT THE COMPANY'S VIOLATION OF EXISTING COPYRIGHT**
2 **STATUTES." IS MGE AWARE OF ANY COPYRIGHT VIOLATION**
3 **CONCERNING THE INFINIUM SOFTWARE SYSTEM?**

4 A. No. MGE is not aware of any such violation, nor has it received any allegation of
5 violation, concerning the Infinium software.

6
7 **Q. WHAT IS MGE'S UNDERSTANDING AS TO ITS RIGHTS TO USE THE**
8 **INFINIUM SOFTWARE?**

9 A. Southern Union Company contracted with Island Software to develop the time entry
10 functionality within Infinium several years ago. Because MGE paid a contractor to
11 develop this solution, MGE owns the rights to this work. Infinium was informed in 2005
12 that Company did not intend to renew its annual license. As a result, MGE does not have
13 the rights to upgrade the Infinium software. However, this does not preclude the
14 Company's continued use of the existing version of Infinium, which includes the time
15 entry functionality developed by Island Software.

16 **RATE CASE AND REGULATORY EXPENSE**

17 **Q. IN THE DIRECT TESTIMONY OF OPC WITNESS TED ROBERTSON, MR.**
18 **ROBERTSON SUGGESTS THAT MGE'S RATE CASE AND REGULATORY**
19 **EXPENSES SHOULD BE REDUCED AS NOT BEING PRUDENT AND**
20 **FURTHER SUGGESTS THAT MGE'S PRUDENT EXPENSES SHOULD BE**
21 **SPLIT EQUALLY BETWEEN MGE'S SHAREHOLDERS AND CUSTOMERS.**
22 **WHAT IS MGE'S RESPONSE TO THIS ASSERTION?**

1 A. MGE believes that the expenses it has incurred for both state and federal regulatory
2 matters are reasonable, prudent and appropriate for inclusion in the rates to be set in this
3 case.

4
5 **Q. ON PAGE 9 OF HIS DIRECT TESTIMONY, MR. ROBERTSON IDENTIFIES A**
6 **LISTING OF MGE'S ESTIMATED RATE CASE EXPENSES. HAVE THOSE**
7 **EXPENSES BEEN INCURRED AS OF THIS DATE?**

8 A. No. That listing is an estimate of the expenses that MGE believes it will incur if this case
9 is fully litigated.

10
11 **Q. ARE ESTIMATED RATE CASE EXPENSES USED TO SET RATES?**

12 A. No. While the Company must use estimated amounts to calculate its initial filing, only
13 actual, incurred expenses are utilized to calculate the ultimate rate set by the
14 Commission.

15
16 **Q. IS THE ULTIMATE RATE SET BY THE COMMISSION CALCULATED USING**
17 **THE TOTAL AMOUNT OF PRUDENTLY INCURRED RATE CASE**
18 **EXPENSES?**

19 A. No. The prudently incurred rate case expenses are traditionally amortized over some
20 period. For example, if they are amortized over three years, an amount equal to
21 approximately one-third of the prudent rate case expense is utilized in calculating the
22 rate.

23

1 **Q. MR. ROBERTSON SUGGESTS THAT MGE MAKES “NEEDLESS USE OF**
2 **OUTSIDE LEGAL AND CONSULTANT SERVICES” BECAUSE MGE HAS**
3 **APPROXIMATELY 700 EMPLOYEES MANY OF WHOM HOLD DEGREES**
4 **FROM COLLEGES AND UNIVERSITIES (ROBERTSON REB., P. 10). CAN**
5 **MGE’S EXISTING WORK FORCE BE UTILIZED TO PREPARE AND**
6 **PROSECUTE A RATE CASE?**

7 A. No, not to any material degree beyond how MGE’s existing work force has been utilized
8 in preparing and prosecuting this case. MGE attempts to operate a lean organization.
9 Consequently, MGE’s employees are fully engaged with the many aspects of the daily
10 provision of natural gas service. Even if some of the employees had appropriate
11 education and experience to be involved in a rate case (and very few do), it is unrealistic
12 to think that they could drop their regular duties for the time it takes to pursue a rate case,
13 without adverse effects in regard to the provision of safe and adequate service.

14
15 **Q. WHY DOES MGE UTILIZE OUTSIDE CONSULTANTS AND ATTORNEYS**
16 **RATHER THAN HIRE ADDITIONAL PERSONNEL?**

17 A. MGE has made a management decision to utilize these persons on an “as needed” basis,
18 and only pay them when needed, rather than hiring persons that would necessarily receive
19 a salary and benefits each and every year. Mr. Robertson’s suggestion would have us
20 staff on a permanent basis at resource levels needed only for “peak” periods, which is not
21 an efficient use of resources. In addition to cost savings, the Company is generally able
22 to take advantage of persons with a wider range of both technical and practical rate case
23 experience than in-house employees would have.

24

1 **Q. MR. ROBERTSON SPECIFICALLY IDENTIFIES ROBERT HACK AS A**
2 **PERSON WITH SUFFICIENT EXPERIENCE TO PROSECUTE A RATE CASE**
3 **ON BEHALF OF MGE AND SUGGESTS THAT IT WOULD BE A MORE**
4 **EFFICIENT USE OF THE COMPANY'S RESOURCES FOR HIM TO PREPARE**
5 **AND PRESENT THIS CASE. HOW DO YOU RESPOND?**

6 A. This is not a practical suggestion. Mr. Hack is the Chief Operating Officer (COO) of
7 MGE and, as such, is ultimately responsible for all aspects of the day-to-day operations
8 of the Company. It is quite naïve to suggest that he could take a year long sabbatical
9 from these duties when MGE prepares and files a rate case. Additionally, as the COO,
10 Mr. Hack is a policy witness in this, and most, rate cases. I have been advised by counsel
11 that Mr. Hack would be prohibited from serving both as a witness and the Company's
12 attorney in a single case.

13
14 **Q. DOES THE COMMISSION ITSELF MAKE SIMILAR DECISIONS FROM TIME**
15 **TO TIME?**

16 A. Apparently so. For example, the Commission, which has approximately 200 employees
17 (the overwhelming majority of which specialize in some aspect of utility regulation),
18 recently hired an outside consultant to assist it with its ethics/Commission contact rules.
19 That matter has been identified by the Commission as Case No. AW-2009-0313.

20
21 **Q. DOES THE OFFICE OF THE PUBLIC COUNSEL ALSO MAKE USE OF**
22 **CONSULTANTS FROM TIME TO TIME?**

23 A. Yes. Two examples can be found in this case as the Public Counsel engaged consultants
24 to review and address issues related to both cost of capital and depreciation.

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Q. DOES MGE TAKE STEPS TO CONTROL THE COSTS OF ITS OUTSIDE CONSULTANTS AND ATTORNEYS?

A. Yes.

Q. WHAT STEPS DOES IT TAKE?

A. MGE strives to hire outside consultants and experts at competitive rates. The Company also conducts a competitive request-for-proposal (“RFP”) process in which it evaluates both the estimated fees along with the experience of outside experts for each rate case. During rate case proceedings, the Company closely monitors cost to ensure that any expenses are reasonable and prudent.

Q. MR. ROBERTSON FURTHER SUGGESTS THAT RATEPAYERS SHOULD BE HELD ACCOUTABLE FOR ONLY “A PROPORTIONATE SHARE” OF EXPENDITURES DEEMED TO BE REASONABLE AND NECESSARY TO PREPARE AND PRESENT A RATE CASE BECAUSE HE BELIEVES “BOTH RATEPAYERS AND SHAREHOLDERS BENEFIT” FROM THE OCCURANCE OF RATE CASES (ROBERTSON REB., P. 12). DO AGREE WITH HIS POSITION?

A. No.

Q. WHY NOT?

A. First, such a sharing would be contrary the Commission’s past treatment of utility rate case expense. In spite of Public Counsel’s efforts at different points in time, the

1 Commission has not ordered a sharing of reasonable, prudent rate case expenses in rate
2 cases filed under normal circumstances. MGE will discuss these past cases when it
3 addresses this issue in its legal brief.
4

5 **Q. WHAT ABOUT THE ASSERTION THAT THE COMPANY BENEFITS FROM A**
6 **RATE CASE?**

7 A. This suggestion ignores the history of the regulatory process. But for the regulatory
8 process, a public utility, like the seller of any unregulated commodity, has the right in the
9 first instance to change its rates without government approval. It is only the existence of
10 the state regulatory scheme that requires the Company to even incur rate case expense.
11

12 **Q. OPC WITNESS ROBERTSON ALSO SUGGESTS THAT MGE SHOULD BE**
13 **DENIED ALL OF ITS OUTSIDE EXPENSES ASSOCIATED WITH**
14 **REGULATORY MATTERS OTHER THAN RATE CASES BECAUSE LEGAL**
15 **REPRESENTATION COULD HAVE BEEN HANDLED MORE COST**
16 **EFFECTIVELY AND EFFICIENTLY BY MGE OR ITS PARENT COMPANY**
17 **EMPLOYEES (ROBERTSON REB., P.24-25). DO YOU AGREE WITH THIS**
18 **SUGGESTION?**

19 A. No. My analysis would be the same. The matters identified by Mr. Robertson for
20 disallowance are matters before both this Commission and the Federal Energy Regulatory
21 Commission in which MGE must participate because of the regulatory systems that have
22 been adopted by the United States and the State of Missouri. Additionally, MGE must by
23 law be represented in these matters by legal counsel. In fact, the Stipulation and
24 Agreement in Case No. GM-2003-0238 specifies in Item 6, Paragraph E of the

1 Conditions of Approval “Southern Union agrees that MGE will exercise its best efforts in
2 any FERC proceeding involving an interstate pipeline that is owned, operated or
3 managed by Southern Union, successor entity, or an affiliate to protect the interest of its
4 customers in manner consistent with the actions of a local gas distribution company that
5 was not associated with an entity that had a financial interests in an interstate pipeline.”

6
7 MGE has made a determination that contracting with additional counsel on an as- needed
8 basis and for peak periods is less expensive both for the Company and its customers.

9
10 **LIMITATION OF LIABILITY TARIFF**

11
12 **Q. ARE THERE ANY OTHER TARIFF ITEMS ADDRESSED BY STAFF WITNESS**
13 **TOM IMHOFF IN HIS DISCUSSION OF “MISCELLANEOUS TARIFF**
14 **ISSUES” TO WHICH YOU WOULD CARE TO RESPOND?**

15
16 **A.** Yes. On page 5 of Mr. Imhoff’s testimony, he has proposed that Sheet No. R-34, which
17 contains language addressing the scope of civil liability, be changed by the Commission
18 to conform to a proposal concerning the same general topic that has been made by
19 Laclede Gas Company (“Laclede”) in the context of Case No. GT-2009-0056.

20
21 **Q. IS THIS PROPOSAL ACCEPTABLE TO MGE?**

1 A. No. The language contained in Sheet No. R-34 was approved by the Commission in
2 MGE's last rate case (Case No. GR-2006-0422) and MGE has not proposed any changes
3 to that tariff sheet in this case.
4

5 Q. **DO YOU HAVE ANY OTHER CONCERNS ABOUT STAFF'S PROPOSAL?**

6 A. Yes. It would be inappropriate to address the topic of the limitation of liability language
7 set forth in MGE's Sheet No. R-34 because, as Mr. Imhoff notes, it is currently the
8 subject of an ongoing, formal complaint against MGE filed by Staff. That complaint has
9 been docketed by the Commission as case number GC-2009-0036. Any differences
10 MGE and Staff may have about the lawfulness and reasonableness of MGE's authorized
11 limitation of liability tariff can best be addressed in the context of the complaint
12 proceeding.
13

14 Q. **DO YOU HAVE ANY OBSERVATIONS ABOUT STAFF'S REFERENCE TO
15 LACLEDE'S PENDING CASE CONCERNING THIS TOPIC?**

16 A. MGE is aware of, and is monitoring, the Laclede case, but it is not a party to the
17 proceeding. It is my understanding that Laclede has submitted a specimen tariff proposal
18 as an exhibit to a witness's testimony in that case, but that the proposal does not represent
19 one that is acceptable to all parties. As Mr. Imhoff notes, the unresolved issues in that
20 case are scheduled for an evidentiary hearing in October. As such, it could be quite some
21 time before the case concludes. In this circumstance, it is problematic at best to suggest
22 that MGE utilize the same approach as that suggested by Laclede at a time when the topic
23 is unresolved and the ultimate outcome of the case is unknown.
24

1 PROPERTY TAXES

2 **Q. OPC WITNESS ROBERTSON RECOMMENDS THAT THE PROPERTY TAX**
3 **ACCRUED FOR GAS IN STORAGE IN BOTH KANSAS AND OKLAHOMA BE**
4 **DISALLOWED. DO YOU AGREE WITH MR. ROBERTSON'S**
5 **RECOMMENDATION?**

6 A MGE agrees that the expense associated with the property taxes on storage gas in
7 Oklahoma should be taken out of the revenue requirement computation. As Mr.
8 Robertson states in his testimony, if the Oklahoma expense is not included in rates, any
9 refunds received from Oklahoma would not have to be returned to Missouri ratepayers.
10 MGE has made this adjustment by agreeing with the most recent Staff computation of
11 property taxes which has been included in their EMS run. Also as part of that
12 computation, property taxes on the natural gas in storage in Kansas has been eliminated
13 from the revenue requirement computation. MGE has requested an accounting authority
14 order authorizing deferred accounting treatment for these new Kansas property taxes
15 related to stored natural gas. It is MGE's intention to vigorously oppose those taxes just
16 as we have done the previous two times the State of Kansas has attempted to tax the gas
17 stored in Kansas. That AAO request has been consolidated with this docket. If the AAO
18 is not approved, MGE would then request that some level of expense be included in
19 revenue requirement.

20
21 CORPORATE ALLOCATIONS

22 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

1 A. I will address certain positions taken by Staff in its Staff Report – Cost of Service related
2 to Corporate Allocations, which begins on page 63 of the Staff Report. Specifically, I
3 will address Staff’s treatment of corporate allocations to Citrus Corporation (“Citrus”).
4

5 **Q. WHAT IS CITRUS?**

6 A. Citrus is a 50/50 joint venture by subsidiaries of Southern Union Company and El Paso
7 Corporation (“El Paso”). Citrus owns 100% of Florida Gas Transmission Company,
8 which is a 5,000 mile, open-access interstate pipeline extending from south Texas to
9 south Florida.
10

11 **Q. HOW ARE COSTS CURRENTLY ALLOCATED BETWEEN AFFILIATES OF**
12 **SOUTHERN UNION AND CITRUS?**

13 A. The Joint and Common Cost Model uses two factors to allocate costs to MGE. One
14 factor (10.5435%) allocates costs between all affiliates of Southern Union. Another
15 factor (14.786%) is used to allocate costs between all affiliates except Citrus. The reason
16 for the difference is due to the different structures and use of corporate personnel by
17 Citrus as compared to other Southern Union companies.
18

19 **Q. PLEASE EXPLAIN WHY A DIFFERENT FACTOR IS USED FOR CITRUS.**

20 A. As noted in greater detail in the Company’s response to Staff DR 0204 (attached hereto
21 as Rebuttal Schedule MRN-1), the Company does not allocate certain expenses to Citrus
22 because Citrus is staffed differently and has different common costs as compared to other
23 Southern Union Companies, including MGE.

24 For example, Citrus has its own environmental group and legal department and,

1 accordingly, performs a disproportionate amount of its own services as compared to the
2 wholly-owned entities. As a result, any legal or environmental services performed by
3 corporate employees in these areas are directly billed to Citrus, rather than having those
4 costs allocated. Similarly, banking fees, rating agency fees, and stock exchange listing
5 fees are treated differently than other entities because El Paso, Southern Union's partner
6 in Citrus, must also pay these fees at its parent company level. For this reason, it would
7 be inequitable for Southern Union to pass these costs to Citrus. Citrus rating agency fees
8 and banking fees are paid by the entity itself. In the area of investor relations, all of the
9 payroll and non-payroll expenses are excluded because this function only serves in a
10 capacity that benefits Southern Union. Communication expenses are also exclusively
11 paid for by Citrus.

12
13 **Q. PLEASE STATE YOUR DISAGREEMENT WITH STAFF'S POSITION**
14 **CONCERNING CITRUS' ALLOCATION.**

15 A. Staff has taken the position that "Southern Union's management, along with El Paso, has
16 ultimate responsibility for the operations and activities of Citrus, and accordingly, should
17 include Citrus in all allocation calculations." Staff Report – Cost of Service at p. 65.
18 Because of this view, Staff made an adjustment to "reallocate these costs based on the
19 10.5435% factor, to ensure that MGE is not assigned costs properly attributable to Citrus'
20 operations," instead of the 14.786% factor used to allocate costs between all affiliates
21 except Citrus. As detailed above, however, Citrus is a unique entity, with different costs
22 and a different structure. MGE has not been assigned costs "properly attributed to
23 Citrus," as Staff asserts. Citrus has received a lesser allocation of corporate costs because

1 it has a different ownership and management structure, does not use the same level of
2 service and is staffed differently.

3
4 **Q. ARE THERE ANY OTHER JOINT AND COMMON COSTS AT ISSUE THAT**
5 **YOU WISH TO ADDRESS?**

6 A. I'd also note that in its Staff Report, Staff refers to its request for additional
7 documentation to support certain other allocated costs. MGE has only recently provided
8 these invoices and other information to Staff. I understand that Staff is in the process of
9 reviewing this documentation. MGE may respond further concerning these costs once
10 Staff's position is clear.

11
12 **Q. DID STAFF ALSO MAKE AN ADJUSTMENT TO REDUCE CORPORATE**
13 **COSTS FOR ANY CORPORATE IT PERSONNEL ADDED SINCE MGE'S LAST**
14 **RATE CASE?**

15 A. Yes, they eliminated the allocated costs associated with all positions added to Southern
16 Union's IT Department since their last review of the Corporate Allocation in Case No.
17 GR-2006-0422.

18
19 **Q. DO AGREE WITH THIS ADJUSTMENT?**

20 A. No. As was explained to staff in meetings and informal discussions, there are many IT
21 functions which serve MGE which are handled by either Corporate employees or
22 Panhandle employees and then allocated to MGE. MGE utilizes Oracle, PowerPlant, and
23 email systems that are supported by a combination of Panhandle and Corporate
24 employees in Houston. MGE receives an allocation from Corporate that includes those

1 services provided by the combination of Corporate and Panhandle employees. All of the
2 employees that support these systems could have been organized into one entity (either
3 Corporate or Panhandle) but a decision was made at the time the companies came
4 together to leave these employees with their legacy company. This structure is really no
5 different than in prior rate cases whereby costs associated with IT support were allocated
6 to MGE from the combination of Corporate employees as well as employees of PG
7 Energy which is where Corporate resided at that time prior to moving to Houston. Some
8 of the perceived increase in IT staffing from the 2006 rate case to the current case is due
9 to a shifting of positions between the operating division at the time (PG Energy) and
10 Corporate.

1 **ENERGY EFFICIENCY FUNDING**

2 **Q. OPC WITNESS RYAN KIND RECOMMENDS THAT THE \$750,000 FUNDING**
3 **OF MGE'S ENERGY CONSERVATION PROGRAMS BE REMOVED FROM**
4 **MGE'S REVENUE REQUIREMENT AND INSTEAD A REGULATORY ASSET**
5 **ACCOUNT CREATED (WITH A 10 YEAR AMORTIZATION PERIOD). DO**
6 **YOU AGREE?**

7 A. MGE's program expenditures have begun to increase substantially over the last few
8 months and with the addition of some new programs, MGE would propose to continue
9 the funding of the program through rates as proposed. MGE would agree to segregate the
10 funds received in rates, but not spent, to date and any new funds received and accrue
11 interest on a going forward basis at the short-term debt rate included in the approved
12 capital structure.

13
14 **LOCAL PUBLIC HEARINGS**

15 **Q. HAS THE COMMISSION CONDUCTED LOCAL PUBLIC HEARINGS**
16 **RELATED TO THIS CASE?**

17 A. Yes. Local public hearings were conducted in Warrensburg, Joplin, St. Joseph, Kansas
18 City and Lee's Summit.

19 **Q. WHAT IS THE STATUS OF THE TESTIMONY THAT WAS TAKEN AT THOSE**
20 **LOCAL HEARINGS?**

21 A. The transcripts have been recently filed with the Commission. The Kansas City
22 transcript was filed today, on Monday September 28th.

1 **Q. WILL MGE RESPOND TO THE LOCAL PUBLIC HEARING TESTIMONY?**

2 A. Because the transcripts were only recently filed, the Company has not yet taken a
3 position on whether it will respond to that testimony. MGE plans to review the
4 transcripts now that they are all available and may provide a response in surrebuttal
5 testimony, if this is believed to be appropriate.

6

7 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?**

8 A. Yes.