

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

DEC 22 1999

The Staff of the Missouri Public Service  
Commission,  
  
Complainant,  
  
v.  
  
Missouri Gas Energy,  
  
Respondent.

Missouri Public  
Service Commission

Case No. GC-2000-386

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and for its Complaint against Missouri Gas Energy ("MGE" or "Company"), a division of Southern Union Company, states as follows:

1. MGE is a gas corporation under §386.020(18) RSMo<sup>1</sup> and, as such, is a public utility subject to the Missouri Public Service Commission's ("Commission") jurisdiction pursuant to §386.020(42) RSMo. MGE is also subject to the Commission's safety jurisdiction under §386.310 RSMo.
2. The Staff, through the Office of General Counsel, is authorized under 4 CSR 240-2.070(3), under the authority of §386.390, RSMo, to file a formal complaint with the Commission regarding any act or omission by a public utility in violation of a Commission rule.
3. At approximately 8:09 p.m., Central Daylight Saving Time (CDST), on Monday, July 26, 1999, a natural gas explosion occurred at 101 East 41<sup>st</sup> Street in Kansas City, Missouri.

<sup>1</sup> All references to the Revised Statutes of Missouri will be to RSMo 1994 and 1998 Supplement unless otherwise noted.

A three-story brick apartment building was completely destroyed as a result of the explosion and subsequent fire. Ten people were injured and transported to area hospitals. Of those people transported, four were hospitalized. The Kansas City Fire Department estimated the damage to the structure to be approximately \$500,000.

4. MGE provides natural gas service in Kansas City, Missouri. The natural gas distribution system in the vicinity of 101 East 41<sup>st</sup> Street was operating at approximately 48 pounds per square-inch gauge (“psig”) at the time of the incident. The natural gas main (“main”) serving 101 East 41<sup>st</sup> Street is a 4-inch diameter, medium-density polyethylene (“PE or plastic”) pipeline. This main is located in the north parkway of East 41<sup>st</sup> Street. The natural gas service line (“service line”) extends south from this main, beneath East 41<sup>st</sup> Street, through the basement wall of 101 East 41<sup>st</sup> Street serving seven natural gas meters hanging from a meter bar assembly.

5. The Commission’s Gas Department Gas Safety Staff conducted an investigation to evaluate the circumstances surrounding the incident and fire at 101 East 41<sup>st</sup> Street in Kansas City. The Staff has prepared and filed its Gas Incident Report in Case No. GS-2000-133 on December 23, 1999.

6. It was determined during the course of the investigation that the location of the curb box containing the shut off valve for 101 East 41<sup>st</sup> Street was not properly documented and that the cover to the curb box was partially covered with concrete which inhibited prompt access to and ready operation of the valve.

7. As a result of its investigation, Staff alleges that MGE violated Commission Rule 4 CSR 240-40.030(8)(I)3, which requires that each underground service line valve be located in a covered durable curb box or standpipe that allows ready operation of the valve.

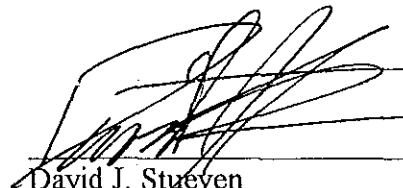
8. Pursuant to §386.570 RSMo, any public utility that violates or fails to comply with any Commission rule is subject to a penalty of not less than one-hundred dollars nor more than two thousand dollars for each offense.

9. MGE violated or failed to comply with 4 CSR 240-40.030(8)(I)3 by not ensuring that the valve was accessible for ready operation.

**WHEREFORE**, the Staff respectfully request the Commission find that MGE violated 4 CSR 240-40.030(8)(I)3, and further requests that the Commission authorize the Office of General Counsel to seek civil penalties in Circuit Court and order other such relief as the Commission may find just and reasonable.

Respectfully submitted,

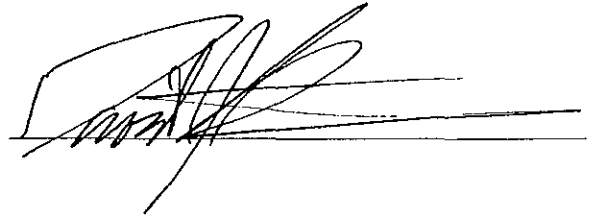
DANA K. JOYCE  
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## Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 23rd day of December 1999.

A handwritten signature in black ink, appearing to be "M. J. [unclear]", is written over a horizontal line.

Service List for  
C( )o. GS-2000-\_\_\_\_  
December 23, 1999

Office of the Public Counsel  
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Robert Hack  
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Kansas City, MO 64111



*Commissioners*

SHEILA LUMPE  
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER  
Vice Chair

## Missouri Public Service Commission

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GORDON L. PERSINGER  
Acting Executive Director  
Director, Research and Public Affairs

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. KOLILIS  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

### Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is a process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

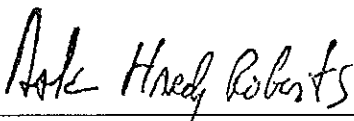
In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Date: January 25, 1999

  
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Dale Hardy Roberts  
Secretary of the Commission

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