

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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| In re the Transportation Tariff |) | |
| Proposed Modification of Missouri |) | Case No. GT-2008-0393 |
| Gas Energy filed on May 15, 2008 |) | [JG-2008-0680] |
| Proposing Changes to the Existing |) | |
| Transportation Tariff |) | |

**REPLY OF MIDWEST GAS USERS' ASSOCIATION
TO RESPONSES OF STAFF AND MISSOURI GAS ENERGY**

Pursuant to Commission Order of June 13, 2008 both Staff and Missouri Gas Energy (MGE) submitted responses to Midwest's Objections. Midwest briefly responds as follows:

1. Staff indicated that it did not oppose the requested suspension "for further discussion" and was not opposed to Midwest's request for expedited treatment. Further comment thereon seems unnecessary at this time.

2. MGE, however, appears to take a more defensive posture regarding its filing. Before responding directly, some minimal background may be useful.

a. The question of how to handle transportation imbalances arose for end-use transporters shortly after the interstate pipeline systems became "open access" in 1985.^{1/}

b. For a while, the system was such that under deliveries were supplied from "tariff gas" at more expensive

^{1/} See Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436, F.E.R.C. Stats. & Regs. P30,665, 50 Fed. Reg. 42,408 (1985) (rehearing orders omitted).

rates including the commodity while under-deliveries were "banked" on the LDC. This resulted in large "banks" being developed for transporters who sought to avoid running into the more expensive "tariff gas" and caused issues for both the LDC and the transporters. Those problems were worked out between the LDC (at that time, KPL Gas Service) and representatives of Midwest.

c. In the early 1990s, the Federal Energy Regulatory Commission (FERC) mandated unbundling at the inter-state level through its Order 636^{2/} and numerous revisions to that initial order. Through extended negotiations including the pipeline's involvement in a KPL Gas Service Missouri rate case, an arrangement for "burner tip balancing" was worked out which involved, on one hand, the transportation customers paying for the electronic metering equipment needed so that the pipeline could read their meters remotely as often as desired,^{3/} and the pipeline's agreement to accept the volumes actually delivered to the transporter as their nomination for the corresponding period. This eliminated imbalances on the LDC system and any imbalances

^{2/} Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, [Regs. Preambles Jan. 1991-June 1996] FERC Stats. & Regs. ¶ 30,939 (1992), order on reh'g, Order No. 636-A, [Regs. Preambles Jan. 1991-June 1992] FERC Stats. & Regs. ¶ 30,950 (1992), order on reh'g, Order No. 636-B, 61 FERC ¶ 61,272 (1992), reh'g denied, 62 FERC ¶ 61,007 (1993).

^{3/} Pursuant to its tariff, any new MGE transportation customers still must foot the bill for this equipment, although with technology, the cost has gone down somewhat over the years. See, e.g., Sheet No. 71 in MGE's current tariff.

and resolution procedures were left to the pipeline under its FERC tariff. Similar arrangements were worked out for Williams Natural Gas (formerly Northwest Central and now Southern Star Central) and Panhandle Eastern Pipe Line.

d. In more recent time periods, however, Williams unilaterally terminated this arrangement to the consternation of both Midwest and MGE. Again, through negotiations by representatives of Midwest and MGE, mechanisms to deal with this old, but new problem were worked out including the "cash-out" provisions that were contained on Original MGE Sheet 61.2. Those provisions were symmetrical.

e. In GR-2006-0422, MGE proposed a symmetrical change to this mechanism. A copy of MGE's proposed revision (Second Revised Sheet 61.2) is attached as Attachment A. Again the proposed changes preserved the symmetrical nature of the cash-out provisions. A copy of what is believed to be the final Commission-approved tariff from that case is attached as Attachment B, with the symmetrical provisions indicated.

f. However, with its most recent proposed change, MGE proposes to abandon that symmetrical structure by deleting the provision pertinent to what would be paid to transportation customers who were in an over-nominated situation. A red-lined copy of MGE's Proposed Third Revised Sheet 61.2 is attached as Attachment C.

3. In its June 18, 2008 Response (Response) MGE states that it wants to eliminate an "unintended incentive for

large volume customers or their agents to clear market positions at the expenses of MGE commodity sales customers." Midwest has repeatedly gone on record before this Commission that it does not support various methods of "gaming" the transportation system by either MGE customers or their agents. But just as Midwest does not support mechanisms that would shift cost to sales customers, Midwest opposes mechanisms that shift costs from sales customers to transporters. We believe, that at least to that extent, Midwest and MGE are in agreement.

4. Our difficulty, however, is not necessarily with the intended objective but, rather, with the means chosen. MGE's Response also states that "MGE believes that **some** of its customers have been profiting from this differential through their over nominations."^{4/} No proof is offered but a data request to MGE has already been initiated to seek data supporting this belief. MGE's remedy is akin to a schoolteacher who tries to punish a tardy student by keeping the entire class after school, or that of a motorist faced with a flat tire who stops and changes tires randomly until the car runs better. If "some" are abusing or "gaming" the system, they should be identified and addressed rather than using a blunt approach which lumps the innocent with the guilty.

5. For the Commission's information, representatives of MGE and Midwest have already conferred as recently as this morning (June 18) to seek resolution and those discussions are

^{4/} MGE Response, p. 8, p. 2 (emphasis added).

expected to continue. However, some factual questions remain to be resolved to avoid a "fix" that does not introduce simply another set of "unintended consequences."

6. MGE also suggests that sufficient notice was provided. While the point may be close to moot (Midwest did find out, but only on the morning of June 12), MGE acknowledges that it "did not provide any direct notice to "its transportation customers".^{5/} it does not deny that it is well aware of how to contact "its" transportation customers when it finds it advantageous to do so. MGE, however, assumes a degree of "sophistication" on the part of its transportation customers which is not demonstrated and certainly will not be uniform across that community. For one thing, few if any (even the larger customers) monitor EFIS filings (or even know what EFIS is) but, rather, depend on their fiduciary distribution company or their fiduciary agents to make them aware of changes. Moreover, while certainly "some" (probably very few) do purchase their own gas supplies directly and arrange transportation in their own name, these companies are in the business of making their respective "widgets" and are not in the business of professional gas purchasing or management. Natural gas is an input to their production process. It is not the product itself as it is for MGE. And that's as it should be. MGE's voiced view is somewhat myopic.

^{5/} MGE Response, paragraph 4, p. 2.

7. Moreover, most transportation customers depend on brokers, marketers or other agents to handle these matters on a day to day basis. Just as ordinary investors shouldn't be assumed to stay abreast of proposed changes in the rules of the New York Stock Exchange because they purchase shares of General Motors, transportation customers may not have full knowledge of these third-party agents' activities. One should not be assumed to be a cow because one buys a half-gallon of milk. While we appreciate MGE's statement that we "can look out for ourselves," we have not yet observed that another distributor has established operations in MGE's service territory so we must continue to look, rather, to the Commission and regulation until competition for distribution services arrives. *Caveat emptor* doesn't work in monopoly markets.

8. Finally, MGE suggests that notice to Staff and Public Counsel is sufficient. We have great respect for both. Both have their own respective spheres of concern which, historically, at least, have not included watching out for the interests of transportation customers. Notice to Public Counsel and Staff should not be assumed to be notice to transportation customers.

9. More to the point, Midwest counsel and representatives of MGE have already had a discussion about this issue which contact was initiated by Midwest on Monday of this week. Midwest is presently waiting to hear from MGE regarding the concerns raised and has its own possible solutions to discuss and explore. Undersigned counsel is not responsible for schedul-

ing how quickly MGE responds but is certainly willing to engage in those discussions. It is not however clear that it will be possible to conclude them in the 7-day period provided by the Commission's suspension order, *i.e.*, by June 22. We are currently awaiting further information from MGE as to when discussions can resume.

WHEREFORE Midwest respectfully requests that this reply be considered by the Commission.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR MIDWEST GAS USERS'
ASSOCIATION

SERVICE CERTIFICATE

I certify that I have caused a copy of the foregoing pleading to be served upon representatives of Missouri Gas Energy according to the Commission's Rules of Procedure by e-mail, facsimile or by United States First Class Mail on this 18th day of June, 2008.



Stuart W. Conrad

Missouri Gas Energy,
a Division of Southern Union Company

For: All Missouri Service Areas

TRANSPORTATION PROVISIONS

TRPR

- (9) Cash Out: Monthly volumes of gas delivered to a transportation service customer should, to the extent practicable, match Company's receipts for the customer less any amount retained by Company according to Section A-6, Retainage. Agents may balance the aggregated volumes of gas for each pool of customers they represent, according to the terms of Section A-4, Aggregation.

- (a) Monthly Cash Out: Differences between deliveries and retainage-adjusted receipts shall be reconciled on a monthly basis between Company and a customer or the customer's agent.

- (i) If Company's retainage-adjusted receipts (nomination) for the customer are less than deliveries (usage) to the customer, the customer or the customer's agent shall pay:

1.0 times the index price for each MMBtu of imbalance up to and including 10% of nominations, plus

1.2 times the index price for each MMBtu of imbalance which is greater than 10%, up to and including 15% of nominations, plus

1.4 times the index price for each MMBtu of imbalance which is greater than 15% of nominations, plus

The firm transportation charges included in the current PGA rate to bring the gas to the Company's system

- (ii) If Company's retainage-adjusted receipts (nomination) for the customer exceed deliveries (usage) to the customer, the customer or the customer's agent shall receive:

1.0 times the index price for each MMBtu of imbalance up to and including 10% of nominations, plus

0.8 times the index price for each MMBtu of imbalance which is greater than 10% of nominations, up to and including 15%, plus

0.6 times the index price for each MMBtu of imbalance which is greater than 15% of nominations, plus

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DATE OF ISSUE: May 2 2006
Month Day Year

DATE EFFECTIVE: June 2 2006
Month Day Year

ISSUED BY: Michael R. Noack
Missouri Gas Energy

Director, Pricing and Regulatory Affairs
Kansas City, MO. 64111

Missouri Gas Energy,
a Division of Southern Union Company

For: All Missouri Service Areas

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Month Day Year

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