

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

In the Matter of Missouri Gas Energy's)	
Purchased Gas Adjustment (PGA))	
Factors to be Audited in its 2002-2003)	Case No. GR-2003-0330
Actual Cost Adjustment.)	

STAFF'S RESPONSE TO MOTION TO COMPEL

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission in response to the Company's Motion to Compel and respectfully states:

1. Counsel for Staff and MGE have attempted to resolve Staff objections to certain MGE data requests. On May 10, 2006, after prior telephone correspondence about the issues between parties' counsel which did not result in agreement, a telephone conference was held with the Administrative Law Judge to discuss resolutions to those objections. No mutually acceptable solution was reached. Subsequently, on May 11, 2006, MGE filed a Motion to Compel Responses to Data Requests (Motion), specifying MGE data requests (DR) 180, 190, 193, and 200, respectively.

2. The challenged statements are general and statements not material to the ultimate facts. Staff believes that an expert witness may make general, introductory observations, or statements setting testimony context based up their general knowledge as an expert when writing testimony. Staff is concerned that focus on these general statements shifts the focus away from the critical issues in this case of MGE's gas purchase planning methodology and whether it is reasonable. However, in an attempt to remove the focus on immaterial general statements Staff is willing to make the following amendments to Lesa Jenkins Rebuttal Testimony. Staff is not supplementing the Rebuttal testimony of Ms. Jenkins, merely amending the language at issue in

DR 180, 190 and 193, as was a possible solution proposed by MGE counsel in the telephone conference on May 10.

3. MGE's DR 180 begins:

DR 180 Reference: Page 3, Lines 15 through 19. "Some LDCs define "design day as an average normal demand for a month." Et. seq.

The following is the amended answer for Ms. Jenkins Rebuttal at Page 3, Lines 13 through 21, referenced in the DR:

A. No. Not all LDCs use the term "design day" or "peak day" demand in the same manner. It is my experience that an LDC will define its requirements based on the "design conditions" being considered. For example, if an LDC is designing a plan for normal weather, it will consider normal weather. Likewise, if an LDC is designing a plan for a historic peak cold day, its plan will be different than that for a normal weather. If an LDC is designing a plan for weather that is 10% colder than normal weather, it will consider weather data that is 10% colder than normal. In the reliability review or capacity planning process, Staff and the Companies are concerned with ensuring adequate capacity to meet a peak cold day requirement. The definition of adequate capacity and what constitutes peak day requirements can vary by Company. On page 2 of my direct testimony I explain the purpose of my reliability/peak day review as follows:

This response focuses Ms. Jenkins answer on MGE witness Reed's direct testimony, removing other LDC HC information, while answering the substance of MGE's inquiry.

4. MGE DR 190 states:

DT 190 Reference: Page 13, Lines 8 through 12. "Mr. Reed states that natural gas demand can be thought of as having two components – a variable portion that is responsive to changes in weather and a more constant baseload component... Not all Missouri LDCs define natural gas demand in this manner."

The following is the amended answer for Ms. Jenkins Rebuttal at Page 13, Lines 12 through 15:

A. Staff does not disagree with Mr. Reed that natural gas demand can be thought of as having a weather sensitive component and a more constant baseload component. However, daily demand may be influenced by other factors as well,

such as whether an LDC has customers such as office buildings or retail businesses that are closed on weekends.

This replacement removes the basis for MGE's DR, and subsequently the motion to compel response to this DR.

5. MGE DR 193 states:

DR 193 Reference: Page 14, Lines 1 through 3. "Some LDCs serve enough business customers that are not open on weekends, so load drops, and usage estimates must consider weekday versus weekend usage."
a. Please provide the name of each LDC reviewed by Ms. Jenkins that utilizes a weekday/weekend variable in their design day demand forecast.
b. Please provide the explanatory value and associated significance (i.e. the tstatistic value) of the weekday/weekend variable in the specific design day forecast(s) referenced by Ms. Jenkins.

The following is the amended answer for Ms. Jenkins Rebuttal at Page 14, Lines 1 to 3:

If LDCs serve business customers that are not open on weekends, load drops, and an LDCs usage estimates may consider weekday versus weekend usage. Some LDCs serve business customers whose usage may be impacted by other factors.

This replacement removes the basis for MGE's DR, and subsequently the motion to compel response to this DR.

6. The statute §386.480 designates punishment for releasing information to the public that is HC without an order from the Commission as a misdemeanor. Therefore, Staff is exercising caution and allowing the Commission to make the decision as to whether or not this information can and should be released under the existing protective order to MGE. However, Staff urges the Commission in this case not to issue such an order.

7. Staff restates the DR at issue and Staff's objection made to MGE DR 200 below:

DR 200 Reference: Page 23, Lines 8 through 9. "...and considering alternative methodologies of estimating peak day requirements."
a. Please list and describe the alternative methodologies utilized by Staff for estimating peak day requirements.
b. For each alternative methodology listed in response to part (a), please identify which Missouri LDCs utilize that specific methodology.

c. Please provide documentation to support the representation that the identified LDC currently uses the methodology listed and attributed to it.
d. Please confirm that the various methodologies listed in the direct testimony of Ms. Jenkins were similar but for the data set. If that cannot be confirmed, please provide supporting documentation.

Staff objects to subparts (b) and (c) of this DR to the extent that the information sought would require staff to perform studies or compile information, which is unduly burdensome, whether based on LDCs privileged information or other information.

Staff further objects to this DR and subparts (b) and (c) to the extent that it seeks information and documentation from or about other LDCs that may be HC.

Staff submits that only subparts (b) and (c) of this DR were objected to, while subparts (a) and (d) were answered on March 28, 2006, in the electronic filing and information system (EFIS).

Those subpart answers addressed the form of analysis inquiry MGE made. Since Ms. Jenkins testimony made no reference to other LDCs within the referenced lines of testimony, it is unreasonable and irrelevant for MGE to request other LDC HC information from Staff in this DR. Those LDCs are not parties to this case. Furthermore, LDCs rely on the information they share with Staff to be held in strictest confidence due to the competitive nature of the general industry that they practice within. This is a strong reason why they cooperate with the PSC and provide such information.

8. Staff is not using §386.480 RSMo as “both a sword and a shield” as MGE suggests (Motion, pg 4). The reference to other LDCs, in Ms. Jenkins’ testimony, were generalized statements setting up the next topic, not addressing MGE’s actual actions at issue in this case. Therefore, the statements were not being used as a sword at all, merely a segue into the different areas of discussion. The above amendments to the testimony should eliminate concerns with Staff releasing other LDC HC information, since Ms. Jenkins’ testimony no longer makes reference to any practices of LDCs. However, Staff still must ‘shield’ specific non-party

LDC information, including that which is proprietary and highly confidential (HC), under §386.480, unless the Commission issues an order instructing release.

9. It is Staff's intent that these changes have resolved the issues raised by MGE's Motion to Compel on DRs 180, 190, and 193.

10. Experts may certainly make general introductory statements based on their years of experience that is not based on any specific studies or analyses and not be required to perform studies or analyses to support such a general statement. What is important to this case is the way in which MGE defines industry terminology, and how it uses that information in its analysis. An expert witness may certainly rely on general experience to form a general opinion from which to arrive at a relevant specific opinion that is itself based on facts and studies.

WHEREFORE Staff respectfully requests the Commission to deny MGE's Motion to Compel, and accept Staff's amended testimony in resolution of the issues raised concerning DRs 180, 190, and 193. Staff further prays the Commission find that MGE's DR 200 (b) and (c) irrelevant and immaterial to the issues within this case and asks that MGE's request also be denied on this point.

Respectfully submitted,
/s/ Shelley E. Syler

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record 22nd day of May 2006.

/s/ Shelley E. Syler
