

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

August 9, 2000

CASE NO: GE-2000-808

Office of the Public Counsel
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General Counsel
Missouri Public Service Commission
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Robert J. Hack
Missouri Gas Energy
3420 Broadway
Kansas City, MO 64111

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive style with a large, stylized "D" and "R".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Filing of Missouri)
Gas Energy, a Division of Southern Union) Case No. GE-2000-808
Company, Pursuant to 4 CSR 240-40.17(8))

ORDER DIRECTING FILING

On June 8, 2000, Missouri Gas Energy, a division of Southern Union Company (MGE), filed with the Missouri Public Service Commission (Commission) an application for an exemption pursuant to Commission Rule 4 CSR 240-40-017(8)¹.

MGE stated that it was making the filing at the request of the Staff of the Commission (Staff). MGE noted that it had challenged the lawfulness of the above-cited rule through judicial review, which review was not yet final. By making the filing at the request of Staff, MGE pointed out that it did not acquiesce to the lawfulness of the contested rule nor waive any argument available to it.

¹ Commission Rule 4 CSR 240-40-017(8) states, in part:

A regulated gas corporation engaging in HVAC services in the state of Missouri five (5) years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the regulated gas corporation five (5) years prior to August 28, 1998....To qualify for this exemption, the regulated gas corporation shall file a pleading before the commission for approval....The commission may establish a case to determine if the regulated gas corporation qualifies for an exemption under this rule.

MGE stated that it is a public utility and a gas corporation operating in the state of Missouri and is thereby subject to the Commission's regulatory jurisdiction. MGE stated that under the heating, ventilating, and air conditioning (HVAC) services act as set out in Section 386.754 to 386.764, RSMo Supp. 1999, a gas, electric or steam heating utility may not provide certain HVAC services, unless it provides such services through an affiliate.

MGE stated that Section 386.756(7), however, established a statutory exemption to the general requirement. Specifically, MGE notes, the subsection permits the utility itself to continue providing such HVAC services so long as the utility provided the same type of HVAC services five years prior to August 28, 1998. MGE alleges that in 1993, it engaged in activities that qualify as HVAC services under the above-cited statutes. MGE stated that these activities include the sale, installation, maintenance, warranty or repair of gas air conditioning and heating equipment. MGE submitted that it fully qualified for the statutory exemption set forth above by virtue of the fact that it provided HVAC services as described above as of August 28, 1993.

Therefore, MGE stated, it was requesting that the Commission issue any order or approvals which the Commission deemed necessary to find that MGE qualified for the statutory exemption set forth in Section 386.756(7), RSMo Supp. 1999.

The Commission will order the Staff of the Commission to file a recommendation in this case.

IT IS THEREFORE ORDERED:

1. That the Staff of the Missouri Public Service Commission shall file its recommendation no later than September 8, 2000.
2. That this order shall become effective on August 21, 2000.

BY THE COMMISSION



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 9th day of August, 2000.

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 9th day of Aug. 2000.

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

