

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
October 17, 2000

CASE NO: GE-2000-808

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

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,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 17th
day of October, 2000.

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 GRANTING EXEMPTION

On June 8, 2000, Missouri Gas Energy (MGE) filed with the Missouri Public Service Commission (Commission) an application for an exemption pursuant to Section 386.756(7), RSMo Supp. 1999, and Commission Rule 4 CSR 240-40.017(8). MGE is engaged in activities that qualify as heating, ventilation, and air conditioning (HVAC) services, according to the application. MGE alleged that it has been providing these services for a period that includes and predates the five-year period ending August 28, 1998.

Section 386.756.7 RSMo Supp. 1999, states:

A utility engaging in HVAC services in this state for five 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 utility five years prior to August 28, 1998.

Commission Rule 4 CSR 240-40.017(8) states:

A regulated gas corporation engaging in HVAC services in this state for five 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 years prior to August 28, 1998.

(A) To qualify for this exemption, the regulated gas corporation shall file a pleading before the commission for approval.

On September 29, 2000, the Staff of the Commission (Staff) filed a pleading which recommended that the Commission issue an order acknowledging that MGE qualifies for an exemption for certain specific services, which is

attached to this order as Appendix A. Staff informed the Commission that Staff's review indicates that MGE has been performing these services in excess of the five-year statutory requirement.

MGE did not file a response to Staff's recommendation.

The Commission has reviewed MGE's application and the Staff recommendation, and determines that MGE has met the requirements of Section 386.756(7), RSMo Supp. 1999, and Commission Rule 4 CSR 240-40.017(8).

IT IS THEREFORE ORDERED:

1. That Missouri Gas Energy is granted an exemption pursuant to Section 386.756(7), RSMo Supp. 1999, and Commission Rule 4 CSR 240-40.017(8).
2. That this order shall become effective on October 27, 2000.
3. That this case may be closed on October 28, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray, Schemenauer,
and Simmons, CC., concur

Hopkins, Senior Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

SEP 29 2000

Missouri Public
Service Commission

In the Matter of the Filing of Missouri Gas)
Energy, A Division of Southern Union)
Company, Pursuant to 4 CSR 240-0.17(8))
)

Case No. GE-2000-808

STAFF'S RECOMMENDATION

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission") and for its recommendation in this case states as follows:

1. On June 8, 2000, Missouri Gas Energy, a Division of Southern Union Company ("MGE" or "Company"), filed a pleading entitled "Exemption Filing of Missouri Gas Energy." The pleading sought recognition by the Commission that MGE qualifies for an exemption from certain requirements of the Heating, Ventilating and Air Conditioning ("HVAC") Act, §§386.754 through 386.764, RSMo 1999 ("the Act"). MGE filed its pleading pursuant to 4 CSR 240-40.017(8) ("the Rule") which requires utilities that qualify for the statutory exemptions apply to the Commission for recognition of the exemption.

2. The Act prohibits Missouri utilities from providing certain defined HVAC services, except through an affiliated entity. §386.756.1. The Act provides an exemption from the separate affiliate requirement for those utilities that have been providing such services for more than five years prior to August 28, 1998. §386.756.7. By its pleading, MGE claims the statutory exemption.

3. MGE's pleading did not list the specific HVAC services claimed for the statutory exemption. The Rule and Act specify that the qualifying HVAC services must be specifically

identified. The Commission's Gas Department – Tariffs/Rate Design Staff has reviewed the specific types of HVAC services performed by MGE and whether the HVAC services qualify under the Rule and Act. Staff's investigation consisted of a review of the types of HVAC services provided by MGE and whether the five-year requirement had been satisfied.

4. The Staff has reviewed MGE's exemption claim. The Staff's review indicates that MGE has been in the business of performing the HVAC services as identified in the attached Appendix A to this recommendation. The Staff's review also indicates that MGE has been performing these services in excess of the five-year statutory requirement. In Staff's opinion, MGE qualifies for exemption and should be allowed to continue to provide those specific HVAC services listed on Appendix A, and need not offer them through an affiliate pursuant to Rule 4 CSR 240-40.017(8) and §386.7561 of the Act.

Respectfully submitted,

DANA K. JOYCE
General Counsel




Lara L. Shemwell
Associate General Counsel
Missouri Bar No. 43792

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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 29th day of September, 2000.



**MISSOURI GAS ENERGY.
CASE NO. GE-2000-808**

MGE offers the following services:

Gas-air adjustments on domestic type gas appliances

In-warranty service including complete unit change-outs on gas chillers and
furnaces

Warm-air equipment inspection

Gas leak or carbon monoxide investigations

Gas A/C start-up and repairs

Change furnace filter

Cap or plug open house lines

Replace faulty thermocouple

Repair minor leaks on house piping

Clean and adjust pilot lights

Add ammonia refrigerant

Repair fan motors

**Service List for
Case No. GE-2000-808
September 28, 2000**

**Office of the Public Counsel
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**Robert J. Hack
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Att/Sec'y:

Hodkins/Bayer

Date Circulated

10-11

CASE NO.

CE-2000-808

Lumpke, Chair

[Signature]

Draiser, Vice Chair

[Signature]

Murray, Commissioner

[Signature]

Schenenauer, Commissioner

10-17

Agenda Date

Action taken:

5-045

Must Vote Not Later Than

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 17th day of Oct. 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

