

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 20th
day of January, 1998.

In the Matter of Missouri Gas Energy's)	<u>Case No. GO-96-243</u>
Gas Cost Incentive Mechanism.)	

ORDER DENYING REHEARING AND GRANTING RECONSIDERATION IN PART

On December 30, 1997, the Commission issued its Order Setting Prehearing Conference with an effective date of January 9, 1998. On January 8 Missouri Gas Energy, a division of Southern Union Company (MGE), filed its Application for Rehearing. On January 13 the Commission issued a notice canceling the prehearing conference which was scheduled for January 14.

MGE states in its Application for Rehearing that the Commission does not have authority to consider, on the Commission's own motion, changes to MGE's experimental gas cost incentive mechanism (ECGIM). MGE points out that the tariffs can be changed by two methods: the file and suspend method and the complaint method. MGE argues that the Commission must resolve substantial due process questions before proceeding in this case on its own motion and that this is not a proper forum in which the Commission should attempt to proceed on its own motion. Therefore, MGE requests that the Commission rescind its order establishing a prehearing conference. MGE states that if a proper party desires to file a properly formulated complaint regarding the existing approved tariffs, then no one can stop them from making such a filing.

The Commission has reviewed MGE's Application for Rehearing. The Commission does not accept MGE's argument in the entirety. As MGE noted, Section 393.140, RSMo 1994, does not grant the Commission specific authority. The Commission concludes this is because that statutory section grants the much broader "general supervision," and, indeed, the statute does allow the Commission to act "on its own motion." However, the Commission has concerns that this may not be a proper forum in which the Commission should proceed on its own motion.

The Commission finds that a properly filed complaint would be the preferred procedure to alleviate the due process concerns raised by MGE. Therefore, although the Commission will deny a rehearing of the issues presented, the Commission will reconsider its order issued on December 30 and will no longer require the parties to participate in a prehearing conference and submit a recommended procedural schedule.

IT IS THEREFORE ORDERED:

1. That the Application for Rehearing filed by Missouri Gas Energy, a division of Southern Union Company, on January 8, 1998, is hereby denied.
2. That the Motion for Reconsideration filed by Missouri Gas Energy, a division of Southern Union Company, on January 8, 1998, is granted as provided herein.
3. That the Commission's Order Setting Prehearing Conference issued on December 30, 1997, is rescinded.

4. That this order shall become effective on January 30,
1998.

BY THE COMMISSION

Dale Hardy Roberts

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

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

G. George, Regulatory Law Judge