

# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy Regarding )  
an Incident at the Intersection of 107th Street ) Case No. GS-96-289  
and Bennington Avenue in Kansas City, Missouri, )  
on February 26, 1996. )  
)

The Staff of the Missouri Public )  
Service Commission, )  
)  
Complainant, )  
)  
v. ) Case No. GC-97-68  
)  
Missouri Gas Energy, a division of )  
Southern Union Company, )  
)  
Respondent. )  
)

---

### REPORT AND ORDER

---

**Issue Date:** April 1, 1997

**Effective Date:** April 11, 1997

OF THE STATE OF MISSOURI

Case No. GS-96-289

Case No. GC-97-68

Respondent.

## APPEARANCES

Aisha Ginwalla, Assistant General Counsel, Missouri Public Service Commission,  
Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the  
Missouri Public Service Commission.

**ADMINISTRATIVE**  
**LAW JUDGE:**

Thomas H. Luckenbill, Deputy Chief.

## **REPORT AND ORDER**

### **Procedural History**

On March 6, 1996, the Staff of the Missouri Public Service Commission (Staff) filed a motion to establish a docket relating to a natural gas incident. Case No. GS-96-289 was created as a result of that motion. On August 20, 1996, the Staff filed a complaint against Missouri Gas Energy, a division of Southern Union Company (MGE). Case No. GC-97-68 was created as a result of that complaint. The complaint alleges that MGE violated Missouri Public Service Commission rules regarding the operation of the transmission line and MGE's failure to adhere to internal procedures. Each of these dockets relates to a natural gas transmission line rupture at the intersection of 107th Street and Bennington Avenue in Kansas City, Missouri. The incident occurred at approximately 1:45 a.m. on Monday, February 26, 1996.

On August 20, 1996, the Staff filed a Gas Incident Report (the Incident Report) in Case No. GS-96-289. The Incident Report contains the relevant facts surrounding an incident which occurred at approximately 1:45 p.m. C.S.T. on Monday, February 26, 1996, in which a natural gas transmission pipeline owned and operated by MGE ruptured and subsequently ignited escaping gas near the intersection of 107th Street and Bennington Avenue in Kansas City, Missouri. Several houses and vehicles in the immediate area sustained damage from the debris. There were no injuries reported due to the incident.

On August 20, 1996, the Staff filed a two-count complaint against MGE alleging violation of Missouri Public Service Commission (Commission) rules regarding the operation of the transmission line and adherence to MGE's internal procedures.

Staff did not allege that the claimed violations of rules were the cause of the pipeline rupture. The Incident Report states that "the probable cause of

the rupture was mechanical damage." Apparently, the rupture occurred at a location where an unidentified third party was constructing a storm sewer in very close proximity to the gas pipeline. The Incident Report additionally notes that MGE's excavation of the pipeline in the area of the rupture disclosed scratches, dents and gouges beneath the coating of the pipeline in adjacent areas, which would indicate that some defect existed in the pipe prior to the application of a protective coating and prior to its receipt by the gas company and installation in 1961.

By notice dated August 21 in Case No. GS-96-289, MGE was advised that its response to the Incident Report was due no later than September 20. By a notice of complaint dated August 21 in Case No. GC-97-68, MGE was advised that it was to file an answer or a report of the measures taken to satisfy the complaint on or before September 20. By order dated September 24, this deadline was extended to October 21, 1996.

On October 18, 1996, Staff and MGE filed a Settlement Agreement, Satisfaction And Release. Mr. Hans H. Shieh of the Staff's Utility Engineering Department filed direct testimony in support of the agreement. On November 14, 1996, the parties presented the Settlement Agreement to the Commission.

On November 25, the Commission convened an on-the-record presentation of the Settlement Agreement. The Office of the Public Counsel (Public Counsel) entered an appearance at the on-the-record presentation. The Commission finds no express indication regarding whether Public Counsel supports or opposes the Settlement agreement. However, Public Counsel's consent to the terms of the agreement is implied in that Public Counsel did not object to the Settlement Agreement and did not request a hearing regarding the Settlement Agreement. If Public Counsel desired a full evidentiary hearing regarding the gas incident and related Settlement Agreement, Public Counsel would have requested a hearing.

Where there is no request for a hearing from Staff, Public Counsel or any other party, the Commission may use the verified statements of witnesses as a basis to approve the proposed Settlement Agreement. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Serv. Comm'n*, 776 S.W.2d 494, 496 (Mo. App. 1989).

### Findings of Fact

Having reviewed the Settlement Agreement, the testimony of Staff witness Mr. Shieh, the testimony of MGE witness Mr. Dean, and the transcript from the November 14, 1996 proceeding, the Commission makes the following findings of fact.

MGE has responded to the recommendations made in the Incident Report in the following manner. MGE held training sessions with its supervisors and dispatchers during the first half of September 1996 on the operation of the Supervisory Control and Data Acquisition (SCADA) system and on the procedures to be followed during abnormal pressure conditions, as that is defined in the Operations and Maintenance Standard on page 3230-1 and the procedures on page 3230-2. MGE has agreed to implement the following reporting requirements: For a period of one year, beginning January 1, 1997, MGE agrees to provide Staff with telephone notice within 24 hours of MGE discovering a condition on any part of its overall system where the pressure exceeded the Maximum Allowable Operating Pressure (MAOP), and to supply the Staff with a written report within 20 days after such discovery. On systems where the MAOP is one and one-half pounds per square inch gauge (psig) or less, MGE will not be required to submit a report or provide telephone notice unless the system pressures exceed two psig during the one-year reporting period.

MGE further has committed to make a voluntary contribution to the Public School Fund of the State of Missouri in the amount of \$8,000 upon receipt of a

final and nonappealable order of the Commission approving the Settlement Agreement. The Settlement Agreement, Satisfaction And Release is attached to this Report And Order (Attachment A).

Based on the Settlement Agreement, Satisfaction And Release, the testimony of Staff witness Shieh, the testimony of MGE witness Dean, and the on-the-record presentation of the Settlement Agreement on November 14, 1996, the Commission finds that the terms of the Settlement Agreement, Satisfaction And Release are reasonable and that it should be approved.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at the following conclusions of law.

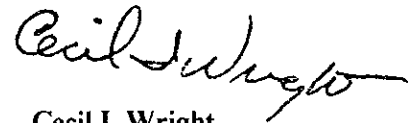
The Staff and MGE waived their rights to cross-examine witnesses by the terms of the Settlement Agreement. Public Counsel did not request a hearing and thus waived cross-examination. When cross-examination has been waived, the Commission may use the verified statements of witnesses as a basis to approve the proposed Settlement Agreement, Satisfaction And Release. ***State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Serv. Comm'n***, 776 S.W.2d 494, 496 (Mo. App. 1989). The Commission may accept the Settlement Agreement to resolve this matter. Section 536.060, RSMo Supp. 1996.

### **IT IS THEREFORE ORDERED:**

1. That the Settlement Agreement, Satisfaction And Release filed by Missouri Gas Energy, a division of Southern Union Company, and the Staff of the Missouri Public Service Commission on October 18, 1996 is approved.

2. That this Report And Order shall become effective on April 11,  
1997.

BY THE COMMISSION



Cecil I. Wright  
Executive Secretary

( S E A L )

Zobrist, Chm., McClure, Crumpton  
and Drainer, CC., concur.

Dated at Jefferson City, Missouri,  
on this 1st day of April, 1997.

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

In the matter of Missouri Gas Energy Regarding )  
an Incident at the Intersection of 107th Street and )  
Bennington Avenue in Kansas City, Missouri, on )  
February 26, 1996. )

Case No. GS-96-289

The Staff of the Missouri Public Service )  
Commission, )

Complainant, )

vs. )

Missouri Gas Energy, )

Respondent. )

Case No. GC-97-68

**FILED**  
**OCT 18 1996**  
**MISSOURI**  
**PUBLIC SERVICE COMMISSION**

**SETTLEMENT AGREEMENT, SATISFACTION AND RELEASE**

Comes now Missouri Gas Energy ("MGE"), a division of Southern Union Company, and the Staff of the Missouri-Public Service Commission ("Staff") by and through their respective counsel, and respectfully state as follows:

**Procedural History**

1. On August 20, 1996, the Staff of the Missouri Public Service Commission ("the Staff") filed a "Gas Incident Report" ("the Incident Report") in Case No. GS-96-289. The Incident Report purports to relate the relevant facts surrounding an incident which occurred at approximately 1:45 a.m. CST on Monday, February 26, 1996, in which a natural gas transmission pipeline owned and operated by MGE ruptured and subsequently ignited near the intersection of 107th Street and Bennington Avenue in Kansas City, Missouri ("the incident"). Several houses and vehicles in the immediate area sustained damage from the debris from the rupture and radiant



heat as a result of the later ignition of the escaping gas. There were no injuries reported due to the incident.

2. Also on August 20, 1996, the Staff filed a two count "Complaint" against MGE alleging violation of Missouri Public Service Commission ("Commission") rules regarding the operation of the transmission line and adherence to MGE's internal procedures.

3. Neither the Complaint nor the Incident Report allege that the claimed violations of rules were the cause of the pipeline rupture. The Incident Report states that "the probable cause of the rupture was mechanical damage." It notes that the rupture occurred at a location where there was evidence of the construction of a storm sewer by an unidentified third party across the top and in very close proximity to the gas pipeline. The Incident Report also notes that MGE's excavation of the pipeline in the area of the rupture as a part of MGE's investigation disclosed scratches, dents and gouges beneath the coating of the pipeline in adjacent areas, which would indicate that some damage occurred to the pipe prior to the application of a protective coating and prior to its receipt by the gas company and installation in 1961. On July 22, 1996, MGE began replacement of approximately two (2) miles of pipeline that was installed in 1961. MGE estimates that its cost for such construction will be approximately \$2,000,000.

4. By "Notice" dated August 21, 1996 in Case No. GS-96-289, MGE was advised that its response to the Incident Report is due no later than September 20, 1996. By a "Notice of Complaint" dated August 21, 1996 in Case No. GC-97-68, MGE was advised that it was to file an Answer or the measures taken to satisfy the Complaint on or before September 20, 1996. By Order dated September 24, 1996, this deadline was extended to October 21, 1996. This Settlement Agreement, Satisfaction and Release is designed to obviate the need for MGE making

a response in Case No. GS-96-289 and an Answer in Case No. GC-97-68.

Settlement, Satisfaction and Release

5. Without conceding the legal merits of any of the Staff's allegations of violation, MGE has responded to the recommendations made in the Incident Report in the following manner. MGE held training sessions with its supervisors and dispatchers during the first half of September 1996, on the operation of the Supervisory Control and Data Acquisition (SCADA) system and procedures to be followed during abnormal pressure conditions, as that is defined in the Operations and Maintenance Standard on page 3230-1 and the procedures on page 3230-2. MGE will submit a copy of the topics that were discussed during this training, as well as a copy of the attendance sheet, for Staff's review within thirty (30) days of the effective date of this settlement. MGE's Training Department is working with the Technical Service Department to develop and implement a "training module" for the dispatcher group based upon this training. A copy of the training module shall be sent to the Staff for review within thirty (30) days of its completion. In addition, MGE has agreed to implement the following extraordinary reporting requirements: For a period of one year, beginning January 1, 1997, MGE agrees to provide Staff with telephone notice within 24 hours of MGE discovering a condition on any part of its overall system where the pressure exceeded the Maximum Allowable Operating Pressure (MAOP), and to supply the Staff with a written report within twenty (20) days after such discovery. On systems where the MAOP is one and one-half pounds per square inch gauge (psig) or less, MGE will not be required to submit a report or provide telephone notice unless the system pressures exceed two (2) psig during the one year reporting period. Since there can be a delay between when the event occurs and its recognition by personnel responsible for remedial measures, discovery in this

instance shall be defined as the date on which supervisory personnel are actually made aware of the event. The written report shall:

- a) Identify the date, duration, and location at which the pressure exceeded the MAOP;
- b) Identify the amount of pressure exceeding the MAOP;
- c) Provide the reason (if known at the time of the report) why the pressure exceeded the MAOP;
- d) Describe the steps taken by MGE to correct the problem which caused the MAOP to be exceeded;
- e) Describe the steps taken by MGE to minimize the possibility of a similar occurrence where the pressure would exceed the MAOP.

Even though the above special reporting requirement does not apply to systems where the MAOP is one and one-half psig or less, if the MAOP is exceeded on any system operating at one and one-half psig or less, MGE will address the occurrence as required by 4 CSR 240-40.030(13)(S)3. It is expressly agreed that the identification by MGE in any such report under this agreement, or in any other fashion, of any situation in which the pressure exceeds the applicable MAOP shall not be construed as an admission by MGE that a violation of any rule occurred. However, Staff is not precluded from finding a probable violation in a situation where the pressure exceeds the applicable MAOP and MGE fails to investigate why the pressure exceeds the MAOP and/or fails to take necessary remedial action to correct the problem.

6. These undertakings by MGE and their acceptance by the Staff, as well as the other aspects of this document, form a reasonable basis for settlement of the referenced dockets and any

claims within the jurisdiction of the Commission arising from the incident. In addition to the express commitments represented by these undertakings, MGE, upon receipt of a final and non-appealable order of the Commission approving this Settlement Agreement, Satisfaction and Release, will make a voluntary contribution to the Public School Fund of the State of Missouri in the amount of Eight Thousand Dollars (\$8,000.00) which, along with the representations made herein, shall constitute full settlement, satisfaction and release of any claims or causes of action which have been or might in the future be asserted against MGE before the Commission, which arise out of, are based upon, or could have been based upon, the facts surrounding the incident as related in the Incident Report.

7. This document shall not be construed to operate as a waiver or release of the Staff's right and ability to conduct follow-up evaluations of the representations made herein, or to in any way impair or affect Staff's ability to file, or MGE's ability to contest, recommendations or complaints involving applications of the Commission's rules cited in the previously referenced Incident Report or Complaint to any future incidents involving MGE, or to any other natural gas system operated under the jurisdiction of the Commission.

8. This settlement, satisfaction and release is a compromise of disputed claims and neither all nor any part of this document constitutes an admission of any violation of law, statute, rule, regulation or procedure of any kind by MGE, any and all claims of violation being expressly denied by MGE. No waiver or modification of any defense which has been raised by MGE in these dockets is intended or should be assumed as a result of this document.

9. This document shall not be construed as or to operate as a settlement, satisfaction, release or waiver of any claims or defenses MGE may have now or hereafter against any other

person or entity arising from or relating to the facts surrounding the incident or the actions taken by MGE as a result of the incident; MGE expressly reserving all rights and defenses it may have in regard thereto.

10. The Staff has represented to MGE that the foregoing Settlement Agreement, Satisfaction and Release is acceptable, and by execution of this document Staff recommends to the Commission that this Settlement Agreement, Satisfaction and Release be approved, in its entirety. If the document is not so approved in total, no party hereto shall be bound or prejudiced by any provisions contained herein or by any representations which have been made in the context of the attempted settlement hereof, and MGE shall be allowed a reasonable time in which to file a Response to the Incident Report and an Answer to the Complaint.

11. No party to this document believes the consideration and approval of this document requires a hearing before the Commission; however, the Staff and MGE stand ready if additional information is requested. Within five to seven business days after the filing of this Settlement Agreement, Satisfaction and Release, the Staff will file testimony in support of the Settlement Agreement, as well as Suggestions in Support of the Settlement Agreement, Satisfaction and Release.

12. Nothing in this Settlement Agreement, Satisfaction and Release is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right of access to information, and any statutory obligation.

13. The Staff also shall have the right to provide, at any agenda meeting at which this Settlement Agreement, Satisfaction and Release is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent

reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

14. This Settlement Agreement, Satisfaction and Release represents a negotiated settlement. Except as specified herein, the signatories to this document shall not be prejudiced, bound by, or in any way affected by the terms of this Settlement Agreement, Satisfaction and Release: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; or (c) in this proceeding should the Commission decide not to approve this Settlement Agreement, Satisfaction and Release in the instant proceeding.

15. The prepared testimony of Mr. Hans Shieh will be filed in support of the Settlement Agreement, Satisfaction, and Release. If MGE does not file a document within five (5) business days of the receipt of such testimony containing rebuttal testimony or requesting the opportunity to cross examine Mr. Shieh, the prepared testimony shall be received into evidence without the necessity of Mr. Shieh taking the witness stand.

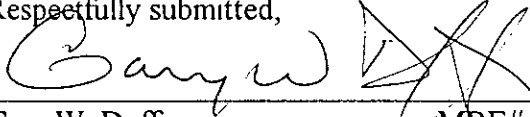
16. If the Commission accepts the specific terms of this Settlement Agreement, Satisfaction and Release, the signatories waive their respective rights to cross-examine witnesses (subject to the provision in paragraph 15), their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 1994; their respective rights to the reading of the transcript by the Commission pursuant to section 536.080.2 RSMo 1994; and their respective rights to judicial review pursuant to Section 386.410 RSMo 1994. This waiver applies only to a

Commission Report and Order issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Settlement Agreement, Satisfaction and Release.

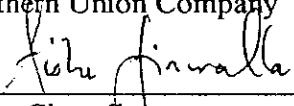
17. MGE and the Staff each agree and represent that the attorneys listed below are duly authorized to execute this Settlement Agreement, Satisfaction and Release on their respective behalf, and that this document represents a complete description of all of the considerations for this agreement.

WHEREFORE, MGE and the Staff respectfully request that the Commission issue its Order Approving the Settlement Agreement, Satisfaction and Release, in its entirety as set forth herein, and to issue orders closing the above-captioned dockets.

Respectfully submitted,

  
\_\_\_\_\_  
Gary W. Duffy MBE# 24905  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue  
P. O. Box 456  
Jefferson City, Missouri 65102-0456  
(573) 635-7166

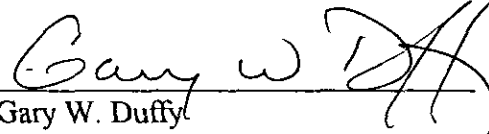
Attorneys for Missouri Gas Energy, a division of  
Southern Union Company

  
\_\_\_\_\_  
Aisha Ginwalla MBE # 41608  
Assistant General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102  
(573) 751-6726

Attorney for the Staff of the Missouri Public Service  
Commission

Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing document was served on all parties of record in this proceeding this 18<sup>th</sup> day of October, 1996, by placing a copy of same in the United States Mail, first class postage prepaid and properly addressed, or hand delivering same.

  
\_\_\_\_\_  
Gary W. Duffy