

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2011-0100
)	
Missouri Gas Energy, a Division of Southern Union Company)	
)	
)	
Respondent.)	

MISSOURI GAS ENERGY’S MOTION FOR SUMMARY DETERMINATION

COMES NOW Respondent Missouri Gas Energy, a division of Southern Union Company (“MGE”) by and through counsel, pursuant to Missouri Public Service Commission (“Commission”) Rule 4 CSR 240-2.117(1), and for its Motion for Summary Determination, states that:

There is no genuine dispute as to the following material facts.

1. The Complainant in this case is the Commission staff (“Staff”).¹
2. The Chief Staff Counsel, Kevin Thompson, has filed a Complaint pursuant to Commission Rule 4 CSR 240-2.070(1).²
3. Respondent is Southern Union Company, a Delaware Corporation, in good standing, engaging in the business of a natural gas distribution company at retail in Missouri under the registered fictitious name “Missouri Gas Energy”.

¹ Complaint, ¶ 2.

² Complaint, ¶ 2.

MGE distributes natural gas for light, heat and power, using gas plant that it owns or operates to over 500,000 residential, commercial and industrial customers in 34 Missouri counties under tariffs approved by this Commission.³

4. All of MGE's operations in the State of Missouri are subject to the regulation of the Commission as provided by law.⁴

5. MGE has no unregulated operations.⁵

6. MGE does not furnish, manufacture, assemble, install, maintain, control, or own appliances or equipment that consume or operate on natural gas that is installed beyond the gas meter at the customer's premises.⁶

7. A true and correct copy of MGE's current Tariff Sheet R-34 is attached to Staff's Complaint as Exhibit A.⁷ The formal name of that document as appearing thereon is:

P.S.C. Mo. No. 1 Fourth Revised Sheet No. R-34
Cancelling P.S.C Mo. No. 1 Third Revised Sheet No. R-34

8. Tariff Sheet R-34 was filed with the Commission in Case No. GR-2006-0422 on May 1, 2006. As originally filed, it appeared in a track changes format illustrating the amendments MGE proposed to make to the version of the tariff then on file with the Commission (P.S.C Mo. No. 1 Third Revised Sheet No. R-34).⁸

³ Complaint, ¶ 3; Answer ¶3.

⁴ Complaint, ¶ 4; Answer ¶4.

⁵ See, Affidavit of Michael Noack, Exhibit 1 hereto.

⁶ See, ftnt. no. 5.

⁷ Answer, ¶ 8.

⁸ See, Exhibit 2 hereto comprised of a cover letter submitting revised tariff sheets, including Tariff Sheet R-34 and a copy the tariff as submitted.

9. A substitute Tariff Sheet R-34 in plain text format was filed with the Commission in Case No. GR-2006-0422 on May 5, 2006.⁹

10. The Commission issued a Report and Order in its Case No. GR-2006-0422 on March 22, 2007.¹⁰

11. On March 28, 2007, MGE filed compliance tariffs in Case No. GR-2006-0422.¹¹

12. One of the compliance tariffs submitted for the Commission's approval was Fourth Revised Sheet R-34.¹²

13. On March 30, 2007, Staff filed its Recommendation that the Compliance Tariffs filed by MGE be approved by the Commission, including Fourth Revised Tariff Sheet R-34.¹³

14. On April 3, 2007, the Commission issued an Order Regarding Motion for Expedited Consideration and Approval of Tariff Sheets pursuant to which it approved MGE's Compliance Tariffs, including Fourth Revised Sheet R-34.¹⁴

15. MGE's Fourth Revised Tariff Sheet R-34 went into effect on April 3, 2007.¹⁵

⁹ See, Exhibit 3 hereto comprised of a cover sheet submitting revised tariff sheets, including Tariff Sheet R-34 and a copy the tariff as submitted.

¹⁰ EFIS Document No. 267, Case No. GR-2006-0422.

¹¹ See, Exhibit 4 hereto comprised of a cover letter submitting revised compliance tariff sheets, including Tariff Sheet R-34 and a copy the tariff as submitted.

¹² See, ftnt. no. 11.

¹³ See, Exhibit 5 hereto.

¹⁴ See, Exhibit 6 hereto.

¹⁵ See, ftnt. no. 11.

Attached hereto is a Legal Memorandum explaining why summary determination should be granted in favor of MGE based on these undisputed material facts.

MGE requests that the Commission take administrative notice of the following filings, pleadings and orders in Case No. GR-2006-0422 in accordance with Commission rule 4 CSR 240-2.130(2), some of which are attached hereto for the Commission's convenience, but all of which are a matter of public record and available on the Commission's Electronic Filing and Information Service (EFIS).

- Transmittal letter dated May 1, 2006, and Tariff Sheet R-34 (EFIS Doc. 1);
- Cover sheet filed May 5, 2006, and Tariff Sheet R-34 (EFIS Doc. 7);
- Report and Order dated March 22, 2007 (EFIS Doc. 267);
- Transmittal letter dated March 28, 2007, submitting compliance tariffs (EFIS Doc. 269);
- Staff Recommendation and Memorandum dated March 30, 2007 (EFIS Doc. 273); and
- Order Regarding Motion for Expedited Consideration and Approval of Tariff Sheets dated April 3, 2007 (EFIS Doc. 274).

WHEREFORE, for the reasons set forth in the attached supporting Memorandum of Law, MGE requests that the Commission grant summary determination in favor of MGE and dismiss Staff's Complaint with prejudice.

Respectfully submitted,

/s/ Paul A. Boudreau
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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission to all counsel of record on this 11th day of April, 2011.

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