

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

In the Matter of Missouri Gas Energy's)
Tariff Sheets Designed to Increase)
Rates for Gas service in the)
Company's Missouri Service Area)

Case No. GR-2004-0209

**RESPONSE IN OPPOSITION TO STAFF'S MOTION FOR EXTENSION OF TIME TO
FILE SURREBUTTAL TESTIMONY AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Missouri Gas Energy ("MGE"), a division of Southern Union Company, by counsel, and for its response in opposition to Staff's Motion for Extension of Time to File Surrebuttal Testimony and Motion for Expedited Treatment (hereinafter the "Motion"), states as follows to the Missouri Public Service Commission ("Commission"):

1. On the afternoon of Friday, June 4, 2004, Staff filed its Motion requesting a delay in the date for filing of surrebuttal testimony in this case from June 11 to June 14, 2004. The stated reason for the Motion is to permit Staff to first take the telephone deposition of Professor Roger Morin, a rebuttal witness on behalf of MGE. MGE opposes the Motion.

2. In its Motion, Staff states it became aware that Dr. Morin would be a witness for MGE in this case when rebuttal testimony was filed on Monday, May 24, 2004. While this may be true, MGE was not made aware of Staff's interest in deposing Dr. Morin until four (4) days later on Friday, May 28, 2004, and by agreement of the parties, Dr. Morin has been made available for deposition on Thursday, June 10, 2004.

In spite of these facts, Staff waited to file its Motion until Friday, June 4, 2004, fully eleven (11) days after Staff became aware that Dr. Morin would be a witness.

3. While Staff states that it filed its Motion “as promptly as it could,” it does not explain why it took eleven (11) days to bring this matter to the Commission’s attention. Such conclusory statements are not sufficient to justify such expedited and extraordinary relief.

4. Granting Staff’s Motion will prejudice MGE. The first issue to be tried in this case, which commences on June 21, 2004, is cost of capital/rate of return, a complicated issue which represents about 50% of the revenue requirement at issue in this proceeding and one with respect to which MGE carries the ultimate burden of proof. Staff’s request that the filing of surrebuttal testimony be delayed until Monday, June 14, 2004, reduces by three (3) days the amount of time that MGE will have available to it to review the surrebuttal testimony of the other parties on the cost of capital/rate of return issue as well as the other issues and to prepare for the evidentiary hearing. As indicated, this will work a particular hardship on MGE and will be extremely prejudicial to MGE with respect to the cost of capital/rate of return issue, the first issue to be tried. Moreover, how the desire of the Staff to depose a cost of capital/rate of return witness justifies an “extension of the filing deadline for all other testimony” is not explained by Staff.

5. Staff’s last minute decision to take a deposition of one of MGE’s witnesses does not justify a request that will shorten by three (3) critical days the time available to MGE to review surrebuttal testimony and prepare for the evidentiary hearing that commences on June 21, 2004. On the other hand, there is little prejudice to Staff by

denying the Motion. Staff will still be able to take the deposition of Dr. Morin in a timely fashion and have that information available to it at the time he is cross-examined during the evidentiary hearing.

WHEREFORE, for the reasons aforesaid, MGE opposes Staff's Motion and requests that the Commission issue an Order denying same.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail or by hand delivery, on this 7th day of June 2004 to the following:

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