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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 13th
day of November, 1997.

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

**ORDER SCHEDULING BRIEFS AND SETTING ON-THE-RECORD PRESENTATION
OF MONITORING REPORT**

On January 31, 1996, the Commission issued its Report and Order in Case No. GO-94-318, Phase II, and approved a gas cost incentive mechanism under a three-year experimental program for Missouri Gas Energy, a division of Southern Union Company (MGE). In that order the Commission directed MGE to file tariff sheets to implement the program and established Case No. GO-96-243 for the receipt of MGE's gas supply reliability data and monitoring reports. The order directed MGE to file, in GO-96-243, the first monitoring report no later than August 1, 1997 for the then immediately preceding twelve-month ACA period. The order provided that the Staff of the Commission (Staff) shall and other parties may file a response to MGE's monitoring report no later than September 1, 1997, indicating whether the filing party is in agreement with MGE. The order further provided that areas of disagreement shall be identified and party positions provided for Commission determination.

On August 1, 1997, MGE filed its Cost Incentive Mechanism Monitoring Report. An extension to September 12, 1997 was granted for the filing of Staff's 1997 response. Staff's response stated that the incentive mechanism is flawed and recommended an early prehearing

conference for the purpose of setting an expedited procedural schedule for a hearing to remove the incentive plan from tariffs.

On September 19 MGE filed its response to Staff's recommendation. MGE requests that the Commission deny Staff's request for the scheduling of an early prehearing conference because the plan should not be terminated prior to its scheduled conclusion in 1999. From a procedural standpoint, MGE believes that the legal and proper method to challenge the approved tariff is through the filing of a complaint.

On October 1 Staff filed a reply to MGE's response. Staff states that under the plain terms of the Commission's Report and Order in Case No. GO-94-318, the Commission is not precluded from considering MGE's tariff in this docket. Staff renews its recommendation for an early prehearing conference to set an expedited procedural schedule in this docket to consider removing the incentive plan from MGE's tariff.

On October 1 Public Counsel filed a reply to MGE's response. Public Counsel did not file a response to MGE's monitoring report but supports the recommendation filed by Staff on September 12. Public Counsel believes the experimental program resulted in unintended behavior and unwarranted "savings" to MGE to the detriment of ratepayers. Public Counsel states that the Commission obviously contemplated that this experimental program could be terminated because it required Staff to file reports regarding the operation of the program. Public Counsel requests that the Commission order an early prehearing conference to get an expedited procedural schedule in this docket to consider removing the incentive plan from MGE's tariff.

On October 6 MGE filed a response to the replies of Staff and Public Counsel. MGE states that if the Staff wants to challenge the approved tariff, it should consider the complaint process under

Section 386.390, RSMo 1994, and Section 386.330, RSMo Supp. 1996, which is a separate issue from the Commission acting upon its own motion. According to MGE, if the Commission unilaterally takes action against the tariff it recently approved, a question of impartiality would arise.

The Commission has reviewed the recommendation of Staff, the response of MGE, the replies of Staff and Public Counsel and the additional response of MGE. The Commission finds that Staff's responses to MGE's monitoring report identified areas of disagreement and provided the parties' positions for Commission determination. Therefore, on December 2, 1997, the Commission will convene an on-the-record presentation relating to the monitoring report. The parties shall file post-hearing briefs no later than December 12, 1997.

A preliminary issue is whether the Commission's jurisdiction in this proceeding is limited to a determination of MGE's compliance with the terms of the incentive mechanism program established by the Report and Order in Case No. GO-97-318, or whether it is appropriate for the Commission to use this proceeding to consider early termination of the incentive plan and return MGE to full prudence review through the PGA/ACA process as Staff and OPC request. Furthermore, the parties should provide their interpretation of sheet No. 24.2, Section IX, of Missouri Gas Energy's tariff which states, "This Section IX (Sheet Nos. 24.2 - 24.5) shall remain in effect until the Commission orders an end to this experimental procedure at some point after June 30, 1999 or the Commission removes the experimental aspect, or changes to the sheets become effective pursuant to law." The parties shall file preliminary briefs addressing these two issues no later than November 25, 1997.

IT IS THEREFORE ORDERED:

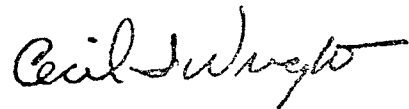
1. That the parties shall file preliminary briefs no later than November 25, 1997.

2. That the Commission shall convene an on-the-record presentation of MGE's monitoring report and the identified areas of disagreement at 10:00 a.m. on December 2, 1997, in the Commission's hearing room. That any person with special needs as addressed by the American with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211 or TDD Hotline -- 1-800-829-7541.

3. That the parties shall file post-hearing briefs no later than December 12, 1997.

4. That this order shall become effective on November 13, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

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

G. George, Regulatory Law Judge