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## Missouri Public Service Commission

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September 29, 2000

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

FILED<sup>3</sup>

SEP 29 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. GE-2000-808**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Lera L. Shemwell  
Associate General Counsel  
(573) 751-7431  
(573) 751-9285 (Fax)

LLS:sw  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

FILED<sup>3</sup>

SEP 29 2000

Missouri Public  
Service Commission

In the Matter of the Filing of Missouri Gas )  
Energy, A Division of Southern Union )  
Company, Pursuant to 4 CSR 240-0.17(8) )  
)

Case No. GE-2000-808

**STAFF'S RECOMMENDATION**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission  
("Commission") and for its recommendation in this case states as follows:

1. On June 8, 2000, Missouri Gas Energy, a Division of Southern Union Company ("MGE" or "Company"), filed a pleading entitled "Exemption Filing of Missouri Gas Energy." The pleading sought recognition by the Commission that MGE qualifies for an exemption from certain requirements of the Heating, Ventilating and Air Conditioning ("HVAC") Act, §§386.754 through 386.764, RSMo 1999 ("the Act"). MGE filed its pleading pursuant to 4 CSR 240-40.017(8) ("the Rule") which requires utilities that qualify for the statutory exemptions apply to the Commission for recognition of the exemption.

2. The Act prohibits Missouri utilities from providing certain defined HVAC services, except through an affiliated entity. §386.756.1. The Act provides an exemption from the separate affiliate requirement for those utilities that have been providing such services for more than five years prior to August 28, 1998. §386.756.7. By its pleading, MGE claims the statutory exemption.

3. MGE's pleading did not list the specific HVAC services claimed for the statutory exemption. The Rule and Act specify that the qualifying HVAC services must be specifically

identified. The Commission's Gas Department – Tariffs/Rate Design Staff has reviewed the specific types of HVAC services performed by MGE and whether the HVAC services qualify under the Rule and Act. Staff's investigation consisted of a review of the types of HVAC services provided by MGE and whether the five-year requirement had been satisfied.

4. The Staff has reviewed MGE's exemption claim. The Staff's review indicates that MGE has been in the business of performing the HVAC services as identified in the attached Appendix A to this recommendation. The Staff's review also indicates that MGE has been performing these services in excess of the five-year statutory requirement. In Staff's opinion, MGE qualifies for exemption and should be allowed to continue to provide those specific HVAC services listed on Appendix A, and need not offer them through an affiliate pursuant to Rule 4 CSR 240-40.017(8) and §386.7561 of the Act.

Respectfully submitted,

DANA K. JOYCE  
General Counsel



Lera L. Shemwell  
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Missouri Bar No. 43792

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 29th day of September, 2000.



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**MISSOURI GAS ENERGY.  
CASE NO. GE-2000-808**

MGE offers the following services:

Gas-air adjustments on domestic type gas appliances

In-warranty service including complete unit change-outs on gas chillers and  
furnaces

Warm-air equipment inspection

Gas leak or carbon monoxide investigations

Gas A/C start-up and repairs

Change furnace filter

Cap or plug open house lines

Replace faulty thermocouple

Repair minor leaks on house piping

Clean and adjust pilot lights

Add ammonia refrigerant

Repair fan motors

**Service List for  
Case No. GE-2000-808  
September 28, 2000**

**Office of the Public Counsel  
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Jefferson City, MO 65102**

**Robert J. Hack  
Missouri Gas Energy  
3420 Broadway  
Kansas City, MO 64111**