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**ORDER DENYING MIDWEST GAS USERS ASSOCIATION'S MOTION FOR REHEARING  
OR RECONSIDERATION OF TRUE UP AUDIT AND HEARING**

On June 22, 1998, Midwest Gas Users Association (MGUA) filed its Application for Rehearing or Reconsideration of Midwest Gas Users Association requesting a rehearing or reconsideration of the issues contained in the Commission's June 11 Order Establishing True-Up Audit and Hearing. MGUA states the true-up audit and hearing as ordered herein is, *inter alia*, not lawful, just or reasonable, denies MGUA its due process and constitutes single issue ratemaking.

After a review of the record and relevant statutory provisions, the Commission finds nothing in the Application for Rehearing or Reconsideration of Midwest Gas Users Association which provides a valid basis for a rehearing or reconsideration of the Commission's June 11 order regarding True-up Audit and Hearing. There is no provision in Chapters 386 and 393, RSMo (1994) which specifies one particular manner by which rates may be determined. Rather, the Commission is granted considerable discretion in the determination of rates. Associated Natural Gas Co. V. Public Service Commission, 706 SW2d 870, (Mo. App.

1985); 393.150, RSMo (1994). Rates may not be based on one factor but must be based upon all relevant factors. State ex rel. Utility Consumers' Council of Missouri, Inc. V. Public Service Commission, 585 S.W.2d 41 (Mo. 1979). Rule 4 CSR 240-2.115 provides for the hearing upon the filing of a Non-unanimous Stipulation and Agreement, "where one (1) or more parties requests a hearing of one (1) or more issues." 4 CSR 240-2.115(1) Once a non-signatory party objected, the Commission was required to hold a hearing on the non-unanimous stipulation and agreement. On April 17, 1998, a hearing was requested by joint movants MGUA and Jackson County et al. A hearing was held on April 29, 1998 regarding the reasonableness of the Stipulation and Agreement.

All relevant factors as raised by the parties in pleadings or by evidence adduced have been considered by the Commission. Other than its Joint Objection to Non-Unanimous Stipulation and Agreement Pursuant to 4 CSR 240-2.115(3), MGUA has failed to file any pleading or evidence clearly setting forth any issue or relevant factor which the Commission could consider in its ratemaking procedure. The Order Establishing True-up Audit and Hearing, issued on June 11, cited each occasion on which MGUA was given notice and an opportunity to be heard on any issue which it may have chosen to raise by pleading or by offering of testimony. MGUA has been afforded three hearing opportunities in this ratemaking proceeding, including April 29, May 26 through June 3, and July 16, 1998. MGUA has yet to specify any "relevant factor" that it believes that the Public Service Commission may be overlooking or to recommend any position which it supports as a just and reasonable alternative to the proposals made by the other parties. It can be reasonably deduced by the

Commission that MGUA does not have knowledge of any "relevant factor" that the Commission has not considered and that no more reasonable position can be supported by competent and substantial evidence.

This Stipulation and Agreement filed by three of the parties on April 10 was adopted by the Commission in its June 11 order after the Commission reviewed all of the evidence presented by the parties on the true-up issues and found that "the Stipulation represents a just and reasonable resolution of the issues surrounding MGE's true-up request".

Where evidence is offered by only one witness, the trier of fact may find that witness credible and find the witness testimony credible. Associated Natural Gas Co. V. Public Service Commission, 706 SW2d 870, (Mo.App. 1985); See also. Missouri Church of Scientology v. State Tax Commission (Mo. 1977); Empire Gas Corp. v. Small's LP Gas Co., 637 S.W.2d 239 (Mo. App. 1982). MGUA did not file an alternative request for a true-up audit or for hearing dates regarding the procedural scheduling matter. MGUA did not offer any direct testimony supporting any specific alternative proposal, nor did it file rebuttal testimony or offer any witnesses at the April 29 hearing. Given that MGUA offered no conflicting evidence to challenge the evidence offered, the trier of fact was free to accept the position of the other parties.

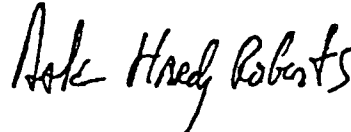
Due process notice of hearings and issues were given to the parties including MGUA on multiple occasions as recited in Commission's June 11 order. Competent and substantial evidence is found in the exhibits and testimony offered and admitted at the April 29 hearing. Therefore, the Commission will deny MGUA's Application for Rehearing or Reconsideration.

**IT IS THEREFORE ORDERED:**

1. That the Application for Rehearing or Reconsideration of Midwest Gas Users Association is denied.

2. That this order shall become effective on July 27, 1998.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Shelly A. Register, Regulatory Law  
Judge, by delegation of authority  
pursuant to 4 CSR 240-2.120(1),  
(November 30, 1995) and Section 386.240,  
RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 15th day of July, 1998.

**RECEIVED**

JUL 16 1998

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION