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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 20th
day of August, 1997.

In the Matter of the Application of)
Associated Natural Gas Company's)
Tariff Revision Designed to Increase)
Rates for Gas Service Provided to)
Customers in the Missouri Service)
Area of the Company.)

CASE NO. GR-97-272

ORDER DENYING MOTION FOR LEAVE TO INTERVENE OUT OF TIME,
DENYING MOTION TO STRIKE TESTIMONY AND
DENYING MOTION FOR LEAVE TO LATE-FILE TESTIMONY

On January 14, 1997, Associated Natural Gas Company (ANG), filed with the Commission proposed tariff sheets requesting a general rate increase. On January 28, the Commission suspended those tariffs and provided appropriate notice for applications to intervene to be filed on or before February 24. Two timely applications to intervene were granted by the Commission on March 7. The Commission established a procedural schedule on March 7 and rescheduled the evidentiary hearing for September 15-19. A prehearing conference was held on July 16-18.

On August 1, 1997, Missouri Gas Energy (MGE), a division of Southern Union Company, and United Cities Gas Company (United Cities) filed a Motion for Leave to Intervene Out of Time and Motion to Strike. On August 19, Laclede Gas Company (Laclede) and St. Louis County Water Company (SLCWC) filed a Joint Motion to Defer Consideration and Alternative Application to Intervene Out of Time. MGE, United Cities, Laclede, and SLCWC claim an interest in this proceeding different from that of the general public because Staff's testimony filed on or about June 25 includes a proposal to tariff numerous standards of conduct for transactions ANG may

conduct with marketing affiliates. MGE, United Cities, Laclede and SLCWC assert that their interest is limited to the affiliated transaction standards of conduct proposed by Staff in the direct testimony of Staff witness Hubbs. MGE and United Cities request that the Commission strike the testimony of Staff witness Hubbs which pertains to the affiliated transaction standards of conduct because such standards will be argued to have precedential effect in other proceedings against other parties. Laclede and SLCWC request that the Commission defer a decision regarding affiliated transactions until a determination is made in the generic docket for rulemaking in Case No. OO-96-329

On August 8, MGE filed the rebuttal testimony of Michael Langston along with a Motion for Leave to Late-File Testimony. MGE stated in its motion that the testimony was not filed on August 7 because of the ongoing strike at United Parcel Service and that no party should be prejudiced by acceptance of the filing less than 24 hours after the deadline.

On August 11, the Staff of the Commission (Staff) filed its Response to the Motion for Leave to Intervene Out of Time and Motion to Strike. Staff stated that the motion was filed 157 days after the intervention deadline, and that the movants have not made a showing of good cause for intervention pursuant to 4 CSR 240-2.075(4)(A). Staff states that nothing in this docket is generally applicable to utilities other than ANG, including the proposal to tariff standards of conduct for ANG and its marketing affiliates. Staff argues that the interest of MGE and United Cities is no different than the interest of the general public and that the motions to intervene and strike testimony should be denied. Staff notes that the motion to intervene does not indicate that United Cities' attorney

is licensed in Missouri or has complied with the Commission rules regarding out-of-state attorneys.

On August 11, the Office of the Public Counsel (Public Counsel) filed its Response in Opposition to Motion for Leave to Intervene Out of Time and Motion to Strike. Public Counsel requested that the Commission deny the motions of MGE and United Cities because neither MGE nor United Cities has an interest different than the general public in this company-specific proceeding which relates only to the rates and services of ANG. Public Counsel adds that MGE and United Cities are not customers of ANG and they do not utilize the local distribution system of ANG.

Public Counsel points out that the Commission's decision in this case does not have precedential effect in other proceedings involving other parties because the Commission is not bound by the doctrine of *stare decisis*. In addition, Public Counsel states that the late intervention would add nothing of substance to this proceeding and that the motion is not signed on behalf of United Cities by a member in good standing of the Missouri Bar.

The Commission has reviewed the Motion for Leave to Intervene Out of Time, Motion to Strike and Motion for Leave to Late-File Testimony and the Responses filed by Staff and Public Counsel along with the Motion to Defer Consideration and Alternative Application to Intervene Out of Time. The Commission finds that MGE, United Cities, Laclede and SLCWC do not have an interest in this matter which is different from that of the general public. The Commission finds that MGE, United Cities, Laclede and SLCWC have not shown good cause for granting intervention at this late stage in the proceeding. The Commission further finds that MGE and United Cities do not have standing to strike the testimony of Staff witness Hubbs and that neither MGE nor United Cities have standing to file testimony in

this case. Therefore, the Commission concludes that the Motion for Leave to Intervene Out of Time should be denied and that both the Motion to Strike and the Motion for Leave to Late-File Testimony should be denied as moot. The Commission finds that the Motion to Defer Consideration of the affiliated transaction issue should be denied because the Commission will not address affiliated transactions for the industry in this case. The Commission is addressing the generally applicable standards for an affiliated transaction rule in Case No. OO-96-329.

IT IS THEREFORE ORDERED:

1. That the Motion for Leave to Intervene Out of Time filed by Missouri Gas Energy and United Cities Gas Company on August 1, 1997, is denied.

2. That the Motion to Strike Testimony filed by Missouri Gas Energy and United Cities Gas Company on August 1, 1997, is denied as moot.

3. That the Motion for Leave to Late-File Testimony filed by Missouri Gas Energy on August 8, 1997, is denied as moot.

4. That the Motion to Defer Consideration filed by Laclede Gas Company and St. Louis County Water Company on August 19, 1997, is denied.

5. That the Alternative Application to Intervene Out of Time filed by Laclede Gas Company and St. Louis County Water Company on August 19, 1997, is denied.

6. That this order shall become effective on August 20, 1997.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Cecil I. Wright", with a horizontal flourish extending to the right.

**Cecil I. Wright
Executive Secretary**

(S E A L)

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

ALJ: George