

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

In the Matter of the Application of Southern)	
Union Company d/b/a Missouri Gas Energy For)	
Authority to Acquire Directly or Indirectly, Up)	
to and Including One Hundred Percent (100%) of)	Case No. GM-2003-0238
the Equity Interests of Panhandle Eastern)	
Pipeline Company, Including Its Subsidiaries,)	
and to Take All Other Actions Reasonably)	
Necessary to Effectuate Said Transaction.)	

STAFF'S SUGGESTIONS IN SUPPORT OF STIPULATION AND AGREEMENT

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully submits these Suggestions in Support of the Stipulation and Agreement:

BACKGROUND

This case deals with Southern Union Company's (Southern Union or Company) Application filed with the Missouri Public Service Commission (Commission) on January 13, 2003, for authority to acquire directly or indirectly, up to and including one hundred percent (100%) of the equity interests of Panhandle Eastern Pipeline Company (Panhandle), including its subsidiaries, and to take all other actions reasonably necessary to effectuate said transaction (the Transaction). Southern Union also filed on January 13, 2003, its Motion for Expedited Treatment and Motion for Issuance of a Protective Order.

On January 15, 2003, the Commission issued its order directing the Staff to either file a recommendation regarding Southern Union's Application by February 3, 2003, or to file a pleading explaining why it could not file a recommendation by that date. Also on January 15, 2003, the Office of the Public Counsel (Public Counsel) filed its reply to Southern

Union's request for expedited treatment. On January 16, 2003, the Staff filed a Motion for Issuance of Intervention Notice and for Technical Conference.

On January 16, 2003, the Commission issued its Order Providing Notice, Establishing Time for Intervention, Scheduling a Prehearing Conference, and Relieving Staff and Other Parties of the Obligation to File a Recommendation by February 3, 2003. Pursuant to this Order, the Commission directed that notice of the Application be provided and that interested persons wishing to intervene in this case should file an Application to Intervene on or before January 24, 2003. The Commission scheduled a prehearing conference for January 28, 2003 and relieved the Staff and all other parties of their obligation to file a recommendation by February 3, 2003.

Applications to Intervene in this proceeding were filed and granted by the Commission by Enbridge Pipelines (KPC); Jeremiah W. (Jay) Nixon, Attorney General, on behalf of the State of Missouri; Union Electric Company d/b/a AmerenUE; Local 5-348 of Paper, Allied-Industrial, Chemical and Energy International Union; Midwest Gas Users' Association; Laclede Gas Company; Municipal Gas Commission of Missouri; and Kansas City Power & Light Company.

On February 24, 2003, the Commission issued its Order Adopting Procedural Schedule.

Southern Union filed its direct testimony in support of the Application on February 14, 2003. The parties engaged in discovery and discussions both before and after Southern Union's direct testimony was filed. Staff, Public Counsel, and Kansas City Power & Light (KCPL) filed their rebuttal testimony on March 17, 2003. On March 25, 2003, the Parties filed their Stipulation and Agreement.

In the Stipulation and Agreement, the Parties agreed that the transaction should be approved and requested that the Commission issue its order, subject to the conditions contained

in the Stipulation and Agreement authorizing Southern Union to acquire, directly or indirectly, up to and including one hundred percent (100%) of the equity interests of Panhandle, including its subsidiaries. The parties also respectfully requested that the Commission issue its order approving the Transaction and this Stipulation and Agreement at its earliest opportunity with an effective date of no later than April 1, 2003. The reasons for the effective date were explained in Southern Union's Motion for Expedited Treatment filed on January 13, 2003, with the Application. Staff respectfully requests that the Commission so order.

Staff's recommendation that the Commission approve this Application is subject to the various Conditions of Approval found in the Stipulation and Agreement. Staff will discuss each of these conditions.

CUSTOMER SERVICE STANDARDS

The first condition of approval pertains to Customer Service Standards. Southern Union will, through Missouri Gas Energy (MGE), its Missouri local distribution company, continue its commitment to customer service performance and customer service operating procedures. MGE will continue to provide data to Staff and keep the other commitments made and approved by the Commission in Case Nos. GM-2000-43, GM-2000-500, GM-2000-502, and GM-2000-503. This information will be provided for three full years beyond the year that the Application is approved by this Commission. MGE's response to customer service measures will remain the same as agreed to in GM-2000-43. Staff believes that this is an appropriate protection for customers and should be ordered.

In addition to the continuation of information in the aforementioned cases, MGE will also provide two additional service level indicators. These pertain to MGE's ability to meet its service appointments and maintenance of the average response time that MGE takes to respond

to Commission-forwarded complaints. This should initially be maintained and provided by MGE. Staff and MGE will evaluate the ability and effectiveness of the Commission's Electronic Filing and Information System (EFIS) to make the information available electronically in the future. Staff believes that these additional service level indicators will provide additional information regarding MGE's customer service levels and efforts. Staff further notes that other reporting requirements found in Case Nos. GM-2000-43, GM-2000-500, GM-2000-502 and GM-2000-503 remain unchanged.

It was further agreed that MGE will provide to requesting parties subject to a Commission protective order, on a highly confidential basis, information related to any contacts or inquires that MGE receives about potential by-pass of MGE's distribution system via direct connection to an interstate or intrastate pipeline system. This information will be provided regardless of whether MGE believes that such by-pass would be economic or justified. Staff believes that this addresses a concern about any possible treatment of such matters by MGE that could arise from any conflicts of interest.

INSULATION OF MGE

The next condition concerns insulation of MGE from the business of Southern Union Panhandle Corporation (SUPC). Southern Union specifically agreed that SUPC, the Southern Union division that will own and operate the acquired Panhandle assets, will operate as a separate and distinct subsidiary of Southern Union and its successors. Southern Union further agreed that all SUPC debt will be nonrecourse to Southern Union. Southern Union further agreed: 1) not to encumber MGE assets without Commission approval; 2) not to assume any SUPC debt without Commission approval; and 3) to use its best efforts to protect MGE from any adverse consequences Southern Union's other operations.

Staff believes that these conditions will provide reasonable protection and insulation of MGE from other Southern Union business ventures. Furthermore, Southern Union acknowledges its duty to use its best efforts to insulate MGE. Southern Union has acknowledged its duty and will provide quarterly reports to Staff certifying its compliance with this condition. Staff believes that this provides a clear monitoring tool that will be useful in watching for any matters of concern that may be of detriment to MGE. Staff can request more information if necessary and bring necessary matters to the Commission's attention.

FURTHER INSULATION STEPS

Southern Union has also agreed to undertake further steps to insulate MGE. Southern Union will ensure that the Transaction will have no adverse effect on MGE's budget and funds to meet MGE's capital needs, including but not limited to service line and main replacement programs. Southern Union remains committed to the service line replacement program schedules for MGE currently in effect and approved by the Commission in its Case No. GO-2002-0050. The fact that Southern Union recognizes and agrees that it will meet MGE's capital needs alleviates concerns in this regard.

The parties agreed that the amount of any asserted acquisition premium (i.e. the amount of the total purchase price and transaction above net book value) paid by Southern Union in connection with the transaction shall be treated below-the-line for ratemaking purposes in Missouri and not recovered in retail distribution rates. Southern Union shall not seek either direct or indirect rate recovery or recognition of any acquisition premium. While the parties agreed that Southern Union reserved the right to seek Missouri rate recovery for internal payroll costs necessary to obtain Missouri regulatory approval of the Transaction, to the extent it can be shown that the savings achieved and allocated to MGE as a result of the Transaction are equal to

or in excess of such costs, the other parties to any such proceeding will not be precluded from opposing rate recovery of such costs, regardless of any asserted acquisition savings. This provision will protect ratepayers from any acquisition premium in MGE's distribution rates. While the potential still exists for MGE to pay an acquisition premium related to this transaction in the price for gas transportation services from Pandhandle to MGE, the Staff believes this possibility is remote. If in fact it occurs, the amount of the charges will not be material to MGE. Also, the Commission will have the opportunity to intervene before any Federal Energy Regulatory Commission (FERC) rate proceeding where SUPC attempts to pass on this acquisition premium to MGE.

Total joint and common costs allocated to Missouri for purposes of setting retail distribution rates will not increase as a result of the Transaction above the latest levels proposed by MGE in Case No. GR-2001-292, Noack Supplemental Testimony in Support of a Change of Position on Certain Issues dated June 22, 2001. Schedule H-8 Joint and Common Costs increase to Acct 923 of \$6,934,982. Net corporate plant allocated to MGE of \$7,218,655 per Schedule C, page 1 of 2, column e, line 31 minus line 37. This provision protects ratepayers from higher rates as a result of this Transaction. This includes additional reporting requirements and a provision that Southern Union has the burden of proving additional costs being assigned to MGE in any future MGE initiated rate case.

There are also specific and detailed documentation requirements designed to provide detailed information about the transaction. This will be provided to Staff and Public Counsel. Staff will be able to review this material and address any concerns regarding the accounting for this Transaction. Staff has endeavored to make this information sufficiently detailed so that any

concerns can be addressed. Staff believes that this adequately addresses issues that may arise about possible treatment of any aspect of this matter in a future MGE rate case.

Southern Union agreed not to recommend an increase or claim Staff should make an adjustment to increase the cost of capital for MGE as a result of the Transaction. There are detailed evidentiary requirements that Southern Union must provide in order to show that any increased cost of capital for MGE is not a result of this Transaction. Southern Union has agreed to affirmatively show and provide specific proof in this regard that increased capital costs are not a result of this Transaction. Staff will closely scrutinize any such evidence in any future MGE rate case.

Southern Union further agreed that any Stipulation and Agreement to which Southern Union is a signatory with regard to any MGE Actual Cost Adjustment (ACA) case that occurs prior to the closing of the Transaction will be adhered to by Southern Union. This merely reaffirms Southern Union's duty to adhere to any existing Stipulations and Agreements to which Southern Union is a party.

Southern Union agreed that within six (6) months of the closing of the Transaction, it shall perform, provide, and discuss with all interested parties subject to a Commission protective order, a study of the impact of the acquisition and operation of SUPC and its successor entities on Southern Union's structure, organization, and costs. There are specific provisions in the Stipulation and Agreement about what will be included in the study. This study will address the specific impacts of the acquisition and operation of SUPC and its Successor Entities on Southern Union's administrative and general (A&G) expense and cost allocation methodology. Southern Union also will provide other detailed information and will discuss raw data that will be provided in a meeting within six (6) months of the close of the Transaction. The Stipulation and

Agreement includes specific examples of raw data to be discussed. This will provide further specific information and opportunity for Staff to review the impact of this Transaction on MGE.

AFFILIATE TRANSACTION RULES

Effective upon the closing of the Transaction, MGE will comply with the Commission's affiliate transaction rules, as modified, attached to the Stipulation and Agreement. Staff and the other Parties were cognizant that the FERC could adopt affiliate standards in connection with affiliate relationships between interstate or intrastate pipelines and local distribution companies (LDCs) that could conflict with any of the referenced provisions attached to the Stipulation and Agreement. The parties agreed to work together collaboratively in an effort to reconcile any such differences that might arise in order to avoid conflicting requirements. The Parties further understood that any such FERC requirements would not necessarily be binding upon the Commission for state jurisdictional purposes. However, Staff believes that it would be beneficial to work to resolve any differences.

Southern Union agreed to the conditions in paragraph 4 of the Stipulation and Agreement and its attachments even if the Missouri Supreme Court were to determine that the Commission's affiliate rules (i.e., 4 CSR 240-40.015 and 4 CSR 240-40.016) are unlawful. In other words, Southern Union will comply with the Commission's affiliate rules and will also comply with the conditions in this paragraph 4 and its attachments to the extent that such conditions go beyond the Commission affiliate rules.

With the potential for affiliate abuse by Southern Union owning one of four interstate natural gas pipelines that supply MGE, the Staff felt that, at a minimum, it was important and necessary for Southern Union to comply with the Commission's affiliate and marketing transaction rules. The Staff believes that Southern Union's compliance with these rules will

lessen the potential for affiliate abuse in the relationship among SUPC, Southern Union and MGE. The Staff believes that compliance with the Commission's affiliate and marketing affiliate transaction rules, along with other related conditions included in the Stipulation and Agreement, will lessen the potential for affiliate abuse to a level that Staff believes will not be detrimental to the public interest.

INCENTIVE COMPENSATION

The fact that MGE will be buying gas transportation services from SUPC (an affiliated sister company) removes the incentive for MGE to secure these services at the lowest possible prices. Since MGE is allowed to pass the cost of gas through the PGA/ACA process to its customers, an increase in MGE's cost of gas from SUPC will not affect MGE's earnings. However, an increased cost of gas from SUPC will improve the earnings of SUPC and thus the earnings of Southern Union.

This loss of incentive to seek the lowest possible price needs to be adequately compensated for by conditions that will mitigate the potential for detriment to MGE's customers. This condition seeks to prevent Southern Union officers and employees from benefiting financially through incentive compensation arrangements that are tied to earnings. The Staff believes that this condition, in concert with other related conditions (such as compliance with affiliate transaction rules) reduces the incentive for MGE not to act in the best interests of its customers.

INTERSTATE AND INTRASTATE TRANSPORTATION AND STORAGE COSTS

MGE agreed, for purposes of calculating its purchase gas adjustment (PGA) rates and ACA rates, to maintain at least the same percentage of discount it is currently receiving on

Panhandle and Southern Star Central for purposes of transportation and storage costs passed through the PGA clause to MGE's ratepayers as provided in the Highly Confidential Appendix attached to the Stipulation and Agreement. This provision does not alter MGE's obligation to obtain the best terms for gas transportation that it can achieve. There are additional provisions to protect customers in the PGA process. In addition, Staff and OPC will receive documentation with which to assess the prudence of MGE expenditures to purchase gas. Staff believes that these provisions protect the customers in the PGA/ACA process.

This section also contains specific mandates to MGE regarding interstate and intrastate pipeline transportation and storage capacity. MGE must evaluate alternatives with the objective of minimizing cost while obtaining adequate assurances of reliability without regard to whether such services are being provided by an affiliated interstate and intrastate pipeline or by an interstate and intrastate pipeline which has a management agreement in effect with an affiliate of MGE. MGE will formally conduct a comprehensive evaluation at least annually and will present it Staff, Public Counsel, and other interested parties subject to a Commission protective order. This will provide further safeguards regarding MGE decisions as long as SUPC is a subsidiary of MGE or Southern Union's EnergyWorx is providing management or operational services to Southern Star Central.

MGE will notify Staff, Public Counsel and other interested parties subject to a Commission protective order when MGE is considering the addition of new pipeline capacity or a switch in the current mix of pipeline capacity and will keep and provide Staff and Public Counsel, appropriate documentation regarding inquiries made to various pipelines. The Stipulation and Agreement provides detailed documentation requirements about such a decision. This provision is important because of the relationship between MGE, SUPC and Energy Worx.

Staff believes that this will provide important documentation and assist in its review of MGE decisions in this regard.

Staff also had a concern that MGE might not diligently participate to protect its interests in FERC proceedings regarding SUPC and Successor Entities rate increase. This provision requires MGE to provide to Staff and others all documents filed by MGE that show MGE's opposition to the rate case. Staff and Public Counsel will receive any documents MGE possesses, that are not otherwise privileged or immune from discovery, discussing any potential settlement of the rate case. This will assist Staff that MGE, as Southern Union has agreed that it will do, is protecting the interests of its customers in FERC proceedings.

ASSUMPTION OF RISKS

In any transaction of this magnitude, there are various risks of a financial nature. The Stipulation and Agreement provides that Southern Union will not include in its retail distribution rates charged to Missouri consumers any costs related to its execution risk of completing the purchase of Panhandle. Southern Union expressly accepts the risks of the costs associated with obtaining funds to be used to make the acquisition. Southern Union represents that it has and will maintain the financial resources to protect Missouri consumers from the adverse consequences of these risks. In this provision, Southern Union properly assumes all risks associated with the Transaction and will not pass these costs to MGE customers.

COST ALLOCATION MANUAL

A Cost Allocation Manual (CAM) is required by the Commission's affiliate transaction rules. Southern Union has agreed to create and maintain a CAM that includes the provisions listed with affiliated transaction rules attached to the Stipulation and Agreement. These Cam provisions require the type of documentation needed by the Staff to ensure compliance with the Commission's affiliate transaction rules.

SOUTHERN STAR CENTRAL INVESTMENT

Southern Union agrees, so long as it owns, operates or manages Missouri Regulated Properties, not to make an equity investment in Southern Star Central Pipeline. This provision is important because Southern Union will not acquire an equity interest in yet another interstate pipeline while it owns, operates or manages any Missouri Regulated Properties. Staff believes that this is an important protection for MGE customers in that it prevents any conflict of interests among divisions, affiliates or subsidiaries of Southern Union that could be a detriment of MGE customers.

DIVEST ENERGY WORX

In the Stipulation and Agreement, Southern Union will divest Energy Worx no later than June 30, 2003. There are important reporting requirements in place by which Staff can monitor any concerns that might arise in this regard. Furthermore, there is a prohibition against Southern Union, its affiliates or its subsidiaries or divisions from owning or operating another pipeline, besides SUPC, as long as it owns Missouri-regulated properties. This will guard against any repeat of this type of conflict of interest.

ADHERENCE TO MISSOURI RULES

Southern Union agrees to comply with all Missouri Commission rules, reporting requirements and other practices, and its filed and approved tariffs. This paragraph shall not be construed as a waiver of any rights or remedies available to Southern Union under the law. This paragraph merely reiterates that Southern Union will obey all Commission rules, reporting requirements and other practices and comply with its filed and approved tariffs.

NO DETRIMENTAL IMPACT

Southern Union affirmatively represents that it does not intend to take any action that has a material possibility of having a detrimental effect on MGE's utility customers. Further, Southern Union agrees that, should such detrimental effects nevertheless occur, that nothing in the approval or implementation of the proposed acquisition will impair the Commission's ability to protect such customers from such detrimental effects. This is an affirmative statement that Southern Union does not intend to do anything detrimental or that could be detrimental to MGE's utility customers. However, this is an important statement by Southern Union and an express recognition that the Commission can and will take action if such detriment occurs.

COMMISSION AUTHORITY

In this section Southern Union agrees and recognizes Commission authority to regulate, through the lawful exercise of its current statutory powers, and ensure the provision of service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable and not jeopardize the ability of Southern Union or MGE to meet its Missouri utility obligations, including MGE's service line replacement program. Southern Union further recognizes that the Commission has the authority, through the lawful exercise of its ratemaking powers, to ensure that the rates charged by MGE for regulated utility service are not increased as

a result of the unregulated and/or nonjurisdictional activities of Southern Union's affiliates and Southern Union agrees, consistent with such standard, that rates should not be increased due to such activities.

This provision is a clear recognition of the Commission's authority. It is imperative that the Commission be prepared and able to utilize this authority if it should be necessary as a result of this Transaction.

ACCESS TO INFORMATION

Under these provisions Staff and Public Counsel gain access to certain information. This includes many things including all written information provided to common stock, bond, or bond rating analysts, which directly or indirectly pertains to Southern Union or any affiliate that exercises influence or control over MGE or has affiliate transactions with MGE. Such information includes reports provided to and presentations made to common stock analysts and bond rating analysts.

There is also a provision that Staff and Public Counsel will have access to all books, records and employees of Southern Union, MGE and its affiliates as may be reasonably required to verify compliance with the CAM and the conditions set forth in this Stipulation and Agreement. MGE and Southern Union shall also provide Staff and Public Counsel any other such information relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over MGE. While MGE and any affiliate or subsidiary of Southern Union can object, the principle that information is to be provided has been established for at least 5 years.

COMMITMENTS AND REPRESENTATIONS ARE MISSOURI JURISDICTIONAL

Commission approval of this Stipulation and Agreement is not intended, and shall not be construed, to restrict in any way the ability of either the Commission, Southern Union or any party hereto to take any position whatsoever regarding matters covered by this Stipulation and Agreement in proceedings before the FERC or any other non-Missouri jurisdictional regulatory authority. This clearly preserves the ability of all parties and the Commission before FERC and other Missouri jurisdictional regulatory authority.

WHEREFORE, Staff respectfully requests that the Commission issue its order at its earliest opportunity approving this Stipulation and Agreement and granting the relief sought therein.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Robert Franson

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 25th day of March 2003.

/s/ Robert Franson