

BV  
 ES  
 OE  
 1942-44  
 Dr.  
 1944  
 1944

## ORDER GRANTING IN PART MOTION TO COMPEL DATA REQUESTS

MGE states that Staff has admitted it possesses information responsive to its data requests, in the form of utility responses to a questionnaire sent by Staff in 1996, but has nevertheless refused to

provide this information to MGE on the basis of Section 386.480<sup>1</sup>, RSMo 1994. MGE claims that the information in Staff's possession is clearly relevant to issues in this proceeding, and MGE will be at a substantial disadvantage if it is not allowed to obtain this information. MGE further states that it has no objection to the Staff redacting identifying information from the questionnaire responses if the Commission deems it appropriate.

MGE attached to its motion as Attachment 1 a copy of a letter sent by Staff in response to MGE's data request. The letter alludes to the 1996 questionnaire, and indicates that while Staff cannot furnish these responses to MGE, it could provide the number of inquiries and complaints received regarding other natural gas local distribution companies. Staff added that it might take more than 20 days to compile this information, but would provide the information as soon as possible.

Staff opposes the release of the information because the utilities responding to the questionnaire had a reasonable expectation that the information provided to Staff would not be released to third parties, and failure to respect this expectation of privacy may hinder the flow of information between Staff and utilities in the future. Staff contends that this chilling effect will occur even if the identity of the responding company is redacted. In support of its position, Staff cites the three-factor balancing test enunciated by the Commission in Staff of the Mo. Pub. Serv. Comm'n vs. Laclede Gas Co., 28 Mo. P.S.C. (N.S.) 129 (1986), which considers the intimacy of the material, the broadness of the issuance of the material, and the wideness of the audience to which it is released.

---

<sup>1</sup> Section 386.480, RSMo 1994 generally provides that, with certain exceptions, any information furnished to the Commission by a public utility may not be divulged, and that any officer or employee of the Commission who violates this section shall be guilty of a misdemeanor.

Staff notes that MGE has not sought to obtain the information directly from the utilities. Staff also hints that it might be inequitable for MGE to expect access to information that other utilities provided in response to the same questionnaire that MGE would not answer.

The Commission finds that MGE has not adequately explained the need for or relevance of the information requested. MGE merely makes the blanket assertion that the material "is clearly relevant to issues in this proceeding." Without more information from the movant, the Commission must infer the relevance of the information, since it will not know what issues are contested until the hearing memorandum is filed. Conversely, Staff does not explain why the future flow of information between Staff and utilities will be hindered by release of the information with the identity of the responding company redacted.

However, in an abundance of caution, in case the questionnaire answers might contain information from which the identity of the utility could be gleaned even with the company names deleted, the Commission will not order that the questionnaire answers be produced in response to MGE's data request. Instead the Commission will direct the Staff to extract the raw data from the questionnaire responses, and for each company, which shall be identified only as "Company A, Company B," and so forth, Staff shall list the numbers or percentages pertaining to whatever customer service performance measures were contained in the questionnaire. The actual questionnaire responses are not essential to MGE, since it would have received a copy of the questionnaire at the time Staff distributed the questionnaire to all Missouri energy utilities.

Because the hearing on these consolidated cases is scheduled to begin on May 26, the Commission finds that there is good cause to grant expedited consideration of MGE's motion to compel.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Compel Response to Data Request and Motion for Expedited Treatment filed by Missouri Gas Energy on May 6, 1996 is granted in part and denied in part.

2. That in response to Missouri Gas Energy's Data Request No. 403, the Staff of the Commission shall extract the raw data from the 1996 questionnaire responses, as described in the body of this order, and provide the information to Missouri Gas Energy no later than May 21, 1998.

3. That Missouri Gas Energy's request for expedited consideration is granted.

4. That this order shall be effective on May 21, 1998.

**BY THE COMMISSION**



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

(S E A L)

Lumpe, Ch., Crumpton, Murray,  
and Drainer, CC., concur.  
Schemenauer, C., absent.

Bensavage, Regulatory Law Judge

**RECEIVED**  
MAY 15 1998  
COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION