

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

Office of Public Counsel,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2011-0339
)	
Southern Union Company d/b/a)	
Missouri Gas Energy,)	
)	
Respondent.)	

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Missouri Gas Energy, a division of Southern Union Company ("MGE"); the Staff of the Missouri Public Service Commission ("Staff"); the Office of the Public Counsel ("OPC"); and the Missouri Department of Natural Resources ("MDNR") (collectively the "Signatories"), and respectfully submit the following Stipulation and Agreement ("Stipulation") to the Missouri Public Service Commission ("Commission") as a resolution to all issues in this case:

1. In the Commission's February 20, 2010 Report and Order resolving Case Number GR-2009-0355, *In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service*, the Commission determined that MGE's existing Energy Efficiency Collaborative (EEC), composed of representatives from MGE, Staff, OPC and MDNR, would continue to make decisions by consensus regarding MGE's energy efficiency programs.

2. The parties have reached an agreement to resolve this Complaint by agreeing to how future issues are to be handled when the EEC is unable to reach

consensus.¹ To resolve this Complaint, the signatory parties to this Stipulation and Agreement agree to the following:

3. In accordance with the Commission's Order in GR-2009-0355, the MGE EEC will continue to oversee the design, development, implementation, and evaluation of MGE's energy efficiency programs subject to review and approval by the Commission.

4. Other appropriate parties, such as electric utilities with service territories that overlap MGE's service territory, or other parties that are acceptable to the EEC members may also participate in the EEC meetings upon the approval of the EEC. Such parties will not have voting rights in the EEC.

5. A. Voting Procedures.

In accordance with the Commission Order in Case No. GR-2009-0355, the EEC shall seek to make decisions related to MGE's energy efficiency programs by consensus. When consensus cannot be reached, the EEC will vote on such matters in order to delineate each respective party's position on the issue. Each representative member shall have one vote. EEC program proposals related to the development, implementation, or evaluation of energy efficiency programs that do not receive unanimous votes will be brought to the Commission for resolution, prior to implementing the proposal, in accordance with the Commission's normal procedural rules and as detailed in the "Dispute Resolution Procedures" section below.

¹ The terms of this agreement will remain in effect only so long as the collaborative remains a consensus-based collaborative.

B. Dispute Resolution Procedures.²

(1). For actions which require a tariff filing in which a non-unanimous vote is reached.³ Tariff filings may be required to implement certain EEC proposals associated with MGE's energy efficiency programs. In the event the EEC vote is non-unanimous with respect to a proposal, which requires a tariff filing (including but not limited to the selection of programs or incentive levels), and the Company intends to pursue such proposal without consensus, the Company shall bring the matter to the attention of the Commission by filing a tariff (with cover letter noting the lack of EEC consensus). Any party opposing such tariff may file a motion with the Commission to reject or suspend the tariff in accordance with the Commission's normal procedural rules.

(2). For matters, which do not require a tariff filing, in which a non-unanimous vote is reached. Tariff filings may not be required to implement certain EEC proposals associated with MGE's energy efficiency programs. In the event the EEC vote is non-unanimous regarding any collaborative proposal which does not require a tariff filing (including but not limited to the selection of vendors or other aspects of MGE's energy efficiency program development, implementation, and evaluation process), MGE shall not proceed with the proposal until it has filed a request with the Commission to proceed with the proposal without consensus, and has received Commission approval to proceed

² The Dispute Resolution Procedures section in this Stipulation and Agreement is intended by the parties to provide clarification to any dispute resolution procedures related to MGE's EEC.

³ This section is consistent with the Commission's Order in GT-2011-0049, in which the Commission stated that "the Commission is in agreement that the procedure followed (filing a tariff and bringing a motion to suspend) is an appropriate method of bringing the issue before the Commission when the EEC cannot reach a consensus," (p. 3, Order Granting Motion to Suspend Tariff and Setting Pre-Hearing Conference, GT-2011-0049, August 30, 2010).

with the proposal without consensus. Any party may file a complaint case or petition the Commission consistent with the Commission's normal procedural rules.⁴

6. This Stipulation is intended to supplement, but not replace, any and all previous agreements addressing the EEC, including but not limited to the Stipulation and Agreement filed in GT-2008-0005, and the Commission's Report and Order in GR-2009-0355. This Stipulation has resulted from extensive negotiations among the Parties and the terms hereof are interdependent. If the Commission does not approve this Stipulation unconditionally and without modification, then this Stipulation shall be void and no Party shall be bound by any of the agreements or provisions hereof, except as explicitly provided herein.

7. This Stipulation is being entered into for the purpose of disposing of all issues in this case and the matters specifically addressed in the Stipulation. Except as specified herein, the Parties shall not be prejudiced, bound by, or in any way affected by the terms of this Agreement: (a) in any future proceeding, (b) in any proceeding currently pending under a separate docket; and (c) in this proceeding should the Commission decide not to approve this Stipulation, or in any way condition its approval of the same.

8. If the Commission does not approve this Stipulation without condition or modification, and notwithstanding the provision herein that it shall become void; neither

⁴ As the Commission notes in its order in GT-2011-0049, while filing a tariff and bringing a motion to suspend is an appropriate method of bringing the issue before the Commission when the EEC cannot reach a consensus, "this is not to say that this is the only method that may be employed." (p. 3, Order Granting Motion to Suspend Tariff and Setting Pre-Hearing Conference, GT-2011-0049, August 30, 2010). This section is intended to address those situations that do not involve a tariff filing.

this Stipulation nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Party has for a decision in accordance with §536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Parties shall retain all procedural and due process rights as fully as though this Stipulation had not been presented for approval, and any suggestions, memoranda, testimony, or exhibits that have been offered or received in support of this Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any purpose whatsoever.

9. In the event the Commission approves the specific terms of this Stipulation without condition or modification, and as to the specified issues, the Parties waive their respective rights to call, examine, and cross-examine witnesses pursuant to § 536.070(2) RSMo 2000; present oral argument and written briefs pursuant to §536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to RSMo §536.080.2 RSMo 2000; their respective rights to seek rehearing, pursuant to §386.500 RSMo 2000; and their respective rights to judicial review pursuant to §386.510 RSMo 2000. These waivers apply only to a Commission order approving this Stipulation without condition or modification issued in this above-captioned proceeding and only to the issues that are resolved hereby. These waivers do not apply to any matters raised in any prior or subsequent Commission proceeding nor any matters not explicitly addressed by this Stipulation.

WHEREFORE, for the foregoing reasons, the undersigned Parties respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Stipulation and Agreement.

Respectfully submitted,

/s/ Todd J. Jacobs

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