

*Exhibit No.:*  
*Issue:* *Tariff File No. 9700571*  
*Witness:* *Michael W. Straub*  
*Sponsoring Party:* *MoPSC Staff*  
*Type of Exhibit:* *Surrebuttal Testimony*  
*Case No.:* *GA-2007-0289*  
*Date Testimony Prepared:* *October 2, 2007*

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY SERVICES DIVISION**

**SURREBUTTAL TESTIMONY**

**OF**

**MICHAEL W. STRAUB**

**MISSOURI GAS ENERGY,  
a division of SOUTHERN UNION COMPANY**

**CASE NO. GA-2007-0289**

*Jefferson City, Missouri*  
*October, 2007*

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**MISSOURI GAS ENERGY,**  
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**CASE NO. GA-2007-0289**

**EXECUTIVE SUMMARY ..... 1**

**MGE TARIFF FILING, FILE NO. 9700571 ..... 1**

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1           A.     No, I do not agree. To my knowledge, no one disputes the fact that the tariff  
2 sheets filed in File No. 9700571 were approved by the Commission. Also to my knowledge,  
3 no one disputes that the purpose of File No. 9700571 was to clarify the geographic  
4 boundaries of the MGE service area as the Commission directed. MGE states this purpose in  
5 the first sentence of the second paragraph of its cover letter, dated February 20, 1997,  
6 (attached as Schedule 2-6 to my Rebuttal Testimony), and also stated by Staff in the Utility  
7 Operations Division Routing Slip (Slip) in two locations, the first being the Purpose Line of  
8 the Slip and the second being the hand written sentence on the second page. In my opinion  
9 the dispute regarding File No. 9700571 is how to treat any sections mistakenly listed on the  
10 tariff sheets approved by this filing, and if mistakenly listed, whether or not this would  
11 automatically grant MGE a CCN to serve customers located within the mistakenly listed  
12 sections.

13           Q.     In your opinion, would mistakenly listed sections automatically grant MGE a  
14 CCN to serve customers located within those sections?

15           A.     No, in addition to the reasons stated in my Rebuttal Testimony, Commission  
16 Rule 4 CSR 240-3.205 Filing Requirements for Gas Utility Applications for Certificates of  
17 Convenience and Necessity requires that several items must be completed before a CCN can  
18 be granted. The mistaken inclusion of sections on a tariff sheet and the Commission's  
19 subsequent approval of that tariff sheet, does not fulfill the requirements of 4 CSR 240-3.205  
20 or 4 CSR 240-2.060(1).

21           Q.     Even though MGE does not have a CCN to serve customers in mistakenly  
22 listed section, wouldn't the fact that the sections are listed in the Index of Certificated Areas  
23 of the tariff give MGE the authority to serve customers located within those sections?

1           A.     To answer that question one must examine the purpose of the tariff. The  
2 purpose of the tariff is to convey and define the direction of the Commission. This direction  
3 comes in the form of Commission Rules, Orders, or approval of tariff sheets. Therefore,  
4 everything contained in a tariff is the result of some type of Commission action. A  
5 contradiction between the tariff and either a Commission Order or a Commission Rule can  
6 only be allowed by the Commission granting a variance or waiver for good cause. Therefore,  
7 if the Company wanted to serve customers located in an area for which they do not have a  
8 CCN, then the Company would need the Commission to grant a variance or waiver for good  
9 cause to not seek a CCN to serve these customers. To my knowledge, MGE did not file an  
10 application for such a variance or waiver, nor did the Commission grant such a request.

11                 That brings us back to the fact that any sections listed in the Index of  
12 Certificated Areas approved in File No. 9700571, for which MGE does not have a CCN to  
13 serve, were included by MGE in error, overlooked by Staff in its review and were approved  
14 in error by the Commission. Approval of this tariff should not be defined as granting MGE  
15 authority to serve customer for which they have no CCN. Therefore, in my opinion, it would  
16 not be at “the direction of the Commission” or fit the purpose of the tariff if MGE’s position  
17 is a finding that approval of such a tariff sheet would also automatically grant a CCN to serve  
18 customers.

19           Q.     Does this conclude your surrebuttal testimony?

20           A.     Yes, it does.

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

In the matter of the application of Missouri Gas Energy, )  
a division of Southern Union Company, for a certificate )  
of public convenience and necessity authorizing it to )  
construct, install, own, operate, control, manage and )  
maintain a natural gas distribution system to provide gas )  
service in Platte County, Missouri, as an expansion of its )  
existing certified area. )

Case No. GA-2007-0289

**AFFIDAVIT OF MICHAEL W. STRAUB**

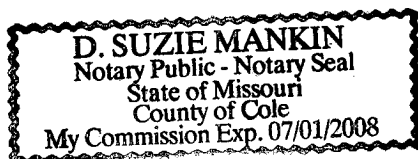
STATE OF MISSOURI     )  
                                  )  
COUNTY OF COLE     )

ss.

Michael W. Straub, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of   3   pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

  
Michael W. Straub

Subscribed and sworn to before me this   1<sup>st</sup>   day of October 2007.



  
Notary Public