

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

In the Matter of proposed emergency)
amendment to Commission rule 4)
CSR 240-13.055.)

Case No. GX-2006-0181

MISSOURI GAS UTILITIES' RESPONSE TO ORDER DIRECTING FILING

COME NOW Missouri Gas Energy ("MGE"), a division of Southern Union Company, Laclede Gas Company, Aquila, and Atmos Energy Corporation (collectively, "Missouri Gas Utilities"), by and through counsel, and for their response to order directing filing respectfully state as follows to the Missouri Public Service Commission ("Commission"):

I. Introduction

1. By order dated November 29, 2005, the Commission directed that alternatives to the proposal Public Counsel filed herein on October 21, 2005, must be filed no later than 3:00 p.m. on Friday, December 2, 2005.

2. Missouri Gas Utilities continue to have reservations, as expressed in our filing made herein on November 4, 2005, regarding the extent to which a necessity exists to pursue amendments to the Cold Weather Rule on an expedited emergency basis. Nevertheless, Missouri Gas Utilities have negotiated in a good faith effort to reach an agreed-upon resolution of this matter. Those negotiations have not produced an agreed-upon resolution to date, however, and without waiving any arguments or

rights Missouri Gas Utilities hereby submit their alternative proposal in accordance with the Commission's Order Directing Filing And Scheduling Hearing.¹

II. Missouri Gas Utilities' Alternative Proposal

3. Missouri Gas Utilities will set forth their alternative proposal herein on a section by section basis, using Public Counsel's initial proposal as the base and showing changes from Public Counsel's initial proposal in red-line format. Missouri Gas Utilities will then briefly explain the rationale underlying their proposal. The complete text of Missouri Gas Utilities' alternative proposal, with red-lining removed, is contained in Attachment 1 appended hereto.

(14) Special Provisions for the 2005-2006 Heating Season. This amendment only applies to providers of natural gas services. Other providers of heat-related utility services will continue to provide such service under the terms of sections (1) through (13) of this rule. The provisions of sections (1) through (13) of this rule continue to apply to providers of natural gas service except where inconsistent with the terms of this section.

Rationale for changes:

- Missouri Gas Utilities propose no changes to the above provision.

(A) Notwithstanding section (10)(C)(2) of this rule to the contrary, a gas utility shall restore service upon initial payment of ~~twenty five (25)~~ fifty (50) percent of the preexisting arrears ~~or \$250, whichever is less,~~ with the deferred balance to be paid as provided in section (10)(B) ~~in equal installments over the following eighteen (18) months.~~ ~~The customer and the gas utility may by mutual agreement reduce or extend the installment period.~~ Any reconnection fee, trip fee, collection fee or other fee related to reconnection, disconnection or collection shall also be deferred. Any customer threatened with disconnection may retain service by entering into a payment plan as described in this paragraph, ~~and all disconnect notices shall inform customers of this option.~~ Any payment plan entered

¹ In this order, the Commission gave no indication as to what type of hearing is contemplated for December 6, 2005. In order to prepare adequately and make sure the appropriate personnel are in attendance, the participants need to be apprised as soon as possible of the nature of the hearing (*i.e.*, Will sworn testimony be taken? Will cross-examination be permitted? Etc.).

into under this emergency amendment shall remain in effect (as long as its terms are adhered to) for the term of the payment plan even after the effective period of this amendment has expired. A gas utility shall not be required to offer reconnection or retention of service under this section (14)(A) more than once for any customer.

Rationale for changes:

- The change on the first line is intended to correctly reflect the numbering in the existing Cold Weather Rule.
- The changes on the second through seventh lines are intended to: 1) help ensure that customers taking advantage of the emergency provisions pay their outstanding balances down within a reasonable period of time by increasing the down payment amount and reducing the period of time over which the balance must be paid; 2) mitigate the cost impact of the emergency provisions on other customers; and 3) make the emergency provisions more consistent with the current provisions of the regular Cold Weather Rule thus reducing operating changes and training requirements under the emergency provisions.
- The change, through the addition of a new sentence at the end of the subsection, is intended to clarify that these emergency provisions are available only once per customer.

~~(B) Default on an agreement entered into under this section can be cured by payment of all installments delinquent under the agreement. Any customer, whether disconnected or in receipt of a disconnect notice or not, who expresses difficulty paying their bill for regulated service shall, at the customer's request, be permitted to enroll immediately in a gas utility's equal payment, budget billing or similar plan. Any existing arrearage at the time of enrollment shall be dealt with consistent with section (10)(B)1 through (10)(B)4 and section (10)(C)1 if the customer has not defaulted on a payment plan under the cold weather rule; if the customer has defaulted on a payment plan under the cold weather rule, any existing arrearage at the time of enrollment shall be dealt with consistent with section (14)(A) of this emergency rule.~~

Rationale for changes:

- The change, through the deletion of the first sentence of this subsection, is intended to remove unnecessary language because this requirement is already codified at section (10)(B)5 of the regular Cold Weather Rule.
- The change, through the addition of the remaining two sentences of this subsection, is intended to clarify that customers who are not currently in threat of disconnection may take advantage of the cold weather rule provisions.

~~(C) No deposits shall be required of any customer for reconnection of service under this section except for amounts owed due to unauthorized~~

interference, diversion or unauthorized use of the gas utility's service. If a customer enters into a cold weather rule payment plan under this emergency rule:

- a. late payment charges shall not be assessed except with respect to failure to make timely payments under the payment plan;
- and
- b. the gas utility shall not charge individual customers interest on the account balance for any deferral period.

Rationale for changes:

- The change, through the deletion of the first sentence of this subsection, is intended to remove unnecessary language because this requirement is already codified at section (8) of the regular Cold Weather Rule.
- The change, through the addition of the remaining sentence, is intended to adopt the proposal originally made in Public Counsel's subsection (14)(E) and to clarify the applicability and non-applicability of late payment charges under the emergency rule.

~~(D) Notwithstanding section (6) of this rule to the contrary, before discontinuance of service for nonpayment of a delinquent account, the gas utility shall apply the balance of any of the customer's security deposit plus accrued interest to the delinquent amount to eliminate or reduce the amount required to avoid the discontinuance. This section shall not apply to customers who have an amount owed due to unauthorized interference, diversion or unauthorized use of the gas utilities service. Any customer who enters into a cold weather payment plan under this emergency rule as a result of defaulting on a previous cold weather rule payment agreement and complies with the terms of the payment plan entered into under this emergency rule shall be treated, going forward, as not having defaulted on the cold weather rule payment agreement that was broken immediately prior to entering into the cold weather rule payment plan under the emergency rule.~~

Rationale for changes:

- The change, through the deletion of the first two sentences of this subsection, is intended to eliminate a proposed change that is unnecessary in light of the other proposed provisions herein.
- The change, through the addition of the remaining sentence, is intended to adopt the "clean slate" concept originally proposed by Public Counsel in subsection (14)(G), except that this language wipes the slate clean only for the payment plan default that occurs immediately prior to a customer entering into a payment plan under this emergency rule. The concept originally proposed by Public Counsel, which would have wiped the slate clean for all of a customer's payment plan defaults, is excessively broad in that it applies to circumstances beyond those which Public Counsel

alleges to have created the current “emergency” and therefore violates section 536.025.1(4) RSMo.

~~(E) Late payment charges shall not be assessed on the deferral amount of any agreements entered into under this section, nor shall the utility charge customers interest on the account balance for the deferral period.~~

Rationale for changes:

- This concept is addressed and explained in subsection (14)(C) of the Missouri Gas Utilities’ alternative proposal.

~~(F) Any equal payment, budget billing or similar plan established by a gas utility which allows customers to mitigate the impact of seasonal variations in gas bills by making relatively equal monthly payments over a 12 month period shall be made available to any residential customer who requests is and shall be offered to any customer who falls into arrears during the period this rule is in effect. This billing method shall be made available to the customer for future billings whether or not the customer is currently in good standing. For any such customer who was in good standing as of November 1, 2005, the calculation of monthly amounts due under the budget billing or equal payment plan shall include any current or past due balance for bills rendered on or after November 1, 2005. Any equal payment or budget billing plan entered into under this subsection shall remain in effect until October 31, 2006 or until terminated at the customer’s request or because of the customer’s failure to pay monthly amounts due under the plan.~~

Rationale for changes:

- This concept is addressed and explained in subsection (14)(B) of the Missouri Gas Utilities’ alternative proposal.

~~(G) Any customer in good standing on November 1, 2005 whose payments fall into arrears during the period this rule is in effect but who manages to bring all balances current prior to November 1, 2006 shall be treated, as of the date the customer’s account is brought up to date, as if the customer had not missed any payments or defaulted on any payment agreements or cold weather agreements.~~

Rationale for changes:

- This concept is addressed and explained in subsection (14)(D) of the Missouri Gas Utilities’ alternative proposal.

~~(H) Notice to the customer of the terms of this emergency amendment shall be provided by the gas utility by bill insert or bill notice in the customer’s next monthly bill or by separate written notice. Each gas utility shall submit the text of its notice for approval to the Staff of the~~

~~Commission in accordance with the minimum acceptable language guidelines established by the Commission.~~(E) A gas utility shall describe the provisions of section (14) in any notices or contacts with customers as required in subsection (3)(E) of this rule. In telephone contacts with customers expressing difficulty paying their gas bills, gas utilities shall inform those customers of their options under section (14).

Rationale for changes:

- These changes are intended to ensure that customers receive notice of these provisions, but without mandating any particular method so as to enable gas utilities to make cost-effective decisions in this regard.

~~(I) The Commission shall grant an Accounting Authority Order, as defined in subsection (J), below, upon application of a gas utility, and the gas utility may book to Account 186 for review, audit and recovery all incremental expenses incurred and incremental revenues that are caused by this emergency amendment. Any such Accounting Authority Order shall be effective until September 30, 2007.~~(F) Each gas corporation shall maintain an Uncollected Gas Cost Recovery ("UGCR") Account which shall accumulate entries related to its recovery of the gas cost portion of its net bad debt write-offs for the residential customer class.

a. Each month, for the period January 1, 2006 through December 31, 2007, the gas corporation shall record to the UGCR Account the gas cost portion of the bad debt write-offs net of recoveries (net bad debt write-offs).

i. The gas cost portion of bad debt write-offs shall be determined by multiplying total net bad debt write-offs for the residential customer class by the percentage of gas cost revenues billed to total gas sales revenues billed for the month to the residential customer class.

b. Every twelve (12) months after initiation of the UGCR Account, any increase or decrease in the gas cost portion of bad debt write-offs for the residential customer class from the level included in the gas corporation's cost of service in its most recent general rate proceeding shall be debited or credited to the UGCR Account.

i. The gas cost portion of bad debt write-offs for the residential customer class included in the gas corporation's cost of service in its most recent rate case proceeding shall be determined by multiplying total bad debt write-offs included in the Company's cost of service in its most recent general rate proceeding for the residential customer class by the percentage of gas cost revenues to total gas sales revenues billed to the residential customer class for the period(s) used to determine the total bad debt write-offs in its most recent general rate proceeding.

ii. The total level of bad debt write-offs for the residential customer class in such proceeding shall be the level determined in the Commission Report and Order resolving such case, or the level agreed upon by the gas corporation and the Staff in such case, or if no such determination or agreement was made, the level that was recommended by the Commission Staff in such case.

iii. In the event the gas corporation has not had a general rate case proceeding concluded in the three year period preceding the effective date of this rule amendment, then the gas cost portion of bad debt write-offs for the residential customer class shall be determined by applying the ratio of gas cost revenues to total gas sales revenues for the residential customer class for the three-year period ending December 31, 2005 to the average annual bad debt write-off level for the residential customer class experienced by the gas corporation for such three-year period. In the event the gas corporation has a more precise method to identify the gas cost portion of the bad debt write-offs, the gas corporation will be permitted to utilize its more precise methodology for purposes of this rule.

c. The remaining balance in the UGCR Account at the end of each twelve-month period, either debit or credit, shall then be recovered from or refunded to residential customers pursuant to a rate element which shall be subject to subsequent audit and true-up to ensure that the gas corporation neither over- nor under-recovers.

Rationale for changes:

- The change, through the deletion of the first sentence, is intended to remove a cost recovery mechanism – the Accounting Authority Order – which has been found by the Cole County Circuit Court to not provide adequate assurance that a gas utility's existing revenues, income and achieved returns will be made whole following implementation of the provisions of the emergency cold weather rule. (See, Attachment 1 to Missouri Gas Utilities Comments in Opposition to Public Counsel's Motion for a Finding of Necessity for Rulemaking, filed herein on or about November 4, 2005).
- The change, through the addition of the remaining text, is intended to provide a cost recovery mechanism that 1) provides adequate assurance that a gas utility's existing revenues, income and achieved returns will be made whole following the implementation of the provisions of the emergency cold weather rule; 2) provides adequate assurance that a gas utility's existing revenues, income and achieved returns will not be increased beyond levels already found reasonable following the implementation of the provisions of the emergency cold weather rule; 3) provides gas utilities with a continuing incentive to pursue collection of

accounts with arrearages; and 4) is administratively feasible both from a utility compliance perspective and a regulatory audit perspective.

~~(J) The Commission has adopted the Uniform System of Accounts in 4 CSR 240-4.040. Accounting Authority Orders are Commission orders that allow a utility to defer certain expenses to Account under the Uniform System of Accounts for possible recovery later. State ex rel. Office of the Public Counsel v. Public Service Commission, 858 S.W.2d 806 (Mo. App. 1993); Missouri Gas Energy v. Public Service Commission, 978 S.W.2d 434 (Mo. App. 1998).~~

Rationale for changes:

- This change is addressed and explained immediately above.

WHEREFORE, Missouri Gas Utilities respectfully request, in the alternative, that the Commission either 1) decline to find that a necessity exists to pursue the amendments to the Cold Weather Rule sought by Public Counsel on an emergency and expedited basis, or 2) adopt the alternative proposal submitted by Missouri Gas Utilities.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by e-mail, first class mail or by hand delivery, on this 2d day of December, 2005 to the following:

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