BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In re Missouri Gas Energy's Revised	)	**File No. GT-2010-0261**
Transportation Tariff	)	Tariff No. JG-2010-0565

STATEMENT OF POSITIONS/PREHEARING BRIEF OF CONSTELLATION NEWENERGY-GAS DIVISION, LLC.

COMES NOW Constellation NewEnergy-Gas Division, LLC (hereinafter referred to as "Constellation"), and submits its Statement of Positions/Prehearing Brief in this matter. Constellation will present as its witness Mr. Richard Haubensak. (*See,* prefiled Direct and Surrebuttal Testimony, Case No. GR-2009-0355; prefied Supplemental Direct and Supplemental Rebuttal Testimony, Case No. GT-2010-0261.) The Statement of Positions/Prehearing Brief below contains references to Mr. Haubensak's Direct and Surrebuttal Testimony in Case No. GR-2009-0355 (which have been incorporated by reference into the instant case by the Commission's *Order Setting Procedural Schedule* issued May 5, 2010). Those references include "0355" in parentheses after the citation. Mr. Haubensak's prefiled testimony in the instant case are designated as "Supplemental Direct" and "Supplemental Rebuttal".

1. Threshold Issues

a. What minimum threshold should be established for being permitted to elect to take service as a transportation customer?

Constellation proposes that MGE should lower its threshold for eligibility for transportation service to non-residential gas customers with annual usage of

30,000 Ccf per year or more. (Haubensak Direct (0355), p. 3, ll. 3-4.). MGE currently limits transportation service only to those customers "the Company expects will exceed 15,000 Ccf in any one month of a 12-month billing period." (Haubensak Direct (0355), p. 2, ll. 19-21.) MGE's existing threshold of 15,000 Ccf in any one month of a 12-month billing period has not changed since MGE acquired the property from Western Resources in 1994. (Haubensak Direct (0355), p. 6, ll. 20-24.)

30,000 Ccf per year is closer to the transportation threshold in place on the Kansas Gas Service (KGS) system, which is just across the river (or across State Line Road) from MGE's service territory in the Kansas City area. (Haubensak Direct (0355), p. 4, ll. 3-14, p. 5, ll. 6-8; Haubensak Supplemental Direct, p. 5, ll. 1-9.) KGS' threshold for transportation is now 15,000 Ccf per year instead of 30,000 Ccf. (Haubensak Supplemental Direct, p. 5, ll. 18-22.) However, Constellation continues to believe that reducing MGE's transportation to 30,000 Ccf per year usage would be a reasonable level at this time and would be significant progress. (Haubensak Supplemental Direct, p. 6, l. 1-5.) The new threshold proposed by Constellation would remain higher than the transportation threshold of Ameren-Union Electric (all non-residential customers) and Empire District Gas Company (5,000 Ccf per year) in Missouri. (Haubensak Direct, p. 5, ll. 3-6)

Lowering the threshold for transportation eligibility will benefit small volume non-residential gas customers. A gas marketer such as Constellation may be able to offer a lower price for the natural gas commodity it purchases for delivery to a transportation customer. More importantly, a marketer can offer end-users price protection so that a price can be locked in for an extended period of time (up to 24 months) rather than changing quarterly through the Purchased Gas Adjustment (PGA). Constellation also offers a pre-packaged, diversified portfolio consisting of a strategic blend of fixed price, call options, and index-priced gas, to reduce exposure to high prices while still allowing the customer to benefit in a falling market. These options greatly assist customers in budgeting for the future, and would be a benefit to customers such as motels, restaurants, laundromats, apartment complexes, colleges, etc. to be able to lock in a gas price for an extended period of time. (Haubensak Direct (0355), p. 7, ll. 3-19.)

As part of the settlement of MGE's last rate case (Case No. GR-2009-0355), MGE agreed to file tariffs lowering its transportation eligibility threshold. (*Partial Stipulation and Agreement,* Case No. GR-2009-0355, Paragraph 17: *Transportation Threshold,* pages 7-8.) MGE did so on March 15, 2010, as agreed. However, MGE's proposed tariff in this case would only lower the threshold for transportation eligibility to 50,000 Ccf per year (compared to the 30,000 Ccf per year threshold proposed by Constellation), and would accomplish that only over a three-year phase in period (discussed below). MGE's proposed, ultimate threshold would permit only 6.6% of customers in the LGS class to become eligible for transportation service. (Haubensak Supplemental Direct, p. 4, ll. 13-18.) Constellation's proposed threshold would make about 20% of LGS customers eligible for transportation. (Haubensak Supplemental Direct, p. 6, ll. 5-7.)

b. If the threshold for MGE's transportation service is lowered, should the new usage threshold level and/or the number of qualifying customers be "phased-in"? If so, what phase-in should be used?

Constellation is open to the possibility of phasing-in the number of new customers taking transportation service under the lowered threshold. (Haubensak Supplemental Direct, p. 3, ll. 8-12; Haubensak Supplemental Rebuttal, p. 2, ll. 9-13.) However, MGE's proposed phase-in is unduly restrictive and is unworkable. (Haubensak Supplemental Direct, p. 2, ll. 16-20.) MGE should be required to allow 200 LGS customers to be eligible for transportation in Year 1 on a first-come, first-served basis, with 200 additional customers becoming eligible in Year 2 and the remainder of qualifying LGS customers in Year 3.

MGE's proposed tariff would both limit the number of new transportation customers *and* "phase-in" (or "phase-down") the threshold, and would be unworkable. (Haubensak Supplemental Direct, p. 3, ll. 8-12.)

MGE proposes the following "phase-in" for eligibility:

Year 1 -- 50 customers using more than100,000 Ccf/year.

Year 2 -- 100 customers using more than 70,000 Ccf/year.

Year 3 -- All customers using more than 50,000 Ccf/year.

MGE's proposal is unworkable because only 35 existing LGS customers would even qualify in Year 1, so the number 50 which MGE "offers" is meaningless. (Haubensak Supplemental Direct, p. 3, ll. 15-20.) To highlight the inadequacy of this MGE proposal, some customers that *currently* are transportation customers (because they use at least 15,000 Ccf of natural gas in one month, the current threshold) would not even qualify for transportation under the new first-year standard because they do not use at least 100,000 Ccf of natural gas in a year. (Haubensak Supplemental Direct, p. 3, l. 20 – p. 4, l. 2.)

In fact, the total number of existing LGS customers that would qualify in Years 1 and 2 combined is only 87, so MGE's "offer" of 150 customers in Years 1 and 2 is not only meager, but possible to achieve. Only in Year 3 does MGE's new threshold have real meaning and practicality. (Haubensak Supplemental Direct, p. 4, ll. 3-12.)

MGE should be directed to immediately lower its eligibility threshold for transportation service to 30,000 Ccf usage per year. This new threshold should be phased in by allowing the first 200 customers requesting such service to switch to transportation service in Year 1, and 200 additional customers in Year 2. In Year 3, all customers using at least 30,000 Ccf of gas per year should become eligible.

2. Telemetry issues

a. Should telemetric measuring equipment be required for all transportation customers, except schools where a statute specifies the exemption?

Constellation proposes that telemetry equipment *not* be required for new small volume (LGS) transportation customers. Telemetry equipment, sometimes referred to as electronic flow measurement (EFM) equipment or electronic gas metering (EGM) devices, is equipment that measures the volume of gas taken daily (and sometimes hourly) by the customer. This equipment is certainly necessary for measuring the volume of gas taken by large-volume industrial customers. However, for small-volume customers, where the load is very predictable, this equipment is not necessary. Also, the cost of the equipment, which usually is paid for by the customer, becomes a deterrent to a customer choosing a transportation service. (Haubensak Direct (0355), p. 8, ll. 9-17.)

Utilities in Missouri do not require the installation of telemetry equipment for customers on the school program. Thus, Constellation's proposal in this case is merely an expansion of a service which MGE is already providing. (Haubensak Surrebuttal (0355), p. 5, l. 21 – p. 6, l. 2; Haubensak Supplemental Direct, p. 6, l. 12 – p. 7., l. 11.)

In addition, telemetry equipment is not required on the Empire District system for small-volume transportation customers. In Iowa and Nebraska, none of the utilities require installation of telemetry equipment in order to receive small-volume transportation service. This is also true for the Kansas Gas Service small-volume transportation customers across the state line from the MGE service territory. (Haubensak Direct (0355), p. 8, l. 21 – p. 9, l. 5; Haubensak Supplemental Direct, p. 6, l. 12 – p. 7., l. 11.)

b. If telemetry is not mandatory for all transport customers, what are the appropriate criteria for determining which customers are exempt from the telemetry requirement?

Constellation believes that telemetry should not be required for new transportation customers that use less than 15,000 Ccf in their peak month in the previous 12 months. Telemetry would be required for transportation customers using 15,000 Ccf or more in the most recent 12-month period. This is consistent with the standard applied by Kansas Gas Service on the Kansas side of the Kansas City metropolitan area. (Haubensak Supplemental Direct, p. 3, ll. 1-4, p. 6, ll. 14-18.) Under MGE's tariffs, any customer using more than 15,000 Ccf in their peak month would be classified as LVS and not LGS.

c. If telemetry is not mandatory for all transport customers, what is the appropriate mechanism to determine and recover all appropriate costs?

To the extent that injections into, or withdrawals from, storage may, in small part, be caused by the actions of transportation customers, a balancing service charge should be developed by MGE to cover these estimated storage costs, such as is currently in place for schools on the MGE system and such as has been in place on the Empire District system for all small volume transportation customers since Empire first started offering small volume transportation in 2001. (Haubensak Supplemental Rebuttal, p. 8, ll. 5-12.) To require a few hundred small volume transportation customers to have telemetry equipment installed when they are such a minute portion of MGE's total throughput is excessive and appears contrary to the public interest. (Haubensak Supplemental Rebuttal, p. 8, ll. 12-15.)

The tariffs of the other utilities identified in Mr. Haubensak's direct testimony in GR-2009-0355 have provisions for balancing, and cash-outs and incremental fees to cover the cost of providing transportation service and to protect the customers choosing to stay on sales service from incurring any additional costs. (Haubensak Direct (0355), p. 10, ll. 6-9.) Lowering the transportation threshold would have no detrimental effect on MGE or its system supply, sales customers. (*Id.*)

d. What is the appropriate cost to be paid by those customers that must have telemetry/EGM equipment?

If the Commission were to determine that telemetry is necessary for new transportation customers under the new, lower threshold, MGE should be required to revise its tariff to reflect current, lower telemetry costs. (Haubensak Surrebuttal (0355), p. 12, ll. 16-23.) MGE's current tariff (Sheet 71), last changed in1998 when telemetry equipment costs were much higher than they are today, shows a charge for telemetry equipment ("EGM," or Electronic Gas Metering charges) of up to $5,000. (Schedule RJH 7.) MGE has charged $3,000 to $4,000 in recent months for installing telemetry equipment. (Schedule RJH 7.) These charges for installation of telemetry equipment are much higher than those for customers that choose to take transportation service in other states. (Haubensak Surrebuttal (0355), p . 9, l. 20 – p. 10, l. 8; Schedules RJH 8-12.)

Mr. Haubensak's testimony includes documentation of telemetry costs in Illinois, Iowa, Kansas, Minnesota, Nebraska, South Dakota and Wisconsin that demonstrates that MGE's charges for telemetry are excessive. (Haubensak Surrebuttal (0355), p. 10, l. 11 – p. 12, l. 5; Schedules RJH 8-12; Haubensak Supplemental Direct, p. 8, l. 6 – p. 11, l. 4.) Empire District Gas Company's cost for telemetry equipment for small volume transportation customers is $1,070. (Haubensak Supplemental Direct, p. 9, ll. 5-12; Schedule RJH 15.)

MGE's charges for telemetry equipment are far higher than for utilities in other states and not reflective of current costs for such equipment. MGE should be required to get its charges in line with other utilities. MGE's current, unjustified high charges for telemetry equipment create an unnecessary obstacle for customers who would at least like to consider transportation as an alternative.

e. Should the installed cost of telemetry charged to a transport customer include a pressure/temperature corrector device?

No. MGE includes in its cost of telemetry to new transportation customers the cost of a pressure and temperature corrector (MINI-AT PT Corrector), a cost of approximately $1,600.00. (Haubensak Supplemental Rebuttal, p. 4, ll. 5-11.) Most sales customers have a fixed delivery pressure. Consequently, the pressure correction factor is fixed and a pressure corrector is not necessary. (Haubensak Supplemental Rebuttal, p. 4, ll. 13-19.) The host computer software installed at the data collection site already allows for storage and use of the pressure factor that is currently being used for the customer as a sales customer. Conversion to a remote site real-time pressure correction is unnecessary. (Haubensak Supplemental Rebuttal, p. 5, ll. 6-10.) It is also discriminatory to require such a conversion when not based upon customer size or class, but merely on the fact that a sales customer is changing to transportation service. (Haubensak Supplemental Rebuttal, p. 5, ll. 11-12.) MGE is already replacing meters, as they are changed out, with temperature compensated meters. Charging customers who switch to transportation for this change, which MGE is making anyway, is unreasonable and discriminatory against new transportation customers. (Haubensak Supplemental Rebuttal, p. 4, l. 19 – p. 5, l. 2.) Removing the approximately $1,600 charge for a pressure-temperature corrector from the cost of telemetry for new, small-volume transportation customers would go a long way toward removing the barriers MGE has proposed to put in place for customers wishing to move to transportation service by bringing MGE's telemetry costs more in line with those of other Missouri and Midwest gas utilities. (Haubensak Supplemental Rebuttal, p. 5, l. 20 – p. 6, l. 3.)

3. Capacity Release issues

a. How should capacity that is released to customers transferring to transportation service be addressed?

Existing firm sales customers that switch to transportation service would require no more transmission capacity as transportation customers than they do as sales customers. Mechanisms exist that will ensure that new transportation customers continue to pay for capacity, that MGE continues to be paid for capacity, and that no costs are stranded that could be shifted to other customer classes. (Haubensak Surrebuttal (0355), p. 3, l. 2 – p. 4, l. 3.) The objectives of a plan for releasing capacity to customers changing from sales service to transportation service should be: (1) that MGE does not get stuck with any stranded capacity costs that it, or its remaining sales customers, would have to bear; and (2) that the customers choosing the transportation alternative are not paying any more for pipeline capacity than they paid as sales customers. MGE should be required to prove that its proposed tariffs would accomplish that result. (Haubensak Supplemental Direct, p. 11, ll. 15-22.)

Issues that are resolved as of last round of testimony:

Constellation agrees with the Issues List in this case as to each item under this heading, as repeated below.

4. Should all MGE revenue from capacity releases go to ACA account? *Yes.*

5. Should the existing LVS transportation terms, etc. go into the LGS transportation tariff? *Yes.*

6. Should MGE have the ability to recall capacity? *Yes.*

Non-Issue

Constellation agrees with the Issues List in this case, that: "Customers who currently qualify for and receive transportation service will continue to be eligible to receive transportation service as long as they continue to meet the current LV transportation requirements."

WHEREFORE, Constellation NewEnergy-Gas Division, LLC, respectfully submits this Statement of Positions/Prehearing Brief to the Missouri Public Service Commission in this matter.

Respectfully submitted,

/s/ William D. Steinmeier

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been served electronically on the Office of Public Counsel at opcservice@ded.mo.gov, on the General Counsel's office at gencounsel@psc.mo.gov, and on all counsel of record this 7th day of July 2010.

/s/ William D. Steinmeier

William D. Steinmeier