

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

In the Matter of Missouri Gas Energy and)	
Its Tariff Filing to Implement a General Rate)	Case No. GR-2009-0355
Increase for Natural Gas Service)	Tariff No. YG-2010-0500

MOTION FOR EXPEDITED TREATMENT AND APPROVAL OF TARIFF SHEETS
FILED IN COMPLIANCE
WITH COMMISSION ORDER ON LESS THAN THIRTY DAYS' NOTICE

COMES NOW Missouri Gas Energy ("MGE"), a division of Southern Union Company, by and through counsel, and for its Motion for Expedited Treatment and Approval of Tariff Sheets Filed in Compliance with Commission Order on Less than Thirty Days' Notice, respectfully states as follows to the Missouri Public Service Commission (the "Commission"):

1. On February 10, 2010, the Commission issued its *Report and Order* herein, bearing an effective date of February 20, 2010, authorizing MGE to increase its annual revenues. The Report and Order also authorizes MGE to file tariffs that comport with the Report and Order.

2. On this date, MGE has caused to be filed with the Commission revised tariff sheets designed to effectuate the decisions made by the Commission in the *Report and Order* (Tracking Number YG-2010-0500). Those revised tariff sheets bear an issue date of February 16, 2010, and an effective date at least thirty days later in order to comply with 4 CSR 240-3.260.¹ As reflected in the cover letter accompanying the revised tariff sheets, however, and as reiterated more specifically herein, MGE requests

¹ MGE has complied with the Commission rule by filing compliance tariff sheets with a proposed thirty day effective date, despite MGE's belief that thirty days' notice is unnecessary under the circumstances.

that, for good cause, the compliance tariff sheets be made effective for service rendered on and after February 28, 2010.²

3. To show good cause for approval of the revised tariff sheets to be effective for natural gas service rendered on and after February 28, 2010, MGE states that the tariff sheets have been filed in compliance with the Commission's *Report and Order* herein. Moreover, MGE has been working with the Commission's Staff – as well as having provided copies of the tariff sheets to other parties to this proceeding³ -- in developing the revised tariff sheets.

4. MGE requests approval of the revised tariff sheets to be effective on February 28, 2010, as this would be consistent with the requirements of the law and long-standing Commission custom, practice and precedent.

5. Section 393.150.1, RSMo, authorizes the Commission to suspend the effectiveness of rate schedules for a period of one hundred and twenty days beyond the proposed effective date. In addition, the Commission "... may, in its discretion, extend the time of suspension for a further period not exceeding six months." Section 393.150.2. As a creature of statute, the Commission has only such powers as are expressly conferred by the statutes and those reasonably incidental thereto. *State ex rel. Kansas City Transit, Inc. v. Public Service Commission*, 406 S.W.2d 5 (1966). The Commission therefore has no authority to suspend the effectiveness of rate schedules

² In providing for such effective date, the Commission should still provide the parties with a reasonable time between the issuance and the effective dates of the order approving the compliance tariffs so that parties may file an application for rehearing, if they should so desire. *See State ex rel. Office of the Public Counsel v. Public Service Commission*, 236 S.W.3d 632 (Mo. 2007).

³ MGE served draft copies of these compliance tariff sheets on counsel for all parties of record on February 15, 2010.

for a period longer than one hundred and twenty days plus six months beyond the proposed effective date.

6. MGE initiated this rate proceeding on April 2, 2009, by the filing of tariff sheets that bore a proposed effective date of May 2, 2009. The Commission suspended the effectiveness of those tariff sheets until February 28, 2010, the full suspension period permitted under the law. Accordingly, unless the Commission approves the revised tariff sheets filed by MGE to be effective as requested on February 28, 2010, Section 393.150 will be violated.

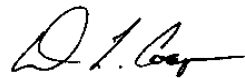
7. The Commission itself has an extended history of acting in accordance with this interpretation of Section 393.150. See *In re Missouri Gas Energy*, Report and Order, Case No. GR-96-285, p. 81, issued January 22, 1997; *In re St. Louis County Water Company*, 4 MPSC 3d 94, 119 (1995); *In re Capital City Water Company*, 3 MPSC 3d 333, 349 (1995); *In re Missouri Public Service* 2 MPSC 3d 206, 220 (1993); *In re Kansas Power & Light Company*, 1 MPSC 3d 235, 253 (1992); *In re St. Louis County Water Company*, 29 MPSC (N.S.) 425, 452 (1988); and, *In re Missouri Gas Energy*, Report and Order, Case No. GR-2004-0209, Report and Order issued September 21, 2004. MGE therefore requests nothing more than compliance with the law and past Commission precedent and practice.

8. Should the Commission deny this motion and delay the effectiveness of the revised tariff sheets MGE has filed in compliance with the *Report and Order* beyond February 28, 2010, MGE will be denied recovery of a certain portion of the rate relief to which the Commission has already found MGE to be entitled, to-wit: more than \$40,000

for each and every day of delay beyond February 28, 2010.⁴ Once lost, this revenue will never be recovered by MGE. This would be unlawful, unjust, unreasonable, confiscatory and, in MGE's opinion, a result not intended by the Commission.

WHEREFORE, MGE respectfully requests that the Commission grant this Motion for Expedited Treatment and Approval of Tariff Sheets Filed in Compliance with Commission Order on Less than Thirty Days' Notice and approve the tariff sheets MGE has filed to be effective for service rendered on and after February 28, 2010, or as soon thereafter as is practicable.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI GAS ENERGY,
A DIVISION OF SOUTHERN UNION
COMPANY

⁴ The Report and Order authorizes a revenue increase of approximately \$16.2 million on an annual basis. \$16.2 million divided by 365 days produces an impact of \$44,383 per day.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 16th day of February, 2010, to:

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