

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

In the Matter of the Application of Southern Union Company, d/b/a Missouri Gas Energy, for Approval to Change its Infrastructure System Replacement Surcharge.	)	)	File No. GO-2013-0391
	)	)	Tracking YG-2013-0450
	)	)	

**MGE’S REPLY TO PUBLIC COUNSEL’S REPLY  
TO THE STAFF RECOMMENDATION**

COMES NOW Southern Union Company d/b/a Missouri Gas Energy (MGE), and in reply to the Public Counsel’s Reply to the Staff’s Recommendation, states as follows to the Missouri Public Service Commission (Commission):

1. On April 10, 2013, the Commission issued its Order Establishing Time to Respond to Staff’s Recommendation and Directing Filing, which, among other things, directed that the parties file a response, as to whether MGE’s infrastructure system replacement surcharge (ISRS) filing is in accordance with the timing requirement found in subsection 393.1012.2, RSMo.

2. The Staff of the Commission (Staff) filed its response on April 12, 2013. MGE filed its response to this inquiry on April 15, 2013. Both MGE and Staff suggested that MGE’s current ISRS was established within the time frame called for by subsection 393.1012.2, and, therefore, the statute provides the Commission authority to approve MGE’s petition to change its ISRS in this case.

3. Thereafter, on April 19, 2013, the Office of the Public Counsel (Public Counsel) filed a document titled “Public Counsel’s Reply to the Staff’s Recommendation” (Public Counsel Reply). In that document, OPC argued that “Staff’s

interpretation of the ISRS statute is contrary to the plain language of the statute” (Public Counsel Reply, para. 4).

4. Subsection 393.1012.2, in relevant part, states –

The commission shall not approve an ISRS for any gas corporation that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three years, unless the gas corporation has filed for or is the subject of a new general rate proceeding.

(emphasis added).

5. Public Counsel reasoned that “by using the word ‘approve’ instead of ‘establish,’ the Legislature intended the three-year limitation to apply equally to applications to establish or change an ISRS since either petition requires Commission approval” (Public Counsel Reply, para. 5).

6. Public Counsel’s reading of the statute requires an assumption that the statute allows a natural gas utility to have multiple infrastructures system replacement surcharges between rate cases, as Public Counsel believes that each petition for either establishment or change constitutes “an ISRS.” This interpretation is neither supported by the language of the statute nor practice.

7. MGE has one tariff sheet that contains its ISRS rate and there is only one ISRS rate for each rate class (PSC MO. No. 1, Sheet No. 10). This approach is, and has been, consistent no matter how many times the ISRS rate may be changed between rate cases.

8. This makes sense as the statutes treat an ISRS as a singular item beginning with its definition. Section 393.1009(6), defines “ISRS” as “infrastructure system replacement surcharge.” The statute does not refer to “surcharges,” it assumes only one ISRS.

9. Similarly, the limit as to how large an ISRS can be between rate cases refers to “an ISRS,” while limiting the total annual revenues that can be derived. Section 393.1012.1, states, in part, “[t]he commission may not approve an ISRS to the extent it would produce total annualized ISRS revenues exceeding ten percent of the gas corporation's base revenue level approved by the commission in the gas corporation's most recent general rate proceeding” (emphasis added). Public Counsel’s interpretation of “an ISRS” would mean that each, and every, establishment of and change to an ISRS could individually total an annual amount equal to ten percent of base revenues, something contrary to previous interpretations.

10. Public Counsel’s suggestion that “an ISRS” includes both “establishing” and “changing” an ISRS rate is further contrary to a distinction made by the statutes. Section 393.1012.1, refers to “An ISRS and any future changes thereto shall be calculated and implemented . . .” (emphasis added). Here, the statute clearly treats “an ISRS” differently from “future changes.” Were Public Counsel correct, there would be no purpose to include “future changes” in this sentence.

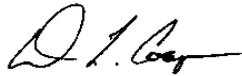
11. Lastly, Public Counsel seems to suggest that its interpretation is necessary to “protect ratepayers from a bill increase via the surcharge when no audit of the company’s books has been performed within a reasonable period of time” (Public Counsel Reply, para. 6). This position ignores the remainder of the statute. Subsection 393.1012.3 states, in part, “In no event shall a gas corporation collect an ISRS for a period exceeding three years\_unless the gas corporation has filed for or is the subject of a new general rate proceeding . . . .” Subsection 3 provides a limit on the time an ISRS may be in effect. In this instance, because MGE’s current ISRS went into effect

September 10, 2010, the statute calls for a rate case filing by September 9, 2013. OPC's interpretation of the ISRS statutes is not necessary to insure that MGE's ISRS and rates are subject to timely audit.

12. The interpretation of the ISRS statutes provided by MGE and Staff is consistent with the language of the ISRS statutes and Commission practice. The Commission should find that subsection 393.1012.2 provides authority for the Commission to approve MGE's petition in this case.

WHEREFORE, MGE respectfully requests that the Commission consider this Notice of Agreement, Motion for Expedited Treatment and Response to Order Directing Filing and, thereafter, issue an order consistent with the Staff Recommendation, granting MGE's Motion for Expedited Treatment and approving MGE's proposed tariff sheet (YG-2013-0450), for service on less than thirty days notice.

Respectfully submitted,



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ATTORNEYS FOR SOUTHERN UNION COMPANY,  
d/b/a MISSOURI GAS ENERGY

## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail on April 24, 2013, to the following:

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