

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

The Staff of the Missouri Public)	
Service Commission,)	
)	
Complainant,)	
v.)	Case No. GC-2016-0149
)	
Missouri Gas Energy, an Operating)	
Unit of Laclede Gas Company,)	
Respondent.)	

**MISSOURI GAS ENERGY’S ANSWER
TO FIRST AMENDED COMPLAINT**

COMES NOW Missouri Gas Energy (“MGE”), an operating unit of Laclede Gas Company (“Laclede”), and hereby submits its Answer to the First Amended Complaint filed by the Staff (“Staff” or “Complainant”) on July 15, 2016. In support thereof, MGE states as follows:

SECTION A. SUMMARY

1. In connection with integrating MGE into Laclede, the Company transferred MGE’s customer service computer system onto Laclede’s Customer Care and Billing platform (CC&B) in September 2015. Coincident with this conversion, MGE reduced its number of billing cycles from 21 to 18.

2. On July 15, 2016, the Staff filed its First Amended Complaint against MGE in connection with the reduction in billing cycles. The First Amended Complaint (“Amended Complaint”) represents Staff’s second effort to identify and assert a legal basis for penalizing MGE for its efforts to bring the benefits of upgraded technology to its customers. In its initial Complaint, filed on December 15, 2015, the Staff alleged that MGE had violated a Commission Rule 4 CSR 240-13.020(1) and Section 7.02 of MGE’s

Tariff because the reduction in billing cycles resulted in approximately 10% of MGE's customers receiving bills that were longer than the normal 26-35 day billing window.

3. Staff has since "abandoned" its initial theory that this constituted a violation of either the Commission's rules or MGE's tariffs. In its place, Staff has developed an entirely new theory in its Amended Complaint in which it now asserts that MGE violated its Tariff not by issuing bills for periods greater than 35 days, but by prorating customer charges and ISRS charges to reflect the longer billing period. According to the Staff, while MGE's Tariff requires proration of these charges for bills covering less than 26 days it does not explicitly authorize proration for bills in excess of 35 days. Staff further asserts that for some customers, MGE also violated Commission Rule 4 CSR 240-13.020(6) by not providing adequate notice of a cycle billing change that was in excess of 9 days.

4. For the reasons discussed below, MGE submits that Staff's latest allegations of legal violations by MGE in connection with these activities are no more valid than its prior allegations of illegality. Moreover, the fact that Staff continues to pursue such punitive measures for this customer friendly initiative by MGE is especially disappointing given the circumstances that led to the Company's decision to issue bills that exceeded 35 days to accommodate the change in billing cycles. Before the conversion even occurred, both the Company and Staff agreed that issuing one "long" bill to customers experiencing a cycle change was preferable to issuing two bills, a regular bill and a "short" bill of less than 26 days. Laclede Gas had used this process of issuing two bills instead of one when Laclede adopted its own new billing system in 2013, and a significant number of customers had expressed dissatisfaction with getting two bills in rapid succession. To avoid that kind of customer frustration during the MGE conversion

process, both MGE and Staff were in complete agreement that the billing approach ultimately taken by MGE was the appropriate one. In addition MGE also shared with the Staff how it proposed to notify customers of the impact that the cycle changes might have on their bills, and that charges would be pro-rated for both short bills of less than 26 days as well as long bills of more than 35 days. At no time did the Staff take issue with any of these aspects of the Company's approach other than to suggest that the Company should request a variance for issuing bills covering a period more than 35 days – a variance that Staff has now effectively conceded was unnecessary given its abandonment of its initial Complaint.

5. Given this background, MGE submits that Staff's latest Complaint is not only wrong on the legal merits but also exceptionally ill-advised as a matter of regulatory policy. MGE and its employees accepted the daunting challenge of pulling off a system conversion to not only bring upgraded technology to its customers, but to do it in a way that both the utility and Staff agreed was the most customer-friendly way possible. In response, the Staff has levelled an evolving assortment of unfounded legal criticisms and requests for punitive action well after the process has been completed. It should not be this difficult for utilities in Missouri to do the right thing for their customers. For these and the other reasons discussed below, MGE respectfully submits that the Staff should withdraw its First Amended Complaint.

SECTION B. ANSWER

1. With respect to paragraph 1 of the Amended Complaint, MGE admits that the Amended Complaint concerns MGE's alleged failure to provide affected customers adequate notice of a change in meter reading routes in supposed violation of Commission

Rule 4 CSR 240-13.020(6) and MGE's proration of certain fixed charges on customer bills covering a billing period in excess of 35 days in alleged violation of MGE's tariff.

2. MGE admits the allegations in paragraph 2.

3. MGE admits the allegations in paragraph 3.

4. MGE admits the allegations in paragraph 4.

5. MGE admits the allegations in paragraph 5.

6. MGE admits the allegations in paragraph 6.

7. MGE admits that the Amended Complaint copied a portion of Section 386.390.1 RSMo into paragraph 7 of the Amended Complaint. The statute speaks for itself.

8. MGE admits that the Amended Complainant copied a portion of Section 386.570.1 RSMo into paragraph 8 of the Amended Complaint. The statute speaks for itself.

9. MGE admits that the Amended Complainant copied a portion of Section 393.140.2 RSMo into paragraph 9 of the Amended Complaint. The statute speaks for itself.

10. With respect to paragraph 10, MGE admits that Laclede Gas filed tariffs sheets on July 21, 2015 to, among other things, modify certain aspects of MGE's customer billing provisions to accommodate the conversion of MGE's customer care and billing system to the system implemented by Laclede Gas two years before.

11. MGE admits the allegation in paragraph 11 that the Staff advised MGE of its belief that a variance from Commission rules and MGE's tariff would be necessary to accommodate the rendering of bills covering periods in excess of 35 days due to cycle billing changes. MGE states that it did not agree with Staff that such a variance was

necessary to issue such bills, and MGE notes that the Staff has now agreed with MGE by abandoning its initial Complaint in this proceeding which was premised on the incorrect theory that Laclede could not render such long bills under its existing tariff.

12. MGE admits the allegation in paragraph 12 that MGE submitted a draft variance to Staff on July 24, 2015. However, if the purpose of this allegation is to indicate that the variance drafted by MGE is evidence that MGE believed it needed a variance, MGE denies such allegation. MGE clearly indicated its belief that no such variance was necessary in paragraph 10 of the draft variance which is attached as Exhibit A to the Amended Complaint, when it stated:

...the Company believes that exceptions to that normal requirement are contemplated and permitted, including instances where a significant number of bills with shortened or extended billing periods have to be issued on a one-time basis to accommodate a system conversion like the one described herein. After discussions with the Commission Staff, however, and out of an abundance of caution, the Company is requesting that the Commission grant a temporary variance from the rule and tariff provisions identified above to further confirm that this approach for dealing with the issue is acceptable.”

As implied by this language in paragraph 10 of the draft variance, MGE was hoping that it could work cooperatively with Complainant on the tariff changes necessary to accommodate the system conversion, and in that spirit, MGE attempted to comply with the Complainant’s request by drafting a variance and sending it to Complainant for review. Moreover, MGE did so even though it viewed the request for an unnecessary variance as mostly an inefficient use of time and resources for itself and the other parties involved. In the end, however, the Staff opposed each of the other tariff changes that had been proposed by the Company to accommodate the system conversion, while falling silent on the draft variance relating to the billing period issue. In fact, to the Company’s

knowledge, the Complainant still has never responded, one way or another, to the draft variance it had requested and received from MGE. Since it received no response from Complainant, MGE was unable to file the request in its draft form since MGE had not received the required approval from Complainant to make the representation in paragraph 12 of the draft variance that Staff does not oppose the pleading.¹ In any event, the fact that MGE did not file the draft variance is now a moot point because, as previously noted, the Staff has now effectively agreed with MGE that no such variance was required by abandoning its initial Complaint that suggested otherwise.

13. MGE admits that paragraph 13 of the Amended Complaint accurately quotes from the draft variance that MGE sent to Staff.

14. MGE admits the allegation in paragraph 14 of the Amended Complaint that a bill insert quoted in that paragraph and replicated in Exhibit B to the Amended Complaint was included in the August 2015 bills for MGE's customers. MGE further states that the language and process for submitting such notices was discussed with the Commission Staff prior to such notices being sent.

15. MGE admits the allegations in paragraph 15 of the Amended Complaint.

16. MGE admits that Complainant has adopted and incorporated by reference in paragraph 16 the allegations set forth in paragraphs 1 through 15 of its Amended Complaint.

¹ Staff decided to oppose the modest tariff changes MGE proposed in connection with converting MGE to the Laclede computer system. These tariff changes were simply meant to align certain practices of Laclede and MGE. Staff took the confounding position that a utility could not make *any* tariff change outside of a rate case, even one that was not designed to change any rates but just to reconcile tariffs to the upgraded customer care and billing system. Given the effort required to defend against Staff's opposition to these tariff changes and the absence of confirmation from Staff that the draft request for an unnecessary variance was acceptable, MGE did not pursue the variance. The Commission approved the proposed tariff provisions. (Case No. GT-2016-0026)

17. MGE admits the allegations in paragraph 17 of the Amended Complaint.

18. MGE admits the allegations in paragraph 18 of the Amended Complaint.

19. MGE admits that the Amended Complaint copied a portion of Commission Rule 4 CSR 240-13.020 (6) into paragraph 19 of the Amended Complaint. The Rule speaks for itself.

20. MGE denies the allegation in paragraph 20 to the extent it indicates that cycle change notices only applied to the month of September 2015. Because MGE, with Staff's concurrence, issued one long bill rather than two bills, MGE's cycle change notices also applied to October bills, and were simply part of the scheduled re-routings associated with the initial conversion. MGE admits that a small percentage of customers were missed during the initial conversion but denies that this is either an avoidable or material lapse in the success of the conversion.

21. MGE admits the allegation in paragraph 21 of the Amended Complaint that it provided its customers notice that they might receive a long bill, but denies that the notice provided was insufficient for any customer within the meaning of 4 CSR 240-13.020(6).

22. MGE admits that Complainant has adopted and incorporated by reference in paragraph 22 the allegations set forth in paragraphs 1 through 15 of its Amended Complaint.

23. MGE admits the allegation in paragraph 23 of the Amended Complaint.

24. MGE admits the allegation in paragraph 24 of the Amended Complaint.

25. MGE admits that paragraph 25 of the Amended Complaint copied a portion of Section 7.02 of the Company's Tariff. The Tariff language speaks for itself.

26. MGE admits that paragraph 26 of the Amended Complaint copied a portion of the Proration provision of the Company's Tariff as set forth on Tariff Sheet No. 47. The Tariff language speaks for itself.

27. The Company admits the allegation in paragraph 27 of the Amended Complaint that the Proration provision in MGE's tariff provides for the proration of the monthly Customer Charge for billing periods under 26 days, but denies that there is no provision within MGE's tariff allowing for proration of the monthly Customer Charge for bills in excess of 35 days. MGE asserts: (a) that no such language is required to prorate bills that are longer than 35 days, both as a matter of common sense, and as a matter of agreement between MGE and Staff and approval of the Commission²; (b) that the long bills of other utilities have for many years been prorated without explicit tariff language specifying such proration; (c) that prorating fixed monthly customer charges is consistent with tariff language identifying such charges as covering a "monthly" period, not periods in excess of a month; (d) that there is no meaningful difference between charging a customer both a short bill and a regular bill, as opposed to one long bill, other than customer convenience of receiving and paying one bill instead of two; (e) that Staff's proposed asymmetrical treatment of short bills and long bills results in undue discrimination among customers in that some customers end up paying less of their proportionate share of fixed monthly charges while other customers end up paying more of their proportionate share; (f) that such asymmetrical treatment deprives the utility of the opportunity to recover its authorized cost of service; (g) that not prorating such charges is fundamentally inconsistent with the Commission's general policy of prorating

² See *Order Granting in Part and Denying in Part Applications for Rehearing, Case No. GR-96-285, (February 28, 1997)*

rates and charges based on when customers are using the services associated with such rates and charges.

28. MGE admits the allegations in paragraph 28 of the Amended Complaint. As noted by Staff in paragraph 30 of the Complaint, MGE refunded approximately 26,000 of those proration charges because they were issued in error.

29. MGE denies the allegations in paragraph 29 of the Amended Complaint to the effect the Company collected \$626,808.03 more than it would have collected had the Company assessed its Customer Charge as stated in its tariff during the same period.

30. MGE admits the allegation in paragraph 30 that it has credited a total of \$132,220.93 for accounts billed in error in January 2016. MGE also admits that it has not credited \$494,587.30 in prorated Customer Charges for bills issued from September 2015 to January 2016 because no such credits are due customers for the reasons previously addressed.

31. MGE admits the allegation in paragraph 31 of the Amended Complaint.

32. MGE admits the allegation in paragraph 32 of the Amended Complaint.

33. MGE denies the allegation in paragraph 33 of the Amended Complaint that it collected \$20,602 more in ISRS than it would have had the Company assessed its standard ISRS. MGE admits the allegation in paragraph 33 that it refunded \$5,600 in ISRS charges billed in January 2016, but denies that they were improperly assessed. Instead, MGE issued refunds to its customers after it discovered a billing error.

34. MGE denies the allegations in paragraph 34 of the Amended Complaint that it inappropriately prorated its customer charge and ISRS amounts for periods in excess of 35 days from September 2015 to January 2016 and denies that it overbilled

customers \$509,589.82 in connection with such prorated amounts for all of the reasons set forth in paragraph 27 of this Answer, which is fully incorporated herein.

35. MGE admits that paragraph 35 of the Amended Complaint copied a portion of MGE's Second Revised Tariff Sheet No. 13. The Tariff language speaks for itself.

36. MGE denies the allegation in paragraph 36 of the Amended Complaint that MGE charged excess taxes to customer bills in connection with such prorated amounts for all of the reasons set forth in paragraph 27 of this Answer, which is fully incorporated herein.

WHEREFORE, MGE respectfully requests that the Commission accept this Answer to Staff's First Amended Complaint.

Respectfully submitted,

/s/ Rick Zucker

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 6th day of September, 2016 by United States mail, hand-delivery, email, or facsimile.

/s/ Marcia Spangler