

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
JAN 25 2001

Missouri Public
Service Commission

In the matter of Missouri Gas)
Energy's Application for variance)
from Sheet Nos. 24.18 and 61.4 to)
permit the use of certain federal)
refunds and unauthorized use charge)
collections for the benefit of low-)
income customers in the company's)
service area.)

Case No. GE-2001-393

APPLICATION TO INTERVENE
AND
STATEMENT OF POSITION OF
MIDWEST GAS USERS' ASSOCIATION
REGARDING APPLICATION FOR VARIANCE

I.
APPLICATION TO INTERVENE

Comes now MIDWEST GAS USERS ASSOCIATION ("Midwest") and pursuant to 4 C.S.R. 240-2.075 applies to intervene herein and become a party hereto in respect to the above matter. In support thereof, Midwest respectfully states:

1. Midwest is an unincorporated non-profit association consisting of and representing its membership of business concerns and corporations which are substantial users of natural gas at their plants situated in such states as Kansas, Missouri and Oklahoma of which numerous members have plants and facilities which are located in and consume natural gas within the State of Missouri and in MGE's service territory therein. A listing of Midwest members and participants is attached hereto as Appendix A.

2. Midwest's interest in proceedings affecting the rates, terms and conditions of large customer natural gas service has been repeatedly recognized by the Missouri Public Service Commission in permitting Midwest's intervention in proceedings affecting The Gas Service Company, its successors, KPL Gas Service Company and Western Resources, Missouri Public Service Company, Ameren Union Electric and in various generic dockets involving the terms and conditions of natural gas transportation and purchased gas adjustment clauses for natural gas companies in the State of Missouri. Furthermore, Midwest's interest in proceedings affecting natural gas rates, and the terms and conditions of natural gas service has been recognized by the Federal Power Commission and the Federal Energy Regulatory Commission in granting Midwest's intervention in numerous dockets concerning Williams Natural Gas Pipeline Company and other generic dockets concerning the terms and conditions of natural gas service, including Orders 436, 500, 451, 528, and Orders 636 and 637.

3. On or about January 18, 2001, Missouri Gas Energy, a Division of Southern Union Corporation (MGE) applied for a variance from certain aspects of its tariffs. Insofar as those variances reflect funds derived from transportation customers, Midwest participants may be affected by the outcome of this docket to a material but as yet undetermined extent.

4. Because MGE transports gas for use by Midwest members under separate transportation rate schedules and because

of the size and consumption patterns of Midwest's members, Midwest is in the special position of representing interests which will not and cannot be represented adequately by any other party and which interests are direct and immediate and differ from those of the general public. Therefore, it will aid the Commission and protect the public interest that Midwest be permitted to intervene in this proceeding so as to protect its interest which no other party is in a position properly to protect and adequately represent herein.

5. For purposes of 4 CSR 240-2.075(2), Midwest states that it is opposed to the discriminatory pricing of natural gas distribution services or discriminatory terms and conditions associated therewith. Midwest would respectfully direct the Commission to the Statement of Position that follows.

II. STATEMENT OF POSITION

1. On January 20, 2001 counsel for Midwest Gas Users' Association received a copy of Missouri Gas Energy's Application for Variance noted above.

2. The disposition of MGE's share of refunds from Williams' storage overcharges should properly be the business of the system supply customers and their representatives, not Midwest. Midwest's members purchase their own supplies of gas and, in some cases, storage. If they, like MGE, are entitled to a refund from Williams as storage customers, they will receive that refund directly from Williams pursuant to their transporta-

tion and storage arrangements with Williams. Accordingly, Midwest has no objection to the requested variance insofar as it concerns the distribution of MGE's share of Williams' storage refund.

3. With respect to MGE's proposal regarding unauthorized transportation usage charges Midwest has more direct concerns.

a. First, Midwest is surprised by the amount of such charges. Midwest has long advocated the interest of responsible transportation customers and does not support "gaming" of the system. For the same reasons that we successfully sought the removal of the "steal your gas" provision that for several years had been part of MGE's (and its predecessors') tariff, we similarly disavow and do not support intentional overruns by transportation customers. Such behavior is irresponsible and is a disservice to the interests of transporters who seek to use the system in a responsible manner. Each party using the transportation system should provide for their own supplies at such reliability as they choose and should not depend on others' supplies to insure their continued service.

b. Second, to the extent that such charges are proper and represent costs of actual intentional unauthorized usage by transportation customers, it is correct and appropriate, not only that such customers be penalized for their activity, but that the penalties and reimbursements recovered be assigned as an offset to the cost of gas to the system supply customers.

Because it was the system supply customers' natural gas (or gas purchased for their use and benefit) that was used without authorization, they should be properly compensated for that unauthorized use. As these funds are properly used as offsets to system supply customers' costs of gas, diversion of those funds to sub-groups of those customers is not Midwest's concern.

c. To the extent, however, that such charges are **not** proper and represent either mistaken billings or billing miscalculations on the part of MGE or are the result of failures of curtailment notification processes that may have in some measure resulted from failures on the part of MGE, Midwest's narrow area of concern in this proceeding is limited to preserving any rights that such transporters may have to contest erroneous charges by MGE. A Commission order approving the variance as requested should not create new rights nor impair or affect existing rights.

4. Midwest's concern may be readily addressed by the Commission simply making clear that approval of the proposed waivers and the proposed different application of funds in no way affects any claims or remedies that any transporters may have to object or properly dispute such charges by MGE. Use of these funds for the purposes proposed should be at MGE's risk and not at the risk of the system supply customers.

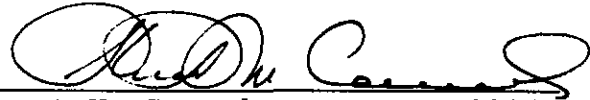
5. MGE has requested expeditious treatment of its variance request. Current events suggest that the Commission may feel heavy public pressure to promptly grant such a variance so

as to partially offset currently high natural gas costs, even while virtually simultaneously increasing those natural gas costs. Midwest believes that a statement or declaration by the Commission in any order granting the requested variance to the effect that such approval does not affect the rights of any customer to dispute incorrect charges will sufficiently clarify the order and will address Midwest's concerns. If such language is included, Midwest will have no objection to the variance request nor to its expeditious treatment by the Commission.

WHEREFORE, Midwest prays that it be permitted to intervene herein to the extent necessary for the Commission to receive and consider its foregoing Statement of Position, and requests relief as stated therein.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

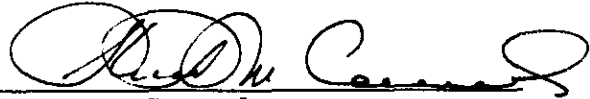


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ATTORNEYS FOR MIDWEST GAS USERS'
ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by U.S. mail, postage prepaid addressed to all parties by their attorneys of record as disclosed by the pleadings and orders herein.

A handwritten signature in cursive script, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: January 25, 2001

APPENDIX A

A D Mohr Farms
 A G Processing Inc.
 ABB Power T & D Corpora-
 tion
 Alameda Plaza Inc.
 Alameda Towers
 American Bakeries Co.
 American Beauty Macaroni
 Archer Daniels Midland
 Company
 Ark City Packing Co.
 Banquet Foods Corpora-
 tion
 Baptist Medical Center
 Bayer, Inc.
 Bethany Hospital
 Blueside Company
 BMA
 Bowen Construction Co.
 Butler Manufacturing Co.
 Cargill Inc.
 Carnation Can Co.
 Castlegate Ind. Inc.
 Certain-Teed Products
 Inc.
 Chesebrough-Ponds, Inc.
 City of Osborne
 City of Holton
 City of Minneapolis
 City of Independence,
 Missouri City of
 Palmyra
 City of Ottawa
 City of Beloit
 City of Baldwin
 City of Ossawatomie
 City of Sabetha
 City of Horton
 City of Lincoln
 City of Augusta
 Coleman Alfalfa
 Colgate Palmolive
 Continental Baking Com-
 pany
 Cook Paint & Varnish
 Corn Products Company
 Danisco Cultor, Inc.
 Doanes Products
 Empire Cold Storage
 Fairbanks Morse Pump
 Fairbanks Morse & Co.
 Fairmont C. C. Dairy
 Fasco Products, Inc.
 Faultless Laundry
 Ford Motor Co.
 Fox Run Apartments
 Friskies Petcare Divi-
 sion of Nestle' Inc.
 Frito Lay
 Folger's Coffee Co.
 Gaines Foods
 General Mills
 Griffin Wheel
 GST Steel Company
 Guardian Management Inc.
 Gulf & Western Mfg.
 Guys Foods Inc.
 Hallmark Cards
 Hamm Asphalt Inc.

Harvest Brand Inc.
 Hercules, Inc.
 Hills Pet Food Division
 Hills Division of
 Riviana
 Hospital Linen Service
 Hudson Foods, Inc.
 Hudson Farms
 Hudson Food Protein
 ICI Explosives USA, Inc.
 J C Nichols Co.
 Kansas City Terminal
 Railway
 Koppers Co. Inc.
 Krause Milling Co.
 Lafarge Corporation
 Lawrence Paper Company
 Leggett & Platt
 M F A Milling
 M K T Railroad
 Hoeschst Marion Roussel
 Maytag Corporation
 McNally Pittsburg
 Medical Center of Inde-
 pendence
 Menorah Medical Center
 Mid America Dairymen
 Midwest Conveyor
 Midwest Grain Products
 Milnot Compay
 Mission Clay Products
 Missouri Steel Castings
 Missouri Plating Co.
 Modine Manufacturing
 Company
 National Starch Company
 National ByProducts
 North Kansas City Memo-
 rial Hospital
 O'Sullivan Industries
 Owens Corning Fiberglas
 PCS Nitrogen Co.
 Pet Milk Co.
 Philadelphia Quartz Co.
 Pittsburgh Corning Cor-
 poration
 Proctor & Gamble Co.
 Potash Corporation
 Quaker Oats
 Ralston Purina Co.
 Reichhold Chemical Inc.
 Research Hospital and
 Medical Center
 Reynolds Metals Co.
 Rival Manuracturing Co.
 Safeway Stores
 Santa Fe Railroad
 Sealright Mfg. Co.
 Sears Roebuck & Co.
 Seitz Foods Inc.
 Southwest Oil & Grease
 Sperry Vickers
 St. John's Hospital
 St. Joseph Light & Power
 St. Joseph's Center
 St. Francis Hospital
 St. Mary's Hospital
 St. Joseph, Missouri
 St. Joseph's Hospital

St. Lukes Hospital
 Stahl Specialty Co.
 Standard Refining
 Steffen Dairy
 Swift and Company
 Swift Ind. Packing Co.
 Teva Pharmaceuticals,
 Inc.
 Thomas J. Lipton Inc.
 Thompson Industries
 Tower Metal Products
 Town of Carrollton
 TransWorld Airlines
 Trigen - Kansas City
 District
 Trinity Lutheran Hospi-
 tal
 Trumbull Asphalt
 U S Gypsum Co.
 Vance Brothers Asphalt
 W R Grace & Co.
 W S Dickey Clay Products
 Co.
 Wells Aluminum Inc.
 Winchester Foods Inc.
 Wire Rope Corporation of
 America, Inc.