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February 9, 2001

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General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. GC-2001- 436

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **COMPLAINT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Cliff E. Snodgrass
Senior Counsel
(573) 751-3966
(573) 751-9285 (Fax)

CES:sw
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

FEB 09 2001

Missouri Public
Service Commission

The Staff of the Missouri Public Service
Commission,)

Complainant,)

v.)

Missouri Gas Energy)

Respondent.)

Case No. GC-2001-436

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the General Counsel, pursuant to § 386.390 RSMo 2000 and 4 CSR 240-2.070, and for its Complaint states as follows:

1. § 386.390 (1) RSMo 2000 establishes, among other things, that parties may present a Complaint before the Missouri Public Service Commission (Commission) regarding any act or omission committed by any person, corporation or public utility. This statute also provides that the Complaint may be based upon any alleged violation of any provision of law or of any rule or decision of the Commission.

2. Commission Rule 4 CSR 240-2.070 (1) provides, in part, that the Commission Staff has authority to file a Complaint through the General Counsel in connection with any violation of statute, rule, order or decision within the jurisdiction of the Commission.

3. Missouri Gas Energy (MGE) is a "gas corporation" as is defined in §386.020(18) RSMo 2000, and, as such, is a "public utility" subject to the Commission's jurisdiction pursuant to the terms of §386.020(42) RSMo 2000. MGE is also subject to the Commission's safety jurisdiction pursuant to the terms of §386.310 RSMo 2000.

4. Factually, at approximately 2:40 p.m., Central Daylight Time, on Monday, July 24, 2000, a natural gas flash fire occurred at a residence located at 205 East Oak Street in Warrensburg, Missouri. One occupant of 205 East Oak Street sustained burn related injuries as a result of the fire. The residential structure located at 205 East Oak Street sustained moderate fire damage as a result of the incident. Property damage related to the fire was estimated to be approximately \$40,000.00.

5. MGE owns and operates the natural gas distribution system in Warrensburg, Missouri. The natural gas distribution system, owned and operated by MGE, in the vicinity of 205 East Oak Street was operating at approximately 17 pounds per square-inch gauge at the time of the incident. The natural gas main serving 205 East Oak Street was a 2-inch diameter, bare steel pipeline. The natural gas service line (service line) serving 205 East Oak Street was a 7/8-inch diameter, polyethylene pipeline.

6. The Commission's Gas Department Safety/Engineering Staff conducted an investigation to evaluate the circumstances surrounding the fire at 205 East Oak Street in Warrensburg, Missouri. Staff has prepared and filed its *Gas Incident Report* in Case No. GS-2001-216 on February 9, 2001.

7. The Staff concluded that the probable cause of the incident was third-party damage to MGE's underground facilities by Installation Technologies Inc. (ITI). Specifically, the bit from it's boring machine came into contact with the natural gas service line to 205 East Oak Street, causing a puncture of the service line. Natural gas escaping from the hole punctured in the service line entered the sanitary sewer lateral to 205 East Oak Street, which was also damaged by the boring bit. Natural gas migrated through the sanitary sewer lateral into the laundry room of 205 East Oak Street, and was ignited by an undetermined source, possibly the standing pilot on the natural gas clothes dryer.

8. The Staff determined that MGE, prior to the incident, did not mark the location of their underground pipelines pursuant to the facility locate request made by ITI through Missouri One Call Systems Inc. on July 12, 2000.

9. §386.570 RSMo 2000, provides, in part, that the failure of any corporation, person or public utility to comply with any law of the State of Missouri, or any order, decision, rule, direction, demand or requirement of the Commission is subject to a penalty for each offense. Penalties authorized by this enactment consist of not less than one hundred dollars or more than two thousand dollars for each offense. In addition, this statute also indicates that in construing and enforcing the provisions of Chapter 386, the omission or failure of any officer, agent or employee of any corporation or public utility, acting within the scope of his official duties of employment, shall in every case be deemed the act, omission or failure of such corporation, person or public utility.

Count 1

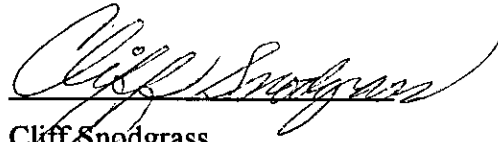
10. The Respondent violated the explicit provisions of §319.030 (1) RSMo 2000, which provide, in part, that “every person owning or operating an underground facility to whom notice of intent to excavate is given...shall, upon receipt of such notice...inform the excavator as promptly as practical, but not in excess of two working days from receipt of such notice...of the approximate location of underground facilities in or near the area of the excavation so as to enable the person engaged in the excavation work to locate the facilities in advance of and during the excavation work.” The facts of this incident indicate that the Respondent did not inform the excavator of the approximate location of its underground facilities within two working days of the receipt of the notice on July 12, 2000, or anytime thereafter. Significant injury to person and damage to property occurred on July 24, 2000, when excavation activity in the area where marking was sought from MGE resulted in a rupture of the Respondent’s gas line. This rupture then allowed gas to enter the home at 205 East Oak Street in Warrensburg, Missouri. The gas ignited and the home was set afire.

WHEREFORE, the Staff respectfully requests the Commission find that MGE violated §319.030 (1) RSMo 2000, and further requests that the Commission authorize the Office of General Counsel to seek civil penalties in Circuit Court and order such other relief as the Commission may find just and reasonable.

Respectfully submitted,

DANA K. JOYCE

General Counsel



Cliff Snodgrass

Senior Counsel

Missouri Bar No. 52302

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all parties of record as shown on the attached service list this February 9th, 2001.



Service List for
Case No. GC-2001-_____
Revised: February 9, 2001 (SW)

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