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APRIL 20, 2001

FILED³
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Missouri Public
Service Commission

Secretary
Missouri Public Service Commission
Governor Office Building
Jefferson City, Missouri 65101

GC-2001-593

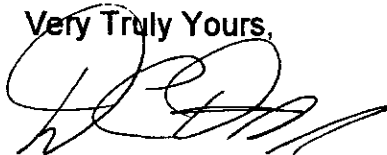
Re: TXU Energy Systems, et. al v. Missouri Gas Energy

To Whom It May Concern:

Enclosed please find an original and fourteen (14) copies of the Complaint of TXU Energy Systems, Inc. and Schreiber Foods, Inc against Missouri Gas Energy that I request be filed with the Commission.

If you have any questions about this filing, please do not hesitate to contact me.

Very Truly Yours,



Donald C. Otto, Jr.
Attorney for Complainants

cc: Office of Public Counsel

DCO/cb

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

FILED³

APR 20 2001

Missouri Public
Service Commission

In Re:

TXU ENERGY SERVICES, INC., and
SCHREIBER FOODS, INC

Complainants

vs.

MISSOURI GAS ENERGY, A DIVISION OF
SOUTHERN UNION COMPANY,

Respondent

Case No. GC-2001-593

COMPLAINT

Comes now Complainants and, pursuant to Section 386.390 RSMo. (2000) and 4
CSR 240-2.070, for their Complaint against Respondent states as follows :

1. Complainant, TXUES Energy Services, Inc. (hereinafter "TXUES") is a
Texas corporation with its principle place of business in Dallas, Texas and
is engaged in the business of supplying natural gas to its customers. Its
Missouri Offices are located at 911 Main Street, Suite 622, Kansas City,
Missouri 64105 .
2. Complainant Schreiber Foods is a Wisconsin corporation authorized to do
business in the state of Missouri and is a customer of both TXUES Energy

Services and MGE. Schreiber Foods' address is 108 W. North Street, P.O. Box 351, Mt. Vernon Missouri 65712 where Schreiber Foods operates a plant where the natural gas service in question was performed.

3. Respondent, Missouri Gas Energy, a division of Southern Union Company (hereafter "MGE") is a Missouri regulated utility authorized to engage in the production, transportation and delivery of natural gas in the state of Missouri and which has tariffs on file with the Missouri Public Service Commission and whose business address is: 3420 Broadway, Kansas City, Missouri 64111.
4. Pursuant to contract, TXUES (along with other companies) nominates certain volumes of natural gas to meet its customer's anticipated needs with Williams Pipeline. Williams Pipeline, in turn, notifies MGE of these nominated volumes for all customers who are purchasing natural gas from marketers such as TXUES and delivers those volumes to MGE for distribution to the customer.
5. As MGE is a regulated utility authorized by this Commission to operate as a gas company with tariffs on file and as this matter involves the sale and transportation of natural gas in the state of Missouri, the Missouri Public Service Commission has jurisdiction over this complaint pursuant to Sections 393.140, 386.250(1), and 386.390 of the Revised Statutes of Missouri (2000).
6. The arrangements between TXUES, Williams Pipeline and Schreiber Foods had been in place since June of 1999, therefore MGE was aware of

10. Said \$78,000 was a single penalty charge for the month of August and was not billed on a daily basis as required by MGE's tariffs (Sheet 61.3, effective Sept. 2, 1998).
11. Had Schreiber Foods received a daily bill as required by MGE's tariffs, the deviation from normal gas purchasing and delivery procedure would have become immediately known to Schreiber Foods. By MGE not following its required tariffed procedures, Schreiber Foods was not made aware of the circumstances or consequences of the situation until the \$78,000 charge for the entire month had accrued, making it impossible for Schreiber Foods to correct the situation.
12. TXUES was not made aware of the situation until the middle of September, after Schreiber Foods received the penalty bill, and immediately began discussions with MGE and Williams Pipeline concerning a resolution of the problem.
13. Williams Pipeline did agree to make a prior period adjustment if MGE would be agreeable to do so. But, despite an earlier verbal agreement by MGE to make such a prior period adjustment, MGE has continued to refuse to enter into this reasonable solution and has confirmed to Schreiber Foods that the penalty would not be waived or an adjustment given.
14. In addition, on April 16, 2001, Schreiber Foods received a shut-off notice for non-payment of the penalty. However, MGE has advised Schreiber Foods that the shutoff would not take place "without adequate notice."

15. It is the best information and belief of Complainant TXUES that MGE has, in the past, given prior period adjustments to other customers in similar situations.

16. As a direct result of MGE's actions in this regard, Complainants have been directly harmed and will be harmed in the future, warranting action by this Commission.

17. MGE's actions and charges in this regard are a violation of Missouri statutes, regulations and MGE's tariffs, to wit:


- a. By failing to adequately notify either the individual authorized for energy matters at Schreiber Foods or TXUES of the lack of scheduled gas delivery for August, 2000, and by failing to inform anyone at Schreiber Foods of the potential financial consequences stemming from the lack of nomination, MGE violated its duty of reasonable diligence per paragraph 8 of the Sale or Transportation of Natural Gas Contract found at Sheet 53 of MGE's tariff, effective Sept. 2, 1998.
- b. By allowing a prior period adjustment to other customers in similar situations, but not in this instance, MGE is in violation of Sections 393.130.2 and 393.130.3 RSMo. (2000).
- c. By failing to bill Schreiber Foods on a daily basis, MGE violated the requirement found at Sheet 61.3 of its tariff, effective September 2, 1998.

d. MGE's actions in this matter violate Section 393.130.1 RSMo.
(2000) as not being just and reasonable.

e. The actions and penalty charges in this matter are not supported by
MGE's tariffs on file with the Commission at the time of the
occurrences set out herein.

WHEREFORE, Complainants respectfully request an Order of the Commission
pursuant to Sections 386.250 and 393.140 RSMo (2000) invalidating the penalty
charge in the instant matter and requiring Respondent to issue a prior period
adjustment or other such appropriate adjustment to Schreiber Foods and for
whatever other relief the Commission deems lawful and appropriate and for an
immediate Order to MGE not to shut off or otherwise cease gas deliveries to
Schreiber Foods on the basis of the unpaid August 2000 penalty bill while this
matter is pending.

Respectfully Submitted,



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ATTORNEY FOR COMPLAINANTS