

OCT 09 2001

GC-2001-593

ATTORNEY FOR COMPLAINANTS

1 Q. Please State your name

2 A. Edward Mars

3 Q. By whom are you employed?

4 A. Schreiber Foods, Inc.

5 Q. Generally what is the business of Schreiber Foods?

6 A. Schreiber Foods manufactures a broad line of cheese products and frozen food
7 entrées. Schreiber Foods operates a plant where the natural gas service in question
8 was performed at 108 W. North Street, P.O. Box 351, Mt. Vernon Missouri 65712.

9 Q. And what is your job description with Schreiber?

10 A. I am an engineering purchasing agent.

11 Q. And are you authorized to testify on behalf of TXU Energy Services

12 A. Yes.

13 Q. Is one of your energy suppliers TXU Energy Services?

14 A. Yes

15 Q. How long has TXU been one of your suppliers?

16 A. The most recent contract with TXU is dated June of 1999, but we have been doing
17 business with them for the past 7-8 years.

18 Q. Generally describe nomination process for natural gas as it applies to Schreiber
19 Foods

20 A. Pursuant its contract with Schreiber, TXUES nominates certain volumes of natural
21 gas to meet our anticipated natural gas needs. It is our understanding that this is done
22 with Williams Pipeline via computer. Williams Pipeline, in turn, notifies MGE of these
23 nominated volumes which MGE delivers to the Schreiber facility. All of these

1 arrangements with TXU and MGE are handled by our headquarters. The local facility
2 has nothing to do with the decision.

3 Q. Other than the month that is in dispute in this complaint, has that procedure
4 successfully worked as far as Schreiber Foods is concerned?

5 A. Yes, each month, with one exception, July, 2000, a nomination has been
6 successfully made for Schreiber Foods natural gas needs to Williams pipeline and that
7 amount of natural gas has been delivered to Schreiber via Williams and MGE.

8 Q. What happened in July, 2000?

9 A. We have been informed that there was a mistake somewhere in the process of
10 nomination. Either TXU did not properly make the computer nomination with Williams,
11 or Williams did not properly book the nomination. As of this date, we have not seen
12 documentation as to where the error took place. It is our understanding that TXU
13 believes that the normal computer nomination procedures were followed and TXU did
14 not realize there was any problem with the nomination until it was contacted by
15 Schreiber Foods that a penalty for unauthorized usage had been billed . In any event,
16 due to this situation, apparently no natural gas nomination notification was sent to MGE
17 and Schreiber was billed \$58,851.47 in unauthorized usage charges.

18 Q: To Schreiber's knowledge did anyone from MGE contact TXU regarding the lack of
19 nomination for July, 2000?

20 A: No.

21 Q: What about Schreiber foods.

22 A: Our investigation indicates that there may have been a phone call from MGE to an
23 employee at Schreiber Foods regarding the nomination. However the person contacted

1 facility for some time. We are not experts on all of the parts the various utility system
2 and relied on MGE to keep us informed. It was obvious that something had gone wrong
3 somewhere in the normal process of nomination and I would expect any business in the
4 chain of energy delivery to take the steps necessary to make sure all were aware of the
5 problem. Moreover, it is Schreiber's position that MGE violated its duty of "reasonable
6 diligence" per paragraph 8 of the Sale or Transportation of Natural Gas Contract found
7 at Sheet 53 of MGE's tariff, effective Sept. 2, 1998 by not notifying TXU of the situation
8 so that it could be corrected before July 31, 2000 and by not giving detailed and explicit
9 notification to Schreiber, in writing, of the lack of nomination and its financial
10 consequences

11 Q: Regarding written notification, what is Schreiber's position regarding the any
12 requirement MGE may have to bill the customer daily for the unauthorized use charge?

13 A: MGE's tariff specifically states on sheet 61.3 that such charges when a nomination
14 has not been made the penalty must be "billed" to the customer daily. This is separate
15 language from elsewhere on the sheet which also indicates that the charge "accrues"
16 daily. This makes perfect sense from the standpoint of protecting the customer and is
17 exactly what Schreiber needed in this situation. Because something had gone wrong in
18 the normal gas delivery procedure and an unauthorized use charge was accruing, we
19 needed to know immediately that there has been a problem in order to correct it as soon
20 as possible. By billing the charge daily, as required by the tariff, we would have known
21 not only knows that the normal gas delivery procedure has not taken place, but would
22 hae known the severe consequences of the problem because the charge would be right
23 there on the bill. And we would have been receiving additional bills, daily, outlining

1 these charges, until the problem had corrected. Just as importantly, there is a written
2 record of the whole process so it can be determined who was notified and when and
3 would go a long way to meet MGE's obligation of "reasonable diligence."

4 Q: What about MGE's position that such daily billing does not reflect how business is
5 done with Williams and others since a nomination can be made up to the last day of the
6 month that, retroactively, covers the entire month so that there would be no
7 unauthorized use charge?

8 A: I am not an expert on what MGE must do to change or alter its tariff. If the tariff
9 needs to be changed to have it more accurately reflect how business is currently being
10 done, then MGE should do so, but I hope the change would still provide some type of
11 daily notification to the customer if the normal nomination procedure broke down. Until
12 such time, MGE should have to live by the tariff language, especially in a situation
13 where they are trying bill us for unauthorized use. Also, the fact that nominations can be
14 made up to the last day of a month in no way makes it impossible for MGE to send bills
15 to Schreiber daily for each day gas is being supplied without a nomination having been
16 received, so long as the bill makes it clear that the amounts in question are only due if
17 no nomination is received by MGE before the end of the month. Indeed, this would
18 exactly meet the intent of the tariff language; to protect the customer's interests by
19 giving it early notification of the problem and its consequences.

20 Q: Does this conclude your direct testimony?

21 Yes.

1 had no knowledge of the nomination process and was not the person in charge of
2 energy matters for Schreiber Foods. Our review indicates that no effort was made to
3 contact anyone with proper authority at Schreiber or anyone who handled Schreiber's
4 natural gas billings. No written notification was sent to anyone regarding the situation
5 and no information was given to Schreiber Foods, in any form, that if the lack of
6 nomination was not corrected, there would be a substantial penalty involved.

7 Q: What do you believe the proper procedure should be in this instance.

8 A: MGE knew that TXU was the natural gas supplier for this customer and had been for
9 over a year. The nominations had, in previous months, always come through in a timely
10 fashion and there had been no difficulty in the nomination process. MGE has the
11 names, telephone numbers and E-Mail addresses of persons responsible at TXU for
12 such natural gas deliveries. In addition, MGE is aware of Schreiber Foods' operation
13 and should know, in a case like this, it is important to contact the person who handles
14 energy matters for the company. In this case, when it became known to MGE that a
15 nomination had not been made for July 2000, MGE should have notified TXU and
16 Schreiber that, according to their records, no nomination had been made to determine if
17 there had been an error. Further, written notification to Schreiber, should have been
18 made immediately that not only notified the us that no nomination had been made, but
19 that outlined the consequences, particularly the charges that would be assessed if no
20 nomination was made by the end of the month.

21 Q: What is your basis for believing that is the duty of MGE in this situation.

22 A: Well, first, this is simply good business practice. MGE, Schreiber, and TXU had been
23 operating together for over a year in the purchase and delivery of natural gas to this

VERIFICATION

I, Edward Mars, hereby state under oath and subject to the penalties of perjury, that the above testimony is true and accurate to the best of my information and belief.

Edward R. Mars

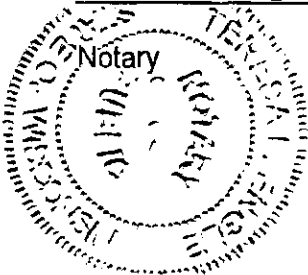
State of Wisconsin)
County of) ss

I, the undersigned, a Notary Public authorized to administer oaths in the State of Wisconsin, certify that Edward Mars appeared before me and that he willingly signed the above document and that he did so as his free and voluntary act.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 8th day of October, 2001.

Jessie L. Eagle

My Commission Expires 2-1-2004



CERTIFICATE OF SERVICE

Comes now the undersigned and hereby states that a true and accurate copy of the foregoing Direct Testimony was hand-delivered to each party of record this 9th day of October, 2001.

A handwritten signature in black ink, appearing to be 'D. H. M.', is written above a horizontal line.