



Commissioners  
KELVIN L. SIMMONS  
Chair  
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## Missouri Public Service Commission

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November 1, 2001

ROBERT J. QUINN, JR.  
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WESS A. HENDERSON  
Director, Utility Operations  
ROBERT SCHALLENBERG  
Director, Utility Services  
DONNA M. KOLILIS  
Director, Administration  
DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA K. JOYCE  
General Counsel

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

**FILED<sup>2</sup>**

NOV 01 2001

Missouri Public  
Service Commission

**RE: Case No. GC-2001-593**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S MOTION TO COMPEL DISCOVERY**.

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,

Lera L. Shemwell  
Associate General Counsel  
(573) 751-7431  
(573) 751-9285 (Fax)

LLS:sw  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

NOV 01 2001

Missouri Public  
Service Commission

TXU Energy Services, Inc. and Schreiber  
Foods, Inc.

Complainant,

v.

Missouri Gas Energy, a Division of  
Southern Union, Co.

Respondent.

Case No. GC-2001-593

STAFF'S MOTION TO COMPEL DISCOVERY

COMES NOW the Staff of the Missouri Public Service Commission and for its Motion to Compel Discovery states:

1. On April 20, 2001, Complainant, TXU Energy Services and Schreiber Foods, Inc., filed their complaint with the Commission.
2. On May 9, 2001, the Commission issued its Notice of Complaint and instructed Missouri Gas Energy, a division of Southern Union Company, (MGE) to answer the complaint.
3. On July 11, 2001, the Staff submitted data requests to Complainants. Staff reissued the data requests on September 24, 2001 by email and first class mail.
4. To date no response has been received despite assurances from Counsel for Complainant that responses would be forthcoming.
5. Commission Rule 4 CSR 240-2.090(2) provides, in part:

Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient

objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of its objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission.

6. There has been no objection to any of the submitted requests.

7. Commission Rule 4 CSR 20-2.090(8) provides:

Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

8. Counsel for Staff does certify that in two recent telephone discussions with Mr. Otto, he has assured Counsel that the data requests would be provided promptly. To date no data requests have been received. Counsel for Staff attempted to arrange a telephone conference and when that effort was unsuccessful the presiding officer indicated that this Motion should be filed and a telephone conference between the Parties could then be arranged.

WHEREFORE, the Staff requests the Commission to issue an order compelling the Complainants to immediately respond fully to all of Staff's Data Requests.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

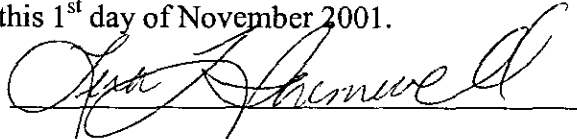


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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 1<sup>st</sup> day of November 2001.



**Service List for**  
**Case No. GC-2001-593**  
**Revised: November 1, 2001 (SW)**

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