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January 29, 2002

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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

FILED³

JAN 29 2002

Missouri Pub.
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 STATEMENT OF POSITION ON THE ISSUES**.

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
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LLS:sw
Enclosure
cc: Counsel of Record

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

FILED³

JAN 29 2002

Missouri Public
Service Commission

STAFF'S STATEMENT OF POSITION ON THE ISSUES

COMES NOW the Staff of the Missouri Public Service Commission and submits the following list of positions on the issues in this case:

POSITIONS ON THE ISSUES

1. Should Schreiber Foods be required to pay an unauthorized use charge for gas used in July 2000?

Staff's position: Yes. Unauthorized use charges result when a customer receives natural gas volumes that exceed the nominated natural gas volumes for that transportation customer for any given month. Nominations may be made until the last day of the month. MGE's tariff states as follows:

Unauthorized use charges will be assessed to transportation customers on a daily basis:

1. during times of an MGE curtailment, and/or
2. during times of an interstate pipeline interruption, and/or
3. in the event no nomination exists for such customer (zero nomination). (MGE's tariff sheet no. 61.3)

Schreiber Foods or TXU, must nominate the quantities of natural gas to be delivered by wholesaler, Williams Gas Pipelines Central, Inc., (Williams), to Missouri Gas

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Energy (MGE). Either Schreiber or TXU failed to make the required nomination of gas on the Williams' system but Schreiber continued to use natural gas for the month. Neither Schreiber nor TXU has not been able to provide proof that the nomination was made. Schreiber should be required to pay the penalty that is stated in MGE's tariff.

2. Did Missouri Gas Energy (MGE) do what was required by its tariff?

Staff's position: Yes. MGE's tariff states that:

8. Company shall use reasonable diligence to provide a regular supply of natural gas subject to the priority of service provisions and other terms of Company's filed tariffs, but does not guarantee such supply. Company does not assume responsibility for interruption of service, whether caused by inadequacy of supply, equipment, facilities or because of uncontrollable forces, except when such interruption is the result of reckless, willful or wanton acts of Company, its agents or employees.

Staff believes that MGE did what was required under its tariff. There is no specific, written requirement for MGE to contact TXU or Schreiber Foods in the event that no nomination is made.

Unauthorized use charges will be **assessed** to transportation customers on a **daily basis**:

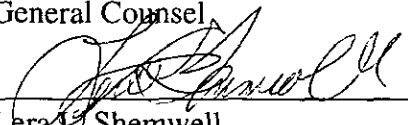
The Company will **bill** unauthorized use charges to transportation customers on a **daily basis** pursuant to this rate schedule, in addition to any upstream penalties assessed directly to the customer by the delivering pipeline, and/or penalties assessed to the Company by the delivering pipeline, which can be directly attributed to unauthorized use by such customer(s). (MGE's tariff sheet no. 61.3)

Since nominations may be made as late as the last day of the month, Staff interprets the tariff language to require MGE to assess unauthorized use charges to Schreiber Foods on a daily basis and requires MGE to enter the daily unauthorized use charges to Schreiber Foods' monthly bill, not to send a bill on a daily basis.

WHEREFORE, the Staff submits this List of Positions on the Issues.

Respectfully submitted,

DANA K. JOYCE
General Counsel

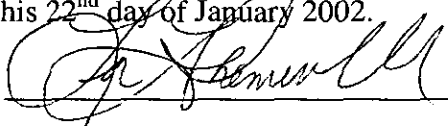


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Certificate of Service

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 22nd day of January 2002.



**Service List for
Case No. GC-2001-593
Revised: January 29, 2002 (SW)**

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