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June 8, 2001

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Director, Utility Services

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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

RE: Case No. GE-2001-647

Dear Mr. Roberts:

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

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,

Victoria L. Kizito
Associate General Counsel
(573) 751-6726
(573) 751-9285 (Fax)
vkizito@mail.state.mo.us

VK:ccl
Enclosure
cc: Counsel of Record

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

FILED²
JUN - 8 2001

Missouri Public
Service Commission

In the Matter of the Application of)
Missouri Gas Energy for a Variance from)
4 CSR 240-40.030(14)(C)3 Regarding the)
Time Period in which a Particular Class 3)
Leak in St. Joseph, Missouri will be)
Required to be Repaired.)

Case No. GE-2001-647

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation states:

1. On May 24, 2001, Missouri Gas Energy (MGE) filed its Application for Variance and for Temporary Variance Pending Resolution.

2. On June 4, 2001, the Commission issued an Order Directing Response to Application for Temporary Variance, directing the Staff and any other party to file its Recommendation by June 12, 2001.

3. In the attached Memorandum, which is labeled Appendix A, the Staff recommends that the Commission grant Missouri Gas Energy (MGE) a variance from the provision in 4 CSR 240-40.030(14)(C)3, which would otherwise require its Leak no. 96-0344 to be repaired by June 24, 2001, and instead allow an additional two years, until June 24, 2003, for the repair of that particular leak. In addition, the Staff recommends that the Commission grant MGE a temporary variance from 4 CSR 240-40.030(14)(C)3 to cover any period after June 24, 2001, if the Commission has not issued an order in this proceeding before then.

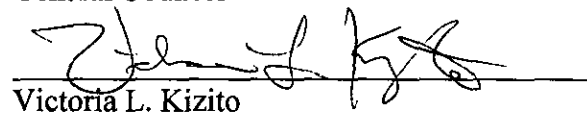
4. The Commission may grant an application for a variance from commission rules and tariff provisions when good cause for granting the variance or waiver is provided. 4 CSR

240-40.030(14)(B). In accordance with 4 CSR 240-40.030(14)(B), MGE provided the reasons for the proposed variance and a complete justification setting for the variance. Further, in accordance with 4 CSR 240-40.030(16), MGE is requesting a waiver of compliance with the rules and requirements contained in the rule which are more stringent than minimum federal requirements. Finally, Staff finds that gas safety is not compromised by Leak no. 96-0344, as required by 4 CSR 240-40.030(16).

WHEREFORE, the Staff recommends that the Commission waive compliance with the five-year repair provision of 4 CSR 240-40.030(14)(C)3 for the Class 3 Leak No. 96-0344 at 900 Lower Lake Road in St. Joseph, Missouri, and allow an additional two years, until June 24, 2003, for the repair of the leak, and that the waiver be conditioned on MGE continuing to conduct the semi-annual leak rechecks and submitting the results to the Staff; if the Commission does not issue an order regarding the waiver request for a two-year extension by June 24, 2001, Staff recommends that the Commission grant a temporary variance until an order can be issued.

Respectfully submitted,

DANA K. JOYCE
General Counsel

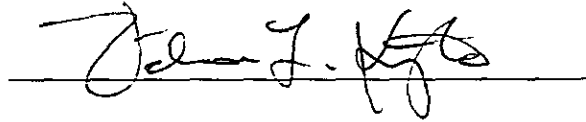


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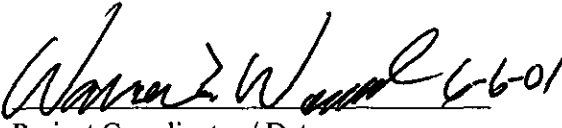
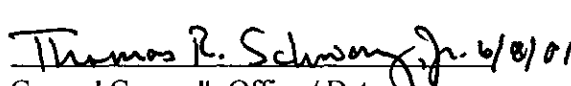
Certificate of Service

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 8th day of June 2001.

A handwritten signature in cursive script, appearing to read "John J. Hyle", is written over a horizontal line.

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. GE-2001-647, Missouri Gas Energy

FROM: Warren Wood, Energy Department and John Kottwitz, Energy Department – Safety/Engineering
gk *PK* *OK*
 *6-6-01* 
Project Coordinator / Date General Counsel's Office / Date

SUBJECT: Staff Recommendations for Approval of a Two-Year Waiver from a Provision of 4 CSR 240-40.030(14)(C)3. for a Natural Gas Leak in St. Joseph, Missouri, and for Approval of a Temporary Variance Pending Resolution

DATE: June 5, 2001

Waiver Request by Missouri Gas Energy

On May 24, 2001, Missouri Gas Energy (MGE) filed an APPLICATION FOR VARIANCE AND FOR TEMPORARY VARIANCE PENDING RESOLUTION (Application) with the Missouri Public Service Commission (Commission). The Application requests a waiver from the provision of 4 CSR 240-40.030(14)(C)3. that requires a particular Class 3 leak to be repaired within a five-year time period ending on June 24, 2001. The Application notes that a Class 3 leak by definition is a leak that does not constitute a hazard to property or to the general public. The Class 3 leak in question is located at 900 Lower Lake Road in St. Joseph, Missouri. The Application requests a two-year extension of the repair deadline to June 24, 2003. As required by another provision of 4 CSR 240-40.030(14)(C)3., MGE will continue to recheck this Class 3 leak twice per calendar year, at intervals not to exceed 6½ months. The Application states that MGE will agree to a granted waiver being conditioned on MGE providing the results of these Class 3 leak rechecks to the Commission Energy Department's Safety/Engineering Staff (Staff).

This Class 3 leak is escaping from a 16-inch steel pipeline located inside a steel casing pipe, which is approximately seven feet below a railroad spur. The leak does not pose any significant safety risk due to its distance from structures. The nearest structure is a storage shed located 50 feet away. MGE estimates that it will cost approximately \$200,000 to repair this Class 3 leak. The Application states that MGE is requesting this waiver because of the magnitude of public improvement projects that will require the full attention of MGE personnel. It would be difficult to repair this low-priority Class 3 leak while managing the high-priority construction and damage prevention activities related to these public improvement projects. The Application contends that granting this waiver will promote gas pipeline safety because MGE will be able to concentrate its resources on these high-priority public improvement projects instead of a non-hazardous Class 3 leak. Further, the Class 3 leak will continue to be rechecked twice a year by MGE.

The Application further requests that the Commission grant MGE a temporary variance from the same provision of 4 CSR 240-40.030(14)(C)3. to cover any period after June 24, 2001, if the Commission has not issued an order by that date.

Staff Response

Prior to filing this Application, MGE discussed with Staff this Class 3 leak and the possibility of a waiver from the five-year deadline to repair the leak. The Staff obtained the leak investigation records for this leak from MGE and discussed several gas safety related issues with MGE personnel. In addition to the fact that an unoccupied storage shed is the nearest structure, the Staff has been informed that the nearest occupied building is 250 feet away. Natural gas readings associated with this Class 3 leak are at each end of the steel casing pipe and the surrounding area beneath Lower Lake Road. The buildings are to the south of Lower Lake Road, and there are no natural gas readings at the south side of the street pavement. There are a few natural gas readings located a short distance to the north of the street pavement, but this is further away from the buildings located to the south. The Staff also confirmed with MGE personnel that there is no gravity-flow sanitary sewer beneath Lower Lake Road in the area of this leak. Based upon this additional gas safety information that was received from MGE personnel, the Staff indicated to MGE that a waiver request would be appropriate for these specific circumstances. MGE also agreed to provide the Class 3 leak recheck results to the Staff.

The Staff has reviewed the Application and finds it acceptable in regards to gas safety. The Staff agrees with MGE that granting the Application will not compromise gas safety because this non-hazardous leak will continued to be rechecked twice a year and will be repaired within the next two years. The Federal pipeline safety regulations do not contain a leak classification system and do not address non-hazardous leaks. Therefore, the Application is correct in stating that the five-year repair time period in 4 CSR 240-40.030(14)(C)3. is more stringent than the Federal standards, so only Commission approval of the waiver request is required in accordance with 4 CSR 240-40.030(16). The five-year deadline is later this month on June 24, 2001, which may leave inadequate time for the Commission to act on this waiver request for a two-year extension. If so, the Staff supports MGE's request for a temporary variance until a Commission Order is issued.

Staff Recommendations

As provided for in 4 CSR 240-40.030(16), the Staff recommends that the Commission waive compliance for two years with the five-year repair provision of 4 CSR 240-40.030(14)(C)3. for the Class 3 leak at 900 Lower Lake Road in St. Joseph, Missouri. If the Commission grants this waiver, the Staff recommends that it be conditioned on MGE continuing to conduct the semi-annual leak rechecks and submitting the results to the Staff. In accordance with 4 CSR 240-40.030(16), gas safety will not be compromised by such a waiver.

Since the five-year repair period for this Class 3 leak ends on June 24, 2001, Commission action is needed by that date. If the Commission does not issue an order regarding the waiver request for a two-year extension by June 24, 2001, the Staff recommends that the Commission grant a temporary variance until an order can be issued. This recommendation is intended to comply with the Commission's ORDER DIRECTING RESPONSE TO APPLICATION FOR TEMPORARY VARIANCE that was issued on June 4, 2001, wherein the Commission states a desire to rule on MGE's request for temporary variance by June 24, 2001.

Service List for
Case No. GE-2001-647
Verified: June 8, 2001 (ccl)

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