

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

In the Matter of Missouri Gas Energy's)
Tariff Sheets Designed to Increase the)
Rebate Level for Tank Water Heaters.)

Case No. GT-2011-0049
Tariff File No. JG-2011-0051

**MGE'S RESPONSE IN OPPOSITION TO PUBLIC COUNSEL'S
MOTION TO SUSPEND**

COMES NOW Southern Union Company, d/b/a Missouri Gas Energy ("MGE"), by and through counsel, and for its Response in Opposition to Public Counsel's Motion to Suspend and Motion for Expedited Treatment, states as follows to the Missouri Public Service Commission (the "Commission"):

DESCRIPTION OF SUBJECT TARIFF SHEETS

1. On July 30, 2010, MGE filed revised tariff sheets that not only increased the customer rebate for Energy Star® tank water heaters, but also make several other energy efficiency incentives available to MGE's Small General Service Class ("SGS"). Specifically, this tariff filing increased the hot water heater incentive from \$40 to \$100 for a "tank water heating system that meets Energy Star® criteria." In addition, the tariff sheets would extend multiple incentives to SGS customers that were previously not available. In addition to the incentives for tankless water heaters, these include incentives for efficient natural gas water heating systems, furnaces, natural gas boiler systems, and programmable thermostats.

2. MGE has been tasked to implement energy efficiency measures designed to "encourage more effective utilization of natural gas."¹ MGE has done so by "encouraging energy efficiency improvements through the replacement of less efficient

¹ Report and Order, GR-2009-0355, p. 64.

natural gas equipment with high efficiency Energy Star® qualified natural gas equipment and other high efficiency equipment and measures.”² These goals are precisely met by this tariff filing. The increased incentive level that Public Counsel opposes is solely designed to raise one specific incentive to a level that encourages more customers to install more efficient appliances.

PUBLIC COUNSEL MOTION TO SUSPEND

3. On August 24, 2010, Public Counsel filed a Motion to Suspend and Motion for Expedited Treatment of the energy efficiency tariff sheets. The motion requests that the Commission suspend MGE’s tariff sheets. Public Counsel opposes the tariff sheets because one aspect of the new provisions would increase the rebates for tank water heating systems meeting Energy Star® criteria from \$40 to \$100.

CONSIDERATION OF PROPOSAL BY THE EEC

4. MGE’s Energy Efficiency Collaborative (“EEC”), consisting of representatives from MGE, Missouri Department of Natural Resources (“MDNR”), Public Counsel, and the Staff of the Commission, previously voted on the proposed incentive increase (in April 2010) and reviewed the tariff sheets (in July 2010). The only member of the EEC that opposed the increased incentive amount was Public Counsel, which has taken the odd position that increasing an incentive designed to encourage customers to purchase more efficient appliances is somehow harmful to those customers.

² Report and Order, GR-2009-0355, p. 64.

RESPONSE IN OPPOSITION

5. Public Counsel's argument is akin to the theory expressed in the quote "we had to destroy the city in order to save it."³ This \$60 increase is a small part of a much broader tariff that Public Counsel has expressed no opposition to (apart from its procedural complaints discussed *infra*). Public Counsel's position on this matter only serves to hinder energy efficiency offerings for MGE customers.

6. Public Counsel focuses on the difference between .62 Energy Factor ("EF") and .67 EF water heaters. MGE's tariff states only that it applies to a "tank water heating system that meets Energy Star® criteria." MGE's tariff says nothing about whether customer incentive applications are available based on distinctions between EF levels.

7. MGE and the rest of the collaborative are well aware that the Energy Star® ratings will change on September 1, 2010. As Public Counsel notes, this change will likely have .67 EF water heaters replace .62 EF water heaters on a going forward basis as Energy Star® rated appliances. The market availability of these new Energy Star® rated appliances is not something that MGE can control. What is known, however, is that .67 appliances are not yet readily available in MGE's market area.

8. MGE believes that its \$40 water heating incentive is insufficient. Further, MGE believes that it is critical to incent customers to purchase what is readily available on the shelves and make their energy improvements now. Any improvement in EF ratings will help improve those customers' energy savings. Keeping an inadequate \$40 incentive, while Public Counsel delays any forward progress on other programs, will

³ Precise original source unknown, attributed to an Army officer during Vietnam by Peter Arnett. See http://en.wikipedia.org/wiki/B%E1%BA%BFn_Tre

only ensure that fewer high efficient appliances are installed. Given the long-lasting nature of natural gas appliances, keeping an incentive artificially low will cause customers to delay purchases or to purchase less efficient appliances. This is completely contrary to the program's goal, which is to actively promote energy efficiency.

9. MGE is in complete agreement with OPC that \$100 incentive may be too low. Program results and incentive rates need to be continually monitored and adjusted as necessary. Notably, Public Counsel does not suggest what level would be appropriate, nor has Public Counsel suggested an incentive level to the collaborative. In order to make a decision on what incentive is appropriate. It is important to have pricing data and other information concerning appliances. MGE is committed to review pricing data and other information once the new Energy Star® rated appliances are on the shelves, available for purchase, and priced. This will likely occur in the next six to eight months.

10. What Public Counsel has not asserted here is why a \$100 rebate is inappropriate for presently available equipment. This amount has been reviewed by the collaborative, is consistent with other incentive levels, and was approved by three of the four members. It makes sense to implement this tariff now, based on what we know now, and re-evaluate the impact of future conditions once they are known and ripe for consideration.

11. MGE agrees with OPC's assertion that the EEC is governed in part by the Unanimous Stipulation and Agreement filed in Case No. GT 2008-0005. That agreement states that "where consensus cannot be reached, any of the charter

members may petition the Commission to resolve, in accordance with its normal procedural rules, any differences over the selection of future programs for implementation or other aspects of the energy efficiency program development or evaluation process... “⁴.

12. MGE’s actions in this case are entirely consistent with the Commission’s “normal procedural rules.” MGE has filed tariff sheets and has specifically stated in the cover letter in that filing that the tariff sheets were approved by the EEC, except for a \$60 increase in incentives for water heaters. Consistent with the Commission’s “normal procedural rules,” the Public Counsel has chosen to oppose that filing by “petitioning the Commission to resolve” the disagreement. Should Public Counsel, MGE, or other EEC member take issue to an action or inaction by the EEC, they are certainly able, under “normal procedural rules,” to file a complaint. The procedural method MGE has used is an efficient and timely way to put this matter before the Commission. Public Counsel’s apparent proposal to add steps to this process (apparently with an added step involving a “petition”) would only serve to delay the effective date of these tariffs, further slowing down this process, and would not be consistent with normal practice.

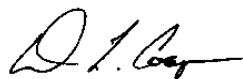
13. Delaying the implementation of this tariff so that OPC can quibble with non-substantive procedural issues does nothing but delay a tariff designed to assist the customers Public Counsel purports to represent. Public Counsel has not shown that this matter is ripe for consideration. The tariffs should be implemented by the Commission to move energy efficiency programs forward for MGE’s customers.

⁴ In the Matter of Missouri Gas Energy Proposed Tariff Sheets to Administer Natural Gas Conservation Initiatives, Case No. GT-2008-0005, Unanimous Stipulation and Agreement, p.2.

WHEREFORE, MGE requests that the Commission deny Public Counsel's Motion to Suspend and permit its tariffs sheets to take effect by operation of law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 26th day of August, 2010, to:

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