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24
April 19, 2001

FILED³

APR 24 2001

Missouri Public
Service Commission

Mr. Dale Hardy Roberts
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Missouri Gas Energy - Case No. GT-2001-329

Dear Mr. Roberts:

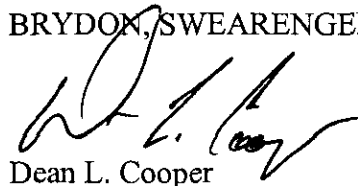
Enclosed for filing in the above-referenced proceeding please find an original and eight copies of MGE's Application to Intervene and Response to Staff Motion. Please stamp the enclosed extra copy "filed" and return same to me.

If you have any questions concerning this matter, then please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:


Dean L. Cooper

DLC/rhg

Enclosures

cc: Office of the Public Counsel
Mr. Doug Micheel
Mr. Michael C. Pendergast
Ms. Diana M. Vuylsteke
Mr. James M. Fischer/Mr. Larry Dority
Mr. Rob Hack
Mr. David Meyer
Mr. Thomas M. Byrne

FILED³

APR 24 2001

Missouri Public
Service Commission

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

In the Matter of Laclede Gas Company's)
Tariff Filing to Implement an)
Experimental Fixed Price Plan and Other)
Modifications to Its Gas Supply Incentive Plan.)

Case No. GT-2001-329

**MGE'S APPLICATION TO INTERVENE
AND RESPONSE TO STAFF MOTION**

Comes now Missouri Gas Energy ("MGE"), a division of Southern Union Company, in accordance with Commission Rule 4 CSR 240-2.075 and the Missouri Public Service Commission's ("Commission") Order Shortening Time for Response, and, as its application to intervene and response to Commission Staff's ("Staff") Motion for Order Permitting Use of Information for Expedited Treatment, states as follows:

BACKGROUND

1. Southern Union Company is a corporation duly incorporated under the laws of the state of Delaware and conducts business in Missouri under the fictitious name of Missouri Gas Energy ("MGE"). MGE's principal office and place of business at 3420 Broadway, Kansas City, Missouri 64111. MGE conducts the business of a "gas corporation" and provides natural gas service in the Missouri counties of Andrew, Barry, Barton, Bates, Buchanan, Carroll, Cass, Cedar, Christian, Clay, Clinton, Cooper, Dade, Dekalb, Greene, Henry, Howard, Jackson, Jasper, Johnson, Lafayette, Lawrence, McDonald, Moniteau, Newton, Pettis, Platte, Ray, Saline, Stone, and Vernon, subject to the jurisdiction of the Commission.

2. A certified copy of Southern Union Company's Certificate of Corporate Good Standing-Foreign Corporation and MGE's fictitious name registration as issued by the Secretary of State of the State of Missouri was previously filed with the Commission in Case No. GM-94-40.

These documents are hereby incorporated by reference in accordance with 4 CSR 240-2.060(1)(G). MGE has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates. MGE has no annual report or assessment fees which are overdue.

3. All correspondence, communications, notices, order and decisions of the Commission with respect to this matter should be sent to:

Robert J. Hack
General Counsel
Missouri Gas Energy
3420 Broadway
Kansas City, Missouri 64111
Tel: 816 360-5755
Fax: 816 360-5536
rob.hack@southernunionco.com

Dean L. Cooper
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
(573) 635-7166
(573) 635-0427 facsimile

INTERVENTION

4. This proceeding was established to address Laclede Gas Company's ("Laclede") Gas Supply Incentive Plan, and proposed modifications thereto. On April 18, 2001, the Staff filed a Motion for Order Permitting Use of Information and for Expedited Treatment ("Staff Motion"). Staff requested that it be permitted to use certain information pertaining to the cost of gas and volumes of gas for the limited purpose of performing a cost comparison between Missouri natural gas utilities. Copies of this motion were served on counsel for all Missouri local distribution companies, to include MGE. On April 20, 2001, the Commission issued its Order Shortening Time

for Response wherein, among other things, it required that responses to the Staff Motion be filed no later than noon on April 24, 2001.

5. MGE's interest in the proceeding is created by the Staff Motion. That is, the Staff has proposed to use in this proceeding information and data on the cost of natural gas and the volume of natural gas that has been provided by MGE on a confidential basis.

6. MGE seeks to intervene in order to both respond to the Staff Motion and to monitor any future proposals that may arise to utilize this information. Additionally, should the Commission agree to allow the information to be utilized as proposed by Staff, MGE seeks status as an intervenor in order to ensure that its gas supply information is adequately protected from improper disclosure and to ensure that such information and MGE's gas supply operations are placed in appropriate perspective during the course of any Commission review.

7. Although the Commission's Order Directing Notice set an intervention deadline for this matter of March 14, 2001, good cause exists for allowing it to intervene at this time. MGE did not have a direct interest in this case prior to the filing of the Staff Motion and, therefore, had no reason to intervene in this matter. Having received the Staff Motion, MGE has filed its application to intervene within six days.

8. The inclusion of MGE's gas supply information in this matter gives MGE a unique interest that is different from that of the general public and which cannot be adequately represented by any other party to this proceeding. Therefore, MGE should be permitted to intervene in this matter.

RESPONSE TO STAFF MOTION

9. MGE opposes the Staff Motion for two reasons which are similar to those concerns expressed by other local distribution companies. First, operational characteristics differ sufficiently

among each Missouri local distribution company to make any Staff “cost comparison between Missouri natural gas utilities” for gas supply essentially meaningless. As stated by others in this proceeding, Laclede acquires most of its gas supplies utilizing Mississippi River Transmission Corporation’s (“MRT”) interstate pipeline, which extends from receipt points in and around the Gulf Coast to delivery points in the St. Louis area.

10. MGE obtains its gas supplies utilizing the Panhandle Eastern, Williams Natural Gas, KN Energy Pony Express and Kansas Pipeline Operating Company pipelines. The differences in source of supply and pipeline requirements between the pipelines supplying MGE and that supplying Laclede make a valid comparison almost impossible. Therefore, MGE suggests that the Staff Motion be denied as the comparison proposed by Staff would not be meaningful to a Commission decision in this proceeding.

11. Second, MGE is concerned that parties cannot be provided with an adequate opportunity to assess and respond to any comparison created by the Staff. The Staff has suggested that it will treat the local distribution company “information as highly confidential and subject to the protective order” adopted in this case. This means that essentially each local distribution company, to include Laclede, will be able to see only one line of the “comparison” – the line that contains their own information. This is because the Protective Order states that “materials or information designated as HIGHLY CONFIDENTIAL . . . may be reviewed only by attorneys or outside experts who have been retained for the purpose of this case. . . .” (Provision C).

12. The protective order provisions are very important because the underlying information at issue – gas supply contracts and terms and discount arrangements – impact upon contract negotiations. However, if the Staff is allowed to use this information in a company-specific proceeding such as this, it creates an unmanageable web of protection where not only Laclede, but

also other parties, are denied a meaningful opportunity to be heard as to the information viewed by the Commission.

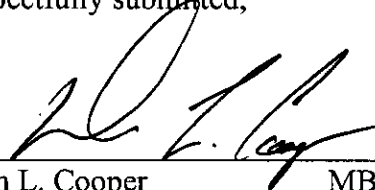
13. A similar point was recently made by the Staff itself in Commission Case No. GO-2001-249. The Staff's Suggestions in Opposition to Missouri Gas Energy's Application to Intervene stated in part that "[t]he presence of intervenors who are possible competitors of [UtiliCorp], such as MGE, will unduly chill the unfettered access to highly sensitive information . . . The participation of private intervenors will raise procedural issues, resolution of which will unduly prolong the process in this case to the detriment of the public interest." (p. 3). Similarly, in this case, the use of the subject information pertaining to several possible competitors will serve to chill access to such information and greatly complicate the progress of this case the very items about which Staff was concerned.

14. Accordingly, for the reasons stated herein, the Staff Motion should be denied by the Commission.

WHEREFORE, MGE respectfully requests the Commission issue an order:

- a) granting MGE's application to intervene;
- b) denying Staff's Motion for Order Permitting Use of Information and for Expedited Treatment; and,
- c) granting such further relief as may be reasonable, just and consistent with the relief requested herein.

Respectfully submitted,



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ATTORNEYS FOR MISSOURI GAS ENERGY, A
DIVISION OF SOUTHERN UNION COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was either hand-delivered or mailed, U.S. Mail, postage prepaid, on this 24th day of April, 2001, to the following:

Mr. Doug Micheel
Office of The Public Counsel
P. O. Box 7800
Jefferson City, MO 65102

Mr. Michael C. Pendergast
Laclede Gas Company
720 Olive St., Room 1520
St. Louis, MO 63101

Ms. Diana M. Vuylsteke
Bryan Cave
211 N. Broadway, Suite 3600
St. Louis, MO 63102

Mr. James M. Fischer
Mr. Larry Dority
101 Madison, Suite 400
Jefferson City, MO 65101

Mr. Rob Hack
Missouri Gas Energy
3420 Broadway
Kansas City, MO 64111

Mr. David Meyer
Public Service Commission
200 Madison, Suite 100
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Mr. Thomas M. Byrne
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St. Louis, MO 63166-6149

