

RECEIPT
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Exhibit No.: _____
Witness: Kim Lambert
Sponsoring Party: Missouri Gas Energy
Case No.: GC-2003-0579

MISSOURI PUBLIC SERVICE COMMISSION

FILED

JAN 16 2004

Missouri Public
Service Commission

MISSOURI GAS ENERGY

CASE NO. GC-2003-0579

FILED

MAY 12 2004

Missouri Public
Service Commission

REBUTTAL TESTIMONY OF

KIM LAMBERT

Jefferson City, Missouri

January 2004

Exhibit No. 12
Case No(s) GC-2003-0579
Date 4-14-04 Rptr nr

RECEIVED

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REBUTTAL TESTIMONY OF KIM LAMBERT

CASE NO. GC-2003-0579

January 16, 2004

1 **Q. WOULD YOU PLEASE STATE YOUR NAME AND BUSINESS**
2 **ADDRESS?**

3 A. My name is Kim Lambert and my business address is 3420 Broadway, Kansas
4 City, Missouri 64111.
5

6 **Q. WHO ARE YOU EMPLOYED BY?**

7 A. I am employed by Missouri Gas Energy (MGE), a division of Southern Union
8 Company (Company), as Manager of Billing and Account Services.
9

10 **Q. PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND THE**
11 **NATURE OF YOUR DUTIES AS MGE'S MANAGER OF BILLING AND**
12 **ACCOUNT SERVICES.**

13 A. I have worked for MGE (or its predecessor companies) for 25 years, primarily in
14 the customer service area, in positions ranging from a front-line customer service
15 representative, to customer advisor, to supervisor of Large Volume services. My
16 present duties as manager of billing and account services include overseeing the
17 proper billing of all accounts and the collection of all monies owed to MGE, in
18 addition to many other functions.
19
20
21

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
2 **PROCEEDING?**

3 A. The purpose of my testimony is to rebut the direct testimony of Mr. Michael
4 McKinzy, the Complainant in this matter, and explain how MGE's actions are
5 supported by the facts and its tariff.

6
7 **Q. WHAT IS THE BASIS OF MR. MCKINZY'S COMPLAINT?**

8 A. Mr. McKinzy alleges that MGE wrongfully denied him gas service at 8004
9 Overton Road, Raytown, Missouri due to a past due bill for gas service owed by
10 his wife, Tamara Nance. In his complaint, Mr. McKinzy sought: 1) to have gas
11 service commenced to 8004 Overton Road; and 2) to have ceased—in relation to
12 his account for gas service at 8004 Overton Road—any collection efforts
13 regarding his wife's past due gas bill.

14
15 **Q. PLEASE EXPLAIN THE CHRONOLOGY OF EVENTS IN THIS**
16 **MATTER UP TO THE FILING OF MR. MCKINZY'S COMPLAINT.**

17 A. MGE's records show the following:

- 18 • February 16, 2003—Michael McKinzy is married to Tamara Nance.
- 19 • March 2, 2003—Michael McKinzy enters into a lease for a premise at
- 20 8004 Overton Drive. At this time, gas service to 8004 Overton Drive
- 21 is in the name of the property owner/landlord, Mr. and Mrs. Gerald
- 22 Lee.

- 1 • April 9, 2003—Michael McKinzy contacts MGE to request gas service
2 at 8004 Overton Drive, Account # 4590517547. Mr. McKinzy is
3 advised at this time that MGE needs the social security number of his
4 wife, Tamara Nance. Schedule KL-1 is a screen print of the customer
5 service system (“CSS”) entry made by MGE’s customer service
6 representative during this conversation with Mr. McKinzy.
- 7 • June 18, 2003—Gas service is shut off at 8004 Overton Drive pursuant
8 to the request of the property owners/landlords. Prior to that time, gas
9 service was being provided under the homeowner’s name, Gerald Lee.
10 Mr. Lee contacted MGE and requested the gas to be disconnected. Mr.
11 Lee said the tenant did not connect the gas after having lived there for
12 three months. Schedule KL-2 is a screen print of the CSS entry made
13 by MGE’s customer service representative during this conversation
14 with Mr. Lee. Schedule KL-3 is a screen print of the CSS entry made
15 by MGE’s service person who turned the gas service off pursuant to
16 Mr. Lee’s request.
- 17 • June 18, 2003—Michael McKinzy requested that MGE leave gas
18 service on at 8004 Overton Drive. Mr. McKinzy provided the social
19 security number of his wife, Tamara Nance. MGE’s investigation
20 revealed that between December 17, 1998 and March 30, 1999,
21 Tamara Latrece Nance had gas service at 3928 Highland Avenue,
22 Kansas City, Missouri. A debt of \$449.96 remained due to MGE on
23 that account.

- June 18, 2003—MGE personnel informed Mr. McKinzy that ½ of the debt owed under Tamara's name (\$224.98) must be paid before gas service would be commenced at 8004 Overton Drive.
- June 18, 2003—Michael McKinzy disputed the billing, stating that he was not married to Tamara at the time the gas was used and has never lived at 3928 Highland Avenue.
- June 30, 2003—Michael McKinzy files a complaint with the Missouri Public Service Commission (the "Commission").

Q. DID MGE ACT WITHIN ITS TARIFF AUTHORITY IN REFUSING TO COMMENCE SERVICE TO MR. MCKINZY?

A. Yes. The information in MGE's possession as of June 18, 2003, (e.g., the fact that Mr. McKinzy and Ms. Nance were husband and wife) reasonably led MGE personnel to conclude that Tamara Nance was a member of Michael McKinzy's household at 8004 Overton Drive. Consequently, MGE was permitted to refuse to commence supplying gas service to 8004 Overton Drive due to Tamara Nance's past due balance under Section 3.02 of MGE's tariff (on Sheet Nos. R-19 and R-20), which provides as follows:

Company shall not be required to commence supplying gas service if at the time of application, the applicant, or any member of applicant's household (who has received benefit from previous gas service), is indebted to Company for such gas service previously supplied at the same premises or any former premises until payment of such indebtedness shall have been made. This provision cannot be avoided by substituting an application for service at the same or at a new location signed by some other member of the former customer's household or by any other person acting for or on behalf of such customer.

1
2 In order to expedite service to a customer moving from one location
3 to another, Company may provide service at the new location before
4 all bills and charges are paid for service at the prior location.
5 Company reserves the right to transfer any unpaid amount from prior
6 service(s) to a current service account. Such transferred bills are then
7 subject to the provisions off Sections 7.07 and 7.08 herein.
8

9 Because MGE had good reason to believe that Tamara Nance was a member of
10 Michael McKinzy's household, MGE was within its rights to refuse to commence
11 service at 8004 Overton Drive on the basis of Tamara Nance's past due balance.
12 In fact, by offering to commence service upon payment of only 50% of Tamara
13 Nance's past due balance, MGE extended a more favorable pay arrangement than
14 required by tariff because Section 3.12 on Sheet Nos. R-30 and R-31 of MGE's
15 tariff permit MGE to require that 100% of the outstanding balance be paid before
16 reconnecting service.
17

18 **Q. HAS MGE SINCE COMMENCED GAS SERVICE TO 8004 OVERTON**
19 **DRIVE?**

20 **A.** Yes. Upon reviewing the Staff Report of Investigation and Recommendation,
21 filed herein on or about September 8, 2003, MGE concluded that the only
22 indicators in MGE's possession at the time showing Tamara Nance to be a
23 member of Michael McKinzy's household at 8004 Overton Drive were: 1) that
24 Michael McKinzy listed his spouse at the time of applying for service; and 2) the
25 common expectation that husband and wife typically live together in the same
26 household. In weighing these indicators against Michael McKinzy's statement,
27 which the Commission Staff clearly believed to be true, that Tamara Nance did

1 not live at 8004 Overton Drive, MGE determined that Tamara Nance might not be
2 a member of Michael McKinzy's household. Consequently, MGE contacted
3 Michael McKinzy on the afternoon of September 10, 2003 and gas service was
4 commenced to 8004 Overton Drive on September 11, 2003. In addition, Mr.
5 McKinzy's account was noted such that the debt of his wife, Tamara Nance,
6 would not be transferred to the account for gas service at 8004 Overton Road
7 absent evidence that Tamara Nance is living there.

8
9 **Q. IS MGE COMPLETELY SATISFIED THAT TAMARA NANCE DOES**
10 **NOT, AND DID NOT DURING THE PERIOD OF JUNE 18 THROUGH**
11 **SEPTEMBER 11, 2003, LIVE AT 8004 OVERTON DRIVE SUCH THAT**
12 **SHE WOULD NOT REASONABLY HAVE BEEN CONSIDERED A**
13 **MEMBER OF MICHAEL MCKINZY'S HOUSEHOLD?**

14 **A.** No. In addition to the indicators I referred to earlier (e.g., information provided
15 by Michael McKinzy; and common expectation as to typical living arrangements
16 of husband and wife), information MGE acquired later tends to establish Tamara
17 Nance's membership of Michael McKinzy's household at 8004 Overton Drive.

18
19 **Q. TO WHAT INFORMATION ARE YOU REFERRING?**

20 **A.** In particular, when MGE personnel contacted Michael McKinzy on the afternoon
21 of September 10, 2003 to schedule connection of service, the telephone was
22 answered by a female who left the clear impression that she was the wife of
23 Michael McKinzy when she summoned Mr. McKinzy to the phone. Second, an

1 article in the October 16, 2003, edition of the *Kansas City Call* newspaper,
2 indicates that Tamara Nance was a member of Michael McKinzy's household
3 during the summer of 2003, by virtue of the following paragraph:

4 That's what McKinzy and his family were subjected to this
5 summer. For about a month, McKinzy and his new bride, Tamara,
6 along with McKinzy's four children from a previous marriage,
7 were forced to live without gas because of a prior gas service
8 situation involving his new wife.
9

10 Schedule KL-4, appended hereto, is a copy of the complete newspaper article.
11

12 Despite misgivings about the whereabouts of Tamara Nance, though, MGE
13 nevertheless commenced service to 8004 Overton Drive and has not, to date,
14 transferred the past due balance of Tamara Nance to the gas service account for
15 8004 Overton Drive.
16

17 **Q. IS MGE PRESENTLY ENTITLED TO TRANSFER THE PAST DUE**
18 **BALANCE OF TAMARA NANCE TO THE GAS SERVICE ACCOUNT**
19 **FOR 8004 OVERTON DRIVE?**

20 A. Yes. On page 7 of his Direct Testimony, Mr. McKinzy clearly states that Tamara
21 L. McKinzy (formerly Nance) will begin living at 8004 Overton Drive on
22 December 24, 2003. This is clear evidence that she is now a member of Mr.
23 McKinzy's household. Section 3.02 of MGE's tariff provides that "Company
24 reserves the right to transfer any unpaid amount from prior service(s) to a current
25 service account." In accordance with this tariff provision, therefore, MGE intends

1 to transfer the \$449.96 past due balance of Tamara McKinzy (formerly Nance) to
2 the gas service account for 8004 Overton Drive.

3 **Q. WOULD YOU LIKE TO ADDRESS ANY OTHER MATTERS**
4 **CONTAINED IN MR. MCKINZY'S DIRECT TESTIMONY?**

5 A. Yes. Mr. McKinzy addresses a number of items that need correction, namely:

- 6 • On page 2 of his Direct Testimony, he alleges that in refusing to honor his
7 April 9, 2003, request to transfer gas service into his name, that MGE did
8 not restore service within the required time limits. This allegation is
9 unfounded because this is not a matter involving service restoration.
10 Service to 8004 Overton Drive continued until June 18, 2003, when it was
11 disconnected at the request of the customer, Mr. Gerald Lee. Service was
12 not discontinued for non-payment.
- 13 • On page 3 of his Direct Testimony, he alleges that in disconnecting service
14 on June 18, 2003, MGE wrongfully failed to provide the customer ten days
15 notice. This allegation is unfounded because service was disconnected on
16 June 18, 2003 at the request of the customer, Mr. Gerald Lee. Service was
17 not discontinued for non-payment.
- 18 • On page 3 of his Direct Testimony, he alleges that in disconnecting service
19 on June 18, 2003, MGE wrongfully failed to provide 24-hour notice. This
20 allegation is unfounded because service was disconnected on June 18,
21 2003 at the request of the customer, Mr. Gerald Lee. Service was not
22 discontinued for non-payment.

- 1 • On page 4 of his Direct Testimony, he alleges that MGE wrongfully
2 assessed him a \$20 connection fee when service was initiated on
3 September 11, 2003, and instead should have assessed a \$5 service
4 transfer fee. This allegation is unfounded because MGE was required to
5 physically initiate service at 8004 Overton Drive on September 11, 2003,
6 since service had been disconnected on June 18, 2003 (at the request of the
7 customer, Mr. Gerald Lee) and was therefore not continuing from a prior
8 customer. In any event, MGE waived the \$20 connect fee on October 22,
9 2003, in an effort to show good faith to Mr. McKinzy.
- 10 • On pages 4-5 of his Direct Testimony, he apparently alleges that MGE
11 used something other than reasonable diligence to furnish continuous gas
12 service. This allegation is unfounded because, as demonstrated in this
13 testimony, MGE personnel have gone to great lengths to communicate
14 with Mr. McKinzy and assess the facts surrounding this matter. It must be
15 remembered that MGE personnel also have a responsibility to use due
16 diligence to enforce the MGE tariff and collect amounts owed to MGE.
17 This is what the MGE personnel were doing.
- 18 • On page 5 of his Direct Testimony, he alleges that in disconnecting service
19 on June 18, 2003, MGE wrongfully discontinued service due to Mr.
20 McKinzy's failure to pay the bill of another customer when he received no
21 substantial benefit and use of the service. This allegation is unfounded
22 because MGE disconnected service on June 18, 2003 at the request of the
23 customer, Mr. Gerald Lee. Service was not discontinued for non-payment.

1

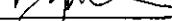
2 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

3 **A. Yes, at this time.**

OF THE STATE OF MISSOURI

Case No. GC-2003-0579

SS.


KIM LAMBERT

Kim W. Henry
Notary Public

My Commission Expires: Feb. 3, 2007

Kim W. Henzi
Notary Public - Notary Seal
State of Missouri
Jackson County
My Commission Expires Feb. 3, 2007

GERALD B LEE
8004 OVERTON AVE
RAYTOWN
F04KDL CCON CCPD

WK 913 831-1111
MO 64138 MLG HM 816 353-4710 G E
MEMO SCRATCH PAD INQUIRY

0902
10 09059
F RES 1572014362
01/12/04 13:05

DATE	TYPE	USER ID	CONTACT DESCRIPTION
04/09/03	OT	F04MAC	MICHAEL MCKENZIE SS 492761848 WILL CALL

REMARKS: BACK WITH WIFE'S SS BEFORE TURN ON.

NEXT FUNCTION:

DATA:

0032

GERALD B LEE
8004 OVERTON AVE
RAYTOWN
F04KDL CCON CCPD

WK 913 831-1111
MO 64138 MLG HM 816 353-4710 G E
MEMO SCRATCH PAD INQUIRY

0902
10 09059
F RES 1572014362
01/12/04 13:05

DATE	TYPE	USER ID	CONTACT DESCRIPTION
04/09/03	OT	F04MAC	WHEN TOLD THAT I WOULD NOT TURN ON SERVI

REMARKS: CE WITHOUT HIS WIFE" SS NUMBER, MICHAEL WENT AWAY FROM THE PHONE AND CAME BACK WITH IT....HE HAS ALREADY TOLD ME THAT HE AND WIFE HAVE ALREADY MOVED INTO THIS ADDRESS...TAMARA HAS BD FROM ACCT 5704570968 OF 449.96....WHEN TOLD THAT THIS HAS TO BE PAID BEFORE TURN ON HE THEN STATED THAT SHE DOES NOT LIVE WITH HIM, AND HE IS NOT GOING TO PAY HER PAST BILLS. ASKED FOR A SUP...

NEXT FUNCTION: DATA:

0032

GERALD B LEE
8004 OVERTON AVE
RAYTOWN
F04KDL

MO 64138 MLG HM 816 353-4710 G E
CCON CCPD MEMO SCRATCH PAD INQUIRY

WK 913 831-1111

0902
10 09059
F RES 1572014362
01/12/04 13:05

DATE	TYPE	USER ID	CONTACT DESCRIPTION
06/17/03	OT	F04BAP	NO MGE SUCC DUE TO OWNER MR LEE

REMARKS: TENANT HAS BEEN LIVING HERE FOR 3MONTHS..BEVERLY

NEXT FUNCTION:

DATA:

0032

SERVICE ADDRESS: 8004 OVERTON AVE
CUSTOMER NAME : LEE,GERALD.B
REQUESTED BY : GERALD
FIELD ORDER NO : 022429548

WORK DIST: 0538

SERVICE ORDER TYPE: SOTF
BILL ACCOUNT: 1572014362
COMPLETED BY: 04451
ACTION TAKEN:

TIMES: DISPTCH: 07:19
COMPLETED: 06/18/03

ACKDG:

ENRTE:

ARRVD: 14:15 LEFT: 14:41

SVC	METER NUMBER	MTR MFG	MTR LOC	SO ACT TF	STAT FND A	STAT LEFT I	INDEX 9534	REMOVE REASON
G	00092434	04	L5					

ISSUE RMKS: <TF> DO NOT LEAVE ON TENANT LIVING HERE FOR 3MONTHS
FIELD RMKS: MOBS SMRK WAITED WHILE CUST. CALLED PHONE CENTER

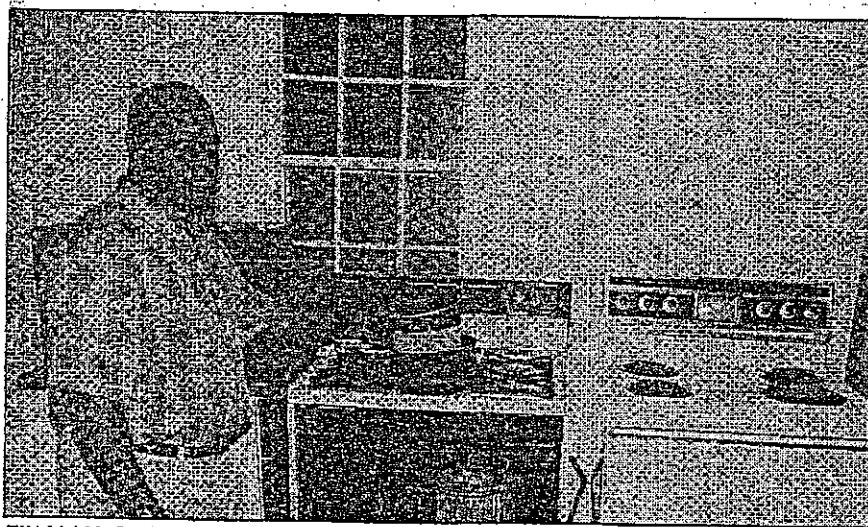
TOP OF LIST

NEXT FUNCTION:

DATA:

0032

Raytown Man Challenges PSC; Gas Service Restored To Home



FINALLY, GAS IN THE HOME. ... Mike McKinzy went without gas in his home for six months because of controversy with the Public Service Commission over a previous bill. McKinzy recently won a lawsuit in court that forced the Commission to turn his gas back on. -- CALL photo by Rex Purefoy

By Tracy Allen

No one said married life would be easy.

But, Mike McKinzy of Raytown, Mo., thought it wouldn't cost him the luxury of living in a home without gas.

That's what McKinzy and his family were subjected to this summer. For about a month, McKinzy and his new bride, Tamara, along with McKinzy's four children from a previous marriage, were forced to live without gas because of a prior gas service situation involving his new wife.

For McKinzy, life without gas meant purchasing an electric stove to heat water just so he and his family could take baths. It also meant heating water just so dishes could be cleaned and clothing items could be washed.

The toil of having to purchase new appliances plus, life without gas for a period of time, was no fun for McKinzy or his family.

"I've been borrowing water to take baths and wash dishes," McKinzy said. "I was preparing to go through winter surviving any way I could."

That's why he's suing those at the Missouri Gas Energy service for what he calls "undo hardship and emotional pain suffered from the loss of gas service", which he said was not his fault. McKinzy is

seeking punitive damages in the seven-digit range.

The problem began immediately after McKinzy remarried and moved to another resident. When McKinzy tried to switch his utility service from one Raytown residence to another Raytown address, he found out that MGE would not turn on gas service at his new residence because of a utility bill at his new bride's former residence.

According to McKinzy, he was told by MGE that it would not connect gas service to McKinzy's current residence because a \$450 bill in his new wife's name had gone unpaid.

McKinzy, who divorced his previous wife in 2002, remarried in February. In March, he leased his current home in Raytown. He learned the owner of the property relinquished his responsibility for gas service and switched it over in McKinzy's name. MGE asked for Mrs. McKinzy's social security number. They learned about the \$450 unpaid gas service at her residence in Kansas City, Mo., and MGE told McKinzy that he would have to pay his new wife's unpaid balance or lose service.

McKinzy informed those at MGE that he couldn't be held responsible for the "old bill" because he was not the one who incurred

the debt, and at the time the debt was made (December 1998 to March 1999), he did not know his current wife or about the "old bill" she owed.

McKinzy was in good standing with MGE when it came to his bill at his former residence. MGE however, unwilling to adhere to McKinzy's statements regarding why he shouldn't be held responsible to pay for a "third party" bill, turned off the Raytown man's gas and ordered that he pay his new wife's "old bill" in order to have gas service restored at his current residence.

McKinzy refused and MGE took it upon themselves to put McKinzy and his family through a period where they lived without gas service at their current residence.

Of course, unwilling to lose the battle, McKinzy filed a complaint June 30 with the Missouri Public Service Commission, which eventually launched an investigation. The Commission later returned a decision that stated that McKinzy could not be held responsible for his new wife's "old bill".

The PSC stated that McKinzy should never have lost his gas service. Because he did not, himself, incur the debt of his new wife and since she does not currently live in the same household that

he resides in Raytown, he is not responsible for the bill.

The MGE has stated that it will use other means to get McKinzy's wife to pay the "old bill".

McKinzy, though, isn't satisfied. Knowing that the winter months are approaching, McKinzy has filed a lawsuit worth over \$1 million. He says he wants to make sure that MGE doesn't take advantage of other customers.

McKinzy also stated that he wasn't sure at one point whether he or his children would be forced to spend a winter without gas. And, he wasn't looking forward to having to heat up any water for baths, either.

And to make matters worse, McKinzy has to pay for a new electric stove simply because he wasn't sure whether MGE would make him and his family endure a long, cold winter without gas. Another note of irritation was an MGE staff person who told McKinzy that "be careful who you marry".

McKinzy is determined to make sure that this incident doesn't happen again. He says he's already aware of a couple of families who have been faced with gas service disconnection due to a "third party" situation.

"The way MGE handled it, it was an intimidation tactic," said McKinzy. "When you're the customer at the mercy of MGE, what else can you do?"

File a lawsuit, says McKinzy, who had to endure a six-month ordeal with MGE just to get his gas service restored.

"I'm sure there are other customers in the same situation I was in," said McKinzy, who now has an electric bill well over \$500 because of the new electric stove he had to buy to heat water.

"I feel if I was unjustly made to pay for gas service that wasn't mine, I'm sure there are others facing a cold winter for unjustified reasons," McKinzy said.

The Call

Oct 10-16
2003

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