

# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of the Application of Missouri Gas )  
Energy, a Division of Southern Union Company, for )  
a Certificate of Public Convenience and Necessity ) **Case No. GA-2007-0289, et al.**  
Authorizing it to Construct, Install, Own, Operate, ) Tariff No. YG-2008-0691  
Control, Manage and Maintain a Natural Gas ) Tariff No. YG-2008-0703  
Distribution System to Provide Gas Service in Platte )  
County, Missouri, as an Expansion of its Existing )  
Certified Area )

### **ORDER APPROVING MISSOURI GAS ENERGY'S COMPLIANCE TARIFF FILINGS**

Issue Date: September 11, 2008

Effective Date: September 24, 2008

#### **Background**

On February 14, 2008,<sup>1</sup> the Commission issued its final Report and Order in this matter bearing an effective date of February 24. In ordered paragraph 8 of that order, the Commission directed Missouri Gas Energy ("MGE") and The Empire District Gas Company ("Empire") to file revised tariff sheets identifying which types of certificates they have (i.e. transport, line, or service area certificates) in all of the areas in which they hold any type of certificate to provide any type of natural gas service. The Commission set a deadline of May 26 for the filing of the revised tariff sheets.<sup>2</sup>

On May 20, in its attempt to comply with the Commission's order, MGE submitted proposed revisions to its P.S.C. MO. No. 1, tariff sheets. The filing was assigned Tariff

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<sup>1</sup> All dates throughout this order reference the year 2008 unless otherwise noted.

<sup>2</sup> See *Order Setting Deadline for Tariff Filings*, issued February 26, 2008.

Tracking No. YG-2008-0691 and the revised tariff sheets had an effective date of June 20. On May 23, in its attempt to comply with the Commission's order, Empire submitted proposed revisions to its P.S.C. MO. No. 2, tariff sheets. The filing was assigned Tariff Tracking No. YG-2008-0703 and the revised tariff sheets had an effective date of June 22.

The Commission directed its Staff to review the revised tariff sheets and file a report and recommendation as to whether MGE and Empire were in compliance with the Commission's Report and Order with regard to revising their tariff sheets. On June 6, Staff filed a motion for an extension of time to complete its recommendations concerning these compliance tariffs. Staff stated that extensive review was required in order for it to provide its recommendations and Staff requested that the deadline for the recommendations be extended until July 18.

Because Staff requested an extension beyond the effective dates of the submitted tariffs, and because Staff did not request the Commission to suspend the tariffs while it completed its evaluation, the Commission directed MGE and Empire to respond to Staff's request. MGE and Empire both responded and voluntarily extended the effective dates of their compliance tariff filings so that Staff could have its requested extension of time.

MGE extended the effective date of its tariff until August 1 and Empire extended the effective date of its tariff until July 22.<sup>3</sup> With the effective dates extended, the Commission granted Staff's request; however, given that Empire's extension was only until July 22, the Commission only granted Staff an extension of time for its

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<sup>3</sup> Both companies filed substitute tariff sheets reflecting the revised effective dates.

recommendation until July 15 so the Commission would have sufficient time to suspend any tariff that was not in compliance with the February 14 Report and Order.

### **Staff's Initial Recommendation and Tariff Suspensions**

On July 15, Staff filed its recommendation. The Commission notes that it appeared Staff elected to address a broader issue in its recommendation than was encompassed in the Commission's February 14 Report and Order. Specifically Staff adopted the position that the Commission's Order makes Empire and MGE responsible for the accuracy of their tariff sheets and that any discrepancy between Commission's Orders granting Certificates of Convenience and Necessity ("CCNs") and the Commission-approved tariff sheets would violate the Commission's Order. To account for Staff's interpretation of the Commission's Order, Staff believed that the compliance tariffs should include the following language:

Orders granting the service territory take precedence in any discrepancies between them and the information listed above. More detail is available in the orders, and the above should not be relied upon for detailed territory boundaries.

Based upon Staff's suggested condition it recommended that the Commission should approve Empire's compliance filing, containing the suggested language, and reject or suspend MGE's compliance filing which lacked Staff's suggested language. Staff further claims that it discovered what it believes are some discrepancies between MGE's Commission-approved tariffs and the Commission's orders granting MGE CCNs.<sup>4</sup>

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<sup>4</sup> Staff states that it examined MGE tariff sheets and Commission Orders regarding Buchanan County (Sheet No. 6.1), Howard County -- Armstrong and Fayette (Sheet No. 6.7), and Saline County from Marshall to Slater (Sheet No. 6.16) and that it found what it believes are the following discrepancies between the Commission's Orders and the Commission-approved tariffs:

Because of Staff's initial recommendation concerning the compliance filings, the Commission suspended the compliance tariffs filed by both Empire and MGE to allow the parties a full and fair opportunity to respond to Staff's suggested tariff condition.<sup>5</sup> The tariff filings were suspended until October 1.

### **MGE's Substitute Tariff Sheets and Staff's Current Recommendation**

On August 25, MGE filed substitute tariff sheets, which it represented to have corrected any discrepancies identified by Staff and to be in compliance with the Commission's February 14 Order. On August 29, Staff filed its recommendation for approval of MGE's substitute tariff filings. Staff is no longer seeking the additional language it had suggested in its July 15 recommendation.

On September 2, Empire filed a response to Staff's recommendation. Empire states that it believes that Staff's original recommendation should be followed and that the additional language should be included in the tariff filings. Empire notes that it included that language in its May 23 compliance filings and further notes that if MGE is

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1) In Buchanan County Staff found a typographical error where three sections from Clay County were listed in Buchanan County.

2) In Howard County whole sections were listed around Armstrong where the metes and bounds descriptions only included small parts of these sections.

3) For the city of Fayette, in Howard County, MGE only has a certificate for the community, but includes in Tariff Sheet No. 6.7 land sections in and around the city. At least two of these sections were likely too far outside Fayette to include any customers, but Staff has not been able to verify this.

4) In Saline County, Staff found that MGE was in violation of Commission Supplemental Order in Case No. 15,176 by not eliminating several sections near Marshall from its service area.

5) In Saline County there are some other sections near Marshall where MGE is authorized to serve part of the section and Empire serves another part of that section resulting in both Companies listing that section in their tariff.

<sup>5</sup> Section 393.150, RSMo 2000, authorizes the Commission to suspend tariffs submitted by a gas corporation for a period of 120 days plus six months.

not required to include this additional language that it should not be required to include it.<sup>6</sup>

On September 4, MGE responded to Empire's response to Staff's recommendation. MGE represents that it has corrected the tariff discrepancies identified by the Commission's Staff, that inclusion of the additional language originally proposed by Staff does not alter the legal status of Commission approved tariffs, and that any future issue identified with regard to discrepancies in the identified service areas of MGE and Empire can, if necessary, be addressed in a subsequent complaint action.

The Commission has reviewed MGE's substitute compliance tariff filings, Staff's recommendation and the parties' responses. The Commission finds MGE's tariff filings to be in compliance with the Commission's February 14 Order and will approve them to be come effective on September 24.

**IT IS ORDERED THAT:**

1. The compliance tariff sheets issued by Missouri Gas Energy on August 25, 2008, bearing the effective date of September 24, 2008 and assigned tariff number YG-2008-0691, are approved to become effective on September 24, 2008. The tariff sheets approved are:

**P.S.C. MO. No. 1**

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**Third Revised Sheet No. 6, canceling Second Revised Sheet No. 6  
First Revised Sheet No. 6.1, canceling Original Sheet No. 6.1  
First Revised Sheet No. 6.2, canceling Original Sheet No. 6.2  
Fourth Revised Sheet No. 6.3, canceling Third Revised Sheet No. 6.3  
First Revised Sheet No. 6.4, canceling Original Sheet No. 6.4  
First Revised Sheet No. 6.5, canceling Original Sheet No. 6.5**

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<sup>6</sup> The Commission's July 17, 2008 suspension order set September 4, 2008 as the deadline for requesting a hearing concerning Staff's original proposal for inclusion of this language. No party requested a hearing on this issue within the deadline set by the Commission.

**First Revised Sheet No. 6.6, canceling Original Sheet No. 6.6**  
**Fourth Revised Sheet No. 6.7, canceling Third Revised Sheet No. 6.7**  
**First Revised Sheet No. 6.8, canceling Original Sheet No. 6.8**  
**First Revised Sheet No. 6.9, canceling Original Sheet No. 6.9**  
**First Revised Sheet No. 6.10, canceling Original Sheet No. 6.10**  
**First Revised Sheet No. 6.11, canceling Original Sheet No. 6.11**  
**First Revised Sheet No. 6.12, canceling Original Sheet No. 6.12**  
**Second Revised Sheet No. 6.13, canceling First Revised Sheet No. 6.13**  
**Third Revised Sheet No. 6.14, canceling Second Revised Sheet No. 6.14**  
**Second Revised Sheet No. 6.15, canceling First Revised Sheet No. 6.15**  
**First Revised Sheet No. 6.16, canceling Original Sheet No. 6.16**  
**Fifth Revised Sheet No. 7, canceling Fourth Revised Sheet No. 7**  
**Second Revised Sheet No. 8, canceling First Revised Sheet No. 8**

2. This order shall become effective on September 24, 2008.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Harold Stearley, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 11th day of September, 2008.