Exhibit No.: _____
Issues: Former Manufactured Gas Plant Remediation Activities
Witness: Derek J. Tomka
Sponsoring Party: Missouri Gas Energy
Case No.: GR-2009-0355
Date Testimony Prepared: September 28,2009

MISSOURI PUBLIC SERVICE COMMISSION

MISSOURI GAS ENERGY

CASE NO. GR-2009-0355

REBUTTAL TESTIMONY

OF

DEREK J. TOMKA

Jefferson City, Missouri

September 2009

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I. WITNESS INTRODUCTION

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

A. My name is Derek J. Tomka and my business address is 45 North Main Street, Fall River, Massachusetts, 02720.

Q. BY WHOM ARE YOU EMPLOYED?

A. I am employed by New England Gas Company, a division of Southern Union Company ("NEGC") as an Environmental Project Manager.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL EXPERIENCE.

A. I have a Bachelor of Science degree in Civil Engineering from the University of Rhode Island. I am a registered Professional Engineer (P.E.) in Rhode Island and Massachusetts. I am a Licensed Site Professional (LSP) in Massachusetts able to render LSP Opinions within the framework of Massachusetts environmental statutes and regulations. I also maintain a Class 2-I wastewater treatment plant operator's license in Massachusetts. I have over 15 years of experience in the field of civil and environmental engineering. My professional career began as a

consulting environmental engineer performing environmental site assessments and subsurface site investigations. In 1996, I joined ENSR International, where I performed subsurface explorations at a variety of contaminated sites across the country and internationally including retail and bulk petroleum facilities, airports, industrial facilities, Superfund sites, and former manufactured gas plants (MGPs). I also designed and operated remediation systems to treat contaminated soil and groundwater at a number of these sites. In 2004, I joined New England Gas Company as an Environmental Project Manager responsible for the overall management of New England Gas Company's contaminated site portfolio, consisting primarily of former MGPs. Over the past 10 years, my responsibilities have focused almost exclusively on the investigation, assessment, and risk-based closure of former MGPs. I have worked on over 30 former MGPs in six states, including Missouri.

Q. WHAT IS THE NATURE OF YOUR CURRENT DUTIES WITH REGARD TO NEGC AND MISSOURI GAS ENERGY (MGE)?

A. I currently manage NEGC's contaminated site portfolio, consisting of both former MGPs and remote disposal sites allegedly associated with former MGPs. I manage a team of outside environmental professionals, consisting of engineers, geologists, scientists, hydrogeologists, risk assessors, etc., in the assessment and closure of these contaminated properties. I am also responsible for financial project management of these projects and the reporting of project activity to the Massachusetts Department of Public Utilities. Furthermore, I serve as a corporate resource to Southern Union Company and its various business units with respect

to project management and site assessment activities relating to contaminated and former MGP sites. Since 2006, I have assisted MGE staff in the overall project management of MGE's remediation projects. I have assisted in the management of MGE's outside environmental professionals and I have been involved with assessment and remediation activities at 223 Gillis Street (Station B) in Kansas City and 402 Cedar Street in St. Joseph. I continue to assist MGE staff in the assessment and site closure activities of these and other sites in MGE's MGP portfolio.

II. PURPOSE

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

A. The purpose of my testimony is to respond to the Direct Testimony of Office of the Public Counsel ("Public Counsel") witness Ted Robertson as it relates to the types of environmental costs incurred by MGE during the test year, as well as the types of environmental costs MGE expects to incur in the near future.

III. ENVIRONMENTAL COSTS

Q. IS THERE A TYPE OF ENVIRONMENTAL COST THAT IS OF PARTICULAR SIGNIFICANCE FOR MGE?

A. Yes. MGE had significant costs during the test year associated with the clean-up of former MGP sites. I believe these costs will continue past the test year and into the future. It is my understanding that MGE has sought recovery of these expenses in this case.

Q. PUBLIC COUNSEL WITNESS ROBERTSON TAKES THE POSITION THAT COSTS RELATED TO THE REMEDIATION OF FORMER MGP SITES SHOULD NOT BE INCLUDED IN MGE'S COST OF SERVICE FOR A VARIETY OF REASONS. DOES MR. ROBERTSON DISCUSS WHETHER THERE IS A PUBLIC INTEREST ASSOCIATED WITH THE REMEDIATION OF THESE SITES?

A. No.

Q. DO YOU BELIEVE THAT THERE IS A PUBLIC INTEREST ASSOCIATED WITH THE FORMER MGP REMEDIATION EFFORTS THAT SHOULD BE RECOGNIZED BY THE COMMISSION?

A. Yes. As I will explain in my Rebuttal Testimony, a public interest in these efforts (and apparently a public benefit) has been identified by federal and state authorities.

Q. WHAT ARE, OR WERE, MANUFACTURED GAS PLANTS?

A. MGPs were industrial facilities that operated from the early 1800s to the mid 1900s in some parts of the country. These plants produced manufactured gas from feedstock such as coal, coke, and oil. The manufactured gas was then purified and distributed for lighting, heating, and cooking in area homes and businesses. With the introduction of interstate natural gas pipelines, MGPs were phased out beginning in the early to mid-1900s, depending on when piped natural

gas became available to the area. Gas utilities no longer operate MGPs to produce gas for distribution.

Q. WHAT ARE FMGP SITES?

A. Former MGP sites are the facilities at which the gas plants formerly operated. Gas plants were typically several acres in area to provide for the various processes as well as stockpiles of the feedstock materials. While the primary product of gas plants was manufactured gas, a number of other materials were generated in the process, including coke, tars, oils, phenols, ammonia, ash, clinker, slag, and various other chemicals and waste materials. Some of these materials were sold as raw materials to the chemical and manufacturing industry, while materials that could not be sold or were waste materials with no value were disposed of onsite or transported offsite for disposal. Some level of soil and groundwater contamination is typically encountered at former MGP sites that operated at the turn of the century and well before any federal or state environmental regulations were enacted. Site assessment activities of former MGP sites typically begin investigating the presence of any remaining MGP structures that might contain source materials and then investigating soil and groundwater outward from the potential source area. Soil and groundwater contamination is sometimes found to extend beyond the fenceline of the former MGP and onto privately owned property, which can further complicate site investigation activities.

Q. DOES MGE OWN ANY FMGP SITES?

A. MGE owns five former MGP sites that are currently undergoing remediation activity or have remediation activity planned in the near future. Those sites are located in St. Joseph, Joplin, Independence, and Kansas City (Station A and Station B). With the exception of the former MGP in Joplin, all of these sites are enrolled in the Brownfields/Voluntary Clean-up Program ("B/VCP") with the Missouri Department of Natural Resources ("MDNR"). MGE owns the site in Joplin; however, remediation activities are not underway and the site is not presently enrolled in MDNR's B/VCP.

Q. CAN YOU PLEASE DESCRIBE THE REGULATORY AND STATUTORY FRAMEWORK BEHIND THE REQUIREMENT TO REMEDIATE FMGP SITES?

A. Remediation actions at former MGP sites are driven by compliance with federal statutes and regulations – primarily compliance with the federal Comprehensive Environment Compensation and Liability Act (CERCLA, also known as the Superfund). CERCLA imposes strict, joint and several liabilities on present or former owners of properties where substances have been, or are threatened to be, released into the environment regardless of whether they directly released such substances into the environment. As such, CERCLA is "no-fault" legislation focused on the public interest associated with the clean-up of sites, not the assignment of blame or penalties.

Q. IS THE REMEDIATION PROCESS CLOSELY MONITORED BY GOVERNMENTAL AUTHORITIES?

A. State and/or federal environmental agencies exercise jurisdiction over the former MGP sites and regulate the investigative and remedial activities. MDNR requires such activities to be performed pursuant to Departmental Missouri Risk-Based Corrective Action (MRBCA) Technical Guidance. Companies performing investigative and remedial activity must submit work plans to the oversight agency for approval in each step of the investigative and remedial process. After submittal of proposed work plans or during the remediation process, agencies may require additional investigation or remediation activities which may affect the scope of the activities and the magnitude of the associated costs. The timing of an agency response to a submittal can vary significantly ranging from several weeks to several years.

Q. HAS MGE HAD A YEAR WHERE IT DID NOT HAVE SOME TYPE OF FMGP RELATED COST?

A. No. MGE has experienced costs associated with remediation for many years.

Q. DO YOU ANTICIPATE THAT MGE WILL EXPERIENCE ENVIRONMENTAL REMEDIATION COSTS IN THE FUTURE?

A. Yes. As noted above, MGE has several sites in MDNR's B/VCP and anticipates enrolling the Joplin site in the near future.

Q. CAN YOU ANTICIPATE MGE'S FUTURE COSTS FOR REMEDIATION ACTIVITIES?

A. No. Environmental site assessments seldom follow a straight line and are almost always iterative in nature, meaning that an initial soil sampling program will typically identify areas where soil contamination does not exist and other areas where contamination does exist requiring further assessment and delineation. The process is then repeated and repeated and repeated until all impacts in all media (e.g., soil, water, air, sediment) are identified and delineated to MDNR's risk-based target levels. The number of iterations depends upon the type and extent of contamination, subsurface geology, types of media affected, local hydrogeology, etc. For sites where little or no investigation has occurred, it is not possible to estimate costs beyond an initial investigation because it is not known with any certainty that any contamination exists. For sites where some investigation has occurred, ballpark cost estimates can be prepared using the collected data coupled with a number of assumptions. These ballpark cost estimates are inherently inaccurate because they rely upon assumptions rather than known facts; however, these ballpark cost estimates are often used for budgetary planning because they are the best tool available. As site information is generated, the new data can be added to the existing information to achieve a more accurate cost estimate. Stated simply, the more information available, the more accurate the cost estimate. Other significant variables that factor into the cost and time required to assess and remediate these properties include regulatory approvals and third-party negotiations. Regulatory approvals sometimes require additional assessment or different means or methods of remediation that were not originally contemplated. These changes often result in unforeseen schedule delays and additional costs. Additionally, when contamination is identified on private property, negotiations

to allow access can run smoothly or can drag on for years and result in considerable legal expenses.

Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy's Tariff Sheets Designed to Increase Rates for Gas Service in the Company's Missouri Service Area.	))))	Case No. GR-2009-0355

AFFIDAVIT OF DEREK J. TOMKA

STATE OF MA)
) ss.
COUNTY OF Bristol)

Derek J. Tomka, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

DEREK J. TOMKA

Subscribed and sworn to before me this 28 day of September 2009.

JAMES M. SWEENEY
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
April 12, 2013

Notary Public

My [illegible]