

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 Authorizing It to)
Construct, Install, Own, Operate, Control, Manage and) **Case No. GA-2007-0289**
Maintain a Natural Gas Distribution System to Provide)
Gas Service in Platte County, Missouri, as an Expansion)
of Its Existing Certified Area)

ORDER ADOPTING PROCEDURAL SCHEDULE

Issue Date: April 5, 2007

Effective Date: April 15, 2007

On January 31, 2007,¹ Missouri Gas Energy (“MGE”), a Division of Southern Union Company, filed an application with the Missouri Public Service Commission, pursuant to Section 393.170, RSMo 2000, requesting that the Commission grant it authority to “construct, install, own, operate, control, manage and maintain a system for the provision of natural gas service to the public pursuant to its approved rates, rules and regulations, in Sections 13 and 14, Township 52 North, Range 35 West in Platte County, Missouri.” On March 13, 2007, The Empire District Gas Company (“Empire”) was granted intervention in this matter. No other requests for intervention were received or granted.

On March 21, a prehearing conference was held and the parties were directed to jointly file a proposed procedural schedule. On March 28, MGE and Empire each filed a proposed procedural schedule. There are major differences between the two proposals

¹ All dates throughout this order refer to the year 2007 unless otherwise noted.

because Empire represents that it will be filing its own application for a certificate of convenience and necessity covering the same territory for which MGE is seeking a certificate and suggests the cases be consolidated. Empire anticipates that it will be filing its application on May 31, and its proposed procedural schedule culminates with an evidentiary hearing being held on October 25-26. MGE, on the other hand, asserts that the Commission should not delay with proceeding on its currently filed case based upon Empire's anticipated future action. MGE's procedural schedule culminates with an evidentiary hearing being held on August 23-24. MGE and Empire both represent that the Staff of the Missouri Public Service Commission and the Office of the Public Counsel have no objections to either schedule.

Commission Rule 4 CSR 240-2.080(7) and Supreme Court Rule 55.03(b) provide that when a party presents a request in a pleading, signed by the party or their attorney, that they are certifying to the best of the signer's knowledge, information, and belief that the request is not being presented or maintained for any improper purpose, such as to harass or cause unnecessary delay. Empire's request that the Commission adopt its proposed procedural schedule takes into consideration their anticipated case filing and the practicality of consolidating the two cases. There is no reason to believe that Empire's request is intended to cause unnecessary delay, or that the two month difference between the proposed hearing dates would in any way prejudice MGE. Because the two cases would involve identical subject matter the consolidation of the cases would, as Empire correctly notes, effectuate the most efficient use of the Commission's and parties' time and resources.

The Commission has reviewed the proposed procedural schedules and finds it reasonable to adopt Empire's procedural schedule. The Commission also finds that the following conditions shall apply to the procedural schedule:

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) The parties shall agree on and file a joint list of issues to be determined herein by the Commission. The requirements for issue format set forth in 4 CSR 240-2.080(21) are waived. Staff shall be responsible for actually drafting and filing the list of issues and the other parties shall cooperate with Staff in the development thereof. Any issue not included in the issues list will be presumed to not require determination by the Commission.

(C) Each party shall file a statement of its position on each disputed issue. Such statement shall be simple and concise, and may not contain argument about why the party believes its position to be the correct one.

(D) Each party shall file a list of the witnesses to appear on each day of the hearing and the order in which they shall be called. The parties shall establish the order of cross-examination and file a joint pleading indicating the same.

(E) All pleadings and briefs shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same list of issues as filed in the

case. The briefs must set forth and cite the proper portions of the record concerning the unresolved issues that are to be decided by the Commission.

(F) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only one copy of the exhibit is necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Regulatory Law Judge, and all counsel.

(G) The Commission's standard practice is that hearing transcripts will be available no later than ten business days following the close of the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the Regulatory Law Judge at least five days prior to the date of the hearing.

(H) A settlement shall not be grounds for continuing the hearing unless a written settlement agreement resolving all issues is filed with the Commission prior to the request for continuance.

(I) The parties may file proposed findings of fact and proposed conclusions of law. To be considered, the proposed findings of fact must cite to the proper portions of the record.

IT IS ORDERED THAT:

1. The procedural schedule is adopted as follows:

Direct Testimony by all Parties	-	July 2, 2007
Rebuttal Testimony by all Parties	-	September 5, 2007
Surrebuttal Testimony by all Parties	-	September 28, 2007

Issues List, Order of Witnesses, Order of Cross-examination, and Order of Opening Statements	-	October 5, 2007
Position Statements	-	October 16, 2007
Evidentiary Hearing	-	October 25-26, 2007 beginning at 8:30 a.m.

2. The hearing will be held at the Commission's offices in the Governor Office Building, 200 Madison Street, Room 305, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). Any person who needs additional accommodations to participate in the hearing should call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

3. The parties are directed to comply with the conditions set out in this order.

4. This order shall become effective on April 15, 2007.

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 5th day of April, 2007.