

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

Ronald Kitchen,)	
	Complainant,)
)	
vs.)	Case No. GC-2006-0066
)	
Missouri Gas Energy,)	
	Respondent.)

MISSOURI GAS ENERGY'S VERIFIED ANSWER AND MOTION TO DISMISS

Comes now Missouri Gas Energy ("MGE"), a division of Southern Union Company, by and through counsel, and pursuant to 4 CSR 240-2.070, respectfully states the following to the Missouri Public Service Commission ("Commission") as its answer and affirmative defenses to the Complaint filed by Ronald kitchen:

1. MGE admits that it is a public utility subject to the jurisdiction of the Commission as provided by law.
2. Correspondence, communications, orders and decisions regarding this matter should b addressed to the undersigned counsel and:

Michael R. Noack
Missouri Gas Energy
3420 Broadway
Kansas City, MO 64111
816/360-5560
FAX: 816/360-5536
e-mail: mnoack@mgemail.com

3. Mr. Ronald Kitchen, Complainant, complains that, in 2003, MGE wrongfully transferred an outstanding balance owed by his daughter Jennifer Kitchen to Mr. Kitchen's account for gas at 10602 E. 20th St., Independence, MO.

4. MGE's records and investigation regarding this matter show the following facts:

- On September 17, 2003, Mr. Kitchen contacted MGE to reconnect gas service at 10602 E. 20th Street, Independence, Missouri. The balance on the account was \$389.36 and a payment of \$200.00 was verified to commence the reconnect order. The reconnect order was completed on September 18, 2003, as scheduled.
- Mr. Kitchen advised MGE that his daughter, Jennifer Kitchen, was living at the 10602 E. 20th Street premise. The bills for gas service to that premise were mailed directly to 10602 E. 20th Street. Jennifer Kitchen had an outstanding balance for gas service in the amount of \$241.71 (for service at 416 N. Emery St., Independence, MO, from July 1997 to April 1998).
- Mr. Kitchen's primary residence was 9822 Westport Road, Independence, MO – where he also had gas service in his name.
- Because Jennifer Kitchen was living at 10602 E. 20th Street and because she owed MGE a bill for gas service at a previous address, MGE transferred that outstanding balance to the account for gas service at 10602 E. 20th Street.

5. According to Section 3.02 on Sheet No. R-19 of MGE's tariff (as effective during this period of time – 2003):

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.

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

(Emphasis supplied)

Because this tariff provision was approved by the Commission and in effect at all times relevant to the MGE actions about which Mr. Kitchen complains, it carries the same force and effect of

law as a statute enacted by the legislature. *Bauer v. Southwestern Bell Telephone Co.*, 948 S.W.2d 568, 570 (Mo. App. E.D. 1997).

6. Jennifer Kitchen was indebted to MGE for gas service previously supplied at 416 N. Emery from July 1997 to April 1998. Mr. Kitchen sought reconnection of service at 10602 E. 20th Street. Because Jennifer Kitchen resided at 10602 E. 20th Street at the time Mr. Kitchen requested reconnection¹, MGE could have refused to reconnect service until her indebtedness had been paid, but MGE made the reconnection and transferred her outstanding balance to the account for gas service at 10602 E. 20th Street.² All of this action by MGE was clearly and unambiguously authorized by Section 3.02 of its tariff (shown above) in effect at the time of these events.

7. Except as expressly admitted in this answer, MGE denies each and every other allegation contained in the Complaint.

8. Further answering, MGE states that it has acted in accordance with its tariff.

9. Further answering and for its first affirmative defense, MGE states that the Complaint fails to state a claim upon which relief may be granted.

¹ That Mr. Kitchen advised MGE that Jennifer Kitchen resided at 10602 E. 20th Street during this time is evidenced by the customer contact notes made by the MGE customer service representative during the conversation with Mr. Kitchen on September 17, 2003, that resulted in the reconnect order. (A copy of these customer contact notes is attached hereto as Appendix 1) Further proving that Jennifer Kitchen resided at 10602 E. 20th Street is her Missouri Driver's License record on which Jennifer Kitchen listed 10602 E. 20th Street as her address when she made her driver's license application in 2002. (A certified copy of Jennifer Kitchen's Driver's License Record is attached hereto as Highly Confidential Appendix 2)

² In fact, Jennifer Kitchen agreed to pay the transferred balance during a conversation with an MGE customer service representative on September 19, 2003. (See Appendix 3)

WHEREFORE, having fully answered and set forth its affirmative defenses, Respondent MGE respectfully requests that the Commission dismiss the Complaint.

Respectfully submitted,

/s/ Robert J. Hack

Robert J. Hack
3420 Broadway
Kansas City, MO 64111
(816) 360-5755
FAX: (816) 360-5536
e-mail: rhack@mgemail.com

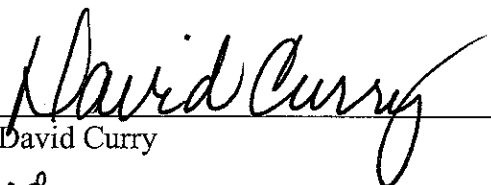
Herman A. Loepp MBE #52234
3420 Broadway
Kansas City, MO 64111
(816)360-5976
FAX: (816)360-5745
e-mail: wloepp@mgemail.com

Attorneys for Missouri Gas Energy, a
division of Southern Union Company

Verification

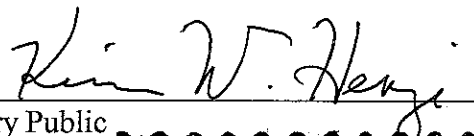
County of Jackson)
)
State of Missouri) ss

I, David Curry, having been duly sworn upon my oath, state that I am a customer service analyst for Missouri Gas Energy, that I have knowledge of the matters set forth in this Verified Answer and Motion to Dismiss, and that the matters and things stated in this Verified Answer and Motion to Dismiss and the appendices thereto are true and correct to the best of my information, knowledge and belief.



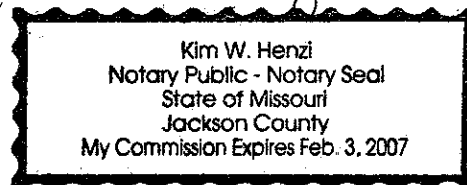
David Curry

Subscribed and sworn to before me this 2nd day of September, 2005.



Notary Public

My Commission Expires: Feb. 3, 2007



Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed on September 7, 2004, to:

Mr. Ronald Kitchen
9822 Westport Rd.
Independence, MO 64052

Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102

General Counsel's Office
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

/s/ Robert J. Hack
