

**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 an)	Case No. GU-2010-0015
Accounting Authority Order Concerning)	
Kansas Property Tax for Gas in Storage.)	

**PUBLIC COUNSEL’S REPLY TO MGE’S
RESPONSE TO PUBLIC COUNSEL’S MOTION TO DISMISS**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its reply to MGE’s Response to Public Counsel’s Motion to Dismiss states as follows:

1. On July 13, 2009, Missouri Gas Energy (MGE) requested an Accounting Authority Order (AAO) to allow MGE to defer Kansas property tax assessments for possible future recovery in MGE’s next rate case.

2. On August 6, 2009, OPC filed a Motion to Dismiss MGE’s Request for an AAO, or in the alternative, request for an evidentiary hearing. The basis for OPC’s Motion to Dismiss is that the potential Kansas property tax assessments are not extraordinary as required by the Uniform System of Accounts (USOA), and are not known and measurable since they would not occur until the end of 2009.

3. On August 14, 2009, MGE filed a response to OPC’s Motion to Dismiss. MGE’s first response is that the Commission approved a similar AAO several years ago in Case No. GU-2005-0095, and for that reason, should approve this AAO request as well. However, the Order granting MGE the previous AAO was issued on a 3-2 vote, with two Commissioners dissenting from the majority opinion. Furthermore, the GU-2005-0095 Order should not be relied upon because it does not apply the correct

“extraordinary item” definition as required by the USOA and 4 CSR 240-40.040. For example, the Order does not properly consider the requirement that the expenses must not be recurring. If MGE challenges the Kansas property tax, and the tax is found to be lawful, it will be an annual recurring expense that clearly fails to satisfy the “extraordinary item” definition. If the tax is found to be unlawful, MGE will not incur the tax expense and would have nothing to defer. Either way, an AAO is inappropriate and violates the USOA.

4. OPC asks that the Commission dismiss the case because a recurring and typical business expense does not satisfy the USOA definition of extraordinary items that may be deferred from the period in which they were incurred to a subsequent period for future recovery. Such a deferral distorts the true costs a company incurs and could lead to an over-recovery by MGE.

WHEREFORE, the Office of the Public Counsel respectfully offers this reply to MGE’s response to OPC’s Motion to Dismiss.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 24th day of August 2009:

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