BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Missouri Gas Energy's	)	
Increasing Rates for Gas Service Provided	)	Case No. GR-2006-0422
To Customers in the Company's Missouri	)	
Service Area	)	

STAFF'S PREHEARING BRIEF

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and respectfully submits as follows:

On July 13, 2006, the Commission issued its Order Regarding Procedural Schedule, Test-Year and True-Up Hearing. The Commission directed that all Prehearing Briefs brief the issues in the same order as presented in the List of Issues. On November 14, 2006, the Staff filed, on behalf of the parties, a Joint List of Issues, Calendar of Issues, Order of Witnesses, and Order of Cross-Examination (Issues List). This document was prepared and filed by Staff after consultation with the other Parties.

Staff's Pre-hearing Brief follows the Issues List and addresses each issue as discussed below:

On May 2, 2006, Missouri Gas Energy (MGE), a division of Southern Union Company, filed tariff sheets with the Missouri Public Service Commission (Commission) to implement a general rate increase for natural gas service in an annual amount of $41,651,345.

Introduction and Policy

In his direct testimony, MGE COO Robert Hack asserts that MGE is currently providing its customers with high quality service at very reasonable prices (Oligschlaeger Rebuttal, p. 7,

lines 17-22). This is certainly a desirable situation. However, Mr. Hack also criticizes selected ratemaking techniques used by the Commission in the past to set rates for MGE. Mr. Hack seems to believe that such techniques have stopped MGE from earning its authorized rate of return. Mr. Hack should certainly realize that no utility can reasonably expect to have its positions carry the day on every issue in every rate case. Utilities take the risk that rates filed by them will be inadequate or excessive each time they seek rate approval. *State ex rel. Utility Consumers Counsel of Missouri, Inc. v. Public Service Commission of Missouri,* 585 S.W. 2d 41, 59 (Mo Banc 1979).

In Missouri, the traditional ratemaking process gives a utility an opportunity to recover its costs and earn a reasonable return on its investment. If a utility's costs increase above the level upon which rates were set, then all other things being equal, a utility's earnings will decline (Oligschlaeger Rebuttal, p. 13, lines 5-8). If the decline in earnings were significant enough, the utility would expect to file for rate relief to have an opportunity to file for rate relief to have an opportunity to restore its earnings to a reasonable level (Oligschlaeger Rebuttal, p. 13, lines 5-10).

Staff approaches each case with an open mind. Staff followed that approach in this case. Staff's positions and recommendations on each issue in the List of Issues are discussed in this Prehearing Brief.

I. COST OF CAPITAL

a. Capital Structure and costs of capital other the common equity

What is the appropriate capital structure (i.e., the relative proportions of long-term debt, short-term debt, preferred equity and common equity) to use in calculating MGE's cost of service?

<u>What cost of long-term debt, short-term debt and preferred stock should be applied to the capital structure?</u>

Staff Witness David Murray ably described the proper approach for determining a utility company's cost of capital:

> Q. Please describe the approach for determining a utility company's cost of capital?
>
> A. The total dollars of capital for the utility company are determined as of a specific point in time. This total dollar amount is then apportioned into each specific capital component; i.e. common equity, long-term debt, preferred stock and short-term debt. A weighted cost for each capital component is determined by multiplying each capital component ratio by the appropriate embedded cost or by the estimated cost of common equity component. The individual weighted costs are summed to arrive at a total weighted cost of capital. This total weighted average cost of capital (WACC) is synonymous with the fair rate of return for the utility company.
>
> Q. Why is a total WACC synonymous with a fair rate of return?
>
> A. From a financial viewpoint, a company employs different forms of capital to support or fund the assets of the company. Each different form of capital has a cost and these costs are weighted proportionately to fund each dollar invested in the assets.
>
> Assuming that the various forms of capital are within a reasonable balance and are valued correctly, the resulting total WACC, when applied to rate base, will provide the funds necessary to service the various forms of capital. Thus, the total WACC corresponds to a fair rate of return for the utility company.

(Murray Direct, p. 17, lines 6-23). However, the cost of common equity must be determined by expert analysis.

Staff recommends that the appropriate capital structure to use for the determination of the cost of capital is Southern Union's actual capital structure, on a consolidated basis, as of the end of Staff's test year in this proceeding, December 31, 2005 (Murray Direct, p. 18, lines 1-7). MGE is a division of Southern Union. The resulting capital structure consists of 36.31 percent common stock equity, 57.57 percent long-term debt, 5.00 preferred stock and 1.11 percent short-term debt (Murray Direct, p. 18, lines 6-7). Staff believes that Southern Union's capital structure as of the true-up period may be the most appropriate capital structure. Staff will review this

information and update its recommendation in the true-up testimony (Murray Direct, p. 20, lines 14-16).

Staff recommended that the embedded cost of long-term debt for Southern Union as of December 31, 2005 was 7.70 percent, the embedded cost of short-term debt was 3.98 percent and the embedded cost of preferred stock was 7.76 percent (Murray Direct, p. 20, line 17 through p. 21, line 5; Schedule 22).

b. Return on Equity

What is the appropriate return on equity to use in calculating MGE's cost of service?

Staff's expert, David Murray, determined MGE's cost of common equity (ROE) at 8.65% to 9.25%, performing a comparable company analyzing six comparable companies using the discounted cash flow (DCF) model. (Murray Direct, p. 21, lines 9-10; p. 37, lines 21-23). Murray also used the capital asset pricing model to test the reasonableness of his DCF estimates (Murray Direct, p. 21, lines 15-16). Murray states, "I continue to believe that the DCF model is the most reliable model to use when estimating a utility company's cost of common equity." (Murray Direct, p. 4, lines 3-4).

II. INCOME STATEMENT-REVENUES

a. Weather Normalization

What is the appropriate measure of normal weather to be used in calculating 1) MGE's revenue requirement and 2) the billing determinants to be used in establishing MGE's volumetric rate elements?

Staff submits that the appropriate measure of normal weather to be used in calculating MGE's revenue requirement and the billing determinants to be used in establishing MGE's volumetric rate elements is a 30 year period (Wells Rebuttal, p. 1, lines 26-27; Wells Direct, p. 4, lines 8-16). Staff recommends, specifically, use of the National Oceanic and Atmospheric Association (NOAA) three decade time period to calculate normal weather (Wells Rebuttal, p. 2, lines 6-8). The current thirty year period used by NOAA is January 1, 1971, through December 31, 2000 (Wells, Rebuttal, p. 2, lines 9-10). NOAA recalculates a 30-year normal at the end of each decade to deal with changes in measurement conditions and changes in the climate itself (Wells Rebuttal, p. 2, lines 14-15). NOAA's goal is to have a stable normal for a weather variable while reflecting change in weather patterns (Wells Rebuttal, p. 2, lines 15-16).

Mr. Feingold's 10 year period does not meet these tests for reliability, ignores past Commission cases, is inconsistent with international meteorological convention, and ignores the purpose of adjusting volumes to normal HDDs in Missouri PSC rate cases (Wells, Rebuttal, pages 2-6). Staff's recommendation of 30 year normals meets all of these criteria and should be utilized by the Commission.

III. INCOME STATEMENT-EXPENSES

a. Property Tax Refunds

What is the proper treatment of $5,554,068 in property tax refunds received by MGE during the test year?

Staff recommends that $5,554,068 in property tax refunds MGE received during the test year be amortized as an offset to property tax expense over a five-year period. Staff's recommendation is conservative for it is a substitute for using the entire property tax refund as an offset to the Staff's recommended property tax expense in this proceeding.

Staff acknowledges that the extent of the property tax refunds received during the test year is abnormal, but abnormal events or occurrences should not be viewed as unusual or out of the ordinary for a company such as MGE.

If the Commission permits MGE to retain the entire property tax refund, it will effectively require MGE's ratepayers to provide cost-free capital to the company. Even under Staff's proposal, the Company will have the use of the funds for the amortization period and will retain the earnings power of the investment of those funds as well. (Winter Surrebuttal Testimony, pp. 1-3.)

Although the Company suggests that Staff's treatment is retroactive ratemaking, the Company is incorrect. (Noack Rebuttal Testimony, p. 7.) The refunds were received during the test year, and must be addressed in some fashion. The appropriate approach is to treat them as a deferred credit to offset property tax expense. The Staff's proposed rate making treatment of this positive event is consistent with the methodology that would be advanced for the financial repercussions of a negative event such as an ice or snow storm, flood or tornado. (Winter Surrebuttal Testimony, pp. 1-3.)

b. Unrecovered Cost of Service Amortization

Should MGE recover $15.6 million in rates amortized over five year for alleged revenue loss due to lower customer gas use for the period January through June, 2006?

This proposed adjustment consists of a five-year amortization of an alleged revenue deficiency caused by a shortfall in actual average gas use by customers for the months of January–June 2006, compared to the average customer gas use assumed when rates were last set by the Commission for MGE in Case No. GR-2004-0209 (Oligschlaeger Rebuttal, p. 2, line 20 through p. 3 line 2). MGE claims to have experienced a total loss of revenues of approximately $15.6 million from January through June of 2006 due to lower customer gas usage than assumed in MGE's last rate case (Oligschlaeger Rebuttal, p. 3, lines 5-8). MGE proposes to amortize this alleged loss over five years with an approximate $3.125 million of additional rate relief (Oligschlaeger Rebuttal, p. 3, lines 8-10).

This proposal violates fundamental ratemaking principles in that ratemaking should be a forward-looking and prospective process (Oligschlaeger Rebuttal, p. 3, lines 21-23). Utilities should bear the financial risk that its actual incurred cost of service may exceed the levels presumed in rates until the time that its rates are changed by the Commission to reflect the utility's higher cost of service (Oligschlaeger Rebuttal, p. 3, line 23 through p. 4, line 2). On the other hand, customers should bear the financial risk that a utility's incurred cost of service may be lower than the levels presumed in its rates, until the time that its rates are changed by the Commission to reflect the utility's lower cost of service (Oligschlaeger Rebuttal, p. 4, lines 2-5).

This proposal is retroactive ratemaking, which is the setting of rates to allow a utility to recover the specific costs of past events incurred by the utility so as to make utility shareholders "whole" or conversely, it is the setting of rates to reimburse customers related to past over-

earnings of a utility so as to make the customers "whole" (Oligschlaeger, p. 4, lines 6-13). Such instances are contrary to ratemaking practices, which seek to allow a utility to recover a normal ongoing level of costs (Oligschlaeger, p. 4, lines 10-13). MGE confessed that its proposal is retroactive ratemaking (Oligschaleger, p. 4, lines 19-20).

Retroactive ratemaking is prohibited in Missouri. *State ex rel Utility Consumers' Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d41, 59 (Mo. Banc 1979). Accordingly, the Commission should overrule MGE's attempt to engage in retroactive ratemaking. Likewise, an illegal concept cannot constitute an extraordinary event and thus MGE's request for an AAO should be denied.

c. Rate Case Expense

What is the appropriate amount and treatment of rate case expense, including amortization of prior rate case expense, in this case?

MGE seeks to recover of the unamortized portion of the rate case expense allowed in MGE's previous rate case (Mapeka Surrebuttal, p. 17, lines 17-19; Noack Rebuttal, p. 9-10). Staff does not agree that the Report and Order in GR-2004-0209 authorizes MGE to engage in retroactive ratemaking in this case. It simply is retroactive ratemaking to allow recovery of unamortized rate case expense from a prior rate case in the present case. *State ex rel Utilities Consumer Council of Missouri v. Public Service Commission of Missouri*, 585 S.W.2d 41, 59 (Mo. Banc 1979).

Accordingly, the Commission should overrule MGE's attempt to engage in retroactive ratemaking.

d. Depreciation Expense

What are the appropriate average service lives and net salvage values associated with MGE's plant to set the depreciation rates to be used in calculating MGE's cost of service?

Staff recommends the use of straight line, whole life depreciation rates to determine MGE's depreciation expense. The depreciation rates are based on Staff's estimate of average service life and future net salvage for each capital plant account (Macias Direct, p. 3 lines 12-14). Staff's recommendation is in conformance with the Commission's decision in ER-2004-0570 (Macias Direct, p. 4, lines 8-10). Staff further recommends that MGE be required to record depreciation accrual separated into its components, i.e., a life accrual and net salvage accrual (Macias Direct, p. 4 lines 15-18).

MGE, through problems of its own making, does not have plant vintages prior to 1994 (Macias Direct, p. 5, lines 10-24). Plant vintages prior to 1994 are rolled into a 1994 end of year balance and in time MGE will build a database sufficient for actuarial analysis (Macias Direct, p. 5, lines 19-24). Accordingly, Staff determined that the most appropriate approach was to use the life characteristics of a similar utility as a surrogate (Macias Direct, p. 6, lines 1-24).

MGE had sufficient data to determine company specific net salvage since all that is needed is the amount of plant retired. Staff calculated net salvage consistent with Commission decisions (Macias Direct, p. 7, lines 1-19).

Staff recommends that the Commission order the depreciation rates proposed in Mr. Macias' Direct Testimony, Schedule 2. Staff further recommends that MGE track the amounts accrued for the life portion and the net salvage portion of the booked annual depreciation accrual separately, consistent with the Commission's Third Report and Order in Case No. GR-99-315.

e. Low Income Weatherization/Natural Gas Conservation

What is the appropriate level of low-income weatherization funding to be used in calculating MGE's cost of service and how should such funding be allocated among the geographic regions of MGE's service territory?

Should funding for natural gas conservation programs be included in MGE's cost of service?

Staff supports MGE's proposal to increase the low-income weatherization by $100,000 and proposes that an additional $20,000 be allocated to evaluate the program's effectiveness in reducing low-income customers' natural gas usage and bills (Ross Rebuttal, p. 5, lines 16-20).

MGE has proposed a $45,000 educational program (Ross Surrebuttal, p. 10, line 1). The money will be used to pay for educational activities consisting of an on-line energy audit program, as well as other educational activities designed to increase customers' knowledge of energy efficiency (Ross Surrebuttal, p. 10, lines 1-4). Staff supports this proposal.

The second proposal is $705,000 for a water-heating rebate program (Ross Surrebuttal, p. 10, line 5). Staff supports this program and notes that water-heating is a significant part of a household's energy usage and that helping customers with the purchase of an energy efficient model would help many households (Ross Surrebuttal, p. 10, lines 5-12). Staff supports putting the $750,000 for low-income weatherization in Revenue Requirement as well as $100,000 for low-income weatherization.

f. Environmental Response Fund

Should the environmental response fund proposed by MGE be adopted and what, if any, level of environmental costs should be used in calculating MGE's cost of service?

This issue is about MGE's proposal to establish an Environmental Response Fund (ERF) to include $500,000 in rates to clean up sites where prior owners of MGE's properties formerly

operated a Manufactured Gas Plant (MGP) (Harrison Rebuttal, p. 2, lines 3-8). The ERF would work as a tracking mechanism by which unknown future amounts of MGE would be collected from customers through a separate rate element and later trued up by MGE to compare the amount of rate collections to the actual MGP expense incurred by MGE (Harrison Rebuttal, p. 2, lines 9-12).

MGE also proposes that 50 percent of any applicable insurance proceeds and/or contributions from Westar Energy and/or contributions from other potential responsible parties, less costs of obtaining such, would be credited to this fund and 50% would be credited to shareholders (Harrison Rebuttal, p. 2, line 13 through p. 3, line 13). In other words, ratepayers would pay for the entire amount and only get 50 per cent credit for any reimbursements.

Staff opposes MGE's proposed ERF in MGE's cost of service because, primarily, MGE and Western Resources (WRI) have already recognized and accepted that they also with their insurers and other parties are responsible for the costs of the MGP remediation. Further, MGE's proposed ERP fails the test that costs to be included in cost of service must be known and measurable. MGE cannot provide an estimate or projections of the dollar amount associated with the ERF. Furthermore, this proposal requiring current customers to pay for cost of service not recovered from past customers or be reimbursed for past over-payments in rates could constitute single-issue and retroactive ratemaking. Staff further suggests that since the shareholder receives either the gain or loss on an investment's disposal, then the shareholder should pay any expenses in this matter (Harrison Rebuttal, p. 5, line 9 through p. 6, line 19).

For these reasons, Staff opposes the ERF.

g. Infinium Software Amortization

Should the unrecovered cost associated with MGE's Infinium software be included in rates through an amortization and, if so, over what period should this cost be amortized?

The Inifinium software system is an intangible asset that MGE was using for its day to day operations until 2005, when the Company reclassified this asset as non-utility plant and is now using the software for time entry (Mapeka Rebuttal, p. 6, lines 1-3). Staff recommends a five year amortization on the unrecovered portion of the Infinium software amortization (Mapeka Rebuttal, p. 6, lines 17-18). Southern Union Company switched to the use of the Oracle software system in 2005 which caused MGE to discontinue use of the Infinium software (Mapeka Rebuttal, p. 6, lines 21-23). Staff believes that it is more efficient for Southern Union and MGE to use the same software to perform financial consolidations and providing consistent reports for the organization and it is less costly than for Southern Union and MGE to maintain two general ledger systems (Mapeka Rebuttal, p. 6, line 21 through p. 7, line 4). Staff proposes a five year amortization for this matter (Mapeka Rebuttal, p. 7, lines 6-8).

MGE concurs with Staff's proposal on this issue (Noack Surrebuttal, p. 17, lines 6-17). Staff recommends that the Commission rule in favor of Staff's recommendation on this issue.

h. Emergency Cold Weather Rule AAO Recovery Mechanism

What is the proper rate treatment for costs deferred under the Emergency Cold Weather Rule AAO Recovery Mechanism?

On December 13, 2005, in Case No. GX-2006-0181, the Commission approved an Emergency Amendment to the Cold Weather Rule, 4 CSR 240-13.055. The amendment only applied to providers of natural gas services to residential customers. The rule was effective from January 1, 2006 through March 31, 2006.

On August 7, 2006, MGE filed a Motion for an AAO in this case regarding the Emergency Cold Weather Rule. On September 21, 2006, the Commission issued an Order Granting an AAO. The Commission specified that MGE is authorized to maintain on its books a regulatory asset representing the costs of complying with the Emergency Cold Weather Rule 4 CSR 240-13.055(14). The Commission further ordered the Parties to advise the Commission on this issue in testimony and briefing.

Pursuant to this Order, Staff has verified that the costs which MGE is seeking to recover were accurately quantified and were incremental under the Rule. Staff proposed an adjustment to amortize these costs over a three-year period.

Like MGE (Noack Surrebuttal, p. 19, lines 13-18), Staff is unaware of any prefiled testimony by OPC or any other Party opposing Staff's position on this matter.

IV. CCOS, Rate Design and Miscellaneous Tariff Language

a. What is the appropriate rate design for the Residential Class?
b. What is the appropriate rate design for the Small General Service Class?
c. What is the appropriate rate design for the Large Volume Service Class?
d. What is the appropriate rate design for the Large General Service Class?

Rate Design / Rate Structure for Residential Class

For the Residential class, Staff recommends recovering the non-gas, or margin, costs in a fixed monthly charge, a Delivery charge (Ross Direct, p. 4, lines 16-18). Staff believes that customers within the Residential class are homogeneous with respect to cost factors related to the utility's actual cost of serving them, and that it is unfair to collect these costs from customers through a volumetric charge (Ross Direct, p. 3, line 21 through p. 4, line 12; Rebuttal, p. 3, lines 6-17). Volumetric charges collect an inordinate, unfair share of the Residential class's cost-of-service from higher-use customers (typically space- and/or water-heating) and smaller customers – for example, those using gas for cooking or fireplace logs – pay less than the cost required to

serve them (Ross Direct, p. 3, line 4 through p. 4 , line 12; Rebuttal, p. 3, lines 14-21; Surrebuttal, p. 5, lines 6-11). The subsidy flowing from higher- to lower-use households is especially harmful to the space-heating customers during the winter months because winter is when space-heating customers buy most of their gas for the year (Ross Surrebuttal, p.5, lines 8-9). As a result of concentrating so much gas purchasing in such a short buying period, the volumetric charge requires customers to pay most of their non-gas margin costs during the four month winter heating season. (Ross Surrebuttal, p. 5, lines8-9). When these customers need help the most, during the winter, they are paying the most for their gas. Staff's fixed Delivery Charge proposal corrects this unfairness.

Staff's cost recovery mechanism has other benefits for space-heating customers. The fixed Delivery charge reduces the volatility of a customer's bill from year to year, as well as a portion of the seasonal volatility experienced by space-heating customers. The fixed Delivery charge sends the correct price signals to customers, and may reduce the number of "limited use" customers who request gas service only for cooking or gas fireplaces (Ross Rebuttal, p. 4, lines 5-14). By approving Staff's proposed rate design, those customers opting to use gas for limited purposes will pay the true cost of delivery, which is the same cost of delivering gas to higher-use, space-heating customers.

One major customer benefit is the alignment of the objectives of the utility's shareholders with the interests of its customers. Because the utility's revenues would no longer depend on maximizing gas deliveries, the interests of its customers and shareholders will not be opposed. (Ross Direct, p. 8, lines 4-19; Rebuttal, p. 2, line 22 – p. 3, line 12). As a condition of the Commission's approval of the Delivery Charge, and the accompanying opportunity it provides the Company for achieving greater revenue stability, the Company will commit to implementing

conservation and efficiency programs that will educate customers about conservation measures, and help them purchase energy-saving equipment (Ross Direct p. 16, lines 8-15; Surrebuttal, p 6, lines 1-5; p. 10, lines 1-20).

By adopting Staff's proposed fixed Delivery Charge, the Commission will (1) insure that all customers pay the Commission-determined price for their gas service – no more, no less, (2) lower winter bills of most space- and water-heating customers, (3) send the correct price signals to customers for them to make energy investment decisions, (4) eliminate disincentives for MGE to promote energy-saving programs aimed at helping customers reduce their gas use, and (5) eliminate the need to implement and administer complex, hard to understand and hard to explain weather and conservation adjustment mechanisms as may be permitted under future rules enabling Senate Bill 179.

b. What is the appropriate rate design for the Small General Service Class?

While the same type of rate structure as Staff recommends for the Residential class would be appropriate for the smaller customers in the SGS class, the diversity in size and usage patterns among the SGS customers make if impossible to determine a fair Delivery charge for all customers that are currently taking service under the SGS tariff (Ross Direct, p. 16, lines 17-20). Staff recommends that the customers in this class be studied more closely to determine appropriateness for splitting this class into two or more groups (Ross Direct, p. 16, line 21 through p. 17, line 6).

c. What is the appropriate rate design for the Large Volume Service Class?

Staff recommends the current rate structure for the LVS-Sales and Transportation be continued (Ross Direct, p. 1, lines 26-27).

d. What is the appropriate rate design for the Large General Service Class?

Staff recommends the current rate structure for the LGS be continued (Ross Direct, p. 1, lines 27-28).

e. Seasonal Disconnects

Should the seasonal disconnect tariff language proposed by MGE (on Sheet No. R-31) be approved?

MGE's proposal addresses seasonal disconnections. MGE states that this proposal is intended to serve as a disincentive to seasonal disconnects (Ensrud Direct, p. 5, lines 23-24). Seasonal disconnects are usually customers who disconnect from service for a month or more, generally in the summer, and these customers then generally reconnect during the heating period (Ensrud Direct, p. 5 lines 24-26). The problem with these seasonal disconnect customers is that they shift costs to customers who remain connected to the system for the entire year (Ensrud Direct, p. 6, lines 1-3). These customers currently avoid paying the Customer Charge as well as the current Commodity Charge. Staff believes such conduct is intentional and harms other customers on the system by shifting fixed costs (Ensrud Direct, p. 6, lines 6-8).

Staff proposes a minor change to MGE's proposal. First, MGE would charge the traditional reconnection charge of $45. Additionally, Staff's proposal would permit MGE to accumulate the number of customer charges that a customer avoided when service was disconnected (Ensrud Direct, p. 7, lines 17-22).

Staff is willing to accept MGE's $45.00 traditional reconnection fee proposal (Ensrud Rebuttal, p. 1, lines 20-22) plus MGE's proposal to recapture up to seven-months of foregone Customer Charges.

V. **Miscellaneous**

a. Should the Commission order Staff's proposed PGA language to be put in MGE's Tariffs?

Staff proposes to add language to MGE's PGA tariffs requiring MGE to provide documentation which supports its gas procurement activity applicable to each ACA period (Allee Direct, p. 5, lines 5-20). MGE would supply this information to the Staff at the same time that it makes its annual ACA filing with the Commission (Allee Direct, p. 5, lines 13-15). Staff needs to receive the significant documentation regarding gas procurement to complete its ACA review. This is information that MGE already has and the provision of such documentation at the time of filing, rather than requiring time for other discovery methods, will make the ACA process more efficient (Allee Surrebuttal, p. 2, lines 6-18; Allee Surrebuttal, p. 3, lines 9-12). MGE can simply provide information that it already possesses at the filing of the ACA, thus avoiding the lag time associated with Data Requests and responses thereby speeding up the ACA process (Allee Surrebuttal, p. 3, lines 11-20).

The Commission must consider all relevant factors when setting rates. *State ex rel. Midwest Gas Users' Association v. Public Service Commission*, 976 S.W.2d 470, 479 (Mo. App. 1998). This certainly includes safe and reliable service at just and reasonable rates. The PGA clause not only sets out the PGA and ACA rates, but also dictates how the PGA and ACA rates shall be calculated. Along with this, the PGA clause contains requirements for documents that shall accompany all PGA filings. Staff submits that requirements for documents that shall accompany all ACA filings is an appropriate and logical addition to the PGA clause. A simple tariff change requiring MGE to provide preexisting information is appropriate and should be a simple noncontroversial matter.

b. Should the Kansas Property Tax AAO be continued past the expiration date ordered by the Commission in Case No. GU-2005-0095?

In Case No. GU-2005-0095, the Commission granted MGE authority to defer property taxes billed to it by Kansas taxing authorities for gas held in storage until a final decision on the legality of such taxation was issued in Kansas (Mapeka Direct, p. 26, lines 11-13). The deferral authority granted by the Commission to MGE applied to property taxes billed in Kansas for tax years 2004, 2005 and 2006 (Mapeka Direct, p. 26, lines 15-17). Staff recommends that the Commission, in the Report and Order in this case, grant MGE the authority to continue deferring these costs through the end of tax year 2007 or until a final decision is obtained in the Kansas courts, whichever occurs first (Mapeka Direct, p. 26, lines 15-18). MGE, at that time, will be ready to either amortize the deferred costs to expense or write-off the deferred amount as needed (Mapeka, p. 26, lines 18-20).

WHEREFORE, Staff respectfully submits Staff's Prehearing Brief.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 18th day of December 2006.

/s/ Robert V. Franson