

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

In the Matter of Missouri Gas Energy, a Division of )  
Southern Union Company, Concerning a Natural ) File No. GS-2013-0400  
Gas Incident at 910 West 48th Street in Kansas City, )  
Missouri. )

**STAFF RECOMMENDATION TO APPROVE**  
**HEARTLAND MIDWEST, LLC'S MOTION TO AUTHORIZE DEPOSITIONS**  
**AND MOTION FOR EXPEDITED TREATMENT**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its recommendation in this matter hereby respectfully states:

1. On October 31, Heartland Midwest, LLC (“Heartland Midwest”), filed a motion pursuant to § 386.480 RSMo., a statute prohibiting any officer or employee of the Commission from divulging any information furnished to the Commission by a corporation, person, or public utility, except on order of the Commission.

2. Heartland Midwest's motion requests an order of the Commission that would permit three members of the Commission's Gas Safety and Engineering Staff to discuss information furnished to those Staff members during the course of their investigation of the gas safety incident in this matter. For the reasons discussed below, Staff recommends the Commission grant Heartland Midwest's motion, subject to the limitations set forth therein.

3. This docket concerns a natural gas incident that occurred on February 19, 2013 at JJ's Restaurant in Kansas City, Missouri. Staff investigated the incident and filed its *Gas Incident Report* in this docket on February 6, 2014.

4. The explosion and fire that occurred at JJ's Restaurant is the subject of litigation among various parties. Heartland Midwest is one of the parties to that

litigation. Its October 31 motion requests a Commission order authorizing depositions of three Staff members who investigated the incident and produced Staff's *Incident Report*. Richard A. Fennel, Robert R. Leonberger, and Mark Struckhoff. The motion indicates the scope of the depositions will be limited to discussion of Staff's investigation, findings, analysis and conclusions regarding this incident, and discussion of Staff's filed *Gas Incident Report*.

5. Section 386.480 RSMo provides, in pertinent part:

No information furnished to the commission by a corporation, person or public utility... shall be open to public inspection or made public except on order of the commission... Any officer or employee of the commission... who, in violation of the provisions of this section, divulges any such information shall be guilty of a misdemeanor.

6. As noted in the Commission order, Heartland Midwest does not need authority from the Commission to conduct the depositions; rather, Heartland Midwest seeks the Commission's authorization for the three Staff members to disclose, during the depositions, information furnished to them during their investigation in this matter by any corporation, person or public utility.

7. Heartland Midwest states that the depositions will be limited to the following issues: (a) discussion of the procedure, process and tools used and the information received and analyzed by the staff members in conducting their investigation of the incident in GS-2013-0400; (b) discussion of the Staff members' investigatory findings and conclusions in GS-2013-00400; and (c) discussion of *Staff's Gas Incident Report* in GS-2013-0400.

8. Due to the schedule of pending litigation, Heartland Midwest also requested expedited treatment of its motion. The Commission ordered any party

wishing to respond to the Heartland Midwest's motion to do so no later than November 6, 2014.

9. Staff recommends the Commission grant Heartland Midwest's motion so that the three Staff members who contributed to the *Incident Report* in this matter may cooperate with the civil litigation related to the incident in compliance with § 386.480 RSMo. Staff recommends the Commission limit the scope of Staff's authorized disclosures as requested in Heartland Midwest's motion. Staff does not object to Heartland Midwest's request for expedited treatment.

**WHEREFORE**, Staff recommends the Commission issue an order pursuant to §386.480 permitting Staff members Richard A. Fennel, Robert R. Leonberger, and Mark Struckhoff to furnish, during depositions, information related to (a) discussion of the procedure, process and tools used and the information received and analyzed by the Staff members in conducting their investigation of the incident in GS-2013-0400; (b) discussion of the Staff members' investigatory findings and conclusions in GS-2013-0400; and (c) discussion of *Staff's Gas Incident Report* in GS-2013-0400. Staff recommends the Commission issue its order on an expedited basis as requested by Heartland Midwest.

Respectfully Submitted,

**STAFF OF THE MISSOURI  
PUBLIC SERVICE COMMISSION**

**/s/ John D. Borgmeyer**

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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 6<sup>th</sup> day of November, 2014.

**/s/ John D. Borgmeyer**