

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

Superior Bowen Asphalt Company,	)	
L.L.C.	)	
Complainant,	)	
	)	
v.	)	Case No. GC-2011-0101
	)	
Southern Union Company, d/b/a	)	
Missouri Gas Energy	)	
	)	
Respondent.	)	

**ANSWER OF SOUTHERN UNION COMPANY,  
D/B/A MISSOURI GAS ENERGY**

COMES NOW Southern Union Company, d/b/a/ Missouri Gas Energy, ("MGE") by and through its counsel, and, pursuant to 4 CSR 240-2.070, respectfully states the following to the Missouri Public Service Commission ("Commission") as its Answer to the Complaint filed by the Superior Bowen Asphalt Company, L.L.C. ("Superior Bowen") on October 7, 2010:

1. MGE admits that it delivers natural gas to Superior Bowen as a transportation customer at several locations in MGE's service territory, including Superior Bowen's facility located at 2501 Manchester Trafficway, Kansas City, Missouri 64129. MGE is without sufficient knowledge or information to admit or deny the remaining averments in Paragraph 1 and therefore denies the same.

2. MGE admits that it is a gas corporation and public utility as defined in Section 386.020, RSMo. MGE admits that it authorized to distribute natural gas in certain areas of Missouri and that it is regulated by the Commission. MGE admits that it has a facility located at 3420 Broadway, Kansas City, Missouri 64111. MGE denies the remaining allegations in paragraph 2.

3. With respect to paragraph 3 of the Complaint, MGE admits that its representatives communicated or met with representatives of Superior Bowen and that those meetings did not resolve this dispute in a manner that was mutually agreeable.

4. MGE admits that Superior Bowen uses natural gas at several locations in MGE's service territory. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 4.

5. MGE admits that in approximately July 2008, Superior Bowen representatives informed MGE that it planned to install new equipment at its 2501 Manchester Trafficway plant. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 5 and therefore denies them.

6. MGE admits that in approximately June 2008, Superior Bowen was a transportation customer of MGE. MGE admits that its natural gas mains providing service to 2501 Manchester Trafficway were operated at 15 psig in approximately June 2008. MGE admits that Superior Bowen used its own regulator to reduce operating pressure from MGE's mains before it entered Superior Bowen's facility. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 6 and therefore denies them.

7. In response to paragraph 7 of the Complaint, MGE states that Superior Bowen's natural gas use for the last several years fluctuated each month and therefore denies the broad characterization that Superior Bowen's historical natural gas use was "approximately 90,000 ccf" per month from April to October.

8. In response to paragraph 8 of the Complaint, MGE states that Superior Bowen's natural gas use history shows varying use and therefore denies paragraph 8 to the extent it asserts that Superior Bowen does not consume any natural gas from November through March. MGE admits that Superior Bowen's natural gas use appears

to be seasonal with heavier use in summer and fall months, with less use in January through March, but would let Superior Bowen's gas usage history speak for itself. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 8 and therefore denies them.

9. In response to paragraph 9 of the Complaint, MGE states that Superior Bowen's natural gas use history shows varying monthly use with consumption in November and December and therefore denies paragraph 9 to the extent it asserts that Superior Bowen does not consume natural gas in those months. MGE admits that natural gas use in its service territory is highest during the months of November through March, but would let Superior Bowen's natural gas usage history speak for itself. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 9 and therefore denies them.

10. In response to paragraph 10 of the Complaint, MGE admits that natural gas use in its service territory decreases during the summer months, that Superior Bowen has higher gas usage in certain seasons, but would let Superior Bowen's actual gas usage history speak for itself. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 10 and therefore denies them.

11. MGE denies that the intent of its transportation service to Superior Bowen is to provide "MGE an opportunity to ship gas and receive revenues therefrom during MGE's off peak time." The nature of Superior Bowen's gas use as compared to peak demands in MGE's service territory speaks for itself. To the extent an additional answer is required, MGE denies the remaining allegations in paragraph 11.

12. MGE admits that in meetings and communications with MGE personnel, Superior Bowen stated that its new equipment required 8.5 psi at the burner tip. MGE is

without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 12 and therefore denies them.

13. MGE admits that Superior Bowen informed MGE personnel that it would require additional volumes of natural gas at its facility with its new equipment. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 13 and therefore denies them.

14. MGE admits that MGE personnel, including Ray Wilson, met with Superior Bowen representatives, including Larry Gervey, in July 2008. MGE denies that Mr. Wilson informed Mr. Gervey that costs would be minimal or that Mr. Wilson provided any cost estimates in July 2008. MGE denies the remaining allegations contained in paragraph 14.

15. MGE is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 15 and therefore denies them.

16. With respect to paragraph 16 of the Complaint, MGE admits that because of operating requirements of Superior Bowen's new equipment, MGE was required to increase the operating pressure and volumes in the main that delivered natural gas to Superior Bowen's facility at 2501 Manchester Trafficway. MGE further admits that that due to Superior Bowen's requirements and its equipment, MGE personnel determined that the replacement of cast iron main sections was necessary. MGE admits that it installed a replacement regulator at substation upstream of Superior Bowen's plant, but denies that it did so at Superior Bowen's expense. MGE admits that it provided Superior Bowen with estimated costs and that it required Superior Bowen to contribute to the cost for the modifications necessary to MGE's system. MGE denies the remaining allegations in paragraph 16 of the Complaint.

17. MGE admits that Mr. Greg Elam sent a letter to MGE on January 5, 2009 as attached as Exhibit A to the Complaint. MGE denies the remaining allegations in paragraph 17 of the Complaint and would let the letter speak for itself.

18. MGE admits that Mr. Greg Elam met with MGE's Patti Reardon and David Glass regarding this dispute. MGE denies the remaining allegations in paragraph 18.

19. MGE admits that Mr. Greg Elam sent a letter to Patti Reardon of MGE on January 15, 2009, a copy of which was attached to the Complaint as Exhibit B. MGE asserts that the text of the letter speaks for itself. To the extent necessary, MGE denies the remaining allegations in paragraph 19 and the subparagraphs of paragraph 19.

20. With respect to paragraph 20, MGE admits that Ms. Reardon of MGE sent Mr. Elam a letter dated January 20, 2009, a copy of which is attached as Exhibit C to the Complaint.

21. With respect to paragraph 21, MGE admits that quoted language appears in Ms. Reardon's January 20, 2009 letter and that Ms. Reardon attached Tariff Sheet No. 61.3 to her letter. MGE further admits that a copy of a portion of that tariff sheet is attached to the Complaint as Exhibit D.

22. With respect to paragraph 22, MGE admits that Ms. Reardon sent a letter to Mr. Elam dated on January 20, 2009. As the language of the letter speaks for itself, MGE denies any additional allegations contained in or inferences that are attempted in paragraph 22.

23. With respect to paragraph 23, MGE admits that Mr. Terry Bowen sent a letter to Ms. Patti Reardon on February 9, 2009 and that a copy of such letter was attached to the Complaint as Exhibit E. MGE asserts that the language in such letter speaks for itself. To the extent necessary, MGE denies any additional allegations in paragraph 23.

24. With regard to paragraph 24, MGE admits that Superior Bowen signed a Contract for the Replacement of Natural Gas Facilities and that it provided MGE with a check for \$175,032.00 as partial payment. MGE admits that a copy of the contract and check were attached to the Complaint as Exhibit F.

25. With regard to paragraph 25, MGE denies that the pressure in MGE's mains providing service to Superior Bowen was adequate to accommodate Superior Bowen's request for increased pressure and volume. MGE further states that pressure and volume in those mains had to be increased to accommodate Superior Bowen's request, which therefore required the replacement of certain cast iron main sections.

26. MGE denies Superior Bowen's allegations in paragraph 26 that improvements to MGE's system were not required because of Superior Bowen's request.

27. To the extent that paragraph 27 asserts that modifications to MGE's natural gas main were not required due to the increase in pressure and volume at Superior Bowen's plant, MGE denies the allegations in this paragraph. MGE is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in paragraph 27, to the extent it calls for MGE to determine what other technical options were available to Superior Bowen in its own plant and on its own regulator, and therefore denies them. To the extent an additional answer is necessary, MGE denies any remaining allegations in paragraph 27.

28. Superior Bowen's assertions in paragraph 28 seem to call for a legal conclusion. To the extent a response is necessary MGE denies the allegations in paragraph 28.

## COUNT I

29. For its response to paragraph 29 of the Complaint, MGE incorporates by reference as though fully set forth herein its responses to paragraphs 1-28, including all subparagraphs, of the Complaint.

30. MGE denies the allegations contained in paragraph 30.

- a. MGE denies the allegations contained in subparagraph a in paragraph 30.
- b. MGE admits that Missouri regulations and Commission orders require the gradual replacement of cast iron mains. MGE admits that MGE's Safety Line Replacement Program ("SLRP") originally permitted deferral treatment by MGE under an Accounting Authority Order for certain expenses associated with the SLRP, but states that with the passage of the Infrastructure Replacement Surcharge ("ISRS") legislation, such AAO's are no longer required. MGE further admits that by statute, it is permitted recovery for certain expenses under the ISRS. MGE denies that the replacement of the sections of cast iron main serving Superior Bowen's plant were appropriate expenses for recovery under ISRS. MGE further states that that the replacement of the cast iron main sections providing service to Superior Bowen's plant did not meet any immediate replacement criteria, that the cast iron main sections were not scheduled for replacement, and that the sections possibly would not have been replaced for several years or even decades. MGE denies any remaining allegations contained in subparagraph b to paragraph 30.

- c. MGE admits that Superior Bowen did not specifically request the replacement of natural gas lines serving its plant. MGE denies the remaining allegations in subparagraph c to paragraph 30.
- d. MGE denies the allegations contained in subparagraph d to paragraph 30.

## **COUNT II**

31. For its response to paragraph 31 of the Complaint, MGE incorporates by reference as though fully set forth herein its responses to paragraphs 1-30, including all subparagraphs, of the Complaint.

32. MGE denies the allegations in paragraph 32 of the Complaint, including all subparagraphs.

33. MGE denies the allegations in paragraph 33 of the Complaint.

34. MGE denies the allegations in paragraph 34 of the Complaint.

35. With regard to paragraph 35, MGE admits that Superior Bowen correctly quotes a section of Sheet No. 61.3 of the Transportation Provisions of MGE's tariff. MGE admits that this tariff provision supports in part MGE's request for payment from Superior Bowen in this matter. To the extent necessary, MGE denies the remaining allegations in paragraph 35.

36. MGE denies the allegations in paragraph 36 of the Complaint.

37. MGE denies the allegations in paragraph 37 of the Complaint.

38. MGE denies the allegations in paragraph 38 of the Complaint.

## **COUNT III**

39. For its response to paragraph 39 of the Complaint, MGE incorporates by reference as though fully set forth herein its responses to paragraphs 1-38, including all subparagraphs, of the Complaint.

40. MGE denies the allegations in paragraph 40.



41. MGE denies the allegations in paragraph 41.

42. Except as expressly admitted in this answer, MGE denies each and every allegation contained in Superior Bowen's Complaint.

#### **AFFIRMATIVE DEFENSES**

43. Further answering, MGE states that it has acted in accordance with its tariffs.

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

45. Further answering and for its third affirmative defense, MGE states that the Commission does not have the authority or jurisdiction necessary to grant the relief requested by Superior Bowen.

46. Further answering and for its fourth affirmative defense, MGE states that additional facts may become known during the course of discovery and investigation that will support additional defenses that are currently unknown to MGE to preserve such additional defenses, MGE hereby incorporates by reference all of the affirmative defenses set forth in Missouri Supreme Court Rule 55.08 and reserves the right to assert additional defenses as discovery proceeds.

WHEREFORE, having fully answered and set forth its affirmative defenses, MGE prays the Commission dismiss the Complaint and grant such other relief as the Commission deems reasonable and just.

Respectfully submitted,

/s/ Todd J. Jacobs  
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### CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission to all counsel of record on this 22<sup>nd</sup> day of November, 2010.

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