



MISSOURI GAS ENERGY

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ROBERT J. HACK

Vice President, Pricing & Regulatory Affairs

December 26, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102-0360

FILED³

DEC 27 2001

**Missouri Public
Service Commission**

RE: Case No. GR-2000-425, Missouri Gas Energy

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter, please find an original and eight (8) conformed copies of **Missouri Gas Energy's Response to Staff Recommendation and Motion to Dismiss or Strike**.

A copy of this filing has been mailed or hand-delivered this date to counsel of record.

Thank you for bringing this matter to the attention of the Commission. Please call me if you have any questions regarding this matter.

Sincerely,

C: Douglas E. Micheel
Jeffrey A. Keevil
Gary W. Duffy
Thomas R. Schwarz, Jr.

Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

DEC 27 2001

In the matter of Missouri Gas Energy's)
Purchased Gas Cost Adjustment tariff)
Revisions to be reviewed in its 1999-)
2000 Actual Cost Adjustment.)

Missouri Public
Service Commission
Case No. GR-2000-425

**MISSOURI GAS ENERGY'S RESPONSE TO STAFF RECOMMENDATION
AND MOTION TO DISMISS OR STRIKE**

Comes now Missouri Gas Energy ("MGE" or "Company"), a division of Southern Union Company, and for its response to the recommendation of the Staff of the Missouri Public Service Commission ("Staff"), respectfully states the following:

1. On or about November 27, 2001, the Staff filed its recommendation herein. By order dated December 6, 2001, the Commission directed that MGE respond to the Staff's recommendation no later than December 27, 2001.

2. In its recommendation, the Staff proposed one adjustment, the Mid-Kansas Partnership/Riverside Pipeline Company ("MKP/RPC") adjustment. The Staff also recommended that the Commission order MGE to undertake certain analysis of peak day capacity and gas supply requirements ("Peak Day Requirements Study Recommendation").

3. The Staff's MKP/RPC adjustment in this case is based on the same rationale as the MKP/RPC adjustment proposed by the Staff in Case No. GR-96-450 (a case awaiting Commission order). Various parties, including MGE, have opposed the MKP/RPC adjustment proposed by the Staff in GR-96-450. Although MGE generally opposes the MKP/RPC adjustment proposed by the Staff in this case on all of the same grounds that it has expressed in Case No. GR-96-450, this time period (July 1999-June 2000) presents at least one additional basis for opposing the Staff's proposed MKP/RPC adjustment in this case. Specifically, the MKP/RPC rates which represent the starting point of the Staff's adjustment first took effect under the auspices of the Federal Energy Regulatory Commission ("FERC") on May 11, 1998. *See, generally, Kansas Pipeline*

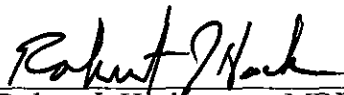
Company, et al., 83 FERC, para. 61,107 (1998), reh'g denied 87 FERC, para. 61,020 (1999). These FERC-jurisdictional MKP/RPC rates are therefore not subject to disallowance under the filed rate doctrine. *Nantahala Power & Light Co. v. Thornburg*, 476 U.S. 953, 90 L.Ed. 943, 106 S.Ct. 2349 (1986). In the interest of making efficient use of the scarce resources of the Commission and the parties, MGE suggests that the Commission should take no evidence pertaining to the substance of the Staff's proposed MKP/RPC adjustment in this case until after having first been fully apprised of how the filed rate doctrine bars that Staff adjustment; then, only if the Commission believes the filed rate doctrine does not bar the proposed Staff adjustment, the Commission should proceed to take evidence on the substance of the MKP/RPC adjustment proposed by the Staff in this case. Subject to the matter set out in this paragraph and in paragraph 4, below, MGE agrees that this case should remain open but without a procedural schedule pending a final, non-appealable Commission decision on the MKP/RPC adjustment in Case No. GR-96-450. As such, MGE has no objection to the Staff's recommendation that this case remain open pending an Order from the Commission in Case No. GR-96-450.

4. MGE asserts that the Staff's Peak Day Requirements Study Recommendation is not a proper topic for consideration in this ACA proceeding. As the style of this case indicates, the purpose of this proceeding is to review PGA adjustments for the 1999-2000 ACA year. Because the Peak Day Requirements Study proposed by the Staff is necessarily aimed at assessing future capacity and gas supply requirements, it is absolutely irrelevant to the issues properly before the Commission in this case. If the Staff believes such studies are necessary to forecast peak day requirements, then such studies should be required of all natural gas local distribution companies, not just MGE. The information on which the Staff appears to be basing its Peak Day Requirements Study Recommendation is contained in the Reliability Report filed by MGE pursuant to the Stipulation and Agreement approved by the Commission in Case No. GO-2000-705.

It is MGE's belief that the information it has provided in this Reliability Report, as agreed in Case No. GO-2000-705, is already much more extensive than is required of any other local distribution company in Missouri. Therefore, any additional requirements in this regard should be the subject of a rulemaking, wherein the Commission can consider the extent and timing of information it needs, including the obligation of the Staff to provide timely response to company filings. The appropriate regulatory mechanism to impose such requirements is the rulemaking process, not an ACA case. Therefore, MGE asks that the Commission dismiss or strike the Staff's Peak Day Requirements Study Recommendation from consideration in this ACA case.

WHEREFORE, MGE respectfully offers the foregoing response to the Staff's recommendation and moves that the Commission dismiss or strike the Staff's Peak Day Requirements Study Recommendation from consideration in this case.

Respectfully submitted,



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ATTORNEY FOR MISSOURI GAS
ENERGY

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was either mailed or hand delivered this 26th day of December, 2001, to:

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