

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
DEC 02 1997
MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of Missouri Gas)
Energy's tariff sheets designed to)
increase rates for gas service in)
the Company's Missouri Service)
area.)

Case No. GR-98-140

RESPONSE OF MISSOURI GAS ENERGY TO THE
STAFF'S PROPOSED PROCEDURAL SCHEDULE

Comes now Missouri Gas Energy ("MGE"), by and through counsel, and for its response to the procedural schedule filed herein by the Commission's Staff ("Staff") on November 26, 1997, respectfully states the following:

1. MGE and the Staff held discussions regarding the procedural schedule and were unable to reach agreement.

2. The Staff has proposed the following procedural schedule:

MGE's direct testimony (ordered)	November 26, 1997
Direct testimony (all parties but MGE)	March 24, 1998
Direct testimony--rate design (all parties but MGE)	March 30, 1998
Prehearing conference	April 6-April 10, 1998
Rebuttal testimony (all parties)	April 22, 1998
Surrebuttal testimony (all parties)	May 15, 1998
Hearing memo & reconciliation	May 20, 1998
Hearings (ordered)	May 26-June 3, 1998

MGE believes that the schedule proposed by the Staff is unreasonable. First, the Staff has allowed MGE only thirteen days between the filing of the direct testimony of all parties other than MGE and the prehearing conference. The Staff's proposal leaves only seven days between the filing of rate design direct testimony of all parties and the prehearing conference. The Staff's proposal does not provide MGE with enough time to absorb and understand the direct testimony of all the other parties in time to prepare for the prehearing. Moreover, the Staff's proposal

provides MGE with just twenty-nine days to prepare rebuttal testimony; to all of the parties' direct testimony and a full week of this time is to be devoted to the prehearing conference.

3. In response to the procedural schedule suggested by the Staff, MGE proposes the following as an alternative:

MGE's direct testimony (ordered)	November 26, 1997
MGE's updated direct case	January 30, 1998
Direct testimony (all parties but MGE)	March 13, 1998
Direct testimony--rate design (all parties but MGE)	March 17, 1998
Prehearing conference	April 6 through April 10, 1998
Rebuttal testimony (all parties)	April 23, 1998
Surrebuttal testimony (all parties)	May 15, 1998
Hearing memo & reconciliation	May 20, 1998
Hearings (ordered)	May 26 through June 3, 1998

MGE's proposal is far more reasonable than that of the Staff. Sufficient time is allowed between direct testimony and the prehearing and rebuttal for MGE--and other parties as well--to understand the testimony of the other parties, negotiate intelligently about it and, if necessary, respond to it in rebuttal testimony.

4. To get a sense of the relative reasonableness of MGE's proposal versus the Staff's, simply compare the respective proposals to the procedural schedule adopted by the Commission for the handling of MGE's last rate proceeding, Case No. GR-96-285.

	GR-96-285		GR-98-140 Staff Proposal		GR-98-140 MGE Proposal	
		Days After Other Parties' Direct		Days After Other Parties' Direct		Days After Other Parties' Direct
MGE direct-initial updated	4/5/96		11/26/97		11/26/97 1/30/98	
All other parties' direct (revenue)	8/5/96		<u>3/24/98</u>		<u>3/13/98</u>	
All other parties' direct (rate design)	8/15/96	10	<u>3/30/98</u>	6	<u>3/17/98</u>	4
Prehearing	9/3/96	29	4/6-10/98	13	4/6-10/98	24
All parties' rebuttal	9/26/97	52	<u>4/22/98</u>	29	<u>4/23/98</u>	41
Hearing memo & Reconciliation	10/3/96		5/19/98		5/19/98	
All parties' surrebuttal	10/11/96		5/15/98		5/15/98	
Hearing	10/21-25/96		5/26-6/3/98		5/26-6/3/98	

*Underlined bold face type indicates areas of disagreement.

A cursory review shows that in Case No. GR-96-285, more than seven weeks intervened between the filing of direct testimony (by all parties other than MGE, which had filed direct testimony several months earlier) and rebuttal testimony; in addition, more than four weeks intervened between the filing of direct testimony (by all parties other than MGE, which had filed direct testimony several months earlier) and the prehearing conference. Contrast this with the Staff's proposal in this case which provides four weeks and one day between the filing of direct and

rebuttal testimony and less than two weeks between the filing of direct testimony and the prehearing conference. MGE's proposal in this case, on the other hand, strikes an even balance: just under six weeks between the filing of direct and rebuttal testimony and just over three weeks between the filing of direct testimony and the prehearing conference.

5. The Staff's proposal is patently unreasonable. Twenty-nine days is insufficient time for MGE to have a reasonable opportunity to respond to the direct testimony of the other parties in its rebuttal testimony. As the Commission is no doubt aware, MGE bears the burden of proof in this general rate proceeding. Section 393.150.2 RSMo 1994. The Staff's proposal utterly ignores this fact. In addition, the provision of a mere thirteen days (seven for rate design) between the filing of direct testimony and the prehearing conference does not allow MGE sufficient time to absorb and understand the direct testimony of all the other parties in order to conduct meaningful negotiations during the prehearing conference. Fundamental notions of fairness and due process, as well as the orderly conduct of this proceeding, require that the Commission reject the procedural schedule proposed by the Staff and adopt the alternative schedule proposed by MGE.

Discovery Management

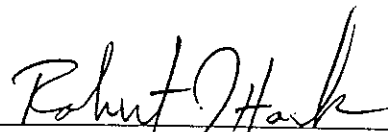
6. MGE also requests that the Commission consider using discovery management principles as a part of the procedural schedule it adopts for this case. Specifically, MGE suggests that it should not be required to respond to discovery requests between the filing of the direct testimony of the other parties and the rebuttal testimony of MGE (between March 13, 1998, and April 23, 1998, in the schedule proposed by MGE above). Obviously, there may be a need for discovery regarding MGE's rebuttal testimony, surrebuttal testimony and the true-up (which MGE has proposed to run through June 30, 1998) and discovery specifically related to these

matters would be permitted of MGE after it files its rebuttal testimony. Discovery of other parties would not be so limited.

7. Adoption of this proposal is justified because MGE will have been subject to five and one-half months of audit (three and one-half months after the filing of its initial direct case and one and one-half months after the filing of its updated direct case) before the Staff and other parties file their direct testimony. At that point, MGE will have less than six weeks to put together its rebuttal testimony to all of the other parties' direct testimony, a full week of which will be devoted to the prehearing conference. There is absolutely no reason why the other parties cannot conduct the discovery needed to prepare their direct and rebuttal cases within that time frame.

Wherefore, MGE respectfully requests that the Commission reject the procedural schedule proposed by the Staff and adopt the alternative proposed by MGE. In addition, MGE requests that the Commission consider managing discovery as MGE has suggested above.

Respectfully submitted,



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Certificate of Service

The undersigned hereby certifies that the foregoing document was delivered, via U.S. Mail or hand-delivery, this 1st day of December, 1997, to counsel shown on the attached service list.

Robert J. Hach

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