

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

In the Matter of the Tariff Filing of            )  
Southern Missouri Gas Company, L.P.        )  
to Establish a Right of Refusal For         )  
Customers with Alternative Fuel Sources.)

Case No. GT-2004-0062  
Tariff No. JG-2003-2219

**SOUTHERN MISSOURI GAS COMPANY, L.P.'s RESPONSE  
TO ORDER DIRECTING FILING**

COMES NOW Southern Missouri Gas Company, L.P. ("SMGC") by and through its counsel, and, pursuant to 4 CSR 240-2.080, hereby responds to the Commission's Order Directing Filing ("Order") issued on August 20, 2003. In support thereof, SMGC states as follows:

1.       On June 24, 2003, SMGC filed tariff sheets to establish the right to refuse natural gas service for safety reasons to a customer that uses another gaseous fuel, such as liquefied petroleum gas, in the same building. With the exception of certain commercial and industrial applications approved by SMGC, the proposed tariff sheets strengthen the Company's ability to refuse natural gas service to a customer that uses another gaseous fuel that poses a safety hazard. The tariff bears an effective date of July 24, 2003, and has been suspended by order of the Commission until May 21, 2004.

2.       The Commission Staff reviewed SMGC's tariff provisions and submitted a Staff Recommendation to the Commissioners recommending approval of the proposed tariff for safety reasons. (*See* Attachment No. 1) In addition, in the denial of service rulemaking proceeding that has been informally pending before the Commission, the Staff has proposed a rule that a utility may temporarily refuse to commence public utility

service for reasons of maintenance, health, safety or a state of emergency. (*See* proposed rule, 4 CSR 240-13.035(4), Attachment No. 2) SMGC believes that the presence of dual fuels at a single building poses a substantial safety hazard, and SMGC's proposed tariffs in this proceeding are intended to minimize this safety hazard.

3. The proposed tariff is similar to a Michigan regulation, R 460.2371(5), which give Michigan gas utilities the right to refuse gas service to a customer that uses another gaseous fuel, such as liquefied petroleum gas, in the same building. (*See* Attachment No. 3, R 460.2371(5), which states:

Except in certain commercial and industrial applications that require a standby fuel that is authorized by the utility, the utility shall have the authority to refuse gas service to a customer that uses another gaseous fuel, such as liquefied petroleum gas, in the same building.

4. On August 20, 2003, the Commission issued its Order Directing Filing in which it directed that SMGC shall file, no later than September 19, 2003, a verified pleading that contains a detailed explanation of its intended purpose and enforcement. In particular, the Commission stated that SMGC should address concerns that the right of refusal could be used to unfairly compete with alternate fuel providers.

5. In compliance with this Order, SMGC is providing in this verified pleading its explanation of the intended purpose and enforcement of the proposed tariff provisions, and will address concerns that the right of refusal could be used to unfairly compete with alternate fuel providers.

### **Explanation of Intended Purpose And Enforcement**

6. The intended purpose of the proposed tariff provisions is related to gas safety concerns. These tariff provisions are intended to minimize the possibility that there will be two (2) sources of gaseous fuels present on a premises that could pose a safety hazard to our customers and employees. In addition, it also poses a safety hazard to fire department personnel, police or other emergency service providers when an emergency occurs that requires the source of gas to be turned off in order to prevent a fire or explosion. Emergency providers may be unaware that there could be two active sources of gas on the premises (i.e. natural gas and propane), and that by merely turning off one source of fuel, the source of all gaseous fuels will not have been eliminated.

In order to eliminate this safety hazard, SMGC is proposing to include provisions in its tariffs that would allow it to refuse to provide natural gas service for safety reasons when another form of a gaseous fuel is present in the same building. In addition, under such circumstance, SMGC personnel may be called to the premises to investigate a leak that may in fact be emanating from a propane line or tank. Thus, SMGC may incur costs for which it may not be reimbursed and otherwise divert the SMGC workforce away from serving its natural gas customers.

7. The enforcement of the tariff provisions would be under the responsibility of SMGC's local office in Mountain Grove, Missouri. When SMGC's service personnel are sent to a building to activate a connection for SMGC's natural gas service, the SMGC personnel would ascertain whether there were any existing connected sources of gas that could pose a safety hazard. If the customer refuses to disconnect the alternate source of gas, then the SMGC personnel would inform the customer at that time that SMGC would

not activate the natural gas service and explain the nature of the dual fuel hazard. In the alternative, if the customer is not available at the time of the visit to the premises, a door-hanger would be left at the premises indicating that natural gas was not activated because of the presence of another source of gas that created a safety hazard.

This tariff provision may also be enforced in the event that a SMGC employee (e.g. meter reader) observes that a second form of gaseous fuel is present on the premises. Under these circumstances, the SMGC employee would inform the SMGC operations supervisor of the safety hazard, and the SMGC operations supervisor would then contact the customer to discuss the tariff provision restricting the customer from having two sources of gaseous fuels on the same premises. If the customer refused to remove the second source of fuel, then SMGC personnel would disconnect the natural gas service to the premises to resolve the safety hazard.

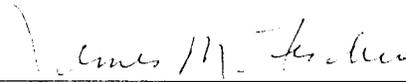
**The Right Of Refusal To Provide Natural Gas Service  
Will Not Be Used to Unfairly Compete with Alternate Fuels**

8. SMGC's proposed tariff provisions will not be used in any way to unfairly compete with alternate fuels. The proposed tariff provisions, in fact, will not restrict alternate fuel providers (e.g., propane providers) from providing their products to any consumer. However, SMGC would not provide natural gas service when another source of gas is being provided to a single building. In order to minimize this safety hazard, a consumer will be required to choose one source of a gaseous fuel, but the consumer will be free to choose whatever gaseous fuel source he desires. The impact of the proposed tariff restriction will be that SMGC will not activate or provide natural gas service to a building if there is already a source of gas on the premises that may pose a safety hazard.

This tariff provision will therefore promote the public health, welfare, and safety, and will not have any anti-competitive impacts.

**WHEREFORE**, having responded to the Commission's Order Directing Filing, SMGC respectfully requests that the Commission lift its Order Suspending Tariffs, and approve the proposed tariffs to become effective as expeditiously as possible.

Respectfully submitted,



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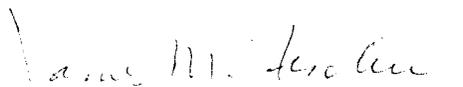
Attorneys for Southern Missouri Gas  
Company, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was emailed, mailed or hand-delivered, this 19<sup>th</sup> day of September, 2003, to:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

  
\_\_\_\_\_  
James M. Fischer

VERIFICATION

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF )

I, Scott F. Klemm, first being duly sworn upon oath, depose and say I am Vice-President of Southern Missouri Gas Company, L.P., a Missouri limited partnership; that I have read the above and foregoing Response To Order Directing Filing, and know the contents thereof; that said contents are true in substance and in fact, except to those matters stated upon information and belief, and as to those, I believe the same to be true.

Scott F. Klemm  
Scott F. Klemm

Subscribed and sworn to before me, a Notary Public on this 10<sup>th</sup> day of September, 2003.

Michelle Bilyeu  
Notary Public

My Commission expires: Sept. 26, 2006



MICHELLE BILYEU  
Cole County  
My Commission Expires  
September 26, 2006

**UTILITY OPERATIONS DIVISION ROUTING SLIP  
BY DELEGATION**

File No. JG-2003-2219

<b>To:</b>	Initial	<b>Assigned:</b> <i>June 25, 2003</i>
Chair Simmons	_____	<b>From:</b> Initial Date Revised
Commissioner Murray	_____	
Commissioner Gaw	_____	Mr. Imhoff _____
Commissioner Forbis	_____	Mr. Wood _____
Commissioner Clayton	_____	Legal _____
Agenda Date: _____		_____
Final Agenda: <i>July 22, 2003</i>		Staff Deadline: <i>July 12, 2003</i>
<b>Commission Action:</b>		<b>Staff Recommends:</b>
Approve _____	Suspend _____	Approval <u>  X  </u> Suspension _____

Company: Southern Missouri Gas Company, L.P.

Received Date: June 24, 2003

Effective Date: July 24, 2003

Purpose: To implement the right to refuse natural gas service for safety reasons to a customer that uses another gaseous fuel, such as liquefied petroleum gas.

On June 24, 2003, Southern Missouri Gas Company, L.P. (SMGC or Company) filed tariff sheets proposing to add new language granting the Company the right to refuse natural gas service for safety reasons to a customer that uses another gaseous fuel in the same building, such as liquefied petroleum gas, and having an effective date of July 24, 2003. With the exception of certain commercial and industrial applications approved by the Company, the proposed tariff sheets strengthen the Company's ability to refuse natural gas service to a customer that uses another gaseous fuel that poses a safety hazard.

The primary perceived safety hazard in the described installation is that one fuel could be shut off for service of in-house pipes and/or appliances by a contractor or by authorities dealing with an emergency situation (i.e. fireman) without realizing that another fuel source was present.

The Gas Safety/Engineering and Tariff/Rate Design Staff of the Energy Department have conducted a review of SMGC's proposed tariff. The Company's tariff presently on file with the Commission has no specific provision that allows the Company to refuse service under these conditions. This proposed tariff provides SMGC the specific authority needed to refuse service for the conditions listed above.

After its review of SMGC's proposed tariff changes, Staff recommends that the Commission approve these tariff sheets for safety reasons. The Staff has verified that the Company has filed its annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing. However, the following cases are currently pending before this Commission:

GR-2001-388            1999/2000 and 2000/2001 ACA

GR-2001-39            1999/2000 and 2000/2001 ACA  
GR-2002-440        2001/2002 ACA

Therefore, Staff recommends that the following tariff sheets filed on June 24, 2003 be approved.

P.S.C. MO No.1

First Revised Sheet No. 43,  
    Cancelling Original Sheet No. 43  
First revised Sheet No. 55,  
    Cancelling Original Sheet No. 55  
First revised Sheet No. 68,  
    Cancelling Original Sheet No. 68

**Title 4 – Department of Economic Development  
Division 240 –Public Service Commission  
Chapter 13—Service and Billing Practices for Residential Customers  
of Electric, Gas and Water Utilities**

**PROPOSED RULE**

**4 CSR 240-13.035 Denial of Service**

*PURPOSE: This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and establishes procedures to be followed by utilities to insure reasonable and uniform standards exist for the denial of service. This rule also protects an applicant(s) at the time of their application, from being required to pay for the bill incurred by other individuals for service from which the applicant(s) did not receive substantial benefit.*

(1) A utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay an undisputed delinquent utility charge for services provided by that utility within the state of Missouri;

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030;

(C) Refusal to permit inspection, maintenance, replacement or meter reading of utility equipment if the utility believes that health or safety is at risk. A utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one of the following:

A. Written notice by first class mail sent to the applicant; or

B. Written notice delivered in hand to the applicant; or

C. At least two (2) telephone call attempts reasonably calculated to reach the applicant.

2. The notice shall contain the following information:

A. The name and address of the applicant and the address where service is being requested;

B. How the applicant may comply with the requirements to have service connected;

C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry.

D. A statement in Spanish either:

(a) advising the applicant that if they do not read English, to ask someone who does to translate the notice for them, or

(b) advising the applicant to call the utility for assistance, if the utility provides telephone assistance in Spanish.

E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission.

(D) Misrepresentation of identity;

(E) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system; or

(F) As provided by state or federal law.

(2) A utility may not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service. To meet that burden the utility must have reliable evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last five (5) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record;

and

4. At the time of the request for service, the bill remains unpaid and not in dispute.

(3) The utility shall commence service in accordance with this rule as soon as possible on the day specified by the customer for service to commence, but no later than, three (3) business days following the day specified by the customer for service to commence.

(4) Notwithstanding any other provision of this rule, a utility may refuse to commence service temporarily for reasons of maintenance, health, safety or a state of emergency.

(5) Any provision of this rule may be waived or varied by the commission for good cause.

**AUTHORITY:** sections 386.040, 386.250(6), 393.140(11), 393.130(1) RSMo 2000.

*Original rule filed* , 2003.

**PUBLIC COST** *This proposed rule is not expected to result in any fiscal impact to the Missouri Public Service Commission, the Office of the Public Counselor any other public entity.*

**PRIVATE ENTITY COST:** *This proposed rule will cost private entities more than \$500.00 in the aggregate. The cost for each utility is estimated to be under \$ the first year and \$ in succeeding years.*

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication of this notice in the **Missouri Register**, and should include a reference to Commission Case No. AX-2003-0574 or to the Denial of Service Rule. If comments are submitted by paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. Comments may also be submitted at the public*

*hearing. The Commission will hold public hearing at which the Commission will take sworn testimony concerning the reasonableness of the rule. The hearing is scheduled for \_\_\_\_\_, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to provide testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

Michigan Administrative Code of Regulations

PART 7. SHUTOFF OF SERVICE

R 460.2371 Conditions for establishing gas service; liability; notice and record of inability to establish service; refusal of service to customer using other gaseous fuel; exception.

Rule 71. (1) A utility shall not establish gas service to a customer's premises until the utility has done both of the following:

(a) Performed a leakage test using gas at utilization pressure to ensure that the customer's fuel line is gastight.

(b) Made a determination that the gas odor is detectable.

(2) This test shall not be construed to make the utility liable for the installation, maintenance, or use of piping or appliances that are owned by the customer, nor shall the utility be held liable for any continuing duty of inspection of piping or appliances.

(3) If the condition of the customer's fuel line is such that service cannot be established, the utility shall notify the customer, in writing, of the reason or reasons that service was not established.

(4) A record shall be kept by the utility of all cases where refusal to establish service is made. The record shall provide all of the following information:

(a) The name of the customer.

(b) The address or location of the premises.

(c) The date of the test.

(d) The name of the service person.

(e) All changes or rearrangements recommended.

(5) Except in certain commercial and industrial applications that require a standby fuel that is authorized by the utility, the utility shall have the authority to refuse gas service to a customer that uses another gaseous fuel, such as liquefied petroleum gas, in the same building.

History: 1954 ACS 96, Eff. July 21, 1978; 1979 AC; 1993 MR 6, Eff. July 10, 1993.