

B ✓  
RS  
CB  
WKA  
DF  
RC  
LD

B ✓  
RS  
CB  
WKA  
DF  
RC  
LD

B ✓  
RS  
CB  
WZH  
DF  
RC  
LD

B ✓  
RS  
CB  
WKA  
DF  
RC  
LD

B ✓  
RS  
CB  
WKA  
DF  
RC  
LD

B ✓  
RS  
CB  
WKA  
DF  
RC  
LD

B ✓  
RS  
CB  
WZH  
DF  
RC  
LD

- B ✓  
RS  
CB  
WZH  
DF  
RC  
LD

DR No. 441: For all companies within the control of Southern Union, please provide:

1. A listing of products and/or services provided from Southern Union to its subsidiaries and divisions and the costs/revenues of each entity,
2. A listing of products and/or services provided from Southern Union's subsidiaries and divisions to Southern Union and the costs/revenues of each entity, and
3. A listing of products and/or services provided by Southern Union's subsidiaries and divisions to one another (Mercado to MGE, MGE to EnergyWorx, etc.) and the costs/revenues of each entity.
4. Please provide (a) the return on equity and (b) the return on investment generated by such transactions by each party to the transactions.

DR No. 443: Please answer the following in regards to Mercado:

1. Provide a listing of Mercado's customers since its inception.
2. The monthly sales dollars and volumes to these customers since Mercado's inception.
3. Are any of the customers listed above either customers or ex-customers of MGE? If so, please provide the sales dollars and volumes for them as MGE customers twelve months before Mercado started selling to them through current.
4. Please provide Mercado's bids, etc. used to gain MGE customers as its own.
5. Please provide Mercado's strategic plans, budgets, and financial statements since its inception.

Staff states it is entitled to this information because the Commission has authority to ensure proper allocations of revenues, expenses and investment between Southern Union's regulated enterprise, MGE, and its unregulated enterprises pursuant to Section 393.140(12), RSMo 1994.<sup>1</sup> Staff states that the Commission has authority to obtain documents from Southern Union divisions and subsidiaries to ensure that costs and expenses are not being improperly allocated to MGE pursuant to Sections 393.130.1; 386.040 and 386.250(7). Staff points out that the Commission's authority to regulate affiliated transactions was judicially recognized in State ex rel. General Telephone Co. v. Public Serv. Comm'n, 537 S.W.2d 655, 659 (Mo. App. 1976). Staff indicates that the Commission, in its order dated February 26, 1998, has already ordered MGE to respond to similar data

---

<sup>1</sup>All statutory references are to the Missouri Revised Statutes, 1994, unless otherwise indicated.

requests pertaining to MGE subsidiaries and divisions after MGE raised the same objection. Staff points out that in the Unanimous Stipulation and Agreement filed in Case No. GM-94-40, the case which allowed Southern Union to operate in Missouri, Southern Union made the following commitment:

During any major Commission proceeding involving Southern Union, Southern Union will make its books and records, or a true copy thereof, available for audit by Staff in Southern Union's Kansas City, Missouri offices.

MGE states that in an effort to cooperate with Staff's perceived needs, and despite misgivings regarding relevance, MGE will respond to DR No. 440. In addition, MGE states that it has already provided a response to DR No. 441 insofar as the material relates to transactions for which costs are included in MGE's revenue requirement in this proceeding. Furthermore, MGE states it will respond to sub-part 5 of DR No. 443. MGE continues to dispute the balance of the data requests at issue as being overbroad and not relevant to the issues in this proceeding.

MGE states that it has provided Staff with more than ample information to enable the Commission to determine just and reasonable rates for MGE's provision of gas service. MGE argues that Staff is attempting to expand the scope of its investigation far beyond matters of relevance to this proceeding and that Staff has not confined these requests to information related to costs or expenses that are included in MGE's revenue requirement. MGE argues that DR Nos. 441 and 443 have no bearing on the rates to be set through this proceeding and that the breadth of these data requests is substantial. MGE requests that the Commission deny Staff's motion to compel responses to DR. Nos. 441 and sub-parts 1-4 of 443.

Staff asserts that the refusal of MGE to respond to Staff's relevant data requests will harm Staff in its ability to prepare and file its rebuttal testimony in a timely manner unless the Commission grants expedited consideration of this motion. Therefore, Staff requests that the

Commission shorten the time to respond to the motion and order MGE to respond fully to the data requests by April 10.

Supreme Court Rule 56.01 states, in pertinent part, that parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. Moreover, it is not grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of subsequent evidence which would be admissible.

The Commission determines that Staff is entitled to information sought in DR Nos. 440, 441 and 443 because the information appears reasonably calculated to lead to the discovery of admissible evidence concerning the allocations of revenues, expenses and investment between Southern Union's regulated enterprise, MGE, and its unregulated enterprises, and because this information involves questions of whether costs are being properly allocated to MGE. The Commission will grant Staff's motion to compel responses to DR Nos. 440, 441 and 443. The Commission will expedite this order and will direct MGE to respond to the data requests no later than the effective date of this order.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Compel Responses to Data Requests and for Expedited Consideration filed by the Staff of the Commission on March 24, 1998, is granted.

2. That Missouri Gas Energy, a division of Southern Union Company, shall provide responses to Data Request Nos. 440, 441 and 443 no later than April 10, 1998.

3. That this order shall become effective on April 10, 1998.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive style with a large initial "D".

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Murray, Schemenauer  
and Drainer, CC., concur.  
Crumpton, C., absent.

G. George, Regulatory Law Judge

RECEIVED

APR 03 1998

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION