

In the Matter of Missouri Gas Energy's)
Tariff Sheets Designed to Increase Rates) Case No. GR-96-285
for Gas Service in the Company's)
Service Area)

Case No. GR-96-285 was created when Missouri Gas Energy (MGE or Company), a division of Southern Union Company, submitted tariff sheets to the Commission on March 1, 1996, reflecting increased rates for gas service provided to customers in the Missouri service area of the Company. On January 22, 1997, the Commission issued a Report and Order rejecting the Stipulation and Agreement filed on October 30, 1996, jointly by the Staff of the Commission (Staff), the Office of the Public Counsel (Public Counsel), Missouri Gas Users' Association (MGUA), University of Missouri - Kansas City, and Jackson County, Missouri, as the signatory parties pursuant to Commission Rule 4 CSR 240-2.115. This Stipulation and Agreement related to cost of service and related revenue shifts and would have resolved the issues identified in the Hearing Memorandum as

IV.A.1., Allocation of Costs for Services, Meters and Regulators;
IV.A.2., Allocation of Costs for Mains;
IV.A.3., Class Cost of Service Results; and
VI.B.4., Class Rate Increases.

MGUA sought judicial review of the Commission's Report and Order in the Circuit Court of Cole County (Circuit Court) on the basis that the Commission had denied the parties a hearing on the issues of rate design and reached a determination without competent and substantial evidence.

On July 18, 1997, the Commission filed its reply brief in response to the writ of review filed in Circuit Court, Case No. CV197-504CC, which stated

The Commission acknowledges that it likely committed error when it rejected the Stipulation and Agreement presented by the parties on October 30, 1996, and did not provide a hearing on the issues covered by the Agreement. The Commission acknowledges that remand of the cause on this issue is warranted. The Commission will provide a hearing to the parties on the issues raised by the parties in the Stipulation and Agreement, allow for cross-examination of opposing witnesses, and receive briefs on these issues. The Commission will then adopt a decision after its consideration of the complete record on this issue.

On September 4, 1997, MGUA filed a Motion for Immediate Reversal and Stay, in Case No. CV197-504CC. After hearing on the motion, on November 26, 1997, the Circuit Court issued its Findings of Fact, Conclusions of Law and Judgment granting MGUA's motion and finding that the

rates fixed by the Commission without a hearing on an essential part of the rate design issue are unlawful. Accordingly, the Court has no choice but to reverse the Commission's order as to the rates of MGE and remand the matter to the Commission for further action.

The Circuit Court held the Commission's Report and Order in Case No. GR-96-285, issued on January 22, 1997, and other Commission orders issued on January 31, 1997, March 18, 1997, and March 20,

1997, to be unlawful and unreasonable, unconstitutional in violation of the parties due process rights and in violation of Missouri statutes requiring a hearing on rate design issues. The Circuit Court also found that those same orders were unlawful and unreasonable because the Commission failed to rule on a legitimate and identified issue, i.e., the temporary confiscation of transportation customers' natural gas based on Tariff Sheet No. 68. The Circuit Court reversed and remanded the Commission's orders issued January 22, 1997, January 31, 1997, March 18, 1997, and March 20, 1997, "for action by the Commission."

MGE challenged the Circuit Court's jurisdiction by appealing the Circuit Court's decision to the Missouri Court of Appeals, Western District (WD55331). On May 11, 1999, the Western District Missouri Court of Appeals affirmed the jurisdiction and decision of the Circuit Court.

To comply with the Circuit Court's Findings of Fact, Conclusions of Law and Judgment, the Commission finds that it is necessary to reopen the official Commission file, Case No. GR-96-285, so that a hearing may be held on the remaining issues before the Commission. The Commission also finds that it is necessary to have copies of the exhibits and any other relevant evidence copied from the official Commission record for review by the Commissioners and the Regulatory Law Judge prior to hearing. The Commission would find it helpful for the parties to submit a list of exhibits previously filed in this case which should be considered in deciding the limited issues remanded to the

Commission. The Commission will direct the parties to file a list of exhibits identifying the exhibits previously filed that relate to the limited issues remaining to be heard by the Commission. The List of Exhibits should state what the exhibit is, its designation if marked, and whether the exhibit was offered or admitted into evidence.

On April 24, 2000, Jeremiah D. Finnegan filed a Withdrawal as Attorney of Record for Jackson County, Missouri. The Commission shall grant leave allowing Mr. Finnegan to withdraw as counsel of record on behalf of the County of Jackson, Missouri. All future correspondence on behalf of the County of Jackson, Missouri shall be sent to the Jackson County Counselor, Ms. June McQueeney, Jackson County Courthouse, 415 E. 12th Street, Kansas City, Missouri 64106.

IT IS THEREFORE ORDERED:

1. That the Commission directs the Records Department of the Commission to reopen this case and the Commission will schedule a hearing on the limited issues remaining in Case No. GR-96-285 to hear the evidence and consider the issues concerning Missouri Gas Energy's cost of service and related revenue shifts as remanded by the Cole County Circuit Court.

2. That the parties shall file a List of Exhibits identifying the exhibits previously filed which relate to the limited issues identified in this order to be heard by the Commission. The List of Exhibits should identify each exhibit, the exhibit's designation, if marked as an exhibit, and indicate

whether the exhibit has been offered or admitted into evidence no later than 3 p.m. on May 22, 2000.

3. That Jeremiah D. Finnegan, Attorney at Law, is granted leave to withdraw as counsel of record on behalf of the County of Jackson, Missouri. The Records Department shall remove Mr. Finnegan from the official file as attorney of record for Jackson County and all future correspondence on behalf of the County of Jackson, Missouri shall be sent to the Jackson County Counselor, Ms. June McQueeney, Jackson County Courthouse, 415 E. 12th Street, Kansas City, Missouri 64106.

4. That this order shall become effective on May 22, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Shelly A. Register, Regulatory Law
Judge, by delegation of authority
pursuant to 4 CSR 240-2.120(1),
(November 30, 1995) and Section 386.240,
RSMo. 1994.

Dated at Jefferson City, Missouri,
on this 10th day of May, 2000.