

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at Harris-Stowe
State University in St. Louis,
Missouri, on the 8th day of July,
2009.

In the Matter of the Application of Missouri Gas Utility, Inc.,)
for a Certificate of Convenience and Necessity Authorizing)
it to Construct, Install, Own, Operate, Control, Manage,) **File No. GA-2009-0422**
and Maintain a Distribution System to Provide Gas Service)
in Benton County, Missouri, as a New Certificated Area.)

**ORDER GRANTING CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY**

Issue Date: July 8, 2009

Effective Date: July 18, 2009

Syllabus:

This order expands the previous certificate of convenience and necessity to provide natural gas sales and transportation service in the cities of Green Ridge, Cole Camp, Lincoln and Warsaw, Missouri ("area certificate") and various other unincorporated areas located in Pettis and Benton County of Missouri Gas Utility, Inc.

Procedural History:

On April 29, 2009, the Commission granted MGU a certificate of public convenience and necessity to construct, install, own, operate, control, manage, and maintain a natural gas distribution system in the cities of Green Ridge, Cole Camp, Lincoln and Warsaw, Missouri, and various other unincorporated areas located in Pettis and Benton County, and a transmission line certificate from the tap on the Southern Star

Central Pipeline running approximately 2.5 miles to its requested general service area.¹ Subsequently, MGU filed this application to revise that service area to include additional areas in Benton County.

The Commission issued an order directing notice of the application. In that order, the Commission directed interested parties to ask to intervene no later than June 16, 2009. The Commission received no intervention requests.

On June 16, 2009, the Staff of the Commission filed its verified recommendation. Staff stated that granting the application would be in the public interest so long as the same conditions as placed on the earlier certificates are also attached to this certificate. MGU responded that it did not object to the conditions proposed by Staff. Staff filed a clarification of its conditions on June 29, 2009. MGU did not file a further response.

Findings of Fact:

The Commission has reviewed the verified application and pleadings and finds as follows:

1. MGU is a Colorado corporation in good standing, and has a certificate from the Missouri Secretary of State authorizing it to do business in Missouri. MGU is a “gas corporation” and provides natural gas service in the Missouri counties of Harrison, Daviess and Caldwell.²

¹ File No. GA-2009-0264.

² Application and Motion for Expedited Treatment, (filed May 22, 2009) paras. 1-3.

2. MGU was recently granted a certificate of service for the service area including Green Ridge, Cole Camp, Lincoln, and Warsaw. Each of these cities is a 4th Class city located in Pettis or Benton County, Missouri.³

3. As part of its project, MGU originally planned to bring its main line south along Highway 65 from Highway ZZ to Warsaw, Missouri.⁴

4. During the planning process, however, MGU discovered that a planned expansion of Highway 65 by the Missouri Department of Transportation would likely require the line to be moved within a few years. Thus, MGU requests that the Commission approve this certificate so that it may use an alternate route for providing service.⁵

5. The route of the proposed main line is described in the Application at paragraph 8.

6. The legal description of the new certificate area in Benton County, Missouri, is as follows:

Sections 5, 6, and 7 in Township 41 North, Range 21 West

Sections 1, 12, and 13 in Township 41 North, Range 22 West

Sections 2, 3, 9, 10, 15, 16, 17, 19, 20, 21, 28, 29, 30, 31, 32 in Township 42 North, range 21 West

Sections 12, 13, 24, 25, 36 in Township 42 North, Range 22 West

7. The proposed route of the line is shown on the map attached as Appendix A to the Application.

³ *Application*, para. 5; and File No. GA-2009-0422.

⁴ *Application*, para. 6.

⁵ *Application*, paras. 7-8.

8. The proposed service area is an area where MGU currently does not hold a certificate for natural gas service from the Commission and no other natural gas supplier serves that area.⁶

9. MGU incorporated by reference its feasibility study provided in File No. GA-2009-0264. The feasibility study contains a description of the plans and specifications for the project, including the estimated cost of construction and an estimate of the number of customers, revenues, and expenses during the first three years of operations. The change in the route will not have a material effect on the previously filed feasibility study because additional footage cost will be offset by additional customer usage.⁷

10. MGU will use rates approved by the Commission in File No. GA-2009-0264 for service in this new area.⁸

11. MGU was granted permission by the Commission to finance this construction in Commission File No. GF-2009-0331.

12. Construction of the project will follow MGU's customary standards and the rules of the Commission.⁹

13. MGU has obtained franchises from the Cities of Green Ridge, Cole Camp, Lincoln, and Warsaw.¹⁰

⁶ *Application*, para. 16.

⁷ *Application*, para. 11.

⁸ *Application*, para. 11.

⁹ *Application*, para. 13.

¹⁰ *Application*, para. 15.

14. Other than state highway and county road rights-of-way and permits which have been acquired, no other franchise or permit from municipalities, counties, or other authorities in connection with the proposed construction is required to serve this area.¹¹

15. MGU has the ability to provide service in the proposed area by the construction of new facilities.¹²

16. Staff has proposed the following conditions to the certificate:

- a. MGU's shareholders are totally responsible for the success of this project, with no liability or responsibility put on customers;
- b. The service area granted in this case is to be treated as a modification to the service area recently granted in GA-2009-0264 and the service area granted in this case is to be made a part of, and included in, the GA-2009-0264 service area for the purpose of keeping separate books and records, class cost of service studies and revenue requirements, and depreciation rates;
- c. MGU must keep books and records for the proposed service areas granted in GA-2009-0264 and this case separate from the books and records for its other service areas;
- d. MGU must file class cost of service studies and revenue requirements for the new service areas granted in GA-2009-0264 and this case in its next rate case. These class cost of service studies and revenue requirements shall be separate from MGU's other service areas;
- e. MGU must use the depreciation rates contained in Appendix B to the Staff Recommendation for the service territory requested in this application;
- f. MGU will submit to a rate review for this certified area 36 months after the effective date of the order in case GA-2009-0264; and
- g. MGU can obtain the capacity on the pipeline to fully serve this area for all of its customer classes, including capacity to serve any future growth.

¹¹ *Application*, para. 15.

¹² *Application*, para. 16; *Staff Recommendation*, (filed June 16, 2009) Appendix A, p. 2.

17. The requested certificate of convenience and necessity would not jeopardize MGU's current natural gas service if Staff's conditions are met.¹³

18. The proposed service with Staff's conditions will provide an option for customers in the area and is in the public interest.

Conclusions of Law:

1. MGU is a "gas corporation" and a "public utility" as defined in subsections 386.020(18) and (42), RSMo Cum. Supp. 2008.

2. MGU is subject to the Commission's jurisdiction under Chapters 386 and 393, RSMo 2000.

3. No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system without first having obtained the permission and approval of the Commission.¹⁴ A gas corporation may not exercise any right under a franchise unless the Commission gives it a certificate.¹⁵ Also, the Commission may impose such conditions on the certificate as it deems reasonable and necessary.¹⁶

4. The permission and approval that may be granted pursuant to section 393.170 is of two types: The PSC may grant CCNs for the construction of power plants, as described in subsection 1, or for the exercise of rights and privileges under a franchise, as described in subsection 2. See *Harline*, 343 S.W.2d at 185 (quoted in *Aquila I*, 180 S.W.3d at 33). Traditionally, the PSC has exercised this authority by granting two different types of CCN, roughly corresponding to the permission and approval required under the first two subsections of section 393.170. Permission to build transmission lines or production facilities is generally granted in the form of a "line certificate."

¹³ *Staff Recommendation*, Appendix A, p. 2.

¹⁴ Section 393.170.1, RSMo. 2000.

¹⁵ Section 393.170.2, RSMo. 2000.

¹⁶ Subsection 393.170.3, RSMo 2000.

See 4 CSR 240-3.105(1)(B). A line certificate thus functions as PSC approval for the construction described in subsection 1 of section 393.170.^{FN6} Permission to exercise a franchise by serving customers is generally granted in the form of an “area certificate.” See 4 CSR 240-3.105(1)(A). Area certificates thus provide approval of the sort contemplated in subsection 2 of section 393.170.¹⁷

4. The Commission concludes that the conditions recommended by Staff are reasonable and necessary.

5. Based on its findings of fact above, the Commission concludes that with the conditions proposed by Staff, the proposed service area is both necessary and convenient for the public service.

6. The Commission authorizes MGU to construct, install, own, operate, control, manage, and maintain a natural gas distribution system as described in its application.

7. The Commission also concludes that it is reasonable and necessary for MGU to file revised tariff sheets that reflect this new certificated area and the rates for that area.

THE COMMISSION ORDERS THAT:

1. Subject to the conditions set out below, Missouri Gas Utility, Inc., is granted a certificate of public convenience and necessity to construct, install, own, operate, control, manage, and maintain a natural gas distribution system to provide natural gas sales and transportation service in a portion of Benton County specifically as set out in the map showing the “Additional MGU Certificate Area” and filed as Appendix A to the Application filed on May 22, 2009. Appendix A is attached to this order.

¹⁷ *State ex rel. Cass County v. Public Service Com'n*, 259 S.W.3d 544, 549 (Mo. App. 2008) (footnote omitted).

2. The certificate is granted with the following conditions:
 - a. MGU's shareholders are totally responsible for the success of this project, with no liability or responsibility put on customers;
 - b. The service area granted in this case is to be treated as a modification to the service area recently granted in GA-2009-0264 and the service area granted in this case is to be made a part of, and included in, the GA-2009-0264 service area for the purpose of keeping separate books and records, class cost of service studies and revenue requirements, and depreciation rates;
 - c. MGU must keep books and records for the proposed service areas granted in GA-2009-0264 and this case separate from the books and records for its other service areas;
 - d. MGU must file class cost of service studies and revenue requirements for the new service areas granted in GA-2009-0264 and this case in its next rate case. These class cost of service studies and revenue requirements shall be separate from MGU's other service areas;
 - e. MGU must use the depreciation rates contained in Appendix B to the Staff Recommendation for the service territory requested in this application;
 - f. MGU will submit to a rate review for this certified area 36 months after the effective date of the order in case GA-2009-0264; and
 - g. MGU can obtain the capacity on the pipeline to fully serve this area for all of its customer classes, including capacity to serve any future growth.
3. The certificate of convenience and necessity referenced in ordered paragraph 1 shall become effective on July 18, 2009.
4. Missouri Gas Utility, Inc., shall file with the Commission tariff sheets describing the new area and line certificates and the rates set out in this order no later than August 7, 2009. The tariffs shall specifically describe the Sections for which Missouri Gas Utility, Inc., has an area certificate.
5. Missouri Gas Utility, Inc., shall not serve the new service area granted in this order before the tariff sheets described in paragraph 4 become effective.

6. Nothing in this order shall be considered a finding by the Commission of the reasonableness or prudence of the expenditures involved, or of the value for ratemaking purposes of the properties involved, nor as acquiescence in the value placed on the property.

7. The Commission reserves the right to consider the ratemaking treatment to be afforded the properties involved, and the resulting cost of capital, in any later proceeding.

8. This order shall become effective on July 18, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
and Gunn, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge