

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 12<sup>th</sup> day of  
November, 2009.

<b>In the Matter of the Application of</b>	)	
<b>Missouri Gas Utility, Inc., for a</b>	)	
<b>Certificate of Convenience and Necessity</b>	)	
<b>Authorizing it to Construct, Install, Own,</b>	)	<b><u>File No. GA-2010-0012</u></b>
<b>Operate, Control, Manage and Maintain a</b>	)	
<b>Distribution System to Provide Gas Service</b>	)	
<b>In Benton, Morgan, Camden and Miller Counties</b>	)	
<b>in Missouri, as a New Certificated Area.</b>	)	

**ORDER GRANTING  
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: November 12, 2009

Effective Date: November 30, 2009

The Commission is granting the application of Missouri Gas Utility, Inc., ("MGU") to construct gas facilities ("construction") and provide gas service ("service") as described in the caption of this order ("application"). The Commission is also issuing a certificate of convenience and necessity for those purposes. The legal description of the area to which this order applies is in the Appendix to this order.

Procedure

On July 9, 2009, MGU filed the application.<sup>1</sup> On August 14, 2009, the Commission granted the motion of Union Electric Company d/b/a AmerenUE ("AmerenUE") to intervene. On October 9, 2009, the Commission's staff ("Staff") filed its

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<sup>1</sup> The application identified persons to receive notice of the application. One of those persons—Kris Campbell—filed a letter on September 1, 2009, stating that some persons owning no property received notice and some persons owning property received no notice. The Commission's regulations provide that persons receiving notice of the application may include fewer than all property-owners and persons owning no property. 4 CSR 240-3.205(1)(A)2. Therefore, the letter does not show deficient notice.

recommendation favoring the application under certain conditions. On October 26, 2009, MGU filed a statement of no objection to those conditions, and AmerenUE filed a statement of no objection to the application. The statutory provision for a “due hearing”<sup>2</sup> means that the Commission may grant the unopposed application without a hearing,<sup>3</sup> so the Commission convened no hearing and bases its findings on the verified filings.

### Standard

Gas facility construction<sup>4</sup> and service<sup>5</sup> require the Commission’s prior permission and approval. Such permission and approval depend on MGU showing:

. . . that the granting of the application is required by the public convenience and necessity[;<sup>6</sup>]

and the Commission determining:

. . . that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service[.<sup>7</sup>]

Further, the Commission may condition its approval and permission as follows:

The commission may by its order impose such condition or conditions as it may deem reasonable and necessary [<sup>8</sup>]

“Necessary” and “necessity” relate to the regulation of competition, cost justification, and safe and adequate service.<sup>9</sup> On finding convenience and necessity, the

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<sup>2</sup> Section 393.170.3, RSMo 2000.

<sup>3</sup> ***State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com’n***, 776 S.W.2d 494, 496 (Mo. App., W.D. 1989). For the same reason, the Commission need not separately state its findings of fact.

<sup>4</sup> Section 393.170.1, RSMo 2000.

<sup>5</sup> Section 393.170.2, RSMo 2000, first sentence.

<sup>6</sup> 4 CSR 240-3.205(1)(E).

<sup>7</sup> Section 393.170.3, RSMo 2000.

<sup>8</sup> Section 393.170.3, RSMo 2000.

<sup>9</sup> ***State ex rel. Intercon Gas, Inc. v. Public Serv. Com’n of Mo.***, 848 S.W.2d 593, 597 (Mo. App., W.D. 1993).

Commission embodies its permission and approval in a certificate,<sup>10</sup> which the regulations call a certificate of convenience and necessity.<sup>11</sup>

### Findings and Conclusions

The convenience and necessity of MGU's proposed construction and service find support in the verified filings. Such filings show that:

1. MGU is a Colorado corporation authorized to do business in Missouri as a gas corporation in the counties of Harrison, Daviess and Caldwell, Pettis and Benton. MGU has 20-year franchise agreements with the cities of Camdenton, Osage Beach and Lake Ozark.

2. Other than cases that have been docketed at the Commission, MGU has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three (3) years that involve customer service or rates. MGU has no annual report or assessment fees that are overdue.

3. The area in which MGU proposes to install a natural gas distribution system to provide natural gas sales and transportation service ("proposed service area") consists of:

- a. Camdenton, Osage Beach and Lake Ozark, all of which are fourth class cities in Camden County, or in Miller County, or in both; and
- b. Certain unincorporated portions of Benton, Camden and Morgan Counties;

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<sup>10</sup> Section 393.170.2, RSMo 2000, second sentence.

<sup>11</sup> 4 CSR 240-3.205.

as set forth in the Appendix to this order. MGU does not hold a certificate for natural gas service for the proposed service area. No natural gas service is available in the proposed service area.

4. The proposed service area is already developed, and propane from dealers not regulated by the Commission, is available. Potential new customers should have service available from MGU. MGU can provide service in the proposed service area by construction of new facilities serving all the sections in the proposed service area with natural gas in five years.

5. At the end of year five, according to Staff's estimates:

a. the customer counts will be:

Residential or General Service	4,737
Commercial Services	365
Large Volume Service	3
Total	5,105

and

b. MGU's estimated over-earnings will be \$271,667, if such customers are subject to the general terms and conditions of service in MGU's currently approved tariffs, including its Main Extension tariff and the rate structure for the proposed service area.

Those amounts justify building and operating a line to provide service.

6. MGU has the resources available to meet the needs of the system as it grows over the next five years.

7. MGU has the operational capability to provide gas service in its requested service area and the requested CCN area for gas service will not jeopardize natural gas service to the Company's current existing customers.

On those grounds, the Commission independently finds and concludes that Staff's recommended conditions will render MGU's construction and service necessary and convenient for the public service. Therefore, the Commission will grant the application subject to the conditions.

**THE COMMISSION ORDERS THAT:**

1. The application is granted, and a certificate of convenience and necessity reflecting such permission and approval shall be issued, subject to the conditions at ordered paragraph 2.

2. The conditions are that:

- a. MGU's shareholders are totally responsible for the success of this project, with no liability or responsibility put on customers;
- b. MGU shall keep separate books and records for the proposed service area;
- c. MGU shall file separate class cost of service studies and revenue requirements for this new service area in its next rate case;
- d. MGU shall use the depreciation rates currently on file with the Commission;
- e. MGU shall submit to a rate review for this certified area 36 months after the effective date of the order in this case; and
- f. MGU shall obtain adequate capacity on the pipeline to reliably serve all customers in this area, including capacity necessary to serve any future growth.
- g. MGU shall file revised tariff sheets reflecting this order within 30 days of this order.

3. This order shall become effective on November 30, 2009.

**BY THE COMMISSION**

( S E A L )

A handwritten signature in black ink, appearing to read 'S. C. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed  
Secretary

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

Jordan, Regulatory Law Judge

## **Appendix**

### **Benton County**

#### Township Range Sections

- 39 North 20 West Sections 1-26, and 36
- 39 North 21 West Sections 1-15, and 24
- 39 North 22 West Sections 1-4, 10-12
- 40 North 21 West Sections 15-22, 27-35
- 40 North 22 West Sections 25, and 33-36
- 41 North 20 West Sections 5-11, 13-18, 21-26
- 41 North 21 West Sections 1-3, 11-12
- 42 North 21 West Sections 26-27, 33-36

### **Camden County**

#### Township Range Sections

- 37 North 16 West Sections 3-10
- 37 North 17 West Sections 1-4, 10-12
- 38 North 15 West Sections 6 and 7
- 38 North 16 West Sections 1-23, 26-35
- 38 North 17 West Sections 1-36
- 38 North 18 West Sections 1-3, 10-14, and 24
- 39 North 15 West Sections 6, 7, 17-21, 29-32
- 39 North 16 West Sections 1-36
- 39 North 17 West Sections 1-36
- 39 North 18 West Sections 1-30, 33-36
- 39 North 19 West Sections 1-33
- 40 North 16 West Sections 15-36
- 40 North 17 West Sections 24, 25, 31-36
- 40 North 18 West Sections 19, 20, 29-36
- 40 North 19 West Sections 4-10, 15, 16, 21-28, 33-36

### **Miller County**

#### Township Range Sections

- 39 North 15 West Sections 4, 5, 8, 9, 16, 17, 21
- 40 North 15 West Sections 7-9, 15-22, 27-34
- 40 North 16 West Sections 3, 10-15, 22-24
- 41 North 16 West Sections 27, 34

### **Morgan County**

#### Township Range Sections

- 40 North 16 West Sections 4-9, 16-18
- 40 North 17 West Sections 1-30
- 40 North 18 West Sections 1-30
- 40 North 19 West Sections 1-6, 9-15, 23-27, 34-36
- 41 North 16 West Sections 7, 17-21, 28-33
- 41 North 17 West Sections 8-17, 20-29, 32-36
- 41 North 18 West Sections 30-35
- 41 North 19 West Sections 17-23, 25-36