

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

In the Matter of the Application of Summit Natural Gas )  
Of Missouri Inc., for Permission and Approval and a )  
Certificate of Convenience and Necessity to Construct, ) **File No. GA-2017-0016**  
Install, Own, Operate, Maintain, and Otherwise Control )  
And Manage a Natural Gas Distribution System to )  
Provide Gas Service in Various Counties as an )  
Expansion of its Existing Certificated Areas. )

**ORDER SETTING DEADLINE FOR FILING BRIEFS OR OBJECTIONS  
TO AMENDED PARTIAL STIPULATION AND AGREEMENT**

Issue Date: December 15, 2016

Effective Date: December 15, 2016

Summit Natural Gas of Missouri, Inc. (“Summit”) filed an application requesting a Certificate of Convenience and Necessity for a natural gas distribution system authorizing the company to provide gas service in Barry, Daviess, Laclede, Lawrence, Pettis, Stone, Taney, and Webster Counties, Missouri. The Commission’s Staff filed a report and recommendation stating that Summit disclosed it is currently serving one-hundred and fifty-five customers that reside outside of Summit’s Commission-approved certificated areas. Summit’s pending application, if approved, would incorporate these customers into the company’s certificated area. Staff also points out that Summit failed to obtain the Commission’s approval in advance of the construction of gas plant, in violation of statutes.

On December 15, 2016, Summit and Staff filed an Amended Partial Stipulation and Agreement, (the “Agreement”) which states that Summit acknowledges it is statutorily required to obtain the Commission’s approval prior to beginning construction on a gas plant. In the Agreement, Summit admits that it constructed and installed gas plant for purposes of providing utility service to customers outside of its

certificated area in violation of statutes. Summit also admits that it served and billed one hundred and sixty natural gas customers who reside outside of its certificated service area.

Paragraph 5 of the Agreement states that, "In lieu of a penalty, Summit agrees to forfeit the sum of Seventy-Five Thousand Dollars (\$75,000) to the Community Action Program Agencies identified in Paragraph 6 below." Article IX, section 7 of the Missouri Constitution states in pertinent part that:

"All interest accruing from investment of the county school fund, the clear proceeds of all **penalties, forfeitures and fines collected hereafter for any breach of the penal laws<sup>1</sup> of the state**, the net proceeds from the sale of estrays, and all other moneys coming into said funds shall be distributed annually to the schools of the several counties according to law. (Emphasis added.)

The Commission will set a deadline for parties to file objections to the Agreement. The Commission will also set a deadline for parties to submit briefs stating why the language in Paragraph 5 of the Agreement is not in violation of the requirement of Article IX, section 7 of the Missouri Constitution to have net proceeds distributed to the public schools. The Commission will also direct Staff to identify what issues are not resolved by the Agreement.

#### **THE COMMISSION ORDERS THAT:**

1. No later than December 22, 2016, parties may file objections to the Amended Partial Stipulation and Agreement.

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<sup>1</sup> See *New Franklin School Dist. No. 28, Howard County v. Bates*, 225 S.W.2d 769, 774 (1950); "We hold that the words 'penal laws of the state' as used in Sec. 7, art. IX of the present Constitution refer to statutory enactments fixing or providing for penalties, forfeitures and fines and for their assessment and collection." See also, *Missouri Gaming Com'n v. Missouri Veterans' Com'n*, 951 S.W.2d 611 (Mo. 1997). Section 166.131, RSMo 2000.

2. No later than December 22, 2016, parties may file briefs on whether the financial forfeiture in Paragraph 5 of the Amended Partial Stipulation and Agreement is subject to Article IX, section 7 of the Missouri Constitution, or other applicable statutes.

3. No later than December 22, 2016, the Commission's Staff shall identify any unresolved issues not covered by the Amended Partial Stipulation and Agreement.

4. This order shall be effective when issued.

**BY THE COMMISSION**



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Kim S. Burton, Senior Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 15<sup>th</sup> day of December, 2016.

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 15<sup>th</sup> day of December 2016.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**December 15, 2016**

**File/Case No. GA-2017-0016**

**Missouri Public Service  
Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

*Sincerely,*



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.