

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 31<sup>st</sup> day of  
March, 2010.

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 and    )  
Maintain a Natural Gas Transmission Line and a Distribution    )  
System to Provide Gas Service in Greene, Polk and Dallas        )  
Counties, Missouri, as a New Certificated Area                    )

**File No. GA-2010-0189**

**ORDER GRANTING  
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: March 31, 2010

Effective Date: April 10, 2010

The Missouri Public Service Commission is granting the application for permission and approval to construct gas facilities and provide gas service, as described in the title of this action, as amended.

Procedure

Missouri Gas Utility, Inc. ("MGU") filed the application on December 22, 2009. The Commission allowed MGU to amend the application on February 1, 2010. On December 28, 2009, the Commission published notice of the application. In the same order, the Commission set a deadline for filing applications to intervene. On February 5, 2010, the Commission granted the application to intervene of Southern Union Company ("Southern Union").

On February 5, 2010, the Commission's staff ("Staff") filed its *Staff Recommendation*. An affidavit supports the *Staff Recommendation*. On February 25, 2010, MGU filed *MGU's Response to Staff Recommendation*. On March 11, 2010, Southern

Union and MGU filed a *Stipulation and Agreement*. No party filed any response to the *Stipulation and Agreement* within the time set by regulation.<sup>1</sup>

The statutory provision for a “due hearing”<sup>2</sup> means that the Commission may grant an unopposed application without a hearing.<sup>3</sup> Such is the case here as follows. The *Staff Recommendation* favors the amended application, subject to certain conditions. *MGU’s Response to Staff Recommendation* agrees to those conditions. The *Stipulation and Agreement* also favor the amended application, subject to further conditions, to which MGU agrees and Staff does not object. Therefore, the Commission convened no hearing, and bases its findings and conclusions 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>]

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<sup>1</sup> 4 CSR 240-2.080(15).

<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> *Id.*

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

### Findings and Conclusions

The verified filings support the convenience and necessity of MGU’s proposed construction and service because such filings show the following.

1. MGU has the operational capability to provide gas service in the area that is the subject of the amended application (“new service area”).
2. Gas service for the new service area would not jeopardize natural gas service to the MGU’s current existing customers.
3. MGU’s provision of gas service in the new service area is in the public interest under the conditions set forth in the ordered paragraphs below.

On those grounds, the Commission independently finds and concludes that MGU’s proposed construction and service are necessary and convenient for the public service, subject to reasonable and necessary conditions, as set forth below. Therefore, the Commission will grant the amended application.

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

1. The application described in the caption of this order is approved as amended and a certificate of convenience and necessity, reflecting the Missouri Public Service Commission’s permission and approval for construction and service shall be issued to

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<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).

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

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

Missouri Gas Utility, Inc. ("MGU") in the area described in the amended application ("new service area"),

2. The provisions of paragraph 1 are subject to 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. MGU shall keep separate books and records for the new service area;
  - c. MGU shall file separate class cost of service studies and revenue requirements for the 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 the new service area 36 months after the effective date of this order; and
  - f. MGU shall obtain adequate capacity on the pipeline to reliably serve all customers in the new service area, including capacity necessary to serve any future growth.
  - g. MGU shall file revised tariff sheets for the new service area within 30 days of this order's effective date.
3. The provisions of paragraph 1 are subject to the following further conditions.
  - a. MGU shall be prohibited from utilizing farm taps along the line as described in paragraph 5.A of the *Stipulation and Agreement* filed on March 11, 2010.
  - b. If either MGU or Southern Union Company receives a leak or odor call originating from areas that are in close proximity to their service areas, the notified company will respond to that leak call as if the call involved its own facilities and secure the area. In the event the leak is emanating from the

other company's facilities, the responding company will notify the other company and will provide assistance, if requested. The responding company may bill, and the other company will pay, reasonable costs associated with responding to such calls.

4. This order shall become effective on April 10, 2010.
5. This file shall close on April 11, 2010.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

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

Jordan, Regulatory Law Judge