

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on 28th day of
September, 2011.

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) File No. GA-2012-0044
maintain a natural gas transmission line and distribution)
system to provide gas service in Benton County, Missouri)
as a new certificated area.)

**ORDER GRANTING
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: September 28, 2011

Effective Date: October 8, 2011

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.

Procedure

Missouri Gas Utility, Inc. ("MGU") filed the application on August 9, 2011. On August 10, 2011, the Commission published notice of the application. In the same order, the Commission set a deadline for filing applications to intervene, and the Commission received no application for intervention.

On September 7, 2011, the Commission's staff ("Staff") filed its *Staff Recommendation*. On September 13, 2011, Staff filed its *Amended Staff Recommendation*. On September 16, 2011, MGU filed *MGU Response to Staff Recommendation*.

The statutory provision for a “due hearing”¹ means that the Commission may grant an unopposed application without a hearing.² Such is the case here as follows. The *Staff Amended Recommendation* favors the amended application, subject to certain conditions. The *MGU Response to Staff Recommendation* agrees to those conditions. Therefore, no hearing was required and the Commission bases its findings and conclusions on the affidavits filed.

Standard

Gas facility construction³ and service⁴ 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[;⁵]

and the Commission determining:

. . . that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service[.⁶]

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 [⁷]

“Necessary” and “necessity” relate to the regulation of competition, cost justification, and safe and adequate service.⁸ On finding convenience and necessity, the

¹ Section 393.170.3, RSMo 2000.

² ***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.

³ Section 393.170.1, RSMo 2000.

⁴ Section 393.170.2, RSMo 2000, first sentence.

⁵ 4 CSR 240-3.205(1)(E).

⁶ Section 393.170.3, RSMo 2000.

⁷ *Id.*

⁸ ***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,⁹ which the statutes call a certificate of convenience and necessity.¹⁰

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 is approved.
2. A certificate of convenience and necessity, reflecting the Missouri Public Service Commission's permission and approval for construction and service shall be issued to Missouri Gas Utility, Inc. ("MGU") in the area described in the application ("new service area").
3. The provisions of paragraphs 1 and 2 are subject to the following conditions.

⁹ Section 393.170.2, RSMo 2000, second sentence.

¹⁰ 4 CSR 240-3.205.

- a. MGU's shareholders shall be fully responsible for the success of this project, with no liability or responsibility put on MGU's existing customers.
 - b. 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.
 - c. MGU shall maintain the operational capability to provide gas service in the new service area.
 - d. The new service area shall not jeopardize natural gas service to MGU's current customers.
 - e. MGU shall use the depreciation rates currently on file with the Commission.
 - f. Within 30 days of this order's effective date, MGU shall file revised tariff sheets to include the new service area.
4. This order shall become effective on October 8, 2011.
 5. This file shall close on October 9, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Davis, Jarrett,
And Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge