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June 20, 2003

FILED²
JUN 20 2003
Missouri Public
Service Commission

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102-0360

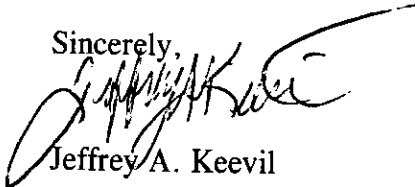
Re: Case No. GA-2003-0492
Missouri Gas Energy Certificate Application

Dear Mr. Roberts:

Please find enclosed for filing in the above-referenced case an original and eight (8) copies of the Application To Intervene filed on behalf of City Utilities of Springfield, Missouri.

Copies of the filing have on this date been mailed or hand-delivered to counsel for all parties of record. Thank you.

Sincerely,



Jeffrey A. Keevil

JAK/bt

Enclosure

cc: Counsel for all parties of record
William A. R. Dalton

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

FILED
JUN 20 2003

Missouri Public
Service Commission

In the Matter of the Application of Missouri Gas)
Energy, a Division of Southern Union Company,)
for a Certificate of Public Convenience and)
Necessity, Authorizing It to Construct, Install, Own,))
Operate, Control, Manage, and Maintain a Natural)
Gas Distribution System to Provide Gas Service)
In Greene County, Missouri, and an Expansion of)
Its Existing Certificated Area.)

Case No. GA-2003-0492

APPLICATION TO INTERVENE

COMES NOW the City of Springfield, Missouri, through the Board of Public Utilities ("Applicant" or "City Utilities"), by and through counsel, and pursuant to 4 CSR 240-2.075 and the *Order and Notice* issued by the Commission in the above-captioned cause on June 2, 2003, for its Application To Intervene respectfully states as follows:

I. 4 CSR 240-2.060 Requirements

1. Applicant is a constitutional charter city existing under and operating pursuant to Article VI, Sections 19 and 19(a) of the Constitution of the State of Missouri.

Applicant provides utility services to the public through its Board of Public Utilities pursuant to Article XVI of the duly adopted City Charter of the City of Springfield, Missouri. Accordingly, no Missouri Secretary of State documentation, normally required under 4 CSR 240-2.060(1), exists with regard to Applicant. Applicant's principal office and place of business is located at 301 East Central, P.O. Box 551, Springfield, Missouri 65801-0551, telephone number (417) 863-9000, fax number (417) 831-8303.

2. For purposes relevant to this Application, Applicant is engaged in the provision of electric and natural gas utility services to the general public in and around the City of Springfield, Missouri, including the new area sought by Missouri Gas Energy

("MGE") in the instant case. Applicant is duly authorized to provide such utility services pursuant to the Constitution of the State of Missouri, the City Charter of the City of Springfield, Missouri, the applicable provisions of Chapter 91 RSMo 2000, and applicable Missouri case law.

3. All communications, notices, pleadings, orders and decisions regarding this matter should be sent to the undersigned counsel, with a copy sent to:

William A. R. Dalton
General Counsel
City Utilities of Springfield, Missouri
301 East Central
P.O. Box 551
Springfield, Missouri 65801-0551
(417) 831-8604
(417) 831-8303 (fax)

4. Pursuant to 4 CSR 240-2.060(1)(K), Applicant states that, with one exception¹, it has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application.

5. Pursuant to 4 CSR 240-2.060(1)(L), Applicant states that no Commission annual reports or assessment fees are overdue.

6. Pursuant to 4 CSR 240-2.060(1)(M), the notarized verification of William A. R. Dalton, General Counsel for City Utilities of Springfield, Missouri, is attached hereto and incorporated herein by reference.

¹ Applicant is aware that on or about May 22, 2003 a *Petition For Investigation As To The Legality of Utility Surcharges On Nonresidents And Motion For Expedited Treatment* was filed with the Commission. To Applicant's best knowledge and belief, the Commission has yet issue any notice or orders regarding this Petition.

II. 4 CSR 240-2.075 Requirements

7. In its *Order and Notice* issued in this case by the Commission on June 2, 2003, the Commission, *inter alia*, set an intervention date of June 22, 2003. Applicant's request to intervene, therefore, has been timely filed pursuant to 4 CSR 240-2.075(1).

8. Applicant's interest and reasons for seeking intervention in this proceeding are that: a) Applicant currently is lawfully providing both electric and gas utility service to the general public in the area requested by MGE in its certificate Application and Applicant is fully capable of providing natural gas service to new customers within the area should the need arise;² b) significant portions of MGE's requested area appear to fall within the municipal corporate boundaries of the City of Springfield, Missouri; and c) despite the requirements of Section 393.170(2) RSMo 2000, MGE has not obtained the consent of or a municipal franchise from the City of Springfield, Missouri for those portions of MGE's requested area which fall within the City's municipal corporate boundaries.³

9. It is difficult to ascertain with certainty, based solely on MGE's Application as filed, whether MGE is seeking a blanket "area certificate" or whether MGE is seeking a more limited "transmission line certificate". While Section 393.170 RSMo 2000 does not make a distinction between these two types of Commission certificates of public convenience and necessity, the Commission's own rules clearly do make such a

² 4 CSR 240-3.050(1)(A)(1) requires an applicant to state in its application whether the same or similar utility service, regulated or unregulated, is otherwise available in the requested area. In paragraph 13 of its Application, MGE erroneously alleges that there "is no same or similar utility service, regulated or unregulated, available in the area requested".

³ Based on documents currently available from the Commission's web site, MGE apparently also has not yet offered supporting documentation or an allegation that it has obtained the necessary easements from *private* property owners for those portions of MGE's requested area which fall outside the City's municipal corporate boundaries and municipal rights of way.

distinction.⁴ If granted an area certificate, MGE would *not* be required to seek additional and future Commission review and approval to provide retail gas service to customers *anywhere* within the newly certificated area. If granted the more limited transmission line certificate, MGE probably would be required (at least under the Staff's and the Commission's traditional approach) to seek in the future further Commission review and approval if MGE desired to serve new retail gas customers off of its new transmission line. In paragraph seven (7) of its Application, MGE alleges that "this certificate is primarily sought for a supply [i.e. a "transmission"] line" and that "no customers at the present time" will be served from that line. However, MGE specifically has cited the Commission's rule applicable to "area certificates" for purposes of its Application.⁵

10. To the extent that MGE is seeking a blanket area certificate, which necessarily would permit duplication of Applicant's existing retail natural gas system within the area requested (without the support of a feasibility study), and which also would result in overlapping customer service areas between Applicant and MGE thereby creating both public safety as well as competitive concerns, Applicant strongly opposes the relief sought by MGE.

11. To the extent that MGE is seeking only a transmission line certificate, Applicant still opposes the relief sought by MGE, at least until the exact location of the

⁴ 4 CSR 240-3.205(1)(A) sets forth the filing requirements for "area certificate" authority while 4 CSR 240-3.205(1)(B) sets forth different requirements for the more limited "transmission line certificate" authority.

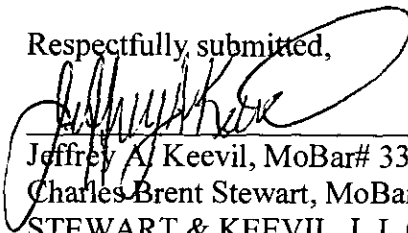
⁵ Paragraph 5 of the rule under which MGE has filed its Application (blanket area certificate authority) requires MGE to submit a "feasibility study", which would be consistent with long-standing Commission practice in all gas, electric, water and other types of area certificate cases where service to new customers is contemplated. A utility traditionally has been required, through the filing of a feasibility study, to show that the proposed expansion of the utility's service area is both economical and not a detriment to the utility's existing ratepayers. MGE has not filed such a study as part of its Application and has not urged any grounds for why this provision of the Commission's area certificate rule should be waived.

proposed transmission line is known and the issues regarding necessary private easements and/or required municipal consents and franchises are resolved.

12. Applicant's unique interests in this proceeding, both as a potential competitor with significant investment in existing utility facilities within the requested area, and as a large municipality/political subdivision responsible for the general safety and welfare of its citizens and its existing utility customers, is different from that of the general public, cannot be adequately represented by any other party to this case, and may be adversely affected by a final order arising out of the case. Applicant's unique perspective, and the evidence which Applicant will be able to provide to the Commission, will be helpful, relevant, and necessary for the public interest determination required of the Commission under Section 393.170 RSMo 2000. For all these reasons, granting Applicant's intervention request and allowing Applicant to fully participate as a party in this case will be in the public interest.

WHEREFORE, having timely complied with the applicable Commission's rules, and for all the reasons hereinabove stated, Applicant respectfully requests that the Commission grant Applicant's Application To Intervene in this proceeding.

Respectfully submitted,

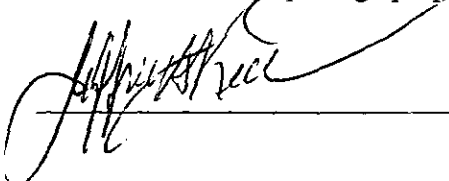


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ATTORNEYS FOR APPLICANT
CITY UTILITIES OF SPRINGFIELD,
MISSOURI

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Application To Intervene was served on counsel for all parties of record in Case No. GA-2003-0492 by placing same in the United States Mail, first class postage prepaid, or by hand-delivery, this 20th day of June, 2003.



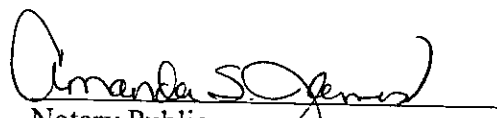
VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

I, William A. R. Dalton, being first duly sworn, deposes and states that I am General Counsel for City Utilities of Springfield, Missouri, that I have been authorized to cause to be filed the foregoing Application To Intervene in Missouri Public Service Commission Case No. GA-2003-0492, and that the information contained in said Application To Intervene is true and correct to the best of my knowledge, information and belief.

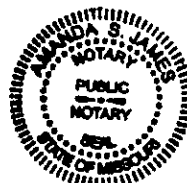

WILLIAM A. R. DALTON

Subscribed and sworn to before me this 19 day of June, 2003.


Notary Public
Amanda S. James

My commission expires: Oct. 28, 2003

[seal]



AMANDA S. JAMES Notary Public
Polk County State of Missouri
My Commission Expires Oct. 28, 2003