

**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, Install, Own, Operate, Maintain, and Otherwise Control and Manage a Natural Gas Distribution System to Provide Gas Service to One Property in Lawrence County as an Expansion of its Existing Certificated Areas)
)
)
) **File No. GA-2018-0396**
)
)
)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and submits its Staff Recommendation (which is attached hereto and incorporated herein by reference) in this matter, and in support thereof states as follows:

1. On June 28, 2018, Summit Natural Gas of Missouri, Inc. (“Summit”), a successor to Missouri Gas Utility, Inc. and Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas, filed an application with the Commission requesting a certificate of convenience and necessity (“CCN”) to construct, install, own, operate, maintain, and otherwise control and manage a natural gas distribution system to provide gas service to **one property** in Lawrence County, Missouri, as an expansion of its existing certificated area.

2. Summit also requests a variance from the Commission-approved stipulation and agreement in File No. GA-2007-0168 and from the plat and feasibility study requirements of Commission Rule 4 CSR 240-3.205(1)(A), and a waiver from Commission Rule 4 CSR 240-4.017(1) regarding the 60-day notice.

3. In its June 29, 2018, *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*, the Commission ordered an intervention deadline of July 20, 2018, and directed Staff to file either a recommendation

regarding the application and request for waivers or a status report indicating when it expects to file a recommendation no later than July 27, 2018.

4. Section 393.170 RSMo, requires the Commission to address the question of approving the service territory of public utilities and whether the provision of that service is necessary or convenient. Commission Rule 4 CSR 240-3.205(1)(E) requires applicants to state "The facts showing that the granting of the application is required by the public convenience and necessity." The term "necessity" means the additional service would be an improvement justifying its costs.¹ Furthermore, the Commission's allocation of service territory must be done on the basis of public interest.²

5. Staff has reviewed Summit's application and submits its Recommendation in memorandum form, which is attached hereto and incorporated herein by reference.

6. As discussed in more detail in the attached Recommendation, this is a highly unusual CCN case due to the underlying facts and procedural history. First, in the Commission's *Order Approving Stipulation and Agreement* in File No. GC-2017-0199, the Commission stated that "The specifics of the stipulation and agreement are confidential, but require, among other things, that Summit request authority to serve the Complainants' home and a waiver from the provisions of the Commission-approved agreement in GA-2007-0168." This case is the "request" contemplated in File No. GC-2017-0199. Second, the requested CCN is for a single piece of property. Third, the property for which the CCN is requested is located in the Commission-certificated service territory of Spire Missouri West (formerly known as Missouri Gas Energy, or MGE).

¹ *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, (1993), 848 S.W.2d 593.

² *State ex rel. Consumers Public Service Co. v. Public Service Commission*, (1944), 180 S.W.2d 40, 352 Mo. 905.

7. Normally Staff would not support granting a CCN to serve only one piece of property, or for a location in the certificated service area of another Commission-regulated public utility of the same type. Therefore, Staff wants to make it clear that this recommendation should not be considered to have any precedential effect, and requests that if the Commission approves Summit's application that the Commission's order clearly state that it is to have no precedential effect and is due solely to the highly unusual facts and procedural history of this case.

8. Subject to the foregoing, as reflected in the attached Recommendation, Staff is recommending that Summit's CCN application be granted, along with the requested waiver and variances. Staff also recommends the Commission order Summit to file Appendix 1 to its Application as a tariff sheet reflecting the single family residential property in this case within thirty (30) days of the Commission's order approving this application.

WHEREFORE, Staff submits its Staff Recommendation pursuant to the Commission's June 29, 2018, *Order Directing Notice, Setting Intervention Deadline, and Directing Staff Recommendation*, and requests the Commission issue an order as set forth above.

Respectfully submitted,

/s/ Jeffrey A. Keevil

Jeffrey A. Keevil

Missouri Bar No. 33825

P. O. Box 360

Jefferson City, MO 65102

(573) 526-4887 (Telephone)

(573) 751-9285 (Fax)

Email: jeff.keevil@psc.mo.gov

Attorney for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 27th day of July, 2018.

/s/ Jeffrey A. Keevil

MEMORANDUM

TO: Missouri Public Service Commission Official Case File,
Case No. GA-2018-0396, Summit Natural Gas of Missouri, Inc.

FROM: Kim Cox, Tariff/Rate Design Department, Commission Staff Division

/s/ Robin Kliethermes July 27, 2018 /s/ Jeff Keevil July 27, 2018
Tariff/Rate Design Manager/Date Staff Counsel's Office/Date

SUBJECT: Staff Recommendation Regarding Summit Natural Gas of Missouri, Inc.
Application for Certificate of Convenience and Necessity, Request for Variances
and Request for Waiver

DATE: July 27, 2018

On June 28, 2018, Summit Natural Gas of Missouri, Inc. (a successor to Missouri Gas Utility, Inc. and Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas) (“SNGMO”), filed an APPLICATION (Application) with the Missouri Public Service Commission (Commission) for permission and approval and a certificate of convenience and necessity (CCN) to construct, install, own, operate, maintain, and otherwise control and manage a natural gas distribution system to provide gas service to **one property** in Lawrence County as an expansion of its existing certificated area. In addition, SNGMO seeks a variance from the Commission-approved stipulation and agreement in File No. GA-2007-0168 and from Commission Rule 4 CSR 240-3.205(1)(A) and a waiver from Commission Rule 4 CSR 240-4.017(1).

On January 20, 2017, the owners of the property filed a complaint, Case No. GC-2017-0199¹. On May 23, 2018, a Stipulation and Agreement was filed by the property owners and SNGMO. The Commission issued an ORDER APPROVING STIPULATION AND AGREEMENT on June 6, 2018. This CCN case is a direct result of that complaint case.

On June 29, 2018, the Commission issued an ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF RECOMMENDATION. The order allowed any interveners to file by July 20, 2018, and directed Staff to file a recommendation or status report no later than July 27, 2018. On July 20, 2018, Spire Missouri Inc. (“Spire Missouri”) filed Spire Missouri Inc.’s Motion to Intervene.

The requested CCN is for a single property that is located in Spire Missouri West (“Spire West”) service territory (formerly known as Missouri Gas Energy (“MGE”). The owners of the property requested service from Spire West but it was cost prohibitive and then requested service from SNGMO. SNGMO holds a line certificate in the service territory and provides service to some locations through “farm taps.” A Stipulation and Agreement was filed

¹ A copy of the Commission’s *Order Approving Stipulation and Agreement*, without the confidential appendix, is attached for reference.

in Case No. GA-2007-0168, Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas (SNGMO's predecessor) pursuant to which SNGMO's predecessor waived any right to request a CCN for any territory for which MGE was already certificated, with the exception of service through farm taps for domestic purposes only when necessary to obtain right-of-way for pipeline construction. The Commission approved the stipulation and agreement by its Report and Order issued February 5, 2008. The single property service area which is the subject of this case is not related to pipeline construction. Therefore, SNGMO is requesting a variance from the Stipulation and Agreement in Case No. GA-2007-0168 to provide service to the single property and adds that all other aspects of the stipulation will remain in full force and effect. Spire Missouri noted in its Motion to Intervene that it could support SNGMO's request for variance, subject to SNGMO's agreement to certain conditions that would encourage future compliance with the stipulation and agreement. Spire Missouri gave no indication what these other "conditions" might be.

SNGMO will not need to install any new facilities or do any construction other than extending a service line to the property. No financing will be required to provide service to the single requested property. Therefore, SNGMO seeks a variance from Commission Rule 4 CSR 240-3.205 (1)(A) of a plat and a feasibility study.

SNGMO will not require additional franchises or permits from municipalities, counties or other authorities. Attached to SNGMO's application is a map (Appendix 2 confidential) and the name of the residents/owners of the single property (Appendix 3 confidential). The proposed single property will be charged the tariffed Residential Service (GS) rate for SNGMO's Branson division.

SNGMO also requests a waiver from Commission Rule 4 CSR 240-4.017(1) which requires notice shall be provided 60 days prior to filing a case.

This case is highly unusual due to the underlying facts, which were set forth in more detail in Case No. GC-2017-0199. Normally Staff would not support granting a CCN to serve only one property, or for a location in the certificated service area of another Commission-regulated public utility of the same type. Therefore, Staff wants to make it clear that this recommendation should not be considered to have any precedential effect, and requests that if the Commission approves this application that the Commission order clearly state that it is to have no precedential effect and is due solely to the highly unusual facts of this case. Subject to the foregoing, Staff has reviewed this Application and for the following reasons is of the opinion that granting this Application would be in the public interest:

- 1) SNGMO is willing and able to provide the requested service;
- 2) It resolves Case No. GC-2017-0199; and
- 3) No new franchises, financing or construction is required.

MO PSC Case No. GA-2018-0396
Official Case File Memorandum
July 27, 2018
Page 3 of 3

Therefore, Staff recommends SNGMO be granted a certificate to serve the single property in Lawrence County, Missouri, along with the requested waiver and variances. Staff also recommends the Company file Appendix 1 to its Application as a tariff sheet reflecting the single family residential property in this case within thirty (30) days of the Commission's Order approving this Application.

The Staff has verified that this Company has filed its annual report and is not delinquent on any assessment. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

**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, Install, Own, Operate, Maintain, and Otherwise Control and Manage a Natural Gas Distribution System to Provide Gas Service in One Property in Lawrence County as an Expansion of its Existing Certificated Areas)
)
)
)
)
)
)
)

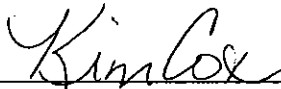
File No. GA-2018-0396

AFFIDAVIT OF KIM COX

State of Missouri)
) ss.
County of Cole)

COMES NOW Kim Cox and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached *Staff Recommendation*; and that the same is true and correct according to her best knowledge and belief.

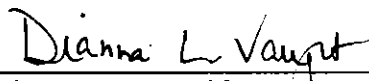
Further the Affiant sayeth not.



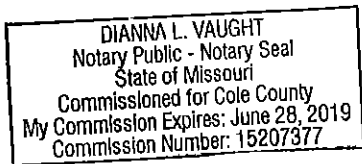
Kim Cox

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 26th day of July, 2018.



NOTARY PUBLIC



**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 6th day of June, 2018.

Paul Brown and Debra Brown)
)
 Complainants,)
)
 v.)
)
 Summit Natural Gas of Missouri, Inc.,)
)
 Respondent)

File No. GC-2017-0199

ORDER APPROVING STIPULATION AND AGREEMENT

Issue Date: June 6, 2018

Effective Date: June 16, 2018

On January 20, 2017, Paul Brown and Debra Brown (Complainants) filed a complaint against Summit Natural Gas of Missouri, Inc. (Summit). The Complainants alleged that Summit offered to provide natural gas service to the Complainants' residence, accepted their application for service, and constructed approximately 400 feet of gas lines across the Complainants' property to within 12 inches of their house without having a certificate of convenience and necessity to service the residence. Complainants alleged that they had relied to their detriment on Summit's representations and requested that Summit be granted a certificate of convenience and necessity to serve the area.

Summit responded that the Complainants' house lies in its Branson Division, an area formerly owned by Southern Missouri Gas Company, d/b/a Southern Missouri Natural Gas, and primarily certificated only for a line certificate. Summit indicated that

some customers are served along that line certificate as “farm taps” in accordance with a Commission order and an approved stipulation and agreement between Southern Missouri Natural Gas and Missouri Gas Energy (now Spire Missouri Inc.).¹ However, Summit stated that the Complainants’ house was not one of the line certificate exceptions.

The parties began negotiating a resolution and eventually entered into mediation. On May 23, 2018, the parties filed a confidential stipulation and agreement as the resolution of all issues. The specifics of the stipulation and agreement are confidential, but require, among other things, that Summit request authority to serve the Complainants’ home and a waiver from the provisions of the Commission-approved agreement in GA-2007-0168.

The stipulation and agreement currently before the Commission is non-unanimous in that it was not signed by all parties. However, Commission Rule 4 CSR 240-2.115(2) provides that other parties have seven days in which to object to a non-unanimous stipulation and agreement. If no party files a timely objection to a non-unanimous stipulation and agreement, the Commission may treat it as a unanimous stipulation and agreement. More than seven days have passed since the stipulation and agreement was filed, and no objections have been received. The Staff of the Missouri Public Service Commission (Staff) filed a reservation of objection noting that even though it was not objecting to the stipulation and agreement it was not forgoing its right to object in any future proceeding initiated as a result of the agreement. Since

¹ See, File No. GA-2007-0168, *Report and Order* (issued February 5, 2008) and *Stipulation and Agreement of SMNG and MGE* (December 4, 2007).

there was no objection to the agreement, the Commission will treat the stipulation and agreement as a unanimous stipulation and agreement.

After reviewing the stipulation and agreement, the Commission independently finds and concludes that the stipulation and agreement is a reasonable resolution of the complaint and that it should be approved. The Commission also notes that it has not made any prejudgment of future applications that may be filed as a result of the stipulation and agreement, but will evaluate those applications when filed.

THE COMMISSION ORDERS THAT:

1. The stipulation and agreement filed on May 23, 2018, is approved. The signatory parties are ordered to comply with the terms of the stipulation and agreement.

A copy of the stipulation and agreement is attached to this order.

2. This order shall be effective on June 16, 2018.

3. This file shall be closed on June 17, 2018.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

Hall, Chm., Kenney, Rupp, Coleman, and
Silvey, CC., concur.

Dippell, Senior Regulatory Law Judge