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December 24, 2003

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

**FILED**

**DEC 24 2003**

RE: Case No. GA-2004-0241

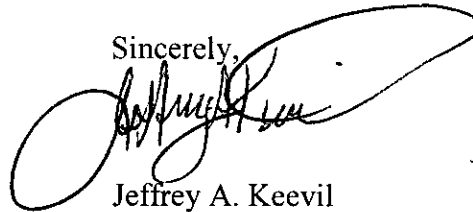
**Missouri Public  
Service Commission**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case is an original and the appropriate number of copies of an APPLICATION TO INTERVENE on behalf of City Utilities of Springfield, Missouri.

Copies of this filing have on this date been mailed, hand-delivered, transmitted by facsimile or emailed to counsel as provided in the Commission's Order and Notice dated December 5, 2003. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er

Enclosures

Cc: Dean Cooper  
Office of the Public Counsel  
General Counsel's Office

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

**FILED**  
**DEC 24 2003**

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, as an Expansion of     )  
Its Existing Certificated Area.     )

Case No. GA-2004-0241

**Missouri Public  
Service Commission**

**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 December 5, 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 to Intervene, Applicant is engaged in the provision of natural gas utility services to the general public in and around the City of

Springfield, Missouri, including a portion of the new area sought by Missouri Gas Energy (“MGE”) in the instant case. Applicant holds a franchise from the City of Willard to provide natural gas service within the City of Willard. Applicant is duly authorized to provide such utility service 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, 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 each of the following:

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)

And

C. Mike DeLong  
Customer Engineering & Developer Services  
City Utilities of Springfield, Missouri  
301 East Central  
P.O. Box 551  
Springfield, Missouri 65801-0551  
(417) 831-8527  
(417) 831-8549 (fax)

4. Pursuant to 4 CSR 240-2.060(1)(K), Applicant states that, with one exception<sup>1</sup>, it has no pending action or final unsatisfied judgments or decisions against it from any

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<sup>1</sup> 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.

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.

## **II. 4 CSR 240-2.075 Requirements**

7. In the *Order and Notice* issued in this case by the Commission on December 5, 2003, the Commission stated that proper persons should be allowed 20 days from the date of the order to file an application to intervene, and also ordered that any party wishing to request a hearing shall file an application no later than December 29, 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 Applicant currently is lawfully providing gas service to the public in a portion of 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.<sup>2</sup> Applicant holds a franchise from the City of Willard to provide natural gas service within the City of Willard. Accordingly, contrary to MGE's assertion in its Application for its certificate, the facts do not support a finding that the granting of MGE's certificate is required by the public convenience and necessity.

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<sup>2</sup> 4 CSR 240-3.205(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 12 of its Application, MGE erroneously alleges that "Service from a natural gas supplier is not available in this area at the present time."

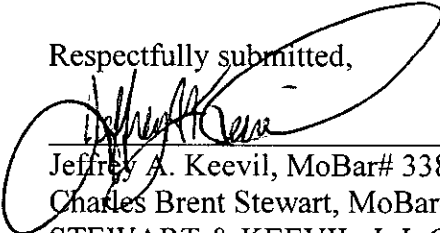
9. Applicant opposes the relief sought by MGE, which necessarily would lead to duplication of natural gas facilities within the area requested, and which also would result in overlapping service areas between Applicant and MGE thereby creating both public safety as well as competitive concerns. Also, to the extent that it is required to do so at this time, Applicant requests a hearing be set in this matter, after an adequate length of time has been allowed for the filing of testimony and conducting of any necessary discovery.

10. Applicant's unique interest in this proceeding as a supplier of natural gas utility service with significant investment in existing utility facilities within the requested area, which is fully capable of providing natural gas service to new customers within the area should the need arise, and which holds a franchise from the City of Willard to provide natural gas service, 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. 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 rules and the *Order and Notice* dated December 5, 2003, and for all the reasons hereinabove

stated, Applicant respectfully requests that the Commission grant Applicant's Application to Intervene in this proceeding.

Respectfully submitted,



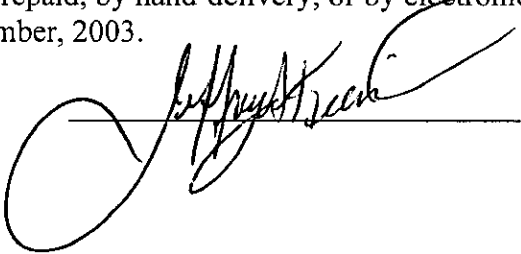
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Jeffrey A. Keevil, MoBar# 33825  
Charles Brent Stewart, MoBar#34885  
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(573) 499-0638 (fax)  
per594@aol.com, Stewart499@aol.com

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 as provided in the Commission's Order and Notice dated December 5, 2003, in Case No. GA-2004-0241 by placing same in the United States Mail, first class postage prepaid, by hand-delivery, or by electronic transmission this 24th day of December, 2003.



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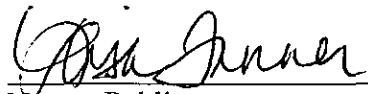
**VERIFICATION**

STATE OF MISSOURI       )  
                                      ) ss.  
COUNTY OF GREENE       )

I, William A. R. Dalton, being first duly sworn, state 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-2004-0241, 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 18th day of December 2003.

  
\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

[seal]

