

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 16th day of
December, 2009.

In the Matter of the Application of Southern Missouri)	
Gas Company, L.P. d/b/a Southern Missouri Natural Gas)	
for a Certificate of Convenience and Necessity)	
Authorizing it to Construct, Install, Own, Operate, Control,)	<u>File No. GA-2010-0114</u>
Manage and Maintain a Natural Gas Distribution System)	
to Provide Gas Service in Laclede County, Missouri)	
as an Expansion of its Existing Service Area)	

**ORDER GRANTING
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: December 16, 2009

Effective Date: December 26, 2009

The Commission is granting the application (“application”) of Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas (“SMNG”) to construct gas facilities (“construction”) and provide gas service (“service”), as described in the caption of this order. The Commission is also issuing a certificate of convenience and necessity for those purposes. Further, the Commission is granting SMNG’s motion for expedited treatment and issuing this order within the time requested.

Procedure

On October 13, 2009, SMNG filed the application with a motion for expedited treatment and a supporting affidavit. The Commission issued notice of the application and set a deadline for applications to intervene, but the Commission received no application to intervene. On November 30, 2009, the Commission’s staff (“Staff”) filed its recommendation, also with a supporting affidavit. On December 8, 2009, SMNG filed a response agreeing with the recommendation. The statutory provision for a “due

hearing”¹ means that the Commission may grant the unopposed application without a hearing,² so the Commission convened no hearing, grants the motion for expedited treatment, and bases its findings and conclusions on the verified filings.

Standard

Gas facility construction³ and service⁴ require the Commission’s prior permission and approval. Such permission and approval depend on SMNG 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]

“Necessary” and “necessity” relate to the regulation of competition, cost justification, and safe and adequate service.⁷ On finding convenience and necessity, the Commission embodies its permission and approval in a certificate,⁸ which the statutes call a certificate of convenience and necessity.⁹ 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 [. ¹⁰]

In Staff’s recommendation, Staff supports the application “with the understanding that the failure of the proposed extension will not affect [SMNG]’s rates.” SMNG’s response

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 ***State ex rel. Intercon Gas, Inc. v. Public Serv. Com’n of Mo.***, 848 S.W.2d 593, 597 (Mo. App., W.D. 1993).

⁸ Section 393.170.2, RSMo 2000, second sentence.

⁹ 4 CSR 240-3.205.

¹⁰ *Id.*

agrees that this matter does not determine the SMNG's rates. This order decides the application only.

Findings and Conclusions

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

1. SMNG is a Missouri limited partnership authorized to do business in Missouri as a gas corporation. SMNG has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three years that involve customer service or rates. No annual report or fees assessed are overdue from SMNG.

2. SMNG holds a certificate for parts of Laclede County, Missouri, but not for the area that is subject to the application ("proposed service area"), for which the legal description is in the Appendix to this decision. SMNG does not hold a certificate for natural gas service for the proposed service area. No natural gas service is available in the proposed service area.

3. The proposed service area includes the site of Willard Asphalt Paving, Inc., which seeks natural gas service from SMNG. SMNG can provide service in the proposed service area by constructing an extension to its current system. Such extension will be profitable in ten years and reduce costs to other SMNG customers, which justifies building and operating the extension. SMNG has the resources and operational capability to provide gas service in its requested service area without jeopardizing natural gas service to SMNG's current existing customers.

On those grounds, the Commission independently finds and concludes that SMNG's proposed construction and service are necessary and convenient for the public service. Therefore, the Commission will grant the application.

THE COMMISSION ORDERS THAT:

1. The motion for expedited treatment is granted.
2. The application described in the caption of this order is approved and a certificate of convenience and necessity, reflecting the Missouri Public Service Commission's permission and approval for construction and service in the area described at the Appendix to this order, shall be issued to Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas ("SMNG").
3. The approval and permission granted in ordered paragraph 2 is conditioned on SMNG's shareholders assuming total responsibility for any loss associated with this project, with no liability or responsibility put on customers.
4. The Commission makes no finding as to the prudence or ratemaking treatment to be given any costs or expenses incurred as the result of the granting of this certificate of convenience and necessity, and reserves the right to make any disposition of costs and expenses which it deems reasonable, in any future ratemaking proceeding.
5. Service provided pursuant to the certificate of convenience and necessity granted in ordered paragraph 3 shall comply with the applicable tariff on file with the Commission and in effect as of the date of this order.

6. This order shall become effective December 26, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed
Secretary

(S E A L)

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

Jordan, Regulatory Law Judge

Appendix

Proposed Service Area, Laclede County

<i>Township</i>	<i>Range</i>	<i>Section</i>
Township 34 North	Range 16 West	Section 1
Township 34 North	Range 15 West	Section 6
Township 35 North	Range 16 West	Section 31
Township 35 North	Range 15 West	Section 32
Township 35 North	Range 15 West	Section 29
Township 35 North	Range 15 West	Section 28