

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

In the matter of the application of Missouri Gas)	
Utility, Inc., for authority to enter into certain debt)	
instruments and to issue up to and including)	
\$7,000,000 of indebtedness, in one or)	Case No. _____
more transactions, and to, among other things,)	
execute and deliver a mortgage and security)	
agreement to secure said indebtedness.)	

APPLICATION

COMES NOW Missouri Gas Utility, Inc. ("MGU" or "Applicant"), by and through its counsel, pursuant to §§ 393.180 and 393.190, RSMo (2000) and Missouri Public Service Commission ("Commission") rules 4 CSR 240-2.060, 2.080 and 4 CSR 240-3.210 and for its application to issue up to and including \$7,000,000 of indebtedness, in one or more transactions under the terms of one or more Loan Agreements with Summit Utilities, Inc., and related debt instruments, all such indebtedness to be secured by a mortgage, lien and encumbrance upon its Missouri operating properties, states as follows:

The Applicant

1. MGU is a corporation duly incorporated under the laws of the State of Colorado with its principal office located at 7810 Shaffer Parkway, Suite 120, Littleton, Colorado 80127. A copy of a certificate from the Missouri Secretary of State that MGU is authorized to do business in Missouri as a foreign corporation was submitted in Case No. GA-2007-0421 and is incorporated by reference in accordance with Commission Rule 4 CSR 240-2.060(1)(G). Other than cases that have been docketed at the Commission, MGU has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three (3) years that

involve customer service or rates. MGU has no annual report or assessment fees that are overdue.

2. MGU conducts the business as a “gas corporation” and a “public utility” as those terms are defined at § 386.020 RSMo and, generally, provides natural gas service in the Missouri counties of Harrison, Daviess and Caldwell, subject to the jurisdiction of the Commission as provided by law. Its operations in the State of Missouri were authorized in the context of Case No. GO-2005-0120.

3. MGU is a wholly-owned subsidiary of Summit Utilities, Inc., (f/k/a CNG Holdings, Inc.), a Colorado corporation (“Summit”).

4. All correspondence, communications, notices, orders and decisions of the Commission with respect to this matter should be sent to the undersigned counsel and:

Kenneth C. Wolfe
Vice President and General Counsel
Missouri Gas Utility, Inc.
7810 Shaffer Parkway, Suite 120
Littleton, CO 80127
Telephone: (720) 981-2114
Facsimile: (970) 493-8788
Cell: (303) 847-8787
Email: kcwolfe@summitutilitiesinc.com

Capitalization of Applicant

5. Applicant had outstanding, as of March 31, 2008, (1) \$1,286,513 of long-term secured indebtedness in the form of a five year note payable to Cache Bank & Trust which is due in 2010 and (2) \$1,500,000 of long-term unsecured indebtedness in the form of a promissory note payable to Summit, a portion of which is to be converted to paid-in capital.

6. Applicant had outstanding, as of March 31, 2008, \$145,000 of short-term unsecured indebtedness in the form of a promissory note payable to Summit, a portion of which is to be converted to paid-in capital.

7. Applicant's authorized capital stock consists of 10,000,000 shares of common stock, no par value, 58,342 shares of which were issued and outstanding as of March 31, 2008.

8. None of the outstanding stock, stock certificates, notes or bonds of Applicant have been issued or used in capitalizing the right to be a corporation or any franchise or permit, or the right to run, operate or enjoy such franchise or permit, or any contract for consolidation or lease, or issued against or as a lien upon any contract for consolidation or merger.

The Proposed Loan Agreement and Secured Letter of Credit

9. MGU proposes to enter into one or more debt instruments to fund its current and planned operations in the State of Missouri. The financing contemplated by this Application calls for Summit to issue new variable-interest-rate revenue bonds ("Bonds"), in one or more series, on behalf of MGU in a total amount not to exceed \$5 million. The Bonds will be issued during the course of calendar year 2008, as market conditions warrant. It is further contemplated that these Bond issuances on behalf of MGU will be facilitated and evidenced by various debt instruments including (i) a loan agreement by and between MGU and Summit; (ii) a reimbursement agreement, which includes a \$2,000,000 line of credit which may be renewed annually, by and between MGU and US Bank; (iii) a note and mortgage from MGU to US Bank; (iv) a trust agreement by and between Summit, MGU and The Bank of New York, Mellon, N.A.; and (v) and a general security agreement by and between MGU and US Bank., (hereinafter, collectively, the "Debt Instruments").¹ The Bonds will be secured by one or more Letters of Credit ("LOC") issued during the life of the Bonds by one or more

¹ Copies of the Debt Instruments are provided as more specifically identified in ¶17, *infra*.

commercial banks with an investment grade rating (the “LOC Bank”). To secure the LOCs and the line of credit, MGU will enter into a reimbursement agreement which provides collateral in the event of a default in the payment of the obligations with respect to the Bonds or default of the LOC. The reimbursement agreement (including the annually renewing line of credit available to MGU thereunder) will be secured by a mortgage and security agreement which, together, will constitute a first mortgage lien on substantially all of the properties presently owned and subsequently acquired by MGU, including its certificates of convenience and necessity. Marked **Appendix 1**, and attached hereto for all purposes, is a schematic of the loan structure that illustrates the relationships and interplay of the Debt Instruments and other documentation.²

10. The structure described in the preceding paragraph will allow the Bonds to have a credit rating equal to the LOC Bank’s credit rating, resulting in a lower rate of interest than MGU could obtain without the LOC. Moreover, because the LOC will be issued by a bank, the Bonds are exempt from registration with the United States Securities and Exchange Commission, thus saving the company the cost for a securities registration.

11. By issuing the Bonds in this fashion, MGU believes that the issuing and administration costs will be less for MGU than would otherwise be the case were MGU to continue to issue and have outstanding its own bonded indebtedness.

12. If approved by the Commission, Summit intends to issue approximately \$5,000,000 of its Bonds on behalf of MGU during 2008 and loan such amount to MGU

² The schematic shows that Summit has issued Bonds on behalf of another subsidiary, Colorado Natural Gas (“CNG”), under a substantially similar structure and terms. There is no cross-collateralization of the subsidiaries’ obligations and the Master Trust Indenture and the Reimbursement and Pledge Agreement explicitly bar any cross-default remedy with respect to the two subsidiary borrowers. If CNG should default on its obligations, for example, the lending bank has no foreclosure or collateral rights with

pursuant to the terms of one or more loan agreements. The outstanding Bonds are expected to have a single credit rating and a single CUSIP number. The line of credit is expected to be used for working capital and construction costs pending a subsequent series of Bonds being issued.

13. The costs associated with the authorization and issuance of the 2008 Bonds referenced herein, including legal, administrative, filing and mailing costs, are not known at this time. MGU estimates that the total costs for the 2008 series will not exceed \$100,000.

14. Because the market for the Bonds is constantly changing, MGU cannot, at this time, forecast the interest rate or rates or other terms and provisions of the Bonds; thus, the terms and provisions shall be determined at the time of sale. The maturities of the various Bonds are anticipated to be thirty years. The interest rate or rates of any series of Bonds, including any applicable discount, shall be consistent with rates for similar securities of comparable credit quality and maturities issued by other companies. The annual fee for the LOC is expected to be 1.25 percent of the amount of the outstanding LOC.

Statutory Authority For Commission Action

15. The Commission has jurisdiction in this case because MGU will create a lien or encumbrance on its Missouri properties to secure payment for the LOCs and the separate line of credit. See, § 393.190.1, RSMo 2000. Therefore, MGU seeks approval from the Commission to mortgage its Missouri properties to secure its obligations under the LOCs and associated Debt Instruments.

Filing Requirements And Related Materials

16. Marked **Appendix 2**, attached hereto and made a part hereof for all

respect to MGU's assets or operations.

purposes, is information regarding MGU's capital stock outstanding, bonded indebtedness, long-term unsecured indebtedness and short-term indebtedness and other financial information including a balance sheet for the twelve month period ending March 31, 2008 and financial statements with adjustments showing the *pro forma* effect of the issuance of up to \$5,000,000 of additional long-term indebtedness on bonded and other indebtedness and stock authorized and outstanding. Marked **Appendix 3**, attached hereto and made a part hereof for all purposes, is a statement of MGU's capital expenditures for the acquisition of property and the construction, completion, extension and improvement of its plant and systems for the four-year period immediately prior to the filing of this Application, as well as the amount of retirements and permanent financing for the indicated period and the statement of MGU's net property additions.

17. Marked as indicated and attached hereto and made a part hereof for all purposes are copies of the following Debt Instruments and related documents in substantially final form:

Appendix 4: Form of Loan Agreement (Series 2008B) by and between Summit and MGU ("Loan Agreement");

Appendix 5: Reimbursement and Pledge Agreement by and between MGU and Summit, and US Bank ("Reimbursement Agreement");

Appendix 6: Mortgage, Security Agreement, Assignment of Profits and Proceeds, Financing Statement and Fixture Filing from MGU to US Bank ("Mortgage");

Appendix 7: General Security Agreement from MGU to US Bank ("Security Agreement");

Appendix 8: Form of Promissory Note (Letter of Credit) from MGU to US

Bank;

Appendix 9: Master Trust Indenture by and between Summit and The Bank of New York Mellon Trust Company, N.A.;

Appendix 10: Bonds Supplement (Series 2008B) by and between Summit and The Bank of New York Mellon Trust Company, N.A.; and

Appendix 11: Remarketing Agreement regarding the Bonds.

The Use of Proceeds from Secured Indebtedness

18. The net proceeds from the sale of each series of Bonds issued by Summit on MGU's behalf and any borrowing for the line of credit will be added to MGU's general funds for use in connection with the acquisition of property, construction, completion or improvement of its plant or system, or the improvement or maintenance of service, or the discharge or lawful refunding of its obligations, or the reimbursement of monies actually expended from income or any other monies in the treasury not secured or obtained from the issuance of stocks, bonds, notes or other evidences of indebtedness. MGU contemplates that the proceeds obtained through its loan agreement with Summit will be used to provide financing for its ongoing construction program,³ to discharge outstanding long-term indebtedness by the payment of principal to refinance outstanding indebtedness,⁴ including the payment of applicable redemption premiums, if any, and other corporate purposes. The money, property or labor to be procured or paid for by the issuance and sale of the Bonds by Summit on MGU's behalf is reasonably required for the purposes specified in this Application and such purposes

³This program includes MGU's authorization from the Commission to expand its operations in Harrison and Daviess Counties, specifically, in the communities of Ridgeway (Case No. GA-2008-0321), Pattonsburg (Case No. GA-2008-0322) and Jamesport (Case No. GA-2008-0348). In order to extend service to these communities, Applicant will need to expand its utility plant.

⁴ Applicant intends to apply some of the proceeds to refund all of its existing variable

are not in whole or in part reasonably chargeable to operating expense or income.

19. Marked **Appendix 12**, attached hereto and made a part hereof for all purposes, is a certified copy of the resolutions of MGU's Board of Directors which authorized the transactions which are the subject of this Application and authorized the filing of this Application.

20. Subjecting MGU's Missouri properties to the Mortgage and Security Agreement to secure its obligations under the Debt Instruments will have no impact on the tax revenues of the political subdivisions in which any of the structures, facilities or equipment of MGU are located. The Mortgage and Security Agreement will not result in a change of ownership of MGU's Missouri properties nor will they result in the change of the present location of the affected utility assets.

21. Subjecting MGU's Missouri properties to the lien of the Mortgage and Security Agreement will not be detrimental to the public interest, and in fact will be beneficial to the public interest because the public health, safety and welfare will be served by the ability of MGU to obtain access to the capital markets on the most favorable terms available. Granting the authority requested will be transparent to MGU's customers in that it will not cause any adverse impact on customer service or rates.

WHEREFORE, MGU requests that the Commission grant MGU's Application and issue an order that:

- a) Authorizes MGU to enter into, execute and deliver one or more Loan Agreements with Summit in substantially the form of Appendix 4 to incur indebtedness provided that the aggregate principal amount of all such debt obligations shall not exceed \$5,000,000, bearing interest, including

rate debt to Cache Bank & Trust.

any applicable discount, at a rate consistent with the rates for similar securities of comparable credit quality and maturities issued by other companies, having a maturity of one year for any line of credit and not more than thirty years for the loan relating to the Bonds and having such designation and redemption, purchase and other terms as shall be determined by MGU;

- b) Authorizes MGU to execute and deliver to US Bank, N.A. and Summit one or more Reimbursement Agreements further evidencing and collateralizing such indebtedness in substantially the form of Appendix 5;
- c) Authorizing MGU to incur indebtedness by drawing down from time to time on a \$2,000,000 line of credit provided for in the Reimbursement Agreement provided;
- d) Authorizes MGU to create and make effective the lien of the Reimbursement Agreement, the Mortgage and the Security Agreement on all of the franchise, certificates of convenience and necessity, works and system of MGU in the State of Missouri to secure each LOC and the separate line of credit, provided the aggregate amount thereof does not exceed \$7,000,000;
- e) Authorizes MGU to enter into, execute, deliver and perform in accordance with the Mortgage and the Security Agreement, in substantially the form of Appendices 6 and 7;
- f) Authorizes MGU to enter into, execute, deliver and perform the necessary promissory notes, agreements and other documents necessary to effectuate the described transactions; and
- g) Authorizes MGU to take such other actions as may be reasonably

incidental, necessary or appropriate to complete the transaction; and

- h) Finding that the money, property or labor to be procured or paid for by MGU through the issuance of the one or more LOCs and Loan Agreements is reasonably required and necessary for the purposes set forth above and will be used therefor and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income.

Respectfully submitted,

/s/ Paul A. Boudreau
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Attorney for Missouri Gas Utility, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 25th day of August, 2008, to the following:

Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102-0360

Office of the Public Counsel
Governor Office Building
200 Madison Street, Suite 650
Jefferson City, MO 65102-2230

/s/ Paul A. Boudreau
Paul A. Boudreau