

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
February 29, 2000**

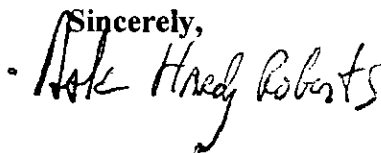
CASE NO: GA-2000-412

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Enclosed find certified copy of an Order in the above-numbered case(s).

Sincerely,


Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 29th
day of February, 2000.

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 Transmission)
and Distribution System to Provide Gas Service)
in a Certain Area in Newton County, Missouri)
as an Expansion of Its Existing Certificated)
Area)

Case No. GA-2000-412

ORDER GRANTING CERTIFICATE

Procedural History

On January 10, 2000, Missouri Gas Energy, a division of Southern Union Company, (MGE) filed an application with the Missouri Public Service Commission (Commission) pursuant to Section 393.170, RSMo 1994¹, requesting that the Commission grant it a certificate of convenience and necessity to construct, install, own, operate, control, manage and maintain a system for the provision of natural gas service to the public pursuant to its approved rates, rules and regulations, in the requested new area of Newton County, Missouri. On the same day, MGE also filed a motion for expedited treatment, wherein it "... request[ed] that the Commission order that the application be processed in an accelerated

¹ All references herein to Sections of the Revised Statutes of Missouri (RSMo), unless otherwise specified, are to the revision of 1994.

manner and that times for intervention and a report or recommendation from the Staff [of the Commission] be expedited."

On January 13, 2000, the Commission entered its order requesting a response, ordering the Staff of the Commission (Staff) to respond to MGE's request to handle this case in an expedited manner. On January 18, 2000, the Staff filed its response. Staff stated, *inter alia*, that if there were no intervenors, Staff believed it would be able to file a recommendation by February 18, 2000.

Also on January 18, 2000, MGE filed its first amended application, stating that there were no municipalities located within the proposed service area.

On January 19, 2000, the Commission issued an order and notice of an application for a certificate of convenience and necessity and an opportunity to intervene, directing parties wishing to intervene to file their requests no later than January 31, 2000. No one filed an application to intervene.

On February 18, 2000, Staff filed its memorandum, stating that, pursuant to Section 393.170.3, MGE's request is necessary or convenient for the public service and therefore recommended that the Commission approve MGE's application. Specifically, Staff stated the following reasons for its opinion that granting the certificate to MGE would be in the public interest: (1) extending the gas service would not jeopardize natural gas service to MGE's currently existing customers; (2) the Crossroads Center Distribution and Business Park (Park) already contains two large customers who desire service and this makes the project

feasible; (3) the absence of any intervenors indicates that no one objects to this certificate request; (4) MGE is willing and able to provide the requested service under existing tariff provisions; and, (5) the city of Joplin has paid the required customer contribution. Staff also stated that MGE is willing and able to provide the requested service under existing tariff provisions and that it recommends that MGE file revised tariff sheets. The Commission will order MGE to file revised tariff sheets.

The requirement of a hearing has been fulfilled when all those having a desire to be heard are offered an opportunity to be heard. If no proper party or governmental entity is granted intervention and neither the Commission's Staff nor the Office of the Public Counsel requests a hearing, the Commission may determine that a hearing is not necessary and that the Applicant may submit its evidence in support of the Application by verified statement. State ex rel. Rex Deffenderfer Enterprises, Inc. v. P.S.C., 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one filed an application to intervene, the Commission will decide this case on the basis of the verified pleadings.

Discussion

The authority for the issuance by the Commission of a certificate of convenience and necessity to provide gas service is contained in Section 393.170. Subsection 1 of that statute states in part, that "No gas corporation . . . shall begin construction of a gas plant . . . without first having obtained the permission and approval of the

commission." Subsection 3 of that statute states in part, "The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction . . . is necessary or convenient for the public service."

The courts have held that "necessity," as used in the term "convenience and necessity," does not mean essential or absolutely indispensable, but rather that an additional service would be an improvement justifying the cost and that the inconvenience to the public occasioned by the lack of a utility is so sufficiently great as to amount to a necessity. See State ex rel. Public Gas Supply District No. 8 v. Public Service Commission, 600 S.W.2d 147, 154 (Mo. App. 1980); State ex rel. Intercon Gas v. Public Service Commission, *Id.*, 597; and State ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d 216, 219 (Mo. App. 1973).

The Commission has determined that MGE has met its burden of proof under the legal standards articulated by the Commission and the courts for the grant of a certificate of public convenience and necessity. For the reasons stated herein, the Commission will grant MGE's application for a certificate of public convenience and necessity.

MGE is a division of Southern Union Company, a Delaware corporation duly organized and existing under the laws of the state of Delaware, which conducts business in the state of Missouri under the fictitious name of Missouri Gas Energy, with its principal office and place of business located at 3420 Broadway, Kansas City, Missouri 64111. MGE is a public utility proposing to render gas service to the public under the

jurisdiction of the Commission in the proposed service area. In its application, MGE stated that it is currently certificated to provide gas utility services to the public in several counties of the state, including Newton County.

The proposed service area is legally described as all of Sections 2, 3, 4, Township 26 North, Range 32 West; Sections 22, 23, 24, 26, 27, 28, 33, 34, and 35, Township 27 North, Range 32 West; all situate in the county of Newton, state of Missouri. MGE stated that the Park is currently under development in conjunction with the Industrial Development Authority of the City of Joplin, Missouri (JIDA). MGE stated that it had been requested by JIDA to provide gas service to this developing area which is designed for light manufacturing, distribution and commercial operations. MGE stated that the Park is located in Jasper County in an area where MGE currently holds a certificate for gas service. However, MGE stated, it has determined that in order to provide natural gas service to the Park, the most efficient and economical method would be to construct about 3.5 miles of new gas line north from a tap on an interstate pipeline to reach the Park. MGE stated that because it does not have a certificate for the area between the tap and the Park through which the new line would be constructed, it would be necessary for MGE to obtain the requisite permission from the Commission which it is requesting in this case.

In its application and Appendix C (feasibility study) thereof, MGE proposed a polyethylene or steel pipe as needed, built to the current standards and procedures file already on file with the Commission. In

its application, MGE stated that no particular external financing is anticipated for construction related to these areas. Also, MGE stated, the construction methods will follow MGE's customary standard and the rules of the Commission.

In its feasibility study, MGE stated that the construction cost of the project is approximately \$890,000, including the installation of all equipment needed for the extension. The projected revenues, MGE estimates, from the Park for the first three years of operation are approximately \$70,000. MGE stated that for customers using in excess of 6,000 Ccf annually, MGE's tariff allows the customer contribution for line extensions to be dependent upon a determination by MGE based upon the character of the service requested, the estimated revenues and the expense of providing service. MGE noted that the city of Joplin paid the required customer contribution of \$674,532 for this extension.

The Commission finds that granting the requested certificate is necessary and convenient for the public service.

IT IS THEREFORE ORDERED:

1. That the Application filed by Missouri Gas Energy, a division of Southern Union Company, for a certificate of public convenience and necessity authorizing Missouri Gas Energy, a division of Southern Union Company, to construct, own, operate, control, manage, and maintain a gas system for the public located in all of Sections 2, 3, 4, Township 26 North, Range 32 West; Sections 22, 23, 24, 26, 27, 28, 33, 34, and 35, Township 27 North, Range 32 West; all situate in the county of Newton, state of Missouri, is hereby granted.

2. That the certificate of convenience and necessity referenced in ordered paragraph number 1 shall become effective simultaneous with the effective date of the tariff sheets required to be filed and approved pursuant to ordered paragraph number 3.

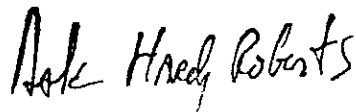
3. That Missouri Gas Energy, a division of Southern Union Company, shall file within 30 (thirty) days with the Commission revised tariff sheets modifying its gas service areas to reflect the additional service area granted herein.

4. That nothing in this order shall be considered a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein involved, nor as an acquiescence in the value placed on said property.

5. That the Commission reserves the right to consider the ratemaking treatment to be afforded the properties herein involved, and the resulting cost of capital, in any later proceeding.

6. That this order shall become effective on March 10, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
Schemenauer, and Drainer, CC., concur

Hopkins, Senior Regulatory Law Judge

Att/Sec'y:

Hopkins/B je

2-23
Date Circulated

GA-2000-4-2
CASE NO.

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Lumpe, Chair

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Chumpton, Commissioner

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Murray, Commissioner

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Schemenauer, Commissioner

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Drainer, Vice-Chair

2-29
Agenda Date

Action taken:

5-0 AS

Must Vote Not Later Than

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 29th day of FEBRUARY 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

