

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

In the matter of the Application of)
Southern Missouri Gas Company, L.P.)
d/b/a Southern Missouri Natural Gas)
for Authority to Issue approximately)
\$10 Million in Equity Capital and)
approximately \$50 Million in Notes and)
Other Forms of Indebtedness.)

Case No. GF-2007-0215

OZARK ENERGY PARTNERS' RESPONSE TO STAFF RECOMMENDATION

COMES NOW Ozark Energy Partners, LLC (hereinafter referred to as "Ozark" or "OEP") and for its Response to the Staff Recommendation filed in this matter on February 11, 2008 states:

1. The capital provided under the *Second Amended Application* of SMNG in this case falls well short of the capital requirements presented by SMNG in Case No. GA-2007-0168, and therefore will not meet the capital requirements of SMNG. However, the Staff Recommendation filed on February 11, 2008 does not address this issue.
2. While Staff submits that the purpose of the proposed financing is reasonable (*Staff Recommendation, Paragraph 3*), Staff does not appear to have evaluated whether the proposed financing herein will raise sufficient capital for the corporate refinancing and Lebanon, Houston and Licking expansions, for which this financing was originally proposed, *and* for the Branson project which SMNG subsequently added to the stated purposes of this financing.
3. The Staff Recommendation states that SMNG "is currently in a very weak financial position." (*Staff Recommendation, at page 3.*) Staff also

states that it “does not have confidence that the terms and conditions negotiated for the proposed debt instrument were truly arms length.” (*Id.*, at page 7.) Staff states that it “does not believe the proposed financing structure will be the primary factor affecting the Company’s ability to attract capital in the future.” (*Id.*, at page 7.) Rather, “Staff believes that it is the success, or lack thereof, of SMNG’s expansion proposals that will determine its ability to attract capital in the future. For example, if the cost of expansion significantly exceeds SMNG’s estimates, it may have greater difficulty attracting capital.” (*Id.*)

4. However, the Staff Recommendation includes no analysis of SMNG’s cost estimates for its proposed Branson project, nor of the substantial evidence presented to the Commission in Case No. GA-2007-0168 concerning the errors and discrepancies in SMNG’s “feasibility study” in that case. Rather, Staff focuses on proposing conditions primarily designed to protect ratepayers in the future from the effects of such errors and discrepancies, conditions to which SMNG has readily agreed. (*Southern Missouri Natural Gas’ Response to Staff Recommendation*, filed in this case on February 13, 2008.)
5. In its Report and Order in Case No. GA-2007-0168, at pages 11-12, **the Commission declined to make a finding SMNG “is financially capable** of providing the proposed natural gas service in Branson, Hollister, Branson West, and the surrounding unincorporated areas. Instead, the Commission will ... **defer making any finding** regarding

this criterion until after the Commission decides Case No. GF-2007-0215.” (Emphases added.)

6. Similarly, **the Commission declined in GA-2007-0168 to find that SMNG’s proposal in that case “is economically feasible.** Instead, the Commission will ... **defer making any finding** regarding this criterion until after the Commission decides Case No. GF-2007-0215.” (Emphases added.)
7. These cases continue to be unnecessarily complicated by SMNG’s insistence on expanding the instant case to include its proposed Branson project, rather than proceeding with its Lebanon, Houston and Licking expansion and considering its Branson financing separately in Case No. GA-2007-0168.
8. As stated in OEP’s *Application for Rehearing, Reconsideration and Clarification* filed on February 14, 2008 in Case No. GA-2007-0168, the Commission should clarify the procedure it intends to follow in order to render the “deferred findings” concerning SMNG’s financial ability, and concerning the economic feasibility of SMNG’s proposal, in that case. This clarification should include describing the manner, time and docket in which the Commission intends to complete its review of SMNG’s application in GA-2007-0168. It is currently unclear what the role of the instant financing case is in that regard.
9. Under no circumstance should the Commission consider an approval of SMNG’s pending financing application in GF-2007-0215 to be the

final step needed by SMNG to “complete” its application in GA-2007-0168 or to qualify SMNG for a “permanent” certificate of convenience and necessity for the proposed service area.

10. In Case No. GA-2007-0168, as in GA-2006-0561, Staff recommended as a condition of any conditional CCN the requirement that not only the financing plan of SMNG be approved, but that approval of final, executed financing documents should be required before a determination is made granting a final or permanent CCN. The Commission should clarify that an approval of SMNG’s pending financing *plan* in GF-2007-0215 is not the final determination or grant of a permanent certificate of convenience and necessity, to the exclusion of OEP.
11. The Commission has appropriately set this matter for a prehearing conference to discuss a hearing schedule.

WHEREFORE, Ozark Energy Partners, LLC respectfully submits its Response to Staff Recommendation in this matter, and looks forward to the prehearing conference to establish a schedule of proceedings.

Respectfully submitted,

/s/ William D. Steinmeier

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Dated: February 21, 2008

CERTIFICATE OF SERVICE

I hereby certify that the undersigned has caused a complete copy of the attached document to be electronically filed and served on the Commission's Office of General Counsel (at gencounsel@psc.mo.gov) and the Office of Public Counsel (at opcservice@ded.mo.gov), and on counsel for all parties of record, on this 21st day of February 2008.

/s/ William D. Steinmeier