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May 24, 2012

Michael and Michaela McDuffey
P.O. Box 1916
Camdenton, MO 65020

Dear Mr. and Ms. McDuffey:

Thank you for expressing your concerns regarding the application of Summit Natural Gas, docketed as case GA-2012-0285, for a certificate of convenience and necessity (CCN) to provide natural gas service to Benton, Morgan, Camden and Miller counties.

I would like to assure you that the Commission is following the law set forth in Missouri's statutes and rules regarding Summit's application for CCN.

In your letter you raised a concern about notice. Pursuant to the Commission's March 6, 2012 *Order Directing Notice And Setting Deadline For Intervention Requests*, the Commission's Data Center served by mail a copy of its order on the county commissions of Benton, Morgan, Camden and Miller counties. The Commission's Public Information Officer and Legislative Liaison also provided notice of the order to members of the General Assembly representing these counties. In addition, the Commission issued a press release to KRMS Radio - Camdenton, Lake Sun Leader Camden County Reporter, KAYQ Radio in Benton, Eldon Advertiser, the Versailles Leader-Statesmen, and about 220 subscribers to the PSC list service. A copy of the press release is attached for your reference.

With respect to the 10 residents listed in Summit's Appendix C to its application, that list meets the requirement of Commission rule 4 CSR 240-3.205(1)(A) 2. which requires a listing of the names and addresses of no fewer than ten persons residing in the proposed service area.

In your letter, you attached a copy of Summit's letter to property owners *Re: Proposed Natural Gas Pipeline – Summit Natural Gas of Missouri, Inc. Request for Property Access and Meeting Involving Right-Of-Way* from Mr. Jim Burtin, Right-of-Way Manager. Your observation that the letter was dated March 22, 2012, and postmarked May 10, 2012, is a matter you may wish to discuss with Summit legal counsel, Dean Cooper of Brydon, Swearingen & England P.C. His office is handling Summit's application case before the Commission and matters related to

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rights-of-way and easements. His phone number is 573-635-7166. I have forwarded Mr. Cooper a copy of your letter to me.

Because the obtainment of utility rights-of-way and easements is a separate legal action between the utility and the property owner or public entity, that action does not fall within the jurisdiction of the Commission and is outside the scope of the proceedings in this case. If you have concerns about your individual property rights in this matter and the possible use of eminent domain, I suggest you consider seeking counsel from an attorney that can represent your interests in any proposal the company may advance.

Should you wish to pursue your interests before the Commission related to Summit's CCN application, you may wish to consider the Commission's rule on Intervention, 4 CSR 240-2.075, and paragraph (10) on filing motions to intervene after the intervention date. I have enclosed a copy of that rule for your convenience. If you decide to make such a filing, the Commission's Data Center, phone number 573-751-7496, can guide you.

I hope this letter has clarified the concerns that you have expressed to me.

Sincerely,

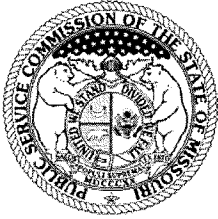


Robert S. Berlin
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w/enclosures

cc:

Governor Jay Nixon
Rep. Diane Franklin, c/o Marybeth Bruns
Lewis Mills, Office of Public Counsel
Marc Poston, Office of Public Counsel
Tom Green, Ombudsman for Property Rights,
Dean Cooper, Brydon, Swearengen & England P.C.
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PSC NEWS

Missouri Public Service Commission

Contact: Kevin Kelly
PR-12-118

Phone: (573) 751-9500

Governor Office Building, Suite 600

PSC Sets Intervention Deadline In Summit Natural Gas Request

FOR IMMEDIATE RELEASE

MARCH 7, 2012

JEFFERSON CITY---Summit Natural Gas of Missouri, Inc. (Summit Natural Gas) has filed an application with the Missouri Public Service Commission seeking Commission authority to construct and maintain a natural gas system providing service in Benton, Morgan, Camden and Miller counties.

According to the application, Summit Natural Gas proposes to install a natural gas distribution system providing natural gas sales and transportation service in Camdenton, Osage Beach, Hurricane Deck, Linn Creek, Sunrise Beach and the Village of Four Seasons (Camden County), Gravois Mills and Laurie (Morgan County) and Lake Ozark (Miller County). The proposed system would also provide service in certain unincorporated portions of Benton and Morgan counties as well as in portions of unincorporated Camden County.

Applications to intervene and participate in this case must be filed no later than **April 5, 2012**, with the Secretary of the Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, or by using the Commission's Electronic Filing and Information System (EFIS).

The Office of the Public Counsel is a separate state agency that represents the general public in matters before the Commission. Individual citizens wishing to comment should contact either the Office of the Public Counsel (Governor Office Building, 200 Madison Street, Suite 650, P.O. Box 2230, Jefferson City, Missouri 65102-2230, telephone (866) 922-2959, e-mail opcservice@ded.mo.gov) or the Public Service Commission staff (P.O. Box 360, Jefferson City, Missouri 65102, telephone 1-800-392-4211, e-mail pscinfo@psc.mo.gov).

Summit Natural Gas of Missouri, Inc. (formerly Missouri Gas Utility, Inc.) serves approximately 2,200 natural gas customers in Missouri.

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should or should not be handled as a small formal complaint, that party may file a motion with the commission requesting that the status of the complaint be changed. In response to such motion, or acting on its own motion, the commission shall, at its discretion, decide how the complaint shall be handled.

(C) Upon the filing of a complaint that qualifies under this section, the chief regulatory law judge shall assign the case to a regulatory law judge. To process small complaint cases in the timeliest manner and in the most convenient location for the customers, the commission hereby delegates the commission's authority to hear the case, make rulings, and issue a recommended report and order or other appropriate order disposing of the case to such regulatory law judge.

(D) The commission's staff shall, within forty-five (45) days after the complaint is filed, investigate the complaint and file a report detailing staff's findings and recommendations. The regulatory law judge may allow staff additional time to complete its investigation for good cause shown. The member or members of the commission's staff who investigate the complaint shall be available as a witness at the hearing if the regulatory law judge or any party wishes to call them to testify. Staff shall not advocate a position beyond reporting the results of its investigation. If staff believes it should advocate a position, it may file a motion to change the status of the complaint under subsection (B) of this section.

(E) Any hearing, unless otherwise agreed to by the parties, shall be held in the county, or a city not within a county, where the subject utility service was rendered or within thirty (30) miles of where the service was rendered. The regulatory law judge may allow any party, witness, or attorney to participate in the hearing by telephone.

(F) Small formal complaint case hearings shall be conducted in an informal summary manner whenever possible, without affecting the rights of the parties—

1. The technical rules of evidence shall not apply;

2. The regulatory law judge shall have the authority to dispense with pre-filed written testimony; and

3. The regulatory law judge shall assume an affirmative duty to determine the merits of the claims and defenses of the parties and may question parties and witnesses.

(G) The regulatory law judge, after affording the parties reasonable opportunity for discovery and a fair hearing, shall issue a recommended report and order within one hundred (100) days following the filing of the complaint, unless the regulatory law judge

finds good cause to extend that time or the extension is otherwise agreed to by the parties.

(H) Any party subject to a recommended order disposing of the case or a recommended report and order issued by a regulatory law judge under this section may file with the commission, within ten (10) days of the issuance of the recommended order, comments supporting or opposing the recommended order. Any comments opposing the recommended order shall contain specific detailed grounds upon which it claims the order is unlawful, unjust, or unreasonable. The commission may approve or reject the recommended order based on the existing record without further hearing. If the commission rejects the recommended order, the commission shall issue its own order based on the evidence previously submitted, or upon such additional evidence, as the commission shall choose to receive.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 24, 2010, effective Oct. 30, 2010. Amended: Filed March 2, 2011, effective Oct. 30, 2011.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.075 Intervention

PURPOSE: This rule prescribes the procedures by which an individual or entity may intervene in a case and allows for the filing of briefs by amicus curiae.

(1) A motion to intervene or add new member(s) shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission.

(2) A motion to intervene or add new member(s) shall include:

(A) The legal name of each association, person, or entity seeking intervention or to be added;

(B) The street and mailing address of the principal office or place of business of each association, person, or entity seeking intervention or to be added, or of their attorney;

(C) The email address, fax number, and telephone number, if any, of each association,

person, or entity seeking intervention or to be added, or their attorney;

(D) If any applicant is an association, other than an incorporated association or other entity created by statute, a list of all of its members;

(E) A statement of the proposed intervenor's or new member's interest in the case and reasons for seeking intervention or to be added; and

(F) A statement as to whether the proposed intervenor or new member supports or opposes the relief sought or that the proposed intervenor or new member is unsure of the position it will take.

(3) The commission may grant a motion to intervene or add new member(s) if—

(A) The proposed intervenor or new member(s) has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

(4) If the commission grants intervention to an association, other than an incorporated association or other entity created by statute, the commission is not granting intervention to the "association," but is granting intervention to the individual members of the association.

(5) For purposes of 4 CSR 240-2.080(16), service upon counsel for an association satisfies the requirement for service upon the individual members of the association.

(6) If any member(s) of an association, other than an incorporated association or other entity created by statute, that is a party to any case before the commission withdraws from the association during the pendency of a case, the association must file a notice of the member's(s') withdrawal in the official case file within five (5) days of the member's(s') withdrawal.

(7) If an association, other than an incorporated association or other entity created by statute, that is a party to any case before the commission wants to add an additional member(s) during the pendency of that case, the association must file a motion to add new member(s).

(8) If the commission finds that the name of any association, other than an incorporated association or other entity created by statute, seeking intervention in a case before the commission could lead to confusion or misidentification of that association or its members,



the commission may order that the association be identified by an alternate name in that case.

(9) The commission may limit an intervention to particular issues or interests in a case.

(10) Motions to intervene or add new member(s) filed after the intervention date may be granted upon a showing of good cause. Any motion so filed must include a definitive statement whether or not the entity seeking intervention or to be added as a new member accepts the record established in that case, including the requirements of any orders of the commission, as of the date the motion is filed.

(11) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*. The petition for leave must state the petitioner's interest in the matter and explain why an *amicus* brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties and comply with all applicable briefing requirements. If leave to file a brief as an *amicus curiae* is granted, the brief shall be deemed filed on the date submitted. An *amicus curiae* may not file a reply brief.

AUTHORITY: section 386.410, RSMo 2000.* Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 26, 2002, effective Nov. 30, 2002. Amended: Filed March 2, 2011, effective Oct. 30, 2011.

*Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.

4 CSR 240-2.080 Pleadings, Filing, and Service

PURPOSE: This rule prescribes the content and procedure for filing pleadings before the commission and for service thereof.

(1) Every pleading or brief shall be signed by an attorney of record with the attorney's individual name or, if a natural person is not represented by an attorney, shall be signed by the natural person.

(2) By signing a pleading, the signer represents that he or she is authorized to so act.

(3) Pleadings or briefs shall include the signer's address, state bar number(s), email address, fax number, and telephone number, if any.

(4) Each pleading shall include a clear and concise statement of the relief requested, a specific reference to the statutory provision or other authority under which relief is requested, and a concise statement of the facts entitling the party to relief.

(5) An unsigned pleading or brief may be rejected.

(6) By presenting or maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, brief, or other document filed with or submitted to the commission, an attorney or party is certifying to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that—

(A) The claim, defense, request, demand, objection, contention, or argument is not presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(C) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(D) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(7) Any person filing a pleading or a brief shall file with the secretary of the commission either—

- (A) The original; or
- (B) An electronic copy.

(8) Each pleading may be accompanied by a cover letter which states the subject matter. This cover letter shall contain no matter for commission decision.

(9) Any document's filing date shall be the date and time the document is physically or electronically stamped as filed by the secretary of the commission. Documents physically received in the commission's data center

during regular business hours shall be stamped on the date received. Documents physically received in the commission's data center after regular business hours shall be stamped the next day that the commission has regular business hours. Documents submitted electronically to the commission's electronic filing and information system (EFIS) will be stamped filed on the date and time the document is received in EFIS and will be deemed filed on that date and time.

(10) Pleadings and briefs in every instance shall display on the cover or first page the case number and the title of the case. In the event the title of a case contains more than one (1) name as applicants, complainants, or respondents, it shall be sufficient to show only the first of these names as it appears in the first document commencing the case, followed by an appropriate abbreviation (et al.) indicating the existence of other parties.

(11) Pleadings and briefs that are not electronically filed shall be bound at the top or at an edge, shall be typewritten or printed upon white, eight and one-half by eleven-inch (8 1/2" × 11") paper. Attachments to pleadings or briefs shall be annexed and folded to eight and one-half by eleven-inch (8 1/2" × 11") size whenever practicable. Printing on both sides of the page is encouraged. Lines shall be double-spaced, except that footnotes and quotations in excess of three (3) lines may be single-spaced. Reproduction of any of these documents may be by any process provided all copies are clear and permanently legible. Electronically filed pleadings or briefs shall be formatted in the same manner as paper filings.

(12) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes, or commission orders may not be accepted for filing. In addition, filings will be scanned for computer viruses before being uploaded into the commission's electronic system and may not be accepted if the filing is infected. The secretary of the commission may return these pleadings or briefs with a concise explanation of the deficiencies and the reasons for not accepting them for filing. Tendered filings which have been rejected may not be entered on the commission's docket. The mere fact of filing shall not constitute a waiver of any noncompliance with these rules, and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleading.