

RFG ATTACHMENT 1

STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

Jefferson City

January 12, 1956

CASE NO. 13,172

Missouri Public Service Company  
Mr. Richard C. Green, President  
Warrensburg, Missouri

Cities Service Gas Company  
Mr. Conrad C. Mount, General Counsel  
First National Bank Bldg.,  
Oklahoma City, Oklahoma

The Gas Service Company  
Mr. Ben C. Adams, President  
700 Scarritt Bldg.,  
Kansas City, Missouri

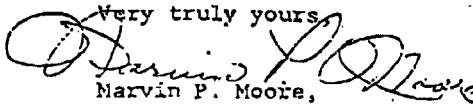
Mayor  
Platte City, Missouri

Mayor  
Tracy, Missouri

Gentlemen:

Enclosed find certified copy of Report and/or Order in  
the above numbered case, receipt of which please acknowledge on  
the attached blank.

Very truly yours,

  
Marvin P. Moore,  
Secretary

uncertified copies: . . .

Patterson & Patterson, Attys.,  
Kansas City, Missouri

Mr. Kyle D. Williams, Attorney  
Jefferson City, Missouri

Hendren & Andrae, Attys.,  
Jefferson City, Missouri

*PR*  
*Public Service Company of Mo.*  
*Case # 13,172*

BEFORE THE PUBLIC SERVICE COMMISSION  
 OF THE STATE OF MISSOURI

*Document returned  
 to the Commission  
 by the Public Service  
 Company of Mo.  
 10/5/55*

In the Matter of the Application of )  
 Missouri Public Service Company for )  
 a Certificate of Convenience and )  
 Necessity for ownership, operation )  
 and maintenance of a natural gas )  
 system in an area adjacent to Platte )  
 City and Tracy, Platte County, )  
 Missouri, as shown on the attached )  
 map marked Exhibit A. )

CASE NO. 13,172

APPEARANCES:

A. Z. Patterson for the Applicant;

Kyle D. Williams for The Gas Service Company;

Glenn D. Evans for the Commission.

REPORT AND ORDER

This cause is before the Commission by virtue of an application filed on July 1, 1955, by Missouri Public Service Company for a certificate of convenience and necessity authorizing said applicant to own, operate and maintain a natural gas system to serve residential and commercial establishments in a six mile square area adjacent to the communities of Tracy and Platte City, Platte County, Missouri. On September 2, 1955, The Gas Service Company filed its petition to intervene and motion to dismiss. The request to intervene in protest of the application was allowed.

After due notice of hearing to all interested parties, the case was heard by the Commission at its hearing room in Jefferson City, Missouri, on October 6, 1955, and appearances were as noted above. Subsequent to the hearing, briefs were filed on behalf of applicant and protestant.

Findings of Fact

Applicant is a corporation duly organized under the laws of the State of Missouri with its principal office located in Raytown, Missouri. It is engaged as a public utility in the rendition of electric, gas, and water service in various communities in the State of Missouri.

Applicant presently owns and for many years past has operated natural gas properties within the incorporated communities of Tracy and Platte City and is now supplying natural gas service to some 450 consumers in and adjacent to these communities, and contends that requirements for additional gas service within and about these areas will continue to increase as evidenced by present and planned construction of residences and commercial establishments in such areas and that applicant's presently established facilities in Tracy and Platte City may be economically expanded and extended for such service.

Applicant is duly authorized to operate as a gas utility within the corporate limits of Tracy and Platte City by ordinances granting 20-year franchises which expire respectively on April 9, 1960, and November 24, 1967. Copies of these ordinances were submitted as Exhibits "C" and "D". Authority to use the roads, highways and public ways of Platte County for construction of gas mains was granted by a permit issued by the County Court of Platte County on July 27, 1953. A copy of this permit was submitted as Exhibit "B".

The territory for which applicant seeks authority to serve is adjacent to and northwest of the Mid-Continent International Airport. The facilities at this airport, which is a new project of considerable scope, will eventually employ some 2,000 to 3,000 people. This will bring on the construction of homes and businesses in the area around the airport with a resulting need of gas service.

The area involved is specifically described as Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 in T53N, R35W, and Sections 1, 2, 3, 10, 11, and 12 in T52N, R35W, and Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33 in T53N, R34W, and Sections 4, 5, 6, 7, 8, and part of Section 9, T52N, R34W.

Sections 7, 8, and that part of Section 9, Township 52 North, Range 34 West, which are included in the above description, have previously been certificated to The Gas Service Company by this Commission in Case No. 12,632, in its Report and Order dated May 24, 1955. These three sections, hereinafter sometimes referred to as "disputed sections", are located north and adjacent to the airport, and are the subject of the dispute herein between applicant and protestant.

In Case No. 12,632, Gas Service Company filed an application to serve the airport and certain additional territory, including the disputed sections herein, and Missouri Public Service Company intervened in opposition to such application. In Case No. 12,674, this applicant, Missouri Public Service Company, filed an application to serve the airport and a considerable portion of Platte County, including the disputed sections herein, and Gas Service intervened in opposition to the application. The two applications were heard at the same time upon a joint record, and the Report and Order issued on May 24, 1955, covered both cases. Such Report and Order, which was received in evidence herein by reference, gave Gas Service Company the right to serve the airport and certain adjoining territory and denied the application of Missouri Public Service Company. This Report and Order was not appealed from and is in full force and effect.

The present application does not ask for the airport area and leaves out a great deal of territory in the northeast part of Platte County that was covered in the application in Case No. 12,674.

Reference to our Report and Order in Cases Nos. 12,632 and 12,674 shows that our decision against the Missouri Public Service Company was based to a great extent on the finding that such company did not have available a sufficient gas supply to serve the airport and the extensive territory elsewhere in Platte County which it then sought to supply. In the present case it asks authority for a territory of far less extent and lower demand, and claims that the issues and the proof in the present case are entirely different from those in the prior cases. The company produced evidence which shows that it will have gas available to serve the territory which it now seeks to serve.

The closest portion of the disputed sections to applicant's transmission line in or near Platte City is approximately two miles and the nearest transmission line of Gas Service Company is approximately seven miles, its nearest customer being about 8.6 miles. There is no allegation in the pleading, nor did applicant attempt to prove, that Gas Service Company had failed to render service in Sections 7, 8, and 9. In fact, both parties concede that to date there has been no demand for service in such area, but they contemplate such demand in the future.

#### Conclusions of Law

Applicant contends that the proximity of its Platte City existing system would require much less investment for extension of gas mains in the disputed area; contributions, if any, required by customers would be minimized; and natural gas service in the area would be developed earlier by it than by Gas Service Company under the authority heretofore granted by the Commission.

By such argument we think the applicant is attempting to treat these three sections as an isolated area, and fails to admit or recognize that such sections are a part of a relatively compact area

certificated to Gas service Company in the prior cases. While in such cases the airport area itself was the main "plum" sought by both parties, the Commission very definitely thought and found that service in the territory surrounding the airport - north, south, east and west - was of importance. There was no basis then or now for finding that the demand for service about the airport would be limited to the three disputed sections or that Gas Service would be called upon to extend its line seven miles with no intervening customers. Since all of these factors were fully considered heretofore in the Report and Order issued in Cases Nos. 12,632 and 12,674, we cannot find any justification for revision of our conclusions therein with respect to these three sections. This being true, and since there is no showing or contention that Gas Service Company has failed in any way to render service in the area certificated to it, we find and conclude that applicant's request to render service in the three disputed sections should be denied.

As regards that portion of the six mile square area, except Sections 7, 8, and 9, no one presently has the authority to render service and in the near future there will be a need and demand for such service. Applicant will be able to furnish the service and the necessary certificate of convenience and necessity should be granted.

In view of our ruling on the merits, we will issue no order on protestant's motion to dismiss.

It is, therefore,


ORDERED: 1. That the application of Missouri Public Service Company insofar as it applies to Sections 7, 8, and 9, Township 52 North, Range 34 West, Platte County, Missouri, be and the same is hereby denied.

ORDERED: 2. That the Missouri Public Service Company be and hereby is authorized to construct, operate and maintain a natural

T53 N, R35 W, Sec 12.

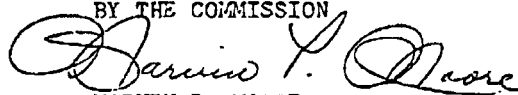
gas transmission and distribution system in Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 in Township 53 North, Range 35 West and Sections 1, 2, 3, 10, 11, and 12 in Township 52 North, Range 35 West, and Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33 in Township 53 North, Range 34 West, and Sections 4, 5, and 6 in Township 52 North, Range 34 West, all in Platte County, Missouri.

ORDERED: 3. That all construction pursuant to authority granted in "ORDERED: 2." above shall be maintained and operated in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the services of other public utilities.

ORDERED: 4. That this order shall become effective on January 27, 1956, and that the Secretary of the Commission shall for  serve on all parties interested herein a certified copy of this Report and Order.

(SEAL)

BY THE COMMISSION

  
MARVIN P. MOORE  
SECRETARY

Burton, Chr., Henson, McClintock,  
McQueen and McDonald, CC., Concur.

Dated at Jefferson City, Missouri,  
this 12th day of January, 1956.

Milton Burns -  
Pat Koeb.  
816-756-5252

- Debbie Ingolia -  
816-509-6341

816 - 360-5605  
Steve Holcomb's Office.

steve.holcomb@sug.com