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 $5,500,000 of indebtedness, in one or more transactions, and to, among other things, execute and deliver a mortgage and security agreement to secure said indebtedness.	)))))))	Case No. _____________

<u>APPLICATION</u>

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 3.210 and for its application to issue up to and including $5,550,000 of variable-interest-rate revenue bonds ("Bonds"), under the terms of a Loan Agreement with Summit Utilities, Inc., and related debt instruments, all such indebtedness to be secured by a mortgage, lien and encumbrance for up to $5,600,000 that includes accrued interest on the Bonds upon its Missouri operating properties, states as follows:

<u>The Applicant</u>

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 Nos. GO-2005-0120, GA-2007-0421, GA-2008-0321, GA-2008-0322 and GA-2008-0348.

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
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Cell: (303) 847-8787
Email: kcwolfe@summitutilitiesinc.com

Capitalization of Applicant

5. Applicant had outstanding, as of December 31, 2008, $4,670,000 of long-term secured indebtedness in the form of Bonds which is due in 2038 all in accordance with the authority of the Commission given in Case No. GF-2009-0057[1].

6. As of December 31, 2008, Applicant had no outstanding short-term unsecured indebtedness.

[1] This series of Bonds is designated as "$4,670,000 Variable Rate Demand Revenue Bonds (Missouri Gas Utility, Inc. Project) Series 2008B."

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 December 31, 2008**.** During the current fiscal year, the value of equity in MGU has increased to $2,089,593 as a result of an additional investment of $1,000,000 in paid-in capital by Applicant's parent company, Summit Utilities, Inc.

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 planned operations in the State of Missouri. The financing contemplated by this Application calls for Summit to issue a new series of Bonds, on behalf of MGU in a total amount not to exceed $5,550,000. The Bonds will be issued during the course of calendar year 2009, as market conditions warrant. It is further contemplated that this Bond issuance 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;[2] (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").[3] The Bonds will

[2] This secured line of credit was authorized in Commission Case No. GF-2009-0057.
[3] Copies of the Debt Instruments are provided as identified in ¶17, *infra*.

be secured by a Letter of Credit ("LOC") issued during the life of the Bonds by a commercial bank with an investment grade rating (the "LOC Bank"). To secure the LOC, MGU has entered 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 is 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. The Letter of Credit, Reimbursement Agreement and Mortgage include accrued interest on the Bonds for approximately 45 days and letter of credit fees and costs. Therefore, the lien is for an amount greater than the Bonds. 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.[4]

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.

[4] 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 respect to MGU's assets or operations.

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 $5,500,000 of its Bonds on behalf of MGU during 2009 and loan such amount to MGU pursuant to the terms of a loan agreement. The 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 2009 Bonds referenced herein, including legal, adminstrative, filing and mailing costs, are not known at this time. MGU estimates that the total costs for the 2009 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 LOC. *See*, § 393.190.1, RSMo 2000. Therefore, MGU seeks approval from the Commission to

mortgage its Missouri properties to secure its obligations under the LOC and associated Debt Instruments.

Filing Requirements And Related Materials

16. Marked **Appendix 2**, attached hereto and made a part hereof for all purposes, is information regarding MGU's capital stock outstanding, bond indebtedness, long-term unsecured indebtedness and short-term indebtedness and other financial information including a balance sheet for the twelve month period ending December 31, 2008 and financial statements with adjustments showing the *pro forma* effect of the issuance of up to $5,650,000 of additional long-term indebtedness with $5,500,000 represented by Bonds. 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 2009A) 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 2009A) 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 the Bonds issued by Summit on MGU's behalf 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 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. Specifically, MGU contemplates that the proceeds obtained through its loan agreement with Summit will be used to provide financing for its ongoing construction program,[5] and other corporate purposes. The proceeds from 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 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

[5]This program includes MGU's authorization from the Commission to expand its operations into Pettis and Benton Counties, specifically, in the communities of Green

purposes, is a certified copy of the resolutions of MGU's Board of Directors which authorize the filing of this Application.

20. Subjecting MGU's Missouri properties to the Mortgage and Security Agreement to secure its additional 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 additional 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 a Loan Agreement with Summit in substantially the form of Appendix 4 to incur indebtedness provided that the principal amount of such debt obligation shall not exceed $5,600,000, bearing interest, including 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 not more than thirty years for the loan relating to the Bonds and having such

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Ridge, Cole Camp, Lincoln and Warsaw (Case No. GA-2009-0264).

designation and redemption, purchase and other terms as shall be determined by MGU;

b) Authorizes MGU to perform in accordance with the Reimbursement Agreement;

c) 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 the LOC, provided the principal amount thereof does not exceed $5,600,000;

d) Authorizes MGU to perform in accordance with the Mortgage and the Security Agreement;

e) Authorizes MGU to enter into, execute, deliver and perform the necessary promissory notes, agreements and other documents necessary to effectuate the described transactions; and

f) Authorizes MGU to take such other actions as may be reasonably incidental, necessary or appropriate to complete the transaction; and

g) Finding that the money, property or labor to be procured or paid for by MGU through the issuance of the LOC 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 11th day of March, 2009, 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