

STEWART & KEEVIL, L.L.C.

ATTORNEYS AT LAW

SOUTHAMPTON VILLAGE AT CORPORATE LAKE
4603 JOHN GARRY DRIVE
SUITE 11
COLUMBIA, MISSOURI 65203

CHARLES BRENT STEWART
JEFFREY A. KEEVIL

OFFICE (573) 499-0635
FAX (573) 499-0638

September 20, 2004

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Mo. 65102-0360

FILED²
SEP 20 2004
Missouri Public
Service Commission

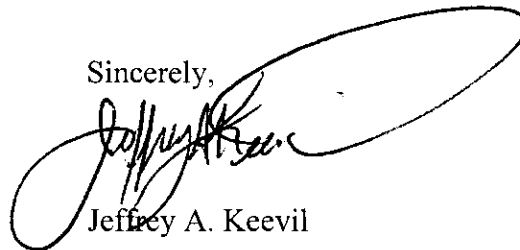
RE: Case No. GA-2005-0053

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case is an original and the appropriate number of copies of an APPLICATION TO INTERVENE on behalf of the City of Springfield, Missouri, through the Board of Public Utilities (City Utilities of Springfield).

Copies of this filing have on this date been mailed, hand-delivered, transmitted by facsimile or emailed to the persons provided in the Commission's August 31, 2004 Order. Thank you for your attention to this matter.

Sincerely,



Jeffrey A. Keevil

JAK/er

Enclosures

Cc: General Counsel's Office
Office of the Public Counsel
Michael R. Noack
Dean L. Cooper

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

FILED²
SEP 20 2004
Missouri Public
Service Commission

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 Distribution System to Provide Gas Service)
In Christian County, Missouri, as a Further)
Expansion of its Existing Certificated Area)

Case No. GA-2005-0053

APPLICATION TO INTERVENE

COMES NOW the City of Springfield, Missouri, through the Board of Public Utilities ("Applicant" or "City Utilities"), by and through counsel, and pursuant to 4 CSR 240-2.075 and the *Order and Notice* issued by the Commission in the above-captioned cause on August 31, 2004, for its Application to Intervene respectfully states as follows:

I. 4 CSR 240-2.060 Requirements

1. Applicant is a constitutional charter city existing under and operating pursuant to Article VI, Sections 19 and 19(a) of the Constitution of the State of Missouri.

Applicant provides utility services to the public through its Board of Public Utilities pursuant to Article XVI of the duly adopted City Charter of the City of Springfield, Missouri. Accordingly, no Missouri Secretary of State documentation, normally required under 4 CSR 240-2.060(1), exists with regard to Applicant. Applicant's principal office and place of business is located at 301 East Central, P.O. Box 551, Springfield, Missouri 65801-0551, telephone number (417) 863-9000, fax number (417) 831-8303.

2. For purposes relevant to this Application to Intervene, Applicant is engaged in the provision of natural gas utility services to the general public in and around the City of Springfield, Missouri, including portions of Christian County, Missouri. Applicant is

duly authorized to provide such utility service pursuant to the Constitution of the State of Missouri, the City Charter of the City of Springfield, Missouri, the applicable provisions of Chapter 91 RSMo, and applicable Missouri case law.

3. All communications, notices, pleadings, orders and decisions regarding this matter should be sent to the undersigned counsel, with a copy sent to each of the following:

William A. R. Dalton
General Counsel
City Utilities of Springfield, Missouri
301 East Central
P.O. Box 551
Springfield, Missouri 65801-0551
(417) 831-8604
(417) 831-8303 (fax)

And

C. Mike DeLong
Customer Engineering & Developer Services
City Utilities of Springfield, Missouri
301 East Central
P.O. Box 551
Springfield, Missouri 65801-0551
(417) 831-8527
(417) 831-8549 (fax)

4. Pursuant to 4 CSR 240-2.060(1)(K), Applicant states that it has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this application.

5. Pursuant to 4 CSR 240-2.060(1)(L), Applicant states that no Commission annual reports or assessment fees are overdue.

6. Pursuant to 4 CSR 240-2.060(1)(M), the notarized verification of William A. R. Dalton, General Counsel for City Utilities of Springfield, Missouri, is attached hereto and incorporated herein by reference.

II. 4 CSR 240-2.075 Requirements

7. In the *Order and Notice* issued in this case by the Commission on August 31, 2004, the Commission ordered that any party wishing to intervene shall file an application to do so no later than September 20, 2004. Applicant's request to intervene, therefore, has been timely filed pursuant to 4 CSR 240-2.075(1).

8. Applicant's interest and reasons for seeking intervention in this proceeding are that Applicant already has a natural gas transmission line in Section 35, Township 28 North, Range 21 West in Christian County, Missouri, as well as a natural gas distribution main along the edge of said Section, and currently serves a customer in said Section¹. Furthermore, Applicant is currently under negotiations with developers to serve subdivisions in both Section 35, Township 28 North, Range 21 West and Section 36, Township 28 North, Range 21 West in Christian County, Missouri, and Applicant is fully capable of providing natural gas service to new customers within these Sections. Also, the Commission should be aware that a portion of the area for which MGE seeks a certificate appears to be within the City of Ozark, and Applicant City Utilities holds a franchise from the City of Ozark. Accordingly, contrary to MGE's assertion in its Application for its certificate, the facts do not support a finding that the granting of

¹ 4 CSR 240-3.205 requires an applicant for a certificate to state in its application whether the same or similar utility service, regulated or unregulated, is otherwise available in the requested area. In paragraph 13 of its Application, MGE erroneously alleges that "Service from a natural gas supplier is not available in this area at the present time."

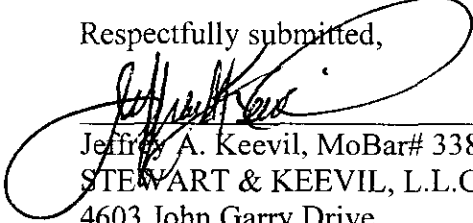
MGE's certificate for these two sections of land is required by the public convenience and necessity.

9. Regarding Section 35, Township 28 North, Range 21 West and Section 36, Township 28 North, Range 21 West in Christian County, Missouri, Applicant opposes the relief sought by MGE, which necessarily would lead to duplication of natural gas facilities within the area requested, and which also would result in overlapping service areas between Applicant and MGE thereby creating both public safety as well as competitive concerns. Also, to the extent that it is required to do so at this time, Applicant requests a hearing be set in this matter, after an adequate length of time has been allowed for the filing of testimony and conducting of any necessary discovery.

10. Applicant's unique interest in this proceeding as a supplier of natural gas utility service with significant investment in existing utility facilities within and adjoining portions of MGE's requested area, which currently serves a customer within the requested area and which is fully capable of providing natural gas service to new customers within the area, and which holds a franchise from the City of Ozark is different from that of the general public, cannot be adequately represented by any other party to this case, and may be adversely affected by a final order arising out of the case. Applicant's unique perspective, and the evidence which Applicant will be able to provide to the Commission, will be helpful, relevant, and necessary for the public interest determination required of the Commission under Section 393.170 RSMo. For all these reasons, granting Applicant's intervention request and allowing Applicant to fully participate as a party in this case will be in the public interest.

WHEREFORE, having timely complied with the applicable Commission rules and the *Order and Notice* dated August 31, 2004, and for all the reasons hereinabove stated, Applicant respectfully requests that the Commission grant Applicant's Application to Intervene in this proceeding.

Respectfully submitted,

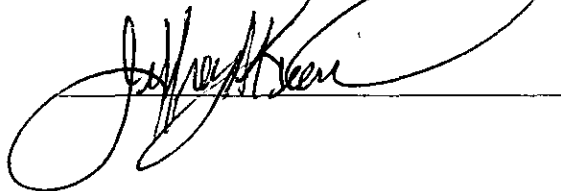


Jeffrey A. Keevil, MoBar# 33825
STEWART & KEEVIL, L.L.C.
4603 John Garry Drive
Suite 11
Columbia, Missouri 65203
(573) 499-0635
(573) 499-0638 (fax)
per594@aol.com

ATTORNEYS FOR APPLICANT
CITY UTILITIES OF SPRINGFIELD,
MISSOURI

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Application to Intervene was served on those persons as ordered in the Commission's Order and Notice dated August 31, 2004, in Case No. GA-2005-0053 and the Commission's General Counsel's Office by placing same in the United States Mail first class postage paid, by hand-delivery, or by electronic transmission this 20th day of September, 2004.



VERIFICATION

STATE OF MISSOURI)
) SS.
COUNTY OF GREENE)

I, William A. R. Dalton, being first duly sworn, state that I am General Counsel for City Utilities of Springfield, Missouri, that I have been authorized to cause to be filed the foregoing Application to Intervene in Missouri Public Service Commission Case No. GA-2005-0053, and that the information contained in said Application to Intervene is true and correct to the best of my knowledge, information and belief.


WILLIAM A. R. DALTON

Subscribed and sworn to before me this 17th day of September, 2004.


Notary Public

My commission expires: _____

