

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 29th day  
of April, 2009.

In the Matter of the Application of Missouri Gas Utility, )  
Inc., for a Certificate of Convenience and Necessity )  
Authorizing it to Construct, Install, Own, Operate, )  
Control, Manage and Maintain a Natural Gas )  
Transmission Line and a Distribution System to )  
Provide Gas Service in Pettis and Benton Counties, )  
Missouri, as a New Certificated Area. )

**File No. GA-2009-0264**

**ORDER GRANTING CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY**

Issue Date: April 29, 2009

Effective Date: May 9, 2009

**Syllabus:**

This order grants Missouri Gas Utility, Inc., a certificate of convenience and necessity to provide natural gas sales and transportation service in the cities of Green Ridge, Cole Camp, Lincoln and Warsaw, Missouri("area certificate") and various other unincorporated areas located in Pettis and Benton County, and a transmission line certificate from the tap on the Southern Star Central Pipeline running approximately 2.5 miles to its requested general service area ("line certificate").

**Procedural History:**

On January 14, 2009, MGU applied for a certificate of public convenience and necessity to construct, install, own, operate, control, manage, and maintain a natural gas distribution system in the cities of Green Ridge, Cole Camp, Lincoln and Warsaw, Missouri, and various other unincorporated areas located in Pettis and Benton County, and a

transmission line certificate from the tap on the Southern Star Central Pipeline running approximately 2.5 miles to its requested general service area.

The Commission issued an order directing notice of the application. In that order, the Commission directed interested parties to ask to intervene no later than February 9, 2009. The Commission received no intervention requests.

On March 31, 2009, the Staff of the Commission filed its verified recommendation. Staff stated that granting the application would be in the public interest so long as six conditions were attached to the certificates.

MGU filed an objection to Staff's proposed condition that it "submit to a rate review for this certificated area 24 months after the effective date of the order in this case." MGU also indicated that its plans for construction for the northernmost twenty-five miles of the mainline had changed in that it now intended to use 6" steel instead of 8" HDPE as stated in its Application. In addition, depending on its load estimates, MGU may consider extending the 6" steel an additional 16 miles into Warsaw.

Staff filed a reply to MGU stating that Staff agrees to modify its condition to submission of a rate case in 36 months rather than 24 months. Staff also stated that the change to 6" steel pipe was acceptable.

**Findings of Fact:**

The Commission has reviewed the verified application and pleadings and finds as follows:

1. MGU is a Colorado corporation in good standing, and has a certificate from the Missouri Secretary of State authorizing it to do business in Missouri. MGU is a "gas

corporation” and provides natural gas service in the Missouri counties of Harrison, Daviess and Caldwell.<sup>1</sup>

2. MGU’s new proposed service area includes Green Ridge, Cole Camp, Lincoln, and Warsaw. Each of these cities is a 4<sup>th</sup> Class city located in Pettis or Benton County, Missouri.<sup>2</sup>

3. Green Ridge is located in parts of Sections 1, 2, 11, and 12 in Township 44 N, Range 23 W, and Sections 6 and 7 of Township 44 N, Range 22 W, all in Pettis County.<sup>3</sup>

4. Cole Camp is located in parts of Sections 25, 26, 27, 34, 35 and 36 in Township 43 N, Range 21 W, all in Benton County.<sup>4</sup>

5. Lincoln is located in parts of Sections 22, 23, 26, 27, 28, 34 and 35 in Township 42 N, Range 22 W, all in Benton County.<sup>5</sup>

6. Warsaw is located in parts of Sections 8, 9, 15, 16, 17, 20 and 21 in Township 40 N, Range 22 W, all in Benton County.<sup>6</sup>

7. The proposed service area is an area where MGU currently does not hold a certificate for natural gas service from the Commission.<sup>7</sup> The legal descriptions of the

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<sup>1</sup> *Application*, (filed January 14, 2009) para. 2.

<sup>2</sup> *Application*, para. 5.

<sup>3</sup> *Application*, para. 5.

<sup>4</sup> *Application*, para. 5.

<sup>5</sup> *Application*, para. 5.

<sup>6</sup> *Application*, para. 5.

<sup>7</sup> *Application*, para. 5.

service areas are set out in Paragraph 9 of the Application and in the map attached as Appendix A to the Application.<sup>8</sup>

8. MGU also requests a line certificate which will utilize a 6" steel line<sup>9</sup> to serve these communities. This line will begin at a tap on the Southern Star Central Pipeline transmission line in Section 35, Township 46 North, Range 23 West. The first segment of the line will then proceed south within the right-of-way of Thomas Road for a distance of 1.3 miles, then east within the right-of-way of Highway Y for a distance of 0.95 miles, then south within the right-of-way of Highway 127 for one mile. This first segment will have no taps or customers served, and for this first segment MGU is requesting a line certificate only.<sup>10</sup>

9. MGU attached a feasibility study to its Application as Appendix B. The feasibility study contains a description of the plans and specifications for the project, including the estimated cost of construction and an estimate of the number of customers, revenues, and expenses during the first three years of operations.<sup>11</sup>

10. MGU will use the general terms and conditions of service found in its currently approved tariffs, as supplemented by the following rates:<sup>12</sup>

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<sup>8</sup> The Commission notes that the text of Paragraph 9 lists Section 13 and 14 in Township 43 North, Range 23 West in both Pettis and Benton Counties; however, according to Appendix A, these Sections are located only in Benton County.

<sup>9</sup> MGU's Response to Staff Recommendation, (filed April 4, 2009) para. 6.

<sup>10</sup> *Application*, para. 6.

<sup>11</sup> *Application*, para. 11.

<sup>12</sup> *Application*, paras. 11 and 13.

<b><u>Rate Description</u></b>	<b><u>Rate</u></b>
GS Class Customer Charge	\$15.00/month
GS Class Commodity Charge	\$0.550/CCF
CS Class Customer Charge	\$30.00/month
CS Class Commodity Charge	\$0.600/CCF
LVS Class Customer Charge	\$100.00/month
LVS Class Commodity Charge	\$0.600/CCF
TS Class Customer Charge	\$200.00/month
TS Class Commodity Charge	\$0.600/CCF

11. MGU has sought permission from the Commission to finance this construction in Commission File No. GF-2009-0331.

12. Construction of the project will follow MGU's customary standards and the rules of the Commission.<sup>13</sup>

13. The transmission line will not cross any other natural gas lines or railroad tracks, however, the line will cross residential electric and telephone lines, for which MGU will locate through the Missouri One-Call program at the time of construction.<sup>14</sup>

14. MGU has obtained franchises from the Cities of Green Ridge, Cole Camp, Lincoln, and Warsaw which were filed with the Application.<sup>15</sup>

15. Other than state highway and county road authorities rights-of-way, no other franchise or permit from municipalities, counties, or other authorities in connection with the proposed construction is required to serve this area.<sup>16</sup>

16. With the exception of Section 35, the location of the Southern Star Central Pipeline tap, no Commission-regulated gas company supplies natural gas to the proposed area. The Empire District Gas Company may serve some farm taps in Section 35, but

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<sup>13</sup> *Application*, para. 13.

<sup>14</sup> *Application*, para. 6.

<sup>15</sup> *Application*, Appendix D.

<sup>16</sup> *Application*, para. 16 and Appendix D.

MGU seeks only a line certificate in that Section and does not seek to serve any customers in Section 35.<sup>17</sup>

17. MGU has the ability to provide service in the proposed area by the construction of new facilities.<sup>18</sup>

18. Staff has proposed the following conditions to the certificate:

- a. MGU's shareholders are totally responsible for the success of this project, with no liability or responsibility put on customers;
- b. MGU must keep separate books and records for the proposed service area;
- c. MGU must file separate class cost-of-service studies and revenue requirements for this new service area in its next rate case;
- d. MGU must use the depreciation rates contained in Appendix B to the Staff Recommendation for the service territory requested in this application;
- e. MGU will submit to a rate review for this certified area 36 months after the effective date of the order in this case; and
- f. MGU can obtain the capacity on the pipeline to fully serve this area for all of its customer classes, including capacity to serve any future growth.

19. The requested certificate of convenience and necessity would not jeopardize MGU's current natural gas service if Staff's conditions are met.<sup>19</sup>

20. The proposed service with Staff's conditions will provide an option for customers in the area and is in the public interest.

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<sup>17</sup> *Application*, para. 17. The Empire District Gas Company was specifically notified of the Application. See, *Order Directing Notice and Setting Date for Intervention Requests*, issued January 21, 2009.

<sup>18</sup> *Application*, para. 17; *Staff Recommendation*, (filed March 31, 2009) Appendix A, p. 2-3; *Reply to MGU's response to Staff Recommendation*, (filed April 6, 2009) .

<sup>19</sup> *Staff Recommendation*, Appendix A, p. 2.

### **Conclusions of Law:**

1. MGU is a “gas corporation” and a “public utility” as defined in subsections 386.020(18) and (42), RSMo Cum. Supp. 2008.

2. MGU is subject to the Commission’s jurisdiction under Chapters 386 and 393, RSMo 2000.

3. No gas corporation, electrical corporation, water corporation or sewer corporation shall begin construction of a gas plant, electric plant, water system or sewer system without first having obtained the permission and approval of the commission.<sup>20</sup> A gas corporation may not exercise any right under a franchise unless the Commission gives it a certificate.<sup>21</sup> Also, the Commission may impose such conditions on the certificate as it deems reasonable and necessary.<sup>22</sup>

4. The permission and approval that may be granted pursuant to section 393.170 is of two types: The PSC may grant CCNs for the construction of power plants, as described in subsection 1, or for the exercise of rights and privileges under a franchise, as described in subsection 2. See *Harline*, 343 S.W.2d at 185 (quoted in *Aquila I*, 180 S.W.3d at 33). Traditionally, the PSC has exercised this authority by granting two different types of CCN, roughly corresponding to the permission and approval required under the first two subsections of section 393.170. Permission to build transmission lines or production facilities is generally granted in the form of a “line certificate.” See 4 CSR 240-3.105(1)(B). A line certificate thus functions as PSC approval for the construction described in subsection 1 of section 393.170.<sup>FN6</sup> Permission to exercise a franchise by serving customers is generally granted in the form of an “area certificate.” See 4 CSR 240-3.105(1)(A). Area certificates thus provide approval of the sort contemplated in subsection 2 of section 393.170.<sup>23</sup>

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<sup>20</sup> Section 393.170.1, RSMo. 2000.

<sup>21</sup> Section 393.170.2, RSMo. 2000.

<sup>22</sup> Subsection 393.170.3, RSMo 2000.

<sup>23</sup> *State ex rel. Cass County v. Public Service Com'n*, 259 S.W.3d 544, 549 (Mo.App. 2008) (footnote omitted).

4. The Commission concludes that the conditions recommended by Staff are reasonable and necessary.

5. Based on its findings of fact above, the Commission concludes that with the conditions proposed by Staff, the proposed service area is both necessary and convenient for the public service.

6. The Commission authorizes MGU to construct, install, own, operate, control, manage, and maintain a natural gas distribution system as described in its application and supplemented by its April 9, 2009 response.

7. The Commission also concludes that it is reasonable and necessary for MGU to file revised tariff sheets that reflect this new certificated area and the rates for that area.

**THE COMMISSION ORDERS THAT:**

1. Subject to the conditions set out below, Missouri Gas Utility, Inc., is granted a certificate of public convenience and necessity to construct, install, own, operate, control, manage, and maintain a natural gas distribution system to provide natural gas sales and transportation service in Green Ridge, Cole Camp, Lincoln, and Warsaw in Pettis and Benton Counties specifically as set out in the map filed as Appendix A to the Application on January 14, 2009. Appendix A is attached to this order.

2. Subject to the conditions set out below, Missouri Gas Utility, Inc., is granted a certificate of public convenience and necessity to construct, install, own, operate, control, manage, and maintain a natural gas transmission line to provide natural gas sales and transportation service to the communities set out above. The line certificate shall begin at a tap on the Southern Star Central Pipeline transmission line in Section 35, Township 46 North, Range 23 West, then proceed south within the right-of-way of Thomas Road for a



distance of 1.3 miles, then east within the right-of-way of Highway Y for a distance of 0.95 miles, then south within the right-of-way of Highway 127 for one mile as shown on the map marked as Appendix A attached to this order.

3. The certificates are granted with the following conditions:

- a. MGU's shareholders shall be responsible for the success of this project, with no liability or responsibility on the ratepayers;
- b. MGU must keep separate books and records for the proposed service area;
- c. MGU must file separate class cost-of-service studies and revenue requirements for this new service area in its next rate case;
- d. MGU must use the depreciation rates contained in Appendix B to the Staff Recommendation for the service territory requested in this application;
- e. MGU will submit to a rate review for this certified area 36 months after the effective date of the order in this case; and
- f. MGU must be able to obtain the capacity on the pipeline to fully serve this area for all of its customer classes, including capacity to serve any future growth.

4. The certificates of convenience and necessity referenced in ordered paragraphs 1 and 2 shall become effective on May 9, 2009.

5. Missouri Gas Utility, Inc., shall file with the Commission tariff sheets describing the new area and line certificates and the rates set out in this order no later than June 8, 2009. The tariffs shall specifically describe the Sections for which Missouri Gas Utility, Inc., has a line certificate and for which it has an area certificate.

6. Missouri Gas Utility, Inc., shall not serve the new service area granted in this order before the tariff sheets described in paragraph 5 become effective.

7. Nothing in this order shall be considered a finding by the Commission of the reasonableness or prudence of the expenditures involved, nor of the value for ratemaking

purposes of the properties involved, nor as an acquiescence in the value placed on the property.

8. The Commission reserves the right to consider the ratemaking treatment to be afforded the properties involved, and the resulting cost of capital, in any later proceeding.

9. This order shall become effective on May 9, 2009.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale  
Secretary

( S E A L )

Clayton, Chm., Murray, Davis,  
Jarrett, and Gunn, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge