

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

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 distribution system to )  
provide gas service in Benton County, )  
Missouri, as a new certificated area. )

**Case No. GA-2009-0422**

**STAFF RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its Recommendation, states as follows:

1. On May 22, 2009, Missouri Gas Energy (MGU or Company) filed the above-captioned application and motion for expedited treatment seeking a certificate of convenience and necessity (CCN) for a portion of Benton County that is adjacent to the service area recently granted to the Company in Case No. GA-2009-0264<sup>1</sup>. The portion of Benton County sought in this case modifies the service area granted in GA-2009-0264.

2. MGU's application explains this certificate is necessary for the Company to avoid the cost of having to move its main line that it had originally intended to place in the right of way along Highway 65. At a recent meeting with MGU, the Missouri Department of Transportation informed the Company of its plans to expand the lanes of Highway 65 in the next couple of years.

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<sup>1</sup> On April 29, 2009, in Case No. GA-2009-0264, the Commission issued its *Order Granting Certificate of Convenience and Necessity* authorizing the Company to provide natural gas sales and transportation service to customers in the cities of Green Ridge, Cole Camp, Lincoln, and Warsaw, Missouri, and various unincorporated

3. On May 27, 2009, the Commission issued its *Order Directing Notice And Setting Date For Submission Of Intervention Requests And Directing Filing* (Order) which allowed parties to file intervention requests not later than June 16, 2009. To date, no parties have applied to intervene in this matter. That Order also set June 8, 2009 as the deadline for parties to respond to MGU's motion for expedited treatment. No parties responded. The Order also directed Staff to file either its recommendation or a status report no later than June 16, 2009.

4. Section 393.170 RSMo requires the Commission to address the question of approving the service territory of public utilities and whether the provision of that service is necessary or convenient. Commission Rule 4 CSR 240-3.205(1)(E) requires applicants to state "The facts showing that the granting of the application is required by the public convenience and necessity." The term "necessity" means the additional service would be an improvement justifying its costs.<sup>2</sup> Furthermore, the Commission's allocation of service territory must be done on the basis of public interest.<sup>3</sup>

5. The Staff has reviewed MGU's application and submits its Recommendation in Staff's Memorandum attached hereto as Appendix A, with supporting depreciation schedule labeled Appendix B, incorporated herein by reference for all purposes. In its application, MGU has adopted the feasibility study previously submitted in Case No. GA-2009-0264. Staff points out the certificates sought by MGU have no cost impact on the adopted GA-2009-0264 feasibility study. Based on the above, and for reasons more fully explained in Staff's Memorandum, Commission approval of MGU's application, subject to certain conditions, is required by public convenience and necessity and is in the public interest. Therefore, Staff

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areas located in Pettis and Benton counties, 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.

<sup>2</sup> *State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri*, (1993), 848 S.W.2d 593.

<sup>3</sup> *State ex rel. Consumers Public Service Co. v. Public Service Commission*, (1944), 180 S.W.2d 40, 352 Mo. 905.

recommends the Commission grant MGU a certificate for its transmission line and a certificate to provide natural gas service to the requested portion of Benton County.

**WHEREFORE**, for the above stated reasons, Staff respectfully recommends the Commission grant Missouri Gas Utility, Inc. certificates of convenience and necessity for a transmission line and for provision of gas service in the portion of Benton County described by application, subject to the seven conditions listed on page 2 of Staff's Memorandum.

Respectfully submitted,

**/s/ Robert S. Berlin**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered or transmitted by facsimile or electronic mail to all counsel of record this 16th day of June 2009.

**/s/ Robert S. Berlin**