

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 9th day of January, 2013.

In the Matter of the Application of Southern Union Company, d/b/a Missouri Gas Energy, 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 Lawrence County, Missouri, as an Expansion of its Existing Certified Area)
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) **File No. GA-2013-0270**
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ORDER GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY

Issue Date: January 9, 2013

Effective Date: January 19, 2013

On November 12, 2012, Southern Union Company d/b/a Missouri Gas Energy (“MGE”) filed an application requesting that the Missouri Public Service Commission (“Commission”) grant it a Certificate of Convenience and Necessity (“CCN”) to expand its service territory into Section 24, Township 28 North, Range 27 West and Section 19, Township 28 North, Range 26 West in Lawrence County, Missouri.¹ The CCN would permit MGE to provide service to additional persons in those areas who have expressed interest in obtaining natural gas service.

On December 11, 2012, MGE filed a *Motion for Waiver*, which requested that it be granted a waiver from providing portions of a feasibility study as part of its application, as required by Commission Rule 4 CSR 240-3.205(1)(A)5. The Commission issued notice and set a deadline for intervention requests. No person or entity intervened, and no party

¹ MGE filed its application pursuant to Section 393.170, RSMo 2000, and Commission Rules 4 CSR 240-2.060 and 3.205.

requested a hearing. On December 19, 2012, the Commission's Staff filed its recommendation to grant the CCN subject to the condition of MGE submitting a revised tariff sheet incorporating the service areas granted in the CCN. The ten-day period to respond to that filing has elapsed, and no party opposed Staff's recommendation or objected to Staff's condition.

MGE is a "gas corporation" and a "public utility" as defined in Subsections 386.020(18) and (43), RSMo 2000. It is subject to the jurisdiction of this Commission under Chapters 386 and 393, RSMo 2000. A gas corporation may not exercise any right under a franchise without first obtaining the permission and approval of this Commission.² The Commission may give permission and approval when it has determined after due hearing³ that such construction or the exercise of such right under a franchise is "necessary or convenient for the public service."⁴ The Commission may also impose such conditions as it deems reasonable and necessary upon its grant of permission and approval.⁵

The Commission has articulated the filing requirements for gas utility CCNs in Commission Rule 4 CSR 240-3.205, and the specific criteria to be used when evaluating applications of gas utility CCNs are more clearly set out in the case *In Re Intercon Gas, Inc.*, 30 Mo P.S.C. (N.S.) 554, 561 (1991). The *Intercon* case combined the standards used in several similar certificate cases, and set forth the following criteria: (1) there must be a need for the service; (2) the applicant must be qualified to provide the proposed

² Section 393.170, 1 and 2, RSMo 2000.

³ The requirement for a hearing is met when the opportunity for hearing is provided and no proper party requests the opportunity to present evidence. No party requested a hearing in this matter; thus, no hearing is necessary. *State ex rel. Deffenderfer Enterprises, Inc. v. Public Service Comm'n of the State of Missouri*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

⁴ Section 393.170.3, RSMo 2000.

⁵ *Id.*

service; (3) the applicant must have the financial ability to provide the service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.⁶

The Commission's Staff recommended approval of MGE's application because: (1) MGE will provide the requested service under its existing tariff provisions; (2) the extension of gas service does not jeopardize natural gas service to MGE's current customers; (3) no persons have intervened or objected; (4) MGE anticipates using customary rights-of-way; (5) the requested service area is expected to develop new customers; and (6) no new franchises are necessary. MGE's verified application demonstrates a need for natural gas service in the service area identified.

Staff also recommends that the Commission grant MGE's request for a waiver of the requirement in Commission Rule 4 CSR 240-3.205(1)(A)5 for MGE to include a feasibility study with its application. Staff does not oppose a waiver because MGE intends to use its existing facilities to service the requested areas and because of the low cost of the proposed expansion, which is estimated at \$5,426.55. The Commission may waive a Commission rule for good cause shown.⁷

Based on the Commission's independent and impartial review of the verified filings, the Commission determines that MGE has satisfied all necessary criteria for the grant of a CCN. MGE's provision of natural gas service to the service areas described is in the public interest and the Commission will grant the request for the certificate. Since MGE has not objected to Staff's recommended condition, and because the Commission finds the

⁶ Report and Order, *In re Application of Tartan Energy Company, L.C., d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity*, Case No. GA-94-127, 3 Mo. P.S.C. 3d 173 (September 16, 1994), 1994 WL 762882, *3 (Mo. P.S.C.).

⁷ Commission Rules 4 CSR 240-2.060(4) and 4 CSR 240-3.015.

condition to be in the public interest, the Commission will incorporate the condition into the ordered paragraphs below. Finally, MGE has demonstrated good cause for waiver of the requirement in Commission Rule 4 CSR 240-3.205(1)(A)5 to include a feasibility study with its application, so MGE's motion will be granted.

THE COMMISSION ORDERS THAT:

1. Southern Union Company d/b/a Missouri Gas Energy is granted a Certificate of Convenience and Necessity to expand its service territory into Section 24, Township 28 North, Range 27 West and Section 19, Township 28 North, Range 26 West in Lawrence County, Missouri, as more specifically described in its application.

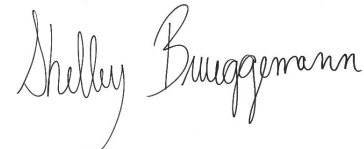
2. Southern Union Company d/b/a Missouri Gas Energy's *Motion for Waiver* is granted.

3. Southern Union Company d/b/a Missouri Gas Energy shall file revised tariff sheets including the newly certificated service areas granted by this order within thirty (30) days of the issue date.

4. This order shall become effective on January 19, 2013.

5. This file may be closed on January 20, 2013.

BY THE COMMISSION



Shelley Brueggemann
Acting Secretary

(S E A L)

Gunn, Chm., Jarrett, Kenney,
and Stoll, CC., concur.

Bushmann, Regulatory Law Judge