

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

In the Matter of the Application of)
Alliance Gas Energy Corporation for a)
Certificate of Convenience and Necessity)
Authorizing it to Construct, Install, Own,)
Operate, Control, Manage and Maintain a)
Natural Gas Distribution System and to)
Provide Gas Service in Branson, Branson)
West, Reed's Spring and Hollister,)
Missouri)

Case No. GA-2007-0168

STAFF'S STATUS REPORT

COMES NOW the Staff of the Missouri Public Service Commission (Staff) as directed by the Commission in its *Order Granting Applications to Intervene, Directing Staff to Investigate, and Directing Staff to File Monthly Status Reports*, and states:

1. On October 26, 2006 Alliance Gas Energy Corporation filed an application for a certificate of convenience and necessity to construct and operate an intrastate natural gas pipeline and gas utility to serve portions of Stone and Taney counties.

2. As permitted by the Commission's rule at 4 CSR 240-3.205 (2),¹ Alliance Gas Energy Corporation did not file:

(A) A legal description of the area to be certificated (4 CSR 240-3.205(1)(A) 3.);

(B) A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch (4 CSR 240-3.205(1)(A) 4.);

(C) A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations (4 CSR 240-3.205(1)(A) 5.);

¹ "If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought."

(D) A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross (4 CSR 240-3.205(1)(B) 1.);

(E) The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; (4 CSR 240-3.205(1)(B) 2.); and

(F) Plans for financing (4 CSR 240-3.205(1)(B) 3.).

3. Before the Commission may grant the Applicant's request for a certificate of convenience and necessity to construct a gas plant, the Commission is required by § 393.170 RSMo. (2000) to determine whether the Applicant has obtained the necessary franchises, and whether the project is necessary and convenient for the public interest. That section also permits the Commission to impose necessary conditions on the grant of authority:

3. The commission shall have the power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service. The commission may by its order impose such condition or conditions as it may deem reasonable and necessary...

In accord with this sub-section, the Commission may grant Applicant's request if, after hearing, it determines that the certificate is necessary or convenient for the public interest. In construing the term "necessary or convenient," the Court has stated that "the term 'necessity' does not mean 'essential' or 'absolutely indispensable', but that [the] service would be an improvement justifying its cost."² In the *Intercon Gas* case, the Court of Appeals further construed this statutory section and noted several criteria for evaluation of the necessity and convenience of the proposed project:

Additionally, what is necessary and convenient encompasses regulation of monopoly for destructive competition, prevention of undesirable competition, and prevention of duplication of service. *State ex rel. Public Water Supply Dist. No. 8*

² *State ex rel. Intercon Gas, Inc. v. Public Serv. Comm'n.* 848 S.W.2d 593, 597(Mo.App. 1993)(citing *State ex rel. Beaufort Transfer Co. v. Clark*, 504 S.W.2d 216, 219 (Mo. App. 1973).

v. Public Serv. Comm'n, 600 S.W.2d 147, 154 (Mo.App.1980). The safety and adequacy of facilities are proper criteria in evaluating necessity and convenience as are the relative experience and reliability of competing suppliers. *State ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n*, 527 S.W.2d 390, 394 (Mo.App.1975). Furthermore, it is within the discretion of the Public Service Commission to determine when the evidence indicates the public interest would be served in the award of the certificate. *Id.* at 392.

848 S.W.2d 593, 597 – 598. After defining and interpreting the meaning of the phrase “necessary or convenient,” the Court of Appeals indicated that it is up to the Commission to decide “when the evidence indicates the public interest would be served.” *Id.*

4. To make an informed recommendation whether the Commission should approve or reject Alliance Gas Energy Corporation’s application, Staff will require the information listed in paragraph two of this pleading. The information is relevant to the analysis Staff will perform relating to the convenience and necessity of the proposed systems and the role of the public interest in this case.

5. Staff has commenced discovery in this case to obtain information, including (but not limited to) the information listed in paragraph two above, that it believes is necessary to provide the Commission with an informed recommendation.

6. Staff has been informed that the franchises in some of the communities subject to this application are currently being considered by the relevant city counsels, including the City of Hollister. The City of Hollister will be considering the request of Alliance Gas Energy Corporation to provide natural gas service in that community and determining whether to put it on the April 2007 ballot at its meeting on Thursday, January 18, 2007. In its January 18, 2007 meeting, the City of Hollister will also be considering a similar request by Ozark Energy Partners, LLC, which is an intervener in this case and has requested a certificate of convenience

and necessity for portions of Taney County from the Commission in Case No. GA-2006-0561.

Similar activity is expected in Branson West and Reeds Spring in the very near future.

WHEREFORE, Staff requests that the Commission accept this status report.

Respectfully submitted,

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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 11th day of January 2007.

/s/ David A. Meyer