

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 20th day of
March, 2008.

In the Matter of the Application of Alliance Gas Energy)
Corporation for a Certificate of Public Convenience and)
Necessity Authorizing It to Construct, Install, Own,)
Operate, Control, Manage and Maintain a Natural Gas) **Case No. GA-2007-0168**
Distribution System to Provide Gas Service in Branson,)
Branson West, Reeds Spring, and Hollister, Missouri)

**ORDER DENYING OEP'S APPLICATION FOR REHEARING,
RECONSIDERATION AND CLARIFICATION**

Issue Date: March 20, 2008

Effective Date: March 30, 2008

The Commission issued its Report and Order in this case on February 5, 2008, with an effective date of February 15, 2008. Ozark Energy Partners, LLC ("OEP") timely filed its Application for Rehearing, Reconsideration and Clarification on February 14, 2008.

In its application for rehearing, OEP argues that the Commission erred in issuing Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas ("SMNG") a conditional CCN to provide natural gas service to Branson, Branson West, Hollister, and the surrounding unincorporated areas because the Commission should have found that SMNG failed to meet its burden of proof to establish that its proposal met two of the five *Tartan Energy* factors¹ – namely, whether its proposal is economically feasible and

¹ See *In re Tartan Energy Company*, 3 Mo.P.S.C. 3d 173, 177 (1994).

whether SMNG has the financial ability to provide the proposed service. The Commission finds this claim to be meritless, as the Report and Order is clearly interlocutory in that the Commission explicitly stated that it planned to “defer making any finding” regarding those two criteria “until after the Commission decides Case No. GF-2007-0215,” which is SMNG’s consolidated financing application case being handled by Judge Dippell.²

OEP also requests that the Commission “clarify the procedure it intends to follow in order to render the ‘deferred findings’ concerning SMNG’s financial ability, and concerning the economic feasibility of SMNG’s proposal in the instant case.” According to Ozark, “[t]his clarification should include describing the manner, time and docket in which the Commission intends to complete its review of SMNG’s application herein.” This is unnecessary, because in the body of the Report and Order, the Commission made it quite clear that although substantial evidence bearing on the two deferred findings had been presented during the hearing in Case No. GA-2007-0168, the Commission wished to supplement that record with the evidence developed in Case No. GF-2007-0215 before actually making those findings.

OEP further argues that it is “imperative” for the Commission to clarify that “the condition in the certificate in this case is not only the filing of a financing ‘plan,’ or even conditional promises of investors and lenders.” OEP wishes to receive assurances that the Commission’s “approval of SMNG’s pending financing *plan* in GF-2007-0215 is not the final determination or grant of a permanent certificate of convenience and necessity,

² The Commission has ordered a hearing on SMNG’s financing application, which is scheduled to begin at 10:00 a.m. on March 27, 2008 and run through March 28, 2008. All testimony will be live, and post-

to the exclusion of OEP,” and that the Commission will not issue SMNG a “final” CCN for the proposed service area until SMNG has submitted and the Commission has reviewed “final, executed financing documents,” to ensure that “investors and lenders have ‘signed on the dotted line’ and committed firm money to build-out the project.”

Once again, the Commission finds these concerns to be unwarranted. In the first ordered paragraph of the Commission’s Report and Order, the Commission specified that the CCN granted to SMNG was “conditioned upon the company’s submission of financing arrangements the Commission finds acceptable and its acceptance of non-disposition accounting-related conditions similar to those recommended in the Stipulation and Agreement between Ozark Energy Partners, LLC and Staff in Case No. GA-2006-0561.” The second ordered paragraph indicates that SMNG is prohibited from beginning any construction for the purpose of offering natural gas service in the proposed service areas “until it has obtained approval of its financing and a ‘full’ certificate of public convenience and necessity” from the Commission. Since one of the conditions recommended in the Stipulation and Agreement between OEP and Staff in Case No. GA-2006-0561 was that OEP show “that it has secured financing for the proposed service territories, which includes providing to Staff the final executed financing document(s),” SMNG is clearly already subject to the condition about which OEP is concerned.³ Furthermore, the Commission has specified that no project-related construction can commence until SMNG has obtained not only “approval of its

hearing briefs and proposed findings and conclusions from SMNG, OEP and the other the parties to that case will be due on April 22, 2008.

³ Other conditions specified in the Stipulation and Agreement before issuance of a final CCN were that OEP show it is ready to “immediately begin necessary construction” and that it has “fulfilled all

financing” after “submission of financing arrangements the Commission finds acceptable,” but also a “full” CCN.

For the foregoing reasons, OEP’s Application for Rehearing shall be denied.

IT IS ORDERED THAT:

1. The Application for Rehearing, Reconsideration and Clarification filed by Ozark Energy Partners, LLC on February 14, 2008 is denied.
2. This order shall become effective on March 30, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Appling, and
Jarrett, CC., concur.
Clayton, C., dissents.

Lane, Regulatory Law Judge

appropriate and necessary authorizations for the purpose of providing natural gas service in its requested and Commission authorized service territory.”