

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

|   |   |                       |
|---|---|-----------------------|
| In the matter of the application of Missouri Gas        | ) |                       |
| Utility, Inc., for authority to enter into certain debt | ) |                       |
| instruments and to issue up to and including            | ) |                       |
| \$26,400,000 of long-term indebtedness, in one          | ) | Case No. GF-2010-0334 |
| more transactions, and to, among other things,          | ) |                       |
| execute and deliver a mortgage and security             | ) |                       |
| agreement to secure said indebtedness.                  | ) |                       |

**FIRST AMENDED APPLICATION**

COMES NOW Missouri Gas Utility, Inc. ("MGU" or "Applicant"), by and through its undersigned counsel, pursuant to §§ 393.180 and 393.190, RSMo (2000) and Missouri Public Service Commission ("Commission") rules 4 CSR 240-2.060, 2.080 and 3.210 and for its application to issue up to and including an aggregate of \$26,400,000 in some combination of (1) revenue bonds ("Revenue Bonds") under the terms of a Loan Agreement with Summit Utilities, Inc., and related debt instruments and (2) a term loan from CoBank, ACB ("Term Loan"), all such indebtedness to be secured by a mortgage, lien and encumbrance upon its Missouri operating properties, states as follows:

**The Applicant**

1. MGU is a corporation duly incorporated under the laws of the State of Colorado with its principal office located at 7810 Shaffer Parkway, Suite 120, Littleton, Colorado 80127. A copy of a certificate from the Missouri Secretary of State that MGU is authorized to do business in Missouri as a foreign corporation was submitted in Case No. GA-2007-0421 and is incorporated by reference in accordance with Commission Rule 4 CSR 240-2.060(1)(G). Other than cases that have been docketed at the Commission, MGU has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three (3) years that

involve customer service or rates. MGU has no annual report or assessment fees that are overdue.

2. MGU conducts business as a “gas corporation” and a “public utility” as those terms are defined at § 386.020 RSMo and provides natural gas service in the Missouri counties of Harrison, Daviess, Caldwell, Pettis and Benton, subject to the jurisdiction of the Commission as provided by law. Its current and planned operations in the State of Missouri have been authorized in the context of Cases Nos. GO-2005-0120, GA-2007-0421, GA-2008-0321, GA-2008-0322, GA-2008-0348, GA-2009-0264 and GA-2010-0189.

3. MGU is a wholly-owned subsidiary of Summit Utilities, Inc., a Colorado corporation (“Summit”).

4. All correspondence, communications, notices, orders and decisions of the Commission with respect to this matter should be sent to the undersigned counsel and:

Kenneth C. Wolfe  
Vice President and General Counsel  
Missouri Gas Utility, Inc.  
7810 Shaffer Parkway, Suite 120  
Littleton, CO 80127  
Telephone: (720) 981-2114  
Facsimile: (720) 981-2129  
Cell: (303) 847-8787  
Email: [kcwolfe@summitutilitiesinc.com](mailto:kcwolfe@summitutilitiesinc.com)

Michelle Moorman  
Regulatory Manager  
Missouri Gas Utility, Inc.  
7810 Shaffer Parkway, Suite 120  
Littleton, CO 80127  
Telephone: (720) 981-2127  
Facsimile: (720) 981-2129  
Cell: (303) 478-0329  
Email: [mmoorman@summitutilitiesinc.com](mailto:mmoorman@summitutilitiesinc.com)

### **Capitalization of Applicant**

5. Applicant had outstanding, as of December 31, 2009, \$10,120,000 of long-term secured indebtedness. Of this, \$4,670,000 is in the form of Bonds which are due in 2038, all in accordance with the authority of the Commission given in Case No. GF-2009-0057.<sup>1</sup> The balance of \$5,450,000 is in the form of Bonds which are due in 2038, in accordance with the authority of the Commission given in Case No. GF-2009-0331.<sup>2</sup>

6. As of December 31, 2009, Applicant had no outstanding short-term unsecured indebtedness.

7. Applicant's authorized capital stock consists of 10,000,000 shares of common stock, no par value, 58,342 shares of which were issued and outstanding as of December 31, 2009. During the fiscal year ending March 31, 2010, the value of equity in MGU increased to \$7,201,813 as a result of an additional equity investment of \$5,662,860 as paid-in capital by Applicant's parent company, Summit.

### **The Construction Program Financing**

8. MGU anticipates that it will have available to it a short-term, secured line of credit loan to draw upon during the initial stages of its Commission-authorized service expansions to be used for construction financing. These projects include MGU's authorization from the Commission to expand its operations in and into Benton, Morgan, Camden and Miller counties, including to the communities of Camdenton, Osage Beach and Lake Ozark<sup>3</sup> and to its service expansion into the counties of Greene, Polk and

---

<sup>1</sup> This series of Bonds is designated as "\$4,670,000 Variable Rate Demand Revenue Bonds (Missouri Gas Utility, Inc. Project) Series 2008B."

<sup>2</sup> This series of Bonds is designated as "\$10,120,000 Variable Rate Demand Revenue Bonds (Missouri Gas Utility, Inc. Project) Series 2009B."

<sup>3</sup> Case No. GA-2009-0264.

Dallas, including the communities of Bolivar and Buffalo<sup>4</sup> (collectively, the “Construction Program”). Any short-term construction financing shall be replaced by long-term, secured indebtedness.

9. In that regard, MGU proposes to enter into one or more long-term debt instruments to fund its planned operations in the State of Missouri. The long-term financing contemplated by this Application calls for Summit to issue its Revenue Bonds on behalf of MGU and/or for MGU to enter into a Term Loan such that the combined total of additional bonded and other secured indebtedness from both sources shall not exceed an additional \$26,400,000.<sup>5</sup> If a new series of Revenue Bonds are issued and/or the Term Loan entered into, it is expected to occur in calendar years 2010 through 2012 as availability, need and market conditions warrant. In doing so, Applicant’s objective is to maintain a total debt to total capitalization not to exceed sixty percent (60%).

### **The Revenue Bonds**

10. The project financing may include the issuance of one or more new series of Revenue Bonds by Summit. The Revenue Bonds will be of the same general type, and issued in the same manner, as was authorized by the Commission in its Cases Nos. GF-2009-0057 and GF-2009-0331. The Revenue Bonds would be issued by Summit on behalf of MGU and the bond proceeds loaned to MGU pursuant to the terms of a loan agreement. Each new series of Revenue Bonds shall be issued and sold to purchaser investors either by private placement or through an offering exempt from registration.

---

<sup>4</sup> Case No. GA-2010-0189.

<sup>5</sup> \$19.2 million of this amount is expected to be used for the Lake of the Ozarks project and the balance, \$7.2 million, is expected to be utilized in connection with Applicant’s expansion of operations into Dallas, Greene and Polk counties.

11. The Revenue Bonds will be secured by a Letter of Credit (“LOC”) by a commercial bank having an investment grade rating (the “LOC Bank”). This structure will allow the Revenue Bonds to have the same credit rating as the LOC Bank which should result in a lower rate of interest than MGU could obtain without the LOC. Since the LOC will be issued by a bank, the Bonds are exempt securities not subject to registration pursuant to the Securities Act of 1933, thus saving the Applicant the cost of a securities registration.

### **The Term Loan**

12. Applicant may also borrow up to and including \$15,000,000 through a long-term, secured credit facility from CoBank, ACB (“CoBank”). CoBank is part of the Federal Farm Credit System, which is a nationwide financial cooperative that lends money and provides financial services to agriculture and rural America. In such event, Applicant would enter into a senior secured term loan facility. The proceeds from the Term Loan would be available in one or more tranches likely to have varying terms. As security for the loan, Applicant proposes to execute and deliver a deed of trust or mortgage and security agreement for the benefit of CoBank. Marked as **Appendix 1** and attached hereto for all purposes is a summary term sheet setting forth the principal features of the Term Loan.

### **The Loan Agreements and Other Matters Applicable To the Revenue Bonds and the Term Loan**

13. The Revenue Bonds issued by Summit on behalf of MGU and the Term Loan will be facilitated and evidenced by various debt instruments, including (i) one or more loan agreements by and between MGU, Summit, UMB and/or CoBank; (ii) one or more reimbursement agreements, which includes an \$2,000,000 line of credit to be made available to MGU by UMB Bank-Colorado, N.A.; (iii) one or more promissory

notes, loan agreements and a mortgage or deed of trust from MGU to UMB Bank, N.A. (“UMB”), UMB Bank-Colorado, N.A. and/or CoBank; (iv) a trust agreement by and between Summit, MGU and The Bank of New York, Mellon, N.A.; and (v) and one or more general security agreements by and between MGU, and UMB; UMB-Colorado and CoBank (hereinafter, collectively and variously, the “Debt Instruments”).<sup>6</sup>

14. The mortgage or deed of trust and security agreement will constitute a first lien on substantially all of the properties currently owned and subsequently acquired by MGU, including its certificates of convenience and necessity. Consequently, all of the Revenue Bonds, the Term Loan obligations and the line of credit<sup>7</sup> will be secured by a lien or encumbrance on MGU’s existing utility franchises, plant and system used to provide service to its customers, and on any new plant and operations that the proceeds from the financing will fund. Any newly issued Revenue Bonds will be on parity with the bonded indebtedness previously issued by MGU. The promissory note secured by the mortgage or deed of trust includes accrued interest on the Revenue Bonds for approximately 45 days. Therefore, the lien is for an amount greater than the face amount of the Bonds.

15. The costs associated with the authorization and issuance of the Revenue Bonds and Term Loan referenced herein, including legal, administrative, filing and mailing costs, are not known at this time. MGU estimates that the total costs for the new series of Bonds and the Term Loan contemplated by this Application will not exceed \$350,000.

16. Because the market for the Revenue Bonds is constantly changing, MGU cannot, at this time, forecast the interest rate or rates or other terms and provisions of

---

<sup>6</sup> Copies of the Debt Instruments are provided as identified in ¶20, *infra*.

<sup>7</sup> This secured line of credit was authorized in Commission Case No. GF-2009-0057.

the Revenue Bonds; thus, the terms and provisions shall be determined at the time of placement. The maturities of the Revenue Bonds are anticipated to be up to thirty years. The interest rate or rates of any series of Revenue Bonds, including any applicable discount, shall be consistent with rates for similar securities of comparable credit quality and maturities issued by other companies. MGU reserves the right to fix the interest rate on all or a portion of the Revenue Bonds for a period of time up to the life of the bonds which may be through the use of an interest rate swap, collar or similar financial instrument.

### **Statutory Authority for Commission Action**

17. The Commission has jurisdiction in this case because MGU will create a lien or encumbrance on its Missouri properties to secure payment of the Revenue Bonds and the Term Loan. See, § 393.190.1, RSMo 2000. Therefore, MGU seeks approval from the Commission to mortgage its Missouri properties to secure its obligations under the Debt Instruments.

### **Filing Requirements and Related Materials**

18. Marked **Appendix 2**, attached hereto and made a part hereof for all purposes, is information regarding MGU's capital stock outstanding, bond indebtedness, long-term secured indebtedness and short-term indebtedness, and other financial information including a balance sheet for the twelve month period ending March 31, 2010, and financial statements with adjustments showing the *pro forma* effect of the issuance of up to \$26,400,000 of additional long-term indebtedness.

19. Marked **Appendix 3**, attached hereto and made a part hereof for all purposes, is a statement of MGU's capital expenditures for the acquisition of property and the construction, completion, extension and improvement of its plant and systems for the five-year period immediately preceding the filing of this Application, as well as

the amount of any retirements of permanent financing for the indicated period, and the statement of MGU's net property additions.

20. Marked as indicated, attached hereto and made a part hereof for all purposes, are copies of the following Debt Instruments and related documents in substantially final form:

**Appendix 4:** Deed of Trust, Security Agreement, Assignment of Profits and Proceeds, Financing Statement and Fixture Filing from MGU to UMB;

**Appendix 5:** General Security Agreement from MGU to UMB ("Security Agreement");

**Appendix 6:** Master Trust Indenture by and between Summit and The Bank of New York Mellon Trust Company, N.A.;

**Appendix 7:** Bond Supplement by and between Summit and The Bank of New York Mellon Trust Company, N.A.; and

**Appendix 8:** Selected CoBank Loan Documents.

**The Use of Proceeds from the Sale of the Revenue Bonds  
and the Term Loan**

21. The net proceeds from the Term Loan and sale of the Revenue Bonds issued by Summit on MGU's behalf will be added to Applicant's general funds for use in connection with the acquisition of property, construction, completion or improvement of its plant or system, or the improvement or maintenance of service, or the reimbursement of amounts actually expended from income or any other amounts not secured or obtained from the issuance of stocks, bonds, notes or other evidences of indebtedness. Specifically, MGU contemplates that the proceeds obtained through its loan agreements with Summit and/or CoBank will be used to provide financing for its



ongoing Construction Program and other corporate purposes in Missouri. The proceeds from the Term Loan and proceeds from the issuance and sale of the Revenue Bonds by Summit on Applicant's behalf are reasonably required for the purposes specified in this Application and such purposes are not in whole or in part reasonably chargeable to operating expense or income.

22. Marked **Appendix 9**, attached hereto and made a part hereof for all purposes, is a Secretary's certificate certifying the resolutions of Applicant's Board of Directors which authorize the filing of this Application.

23. Subjecting MGU's Missouri properties to the Deed of Trust and/or Mortgage and Security Agreement to secure its additional obligations under the Debt Instruments will have no impact on the tax revenues of the political subdivisions in which any of the structures, facilities or equipment of MGU are located. The mortgage and/or deed of trust and Security Agreement will not result in a change of ownership of MGU's Missouri properties nor will they result in the change of the present location of the affected utility assets.

24. Subjecting MGU's Missouri properties to the additional lien of the Deed of Trust and/or Mortgage and Security Agreement will not be detrimental to the public interest, and in fact will be beneficial to the public interest because the public health, safety and welfare will be served by the ability of MGU to obtain access to the capital markets on the most favorable terms available. Granting the authority requested will be transparent to MGU's customers in that it will not cause any adverse impact on customer service or rates.

WHEREFORE, Applicant requests that the Commission approve this Application and issue an order that:

- a) Authorizes MGU to enter into, execute and deliver Loan Agreements with

Summit, UMB, UMB-Colorado and/or CoBank to incur indebtedness provided that the aggregate principal amount of all such debt obligations shall not exceed \$26,400,000, bearing interest, including any applicable discount, at a rate consistent with the rates for similar securities of comparable credit quality and maturities issued by other companies, having a maturity of not more than thirty years for the date of the loan relating to the Revenue Bonds, and having such designation and redemption, purchase and other terms as shall be determined by MGU;

- b) Authorizes MGU to create and make effective the lien of the Mortgage and/or Deed of Trust and the Security Agreement on all of the franchises, certificates of convenience and necessity, plant and system of MGU in the State of Missouri to secure its obligations under the Letter of Credit securing the Revenue Bonds and the Term Loan, provided the aggregate principal amount of all such issuances does not exceed \$26,400,000;
- c) Authorizes MGU to perform in accordance with the Deed of Trust and/or Mortgage, the Security Agreement and the Loan Agreement;
- d) Authorizes MGU to enter into, execute, deliver and perform the necessary promissory notes, agreements and other documents necessary to effectuate the described transactions;
- e) Authorizes MGU to take such other actions as may be reasonably incidental, necessary or appropriate to complete the transaction; and
- f) Finding that the proceeds, property or labor to be procured or paid for by MGU through the issuance of the Debt Instruments is reasonably required and necessary for the purposes set forth above and will be used therefor and that such purposes are not in whole or in part reasonably chargeable

to operating expenses or to income.

Respectfully submitted,

/s/ Paul A. Boudreau

Paul A. Boudreau - Mo Bar # 33155  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, Missouri 65102-0456  
Telephone: (573) 635-7166  
Facsimile: (573) 635-0427  
Email: paulb@brydonlaw.com  
Attorneys for Missouri Gas Utility, Inc.

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was delivered by first class mail, electronic mail or hand delivery, on the 16<sup>th</sup> day of July, 2010, to the following:

Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102-0360

Office of the Public Counsel  
Governor Office Building  
200 Madison Street, Suite 650  
Jefferson City, MO 65102-2230

/s/ Paul A. Boudreau

Paul A. Boudreau