

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

In the Matter of the Application of	)	
Ozark Energy Partners, LLC	)	
for a Certificate of Public Convenience and	)	
Necessity to Construct and Operate an	)	Case No. GA-2006-0561
Intrastate Natural Gas Pipeline and Gas Utility	)	
to Serve Portions of the Missouri Counties of	)	
Christian, Stone and Taney, and for	)	
Establishment of Utility Rates.	)	

**APPLICATION OF OZARK ENERGY PARTNERS, LLC FOR REHEARING,  
RECONSIDERATION AND CLARIFICATION**

COMES NOW Ozark Energy Partners, LLC, ("Ozark" or "OEP"), the Applicant in this case, by and through counsel and pursuant to Section 386.500, RSMo and 4 CSR 240-2.160, and for its Application for Rehearing, Reconsideration and Clarification respectfully states as follows:

1. On February 5, 2008, the Commission issued its Report and Order in this case. Said Report and Order contained an effective date of February 15, 2008. Pursuant to Section 386.500, RSMo, this Application for Rehearing, Reconsideration and Clarification is timely filed.

2. The Report and Order, in ORDERED: 4, states that Ozark Energy Partners "shall comply with the terms and conditions set out in the Stipulation and Agreement entered into between it and the Staff of the Commission." Those conditions include the following:

**Section III. A. 3:**

OEP agrees that if, at any time, it sells or otherwise disposes of its assets in a sale, merger, consolidation or liquidation transaction at a fair value less than its net original cost for those assets, the purchaser/new owner shall be expected to reflect those assets on OEP's books at its purchase price or the fair value of the assets,

rather than at the net original cost of the assets. OEP also acknowledges that it is the intention of the Parties that the provisions of this paragraph shall apply to any successors or assigns of OEP.

3. Staff had urged the inclusion of this language as a condition for any certificate granted to OEP (or to SMNG in GA-2007-0168) because of Staff's experience with several other start-up gas utilities. (*See, Staff Memorandum in Support of the Stipulation and Agreement* (Exh. 24 HC, 25 NP); *See also, Staff Position on the Issues* in Case No. GA-2007-0168, filed November 27, 2007.)

4. OEP had been willing to accept this provision as a condition of its certificate of convenience and necessity in this case in order to achieve the support of Staff for its application and because, unlike SMNG, OEP's single purpose is to build and operate the natural gas system serving the Ozarks region. (T-101, l. 25 – T-102, l. 18; T-179, l. 23 –T-180, l. 6; T-180, l. 20 – T-181, l. 11; T-161, ll. 6,7.)

5. However, as OEP stated in its brief in this case, in the event that the Commission should decide to grant conditional certificates to both OEP in this case, and SMNG in Case No. GA-2007-0168, it should not impose any condition on OEP that is more stringent than imposed on SMNG. (*See, Brief of Ozark Energy Partners, LLC*, filed January 8, 2008, at page 50.) Staff concurred.<sup>1</sup> Consistent with Staff's recommendation, and simple fairness, the conditions applicable to such conditional certificates should be the same.

---

<sup>1</sup> *See, Staff's Brief*, Case No. GA-2007-0168, at page 13: "If the Commission determines that both Companies should be granted conditional CCN's the Commission should, in every way possible, impose identical conditions on both companies."

6. In its Report and Order in Case No. GA-2007-0168, the companion case to this one involving the application of SMNG, the Commission rejected the condition in question as “neither reasonable nor necessary.” (Report and Order, GA-2007-0168, at page 16.) The Commission also described this condition as “unprecedented” (*id.*) and as “unnecessary since SMNG has already indicated that its shareholders will take the economic risk associated with the expansion of its service area ....” (*Id.*, at page 17.) OEP has also agreed that its shareholders will take the economic risk associated with its proposed service to the Ozarks region in this case. (See, for example, Stipulation and Agreement Section III.A. 1 and 2.)

7. As the Commission itself stated in the Report and Order in this case, the Stipulation and Agreement between OEP and Staff is “considered to be merely a position of the signatory parties to the stipulated position[s]’ and no party is bound by those stipulations.” (Report and Order, at page 3.)

8. The application of this condition to OEP, and not to SMNG, is clearly prejudicial against OEP’s interests in obtaining reasonably priced capital to complete this project, especially in a highly-competitive financing market.

9. Since the Commission has rendered findings in Case No. GA-2007-0168 that this condition is unreasonable, unprecedented and unnecessary, it is not possible for the Commission to lawfully impose an unreasonable and unnecessary condition on OEP but not on SMNG. To apply this condition on OEP’s certificate is unjust, unreasonable and unnecessary, discriminates against OEP and violates its rights, among others its constitutional right of equal

protection of the law. (14<sup>th</sup> Amendment, United States Constitution; Missouri Constitution; Section 386.500, RSMo.)

WHEREFORE, Ozark Energy Partners, LLC, respectfully requests that the Commission grant rehearing in this case or, in the alternative, amend or clarify its Report and Order of February 5, 2008 by removing Section III. A. 3 of the Stipulation and Agreement between OEP and Staff as a condition to be applied to OEP's conditional certificate.

Respectfully submitted,

***/s/ William D. Steinmeier***

---

William D. Steinmeier, MoBar #25689  
Mary Ann (Garr) Young, MoBar #27951  
WILLIAM D. STEINMEIER, P.C.  
2031 Tower Drive  
P.O. Box 104595  
Jefferson City, MO 65110-4595  
Phone: 573-659-8672  
Fax: 573-636-2305  
Email: wds@wdspc.com  
myoung@wdspc.com

COUNSEL FOR OZARK ENERGY  
PARTNERS, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document has been served electronically on the General Counsel's Office, the Office of the Public Counsel, and counsel for each Intervenor, on this 14<sup>th</sup> day of February 2008.

***/s/ William D. Steinmeier***

\_\_\_\_\_  
William D. Steinmeier