

At a session of the Public Service Commission held at its office in Jefferson City on the ____ day of August, 2007.

Case No. GA-2007-0212
et al.

On December 6, 2006, SMNG filed an Application for a certificate of convenience and necessity to provide natural gas service in Lebanon, Missouri in Case No. GA-2006-0212. On December 12, 2006, SMNG filed an Application for financing in Case No. GF-2007-0215, seeking authority to issue additional \$10 million of equity, and approximately \$50 million in notes and other forms of indebtedness with maturities of up to ten (10) years.

associated with its expansion plans and other corporate purposes. On February 15, 2007, SMNG filed an Application for a certificate of convenience and necessity to provide natural gas service in Houston, Licking and Mountain View¹, Missouri in Case No. GA-2007-0310. At the request of SMNG, these cases were subsequently consolidated on March 8, 2007.

SMNG filed its applications for a certificate of convenience and necessity with the Missouri Public Service Commission, pursuant to Section 393.170, RSMo 2000, requesting that the Commission grant it authority to provide natural gas service to the public in the Cities of Lebanon, Houston, and Licking, Missouri², as an extension of its existing service area and system.

On December 13, 2006, the Commission issued notice of the application and set January 12, 2007 as the date by which interested parties should apply to intervene. Applications to intervene were filed by the Missouri Propane Gas Association ("MPGA") and Southern Star Central Gas Pipeline, Inc. ("Southern Star Central") which were subsequently granted. The Commission also directed its Staff to submit its recommendation concerning the application, or a status report, no later than January 22, 2007. Staff filed several status reports as it completed its investigation into the applications.

On May 16, 2006, MPGA filed a Motion to Dismiss or in the Alternative to Stay Proceedings. On June 26, 2007, the Commission issued its Order Denying Motion To Dismiss Or In The Alternative To Stay Proceedings which denied MPGA's request to dismiss or stay the proceeding.

¹ SMNG is no longer seeking a certificate of convenience and necessity to serve the municipality of Mountain View, Missouri.

² In 1995, the Commission issued orders in Case No. GA-94-127 granting a certificate of convenience and necessity to SMNG to construct and operate natural gas systems in several municipalities, including Houston, Licking and Mountain View, Missouri. However, SMNG did not complete the trunkline and distribution systems in Houston, Licking, and Mountain View.

On June 12, 2007, Staff filed its verified Staff Recommendation which recommended, *inter alia*, that the Commission conditionally approve SMNG's Application to Expand Service into Lebanon, Houston, and Licking, and to withhold approval of the financing application, pending the receipt of certain specific information. The Staff recommended that the order approving the certificate of convenience and necessity should be conditioned upon a favorable vote of the citizens of Lebanon regarding the ratification of the franchise approved by the City Council of Lebanon, Missouri which is scheduled for August 7, 2007.

With regard to the application for financing filed by SMNG in Case No. GF-2007-0215, the Staff Recommendation indicated that SMNG is currently still engaged in definitive negotiations with several potential investors, and that Staff will file its staff recommendation with regard to the financing application at a later time when more specific information regarding the specific identity of the investor(s) is known.

On July 12, 2007, SMNG filed its Response Of Southern Missouri Natural Gas To The Staff Recommendation in which SMNG informed the Commission that the approach suggested by Staff for resolving the final issues related to the applications for a certificate of public convenience and necessity for Lebanon, Houston, and Licking is acceptable to SMNG. In addition, SMNG informed the Commission that the approach suggested by Staff for resolving the final issues related to the application for financing is also acceptable to SMNG.

On June 22, 2007, the Commission issued its Order Setting Procedural Conference And Directing Filing which scheduled a procedural conference on June 29, 2007. The procedural conference was held on June 29, 2007. During the procedural

conference, MPGA counsel orally requested a hearing in this matter. Subsequently, MPGA filed its Request For Hearing.

On July 9, 2007, SMNG on behalf of itself and the other parties filed a proposed Procedural Schedule which recommended a hearing date of July 27, 2007. On July 10, 2007, the Commission issued its Order Adopting Procedural Schedule. An evidentiary hearing was held on July 27, 2007, as ordered by the Commission.

Criteria For Granting Certificates of Convenience and Necessity

In Re: Intercon Gas, Inc., Case No. GA-90-280, 30 Mo.P.S.C. 554 (June 28, 1991), the Commission discussed the criteria for granting a certificate of convenience and necessity. The Commission stated as follows:

The Commission has articulated criteria for granting a certificate in a case similar to the instant case. In Missouri Pipeline Company's first application for certificate wherein MPC proposed to transport natural gas from Panhandle Eastern's Interstate Pipeline via an 85-mile intrastate pipeline, the Commission found that the Company's application for certificate was like any other in that MPC had to meet what the Commission then characterized as the following "statutory" criteria: (1) the Applicant must be qualified to provide the proposed service; (2) there must be a need for the service; and (3) the service must promote the public interest.

Id. at 561.

In Case No. GA-90-280, the Commission also discussed criteria used in two sewer company proceedings in which it determined that it was appropriate to consider evidence regarding the need for the proposed service, Applicant's qualifications, Applicant's financial ability to provide the service, and the feasibility of the Applicant's proposal. As discussed below, SMNG in this proceeding has met the criteria for the

granting of a certificate of convenience and necessity utilized in past Commission certificate cases.

Findings of Fact

On July 27, 2007, the Commission convened a hearing at the request of the MPGA to consider evidence supporting and in opposition to SMNG's applications for a certificate of convenience and necessity to provide natural gas service in Lebanon, Houston and Licking, Missouri.

SMNG's Qualifications To Provide The Proposed Service

SMNG owns and operates a natural gas distribution system located in southern Missouri which serves approximately 7,500 residential, commercial and industrial customers in twelve communities. SMNG is a "gas corporation" and "public utility" under the jurisdiction of the Missouri Public Service Commission, pursuant to Chapters 386 and 393, RSMo. 2000. It has been certificated as a local distribution system since its inception in 1994.

In the past, the Commission has also found that SMNG (previously known as Tartan Energy Company, L.C. d/b/a Southern Missouri Gas Company) is financially and technically qualified to provide natural gas service. See Report & Order, Re Application of Tartan Energy Company, L.C. d/b/a Southern Missouri Gas Company, for a Certificate of Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Control, Manage and Maintain Gas Facilities and to Render Gas Service in and to Residents of Certain Areas of Wright, Texas, Howell, Webster, Greene and Douglas Counties, Including the Incorporated Municipalities of Seymour, Cabool, Houston, Licking, Mountain Grove, Mountain View, West Plains, Ava, Mansfield, Marshfield and Willow Springs, Missouri,

Case No. GA-94-127, 3 Mo.P.S.C. 3d 173 (September 16, 1994); Order Granting Certificate of Convenience And Necessity, Re Application of Tartan Energy Company, L.C. d/b/a Souther Missouri Gas Company, for a Certificate of Convenience and Necessity Authorizing it to Construct, Install, Own, Operate, Control, Manage and Maintain Gas Facilities and to Render Gas Service in and to Residents of Certain Areas of Greene, Wright and Webster Counties, Including the Incorporated Municipalities of Rogersville, Fordland, Diggins, Norwood and Seymour, Missouri, Case No. GA-95-349, 4 Mo.P.S.C. 3d 61 (September 13, 1995).

More specifically, the Commission stated: "The Commission is confident that Tartan [now known as SMNG] possesses the necessary knowledge of the natural gas utility industry including the industry as it has developed in the State of Missouri, as well as of all the requisite technical requirements regarding engineering, safety, and so forth, and so finds. Thus, Tartan has shown that it is qualified to provide the proposed service." 3 Mo.P.S.C. 3d at 183.

SMNG witness Randy Maffett testified in this proceeding that SMNG continues to be qualified financially and technically to operate the expanded local distribution system. In fact, SMNG has been successfully operating its local distribution system for the past twelve years. (Tr. 64) If the applications are granted by the Commission, Mr. Maffett testified that SMNG intends to add approximately twelve additional employees to ensure that it continues to provide safe and adequate service to the new communities. (Id.) Mr. Maffett also testified that the project would be operated in accordance with the current safety rules of the Commission. (Id.)

The City of Lebanon officials also reviewed the qualifications of the Company to provide the proposed service. The Company submitted a response to a Request For Proposal that was issued by the City of Lebanon requesting proposals to provide natural gas service to that community. After the City of Lebanon evaluated the responses to the RFP, the City officials concluded that SMNG was the most qualified to provide natural gas service to their community. (Tr. 187) Subsequently, the City Council granted a franchise to SMNG to provide natural gas service to Lebanon, Missouri. (Ex No. 3) On August 7, 2007, the voters of Lebanon ratified this ordinance by a substantial majority in favor of having SMNG provide natural gas to the City of Lebanon. (See Notice of Election Results filed on August 10, 2007)³.

No evidence was submitted in this proceeding seriously challenging the qualifications of SMNG to provide the propose service. In fact, MPGA witness Ed Simmons specifically testified that he was not challenging the qualifications of SMNG to operate the proposed system. (Tr. 230)

Based upon the competent and substantial evidence in the record, the Commission finds that SMNG is qualified to provide the proposed service in Lebanon, Houston and Licking, Missouri.

Public Need For The Proposed Natural Gas Service

In Re Tartan Energy Company d/b/a Southern Missouri Gas Company, Case No. GA-94-127, 3 Mo.P.S.C. 3d at 181-82, the Commission discussed the public need standard in certificate cases as follows:

³ The Commission will take official notice of the results of the ratification election held on August 7, 2007, in Lebanon, Missouri.

The Missouri Court of Appeals has held that "[t]he term 'necessity' does not mean 'essential' or 'absolutely indispensable', but that an additional service would be an improvement justifying its cost." **State ex re. Intercon Gas v. P.S.C.**, 848 S.W.2d 593, 597 (Mo. App. W.D.1993). Testimony was adduced evidence indicating that natural gas is one of the preferred forms of energy in the central United States where it is readily available. The availability of natural gas provides a new energy alternative which may lower energy costs and promote economic development. Natural gas may also provide an inviting alternative for industrial and commercial customers. In addition, the project itself will represent a major capital investment in south central Missouri, which will require the employment of workers during the construction phase of the project, and for the operation of the pipeline.

The Commission also notes that as a general policy in recent years, it has looked favorably upon applications designed to spread the availability of natural gas throughout the State of Missouri wherever feasible. . . . The Commission finds that the facts related above provide sufficient indicia of the need for natural gas service in the proposed service area.

In this proceeding, the competent and substantial evidence indicates that natural gas is not available in any of the cities of Lebanon, Houston, and Licking. The total number of households in these communities is approximately 6,000 in Lebanon, and 1,000 in Houston and Licking. (Tr. 61) These citizens have not had available to them the clean, cost-effective fuel that many Missourians have used to heat their homes for many years.

Mr. Joe Knapp, City Administrator of the City of Lebanon, Missouri, testified that there is a public need for natural gas and transportation service in Lebanon. (Tr. 179) He testified that there would be numerous public benefits if the Commission granted the applications in this case. According to Mr. Knapp, Commission approval of the applications would assist existing industry by providing an economic energy source, and attract potential future industries to Lebanon, thereby providing citizens with good jobs. (Tr. 180-81; 184) Mr. Knapp testified that natural gas availability is often requested by prospective employers considering locating in Lebanon. (Tr. 180-81) In fact, Mr. Knapp was aware of at least

three prospective industries that had considered Lebanon as a potential site, but since Lebanon was not in a position to meet their stated criteria regarding the provision of natural gas for the proposed site, the industries ultimately did not consider locating in Lebanon. The combined impact of these prospective employers would have been 200 additional jobs and \$180 million of capital investment into the Lebanon community. (Tr. 181)

Mr. Knapp also testified that the City Council of Lebanon had expressed an interest in attracting a natural gas provider as early as the 1960s, more than forty (40) years ago. (Tr. 182). Mr. Knapp summarized the need for natural gas as follows:

We are a heavy manufacturing community. We have some 6,000 jobs that provide good living—a good living and a good quality of life for our people. And for us to remain competitive in that marketplace as a city to attract potential new industrial providers, job providers, we need natural gas.

That is one of the things that just about every time we get a lead, it's on the hit list. Part of what affects our competitive advantage as a city—our competitive ability is without the availability of natural gas—site selection now is done a lot via the Web. And if they hit your website or they hit your location sites and they don't see that you have that available infrastructure, you're bypassed. You never have the opportunity to present your case and what you can do to attract an industry. That is for new customers.

Our existing industry, which is actually where we probably spend more effort on, has approached us multiple times about natural gas. They have to be competitive in the world, and so they have been asking and inquiring and pushing us to provide them with the ability to be competitive in the marketplace, and to provide them at least the opportunity to have an alternative resource that would make it—the marketplace more competitive and, thus, allow them to compete better on the bottom line.

I think if we can work with our existing industry and provide expansion and additional jobs and help them be more competitive, attract new industry with additional jobs and help them be competitive, then the quality of life for our citizens goes up, because they have good jobs, stability, and an income stream to provide those things that are necessary for a quality of life. That's what I have to offer. (Tr. 184)

The evidence also demonstrated that municipal leaders from Lebanon issued a Request For Proposal (RFP) in April, 2006, and approached SMNG regarding the possibility of the development of a natural gas distribution system for their municipality. (Tr. 173-74, 187). SMNG personnel discussed this potential project with various officials and governing bodies of the communities. These discussions revealed that there was a substantial, unfulfilled need for natural gas service within the area. (Tr. 56-61)

No evidence was presented that refuted the need for natural gas service in the proposed service area. MPGA witness Ed Simmons acknowledged during cross-examination that it was time for the citizens of Lebanon to have the same energy choices as other consumers in Missouri:

[Fischer]: Q. Let me ask it again: After nearly 130 years, isn't it about time for the citizens of Lebanon to have the same energy choices as other consumers in Missouri?

[Simmons]: A. Okay. Yes.

(Tr. 239)

Based upon the competent and substantial evidence in the record, the Commission finds that there is a need for natural gas and transportation service in Lebanon, Houston, and Licking, Missouri.

Economic Feasibility of Proposed Service

In this proceeding, SMNG submitted an Economic Feasibility Study which demonstrates that the proposed project is economically feasible. (Ex No. 6HC). The Company has used assumptions, including customer conversion rates, that are consistent

with its actual experiences in operating the local distribution system in its existing service area. (Tr. 97)

Based upon its existing natural gas rates contained in its approved tariffs, the Company estimates that it will be able to provide natural gas at very competitive rates to existing propane services. (Tr. 63) According to information available from a propane industry website, the average propane price is approximately \$1.85 per gallon which on a Btu heating content basis equates to \$20 per MMBtu. (Tr. 62-63) SMNG's current delivered cost to a residential home, including distribution charges, PGAs, and taxes, is approximately \$13 per MMBtu. (Tr. 63). SMNG's price is also very competitive with electricity. (Tr. 63)

In its verified Staff Recommendation (Ex No. 19), Staff states that the Staff issued a number of Data Requests (DRs) addressing both the feasibility study and the financing request, reviewed the various applications, feasibility studies, materials submitted by SMNG, and DR responses. Inputs to the feasibility study include estimated household data based upon federal census data, conversion to natural gas of various types of existing customers, various costs associated with providing service to existing and new areas, proposed capital expenditures, and other assumptions.

Staff analyzed the effects of various changes to the assumptions, substituting more conservative estimates in place of some of the Company's inputs. (Tr. 249-51) Staff made the following adjustments to the Company's model: growth rates were replaced by the Company's actual growth experienced on the existing system from 1995 to 2000, removed all gas sales revenue and expense, added inflation during 2007 for the current SMNG system, tripled the distribution cost per customer from \$500 to \$1,500, added an

allowance for interest on working capital, and doubled the estimated pipeline cost from \$9,750,000 to \$19,500,000. The feasibility was evaluated by looking at the internal rate of return (IRR) for the project over the 20 years covered by the model plus a terminal value. A hurdle rate of 10 percent was considered to be the break point for feasibility. The IRR produced in the model, as adjusted by Staff, is 13 percent. The model, as submitted by SMNG, produces an IRR of 41 percent by this calculation. (Ex No. 19, pp. 2-3)

The Staff Recommendation also pointed out that Company will face embedded, entrenched competition from propane dealers, whose prices and business practices are unregulated. Using information from the Energy Information Administration, the residential price per gallon of propane on March 12 was \$1.68, which equates to an equivalent price per Ccf of natural gas of \$1.83. SMNG's PGA rate for natural gas in March was \$0.95 per Ccf. Since the price of propane is a delivered price, Staff calculated the delivered price of 1,000 Ccf of natural gas to compare with the equivalent of 1,000 Ccf of propane, by adding to the price per Ccf of natural gas, the commodity charge of \$0.357 and the customer charge equivalent by dividing the \$120.00 customer charge for 12 months by 1,000, or \$0.12. The cost of 1,000 Ccf of natural gas, calculated this way, would be \$1,427, whereas the price of the equivalent of 1,000 Ccf of propane would be \$1,834. According to the verified Staff Recommendation, the price of propane would have to drop to approximately \$1.307 per gallon to be competitive to natural gas. However, the wholesale price of propane on March 12 in Missouri was \$1.055. (Id. at 3)

After examining the Company's economic feasibility model and making the above-discussed changes to the inputs, Staff witness Tom Solt testified at the evidentiary hearing

as follows: "My conclusion was that it [SMNG's proposed project] is economically feasible."
(Tr. 251)

Finally, no evidence was submitted by the MPGA which challenged the economic feasibility of the proposed project. In fact, the MPGA witness had not reviewed the Company's Economic Feasibility Study or the financial information supporting the applications. (Tr. 228-29)

Based upon the competent and substantial evidence in the record, the Commission finds that the Company's natural gas service will be competitive with propane and other alternative fuels available in the proposed service area. As a result, the Commission finds and concludes that the competent and substantial evidence in the record demonstrates that the proposed project is economically feasible.

The Public Interest Criteria

In its Report and Order in Re: Intercon Gas, Inc., Case No. GA-90-280 , 30 Mo. P.S.C. (N.S.) 554, 579 (June 28, 1991), the Commission found unequivocally "that natural gas is a desirable commodity for heating, cooking and cooling and that its availability will promote the public interest" Specifically, the Commission found in that Report and Order that numerous municipalities, including Sullivan, Bourbon, Cuba, St. James, Rolla, Dixon, Doolittle, Newburg, St. Robert, Waynesville and Ft. Leonard Wood, had no access to natural gas; and it was necessary to adopt policies that would make natural gas available to these communities to promote the public interest. Id.

In Re: Fidelity Natural Gas, Inc., Case No. GA-91-99, the Commission elaborated upon its policy of encouraging natural gas availability:

Natural gas service is not available in the area sought to be certificated and the granting of this application is required for

public convenience and necessity because it will make available to the residents of Sullivan, Missouri, a new and cost-effective form of energy that will, additionally, enhance the economic development of the area.

Report & Order, Case No. GA-91-299, p. 3.

Based upon the competent and substantial evidence in the whole record, the Commission finds that: (1) there is a public need for natural gas service; (2) SMNG is qualified to provide the proposed service; (3) the proposed project is economically feasible; and (4) the proposed project is otherwise in the public interest. As a result, the Commission finds and concludes that SMNG has met the criteria necessary to justify the approval of its applications for a certificate of convenience and necessity to provide natural gas and transportation services in the proposed service area.

In making the findings in this order, the Commission has also carefully considered the evidence and legal arguments presented by the MPGA in this proceeding. The Commission finds and concludes that MPGA evidence in opposition to the approval of the applications is not persuasive. In particular, the Commission finds that the concerns raised by MPGA witness Simmons related to capacity constraints and "pressure problems" in southern Missouri are not specifically related to SMNG's local distribution system. (Tr.233) The evidence related to the pipeline capacity and actual pressures on the SMNG local distribution system demonstrate that SMNG has sufficient capacity to serve the expanded service area, and that the Company has not experienced problems with adequate pressures on its system. (Ex No. 9; Tr. 68-69). The Commission also finds that MPGA's evidence related to the impact that the introduction of natural gas competition will have upon propane customers is not persuasive. The Commission does not believe that the MPGA witness has supported his opinion with credible evidence to demonstrate that

the introduction of natural gas competition into these communities will have an adverse impact upon existing propane customers. Finally, the Commission further finds that the MPGA has not presented competent and substantial evidence to demonstrate that the expansion of natural gas into these communities will be adverse to the public interest, convenience and necessity. To the contrary, the Commission continues to believe that the expansion of natural gas into areas of Missouri that do not presently have this energy choice will promote the public interest.

Conclusions Of Law

The Commission has reviewed the verified pleadings, which are admitted into evidence, and the additional competent and substantial evidence contained in the whole record and finds as follows:

Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas, a Missouri limited partnership, ("SMNG") owns and operates a natural gas transmission and distribution system located in southern Missouri which serves approximately 7,500 residential, commercial and industrial customers. SMNG is a "gas corporation" and "public utility" under the jurisdiction of the Missouri Public Service Commission, pursuant to Chapters 386 and 393, RSMo. 2000.

Based upon the evidence submitted by SMNG and the Staff, the Commission concludes that the expansion of SMNG's service area, as proposed in the Application, is economically feasible. The Commission finds and concludes that SMNG has the technical and financial ability to provide the proposed natural gas service to the proposed service area.

Staff recommends that the Commission approve SMNG's application conditioned upon a favorable vote of the voters of the City of Lebanon, Missouri. On August 10, 2007, the Company submitted its Notice of Election Results from the August 7, 2007 ratification election held in Lebanon, Missouri. The Commission will take official notice of the results of this election. The Commission finds and concludes that the voters of Lebanon have approved and ratified the franchise granted to the Company to provide natural gas service in the City of Lebanon. As a result, it is not necessary to condition the grant of the certificate on convenience and necessity on a favorable vote of the citizens of Lebanon since this condition has now been fulfilled.

SMNG seeks a Certificate of Convenience and Necessity. The effect of the Commission's certificate is not to "confer any new powers upon [an applicant]"; rather, it permits the applicant "to exercise the rights and privileges presumably already conferred upon it by state charter and municipal consent."⁴ The Commission may grant a certificate "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."⁵ This authority applies where, as here, a utility seeks to extend its existing service area.⁶ It has been said that the term "necessity" does not mean "essential" or "absolutely indispensable", but rather that an additional service would be an improvement justifying its cost.⁷ As for the term "convenient," the inquiry is whether "the inconvenience of the public

⁴ St. ex inf. Shartel ex rel. City of Sikeston v. Missouri Utilities Co., 331 Mo. 337, 350-51, 53 S.W.2d 394, 399 (Mo. banc 1932).

⁵ Section 393.170.3, RSMo 2000.

⁶ St. ex rel. Doniphan Telephone Co. v. P.S.C., 377 S.W.2d 469, 474 (Mo. App., K.C.D. 1964).

⁷ St. ex rel. Intercon Gas, Inc. v. Public Service Com., 848 S.W.2d 593, 597-598 (Mo. App., W.D. 1993); St. ex rel. Beaufort Transfer Co. v. Clark, 504 S.W.2d 216, 219 (Mo. App., K.C.D. 1973).

occasioned by the lack of [service] is sufficiently great to amount to a necessity."⁸ SMNG has obtained a franchise from the Cities of Lebanon, Licking and Houston. Finally, "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."⁹

SMNG has met the statutory precondition for the certificate it seeks by submitting proof that it has obtained the necessary municipal franchise.¹⁰ It remains only for the Commission to determine whether, "after due hearing . . . such exercise of the right, privilege or franchise is necessary or convenient for the public service."¹¹ Based on the Application, and other competent and substantial evidence in the whole record, the Commission finds that SMNG is a gas corporation, subject to the jurisdiction of this Commission. The Commission further finds that SMNG presently serves some 7500 customers in southern Missouri, pursuant to authorization by this Commission and various other governmental bodies.

In the present case, the extension of SMNG's certificated area into the Cities of Lebanon, Houston and Licking would bring natural gas service to a developing area. Natural gas service is not presently available within Lebanon, Houston, and Licking, Missouri, and the granting of SMNG's application would make natural gas available in the cities for residential heating, cooking and water heating use, as well as for commercial and

⁸ St. ex rel. Beaufort Transfer Co. v. Clark, *supra*; St. ex rel. Transport Delivery Co. v. Burton, 317 S.W.2d 661 (Mo. App., K.C.D. 1958).

⁹ St. ex rel. Intercon Gas, *supra*; St. ex rel. Ozark Elec. Coop. v. Public Serv. Comm'n, 527 S.W.2d 390, 392 (Mo. App., K.C.D. 1975).

¹⁰ Section 393.170.2, RSMo 2000.

¹¹ Section 393.170.3.

industrial applications. The availability of natural gas service would necessarily enhance the area's economic potential and spur its growth.

Based on the foregoing, the Commission concludes that the proposed additional service would be an improvement justifying its cost and that the inconvenience to the public occasioned by the lack of gas service is sufficiently great to amount to a necessity. Therefore, the Commission determines that SMNG's exercise of the franchises it has obtained from the Cities of Lebanon, Houston, and Licking are both necessary and convenient for the public service. The Commission will approve SMNG's applications and grant the requested certificates of convenience and necessity, conditioned only upon the Company obtaining approval of its financing plan from this Commission.

The Commission understands that the Company in the final stages of selecting the sources of its financing, and that it has committed to provide additional information to the Commission Staff when it is available related to the terms and conditions of the financing. The Commission will condition the approval of the certificate of convenience and necessity in this order upon the Company obtaining approval of the Commission of a financing plan before it commences construction of the local distribution system in its proposed service area.

IT IS THEREFORE ORDERED:

1. That the Application for a Certificate of Convenience and Necessity, filed by SMNG on December 6, 2006 and February 7, 2007, are granted, conditioned upon the Company receiving approval from this Commission of its proposed financing plan.
2. That SMNG is granted a certificate of public convenience and necessity to expand its backbone pipeline system and to construct, install, own, operate, control,

manage, and a gas distribution system for the public, as proposed in its applications, in the Cities of Lebanon, Licking and Houston, Missouri, as an expansion of its presently certificated area, as conditioned herein.

3. That this order shall become effective on _____, 2007.

BY THE COMMISSION

Colleen M. Dale
Secretary/Chief Regulatory Law Judge

(S E A L)

_____, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge