

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Southern Missouri)	
Gas Company, L.P., d/b/a Southern Missouri Natural)	
Gas, for a Certificate of Public Convenience and)	
Necessity Authorizing It to Construct, Install, Own,)	<u>Case No. GA-2007-0168</u>
Operate, Control, Manage and Maintain a Natural Gas)	
Distribution System to Provide Gas Service in Branson,)	
Branson West, Reeds Spring, and Hollister, Missouri)	

ORDER GRANTING MOTION TO DISMISS OEP AS A PARTY

Issue Date: April 3, 2008

Effective Date: April 3, 2008

On November 30, 2006, Ozark Energy Partners, LLC (“OEP”) filed an application to intervene in this matter pursuant to Commission Rule 4 CSR 240-2.075. In support of its application, OEP stated that “it clearly has an interest in this matter which is different from that of the general public and which may be adversely affected by a final order arising from this case” inasmuch as it was “a natural gas company that currently has an application pending before the Commission, in Case No. GA-2006-0561, which would overlap, at least in part, the service territory sought by [the applicant] in the instant case.” The Commission granted OEP’s application to intervene by order dated December 11, 2006, noting that OEP was “authorized to participate fully in this matter as [an] intervening part[y].” At hearing, OEP vigorously opposed the competing application filed by Southern Missouri Gas Company, L.P. d/b/a Southern Missouri Natural Gas (“SMNG”).

On March 27, 2008, OEP filed a pleading titled “Notice of Withdrawal of Intervention.” This pleading states, in its entirety:

Pursuant to Commission Rule 4 CSR 240-2.080, Ozark Energy Partners, LLC hereby withdraws its intervention and its opposition to the approval of the Application filed by [SMNG], and waives any right to judicial review of any order issued in this case.

As it has done in other cases under similar circumstances, the Commission will treat OEP’s Notice as a motion to be dismissed as a party to Case No. GA-2007-0168.¹ No one has expressed any opposition to OEP’s request.

Since OEP no longer wishes to participate in this case as an intervening party, is no longer opposed to the relief sought by SMNG, and has affirmatively waived its right to judicial review of any subsequent order the Commission may issue in this case, it is clear that OEP no longer has an interest in this matter “which may be adversely affected by a final order arising from the case.”² In other words, the conditions which led the Commission to permit OEP to intervene in the first place are no longer present. Therefore, the Commission shall grant OEP’s motion and dismiss it as a party to this case.³

IT IS ORDERED THAT:

1. Ozark Energy Partners, LLC is dismissed as a party to this case.

¹ See Order Dismissing Mark and Deborah Hesley as Parties, *In the Matter of the Application of Big Island Water & Sewer Company for a Certificate of Convenience and Necessity*, Case No. WA-2006-0480 et al. (Nov. 27, 2006) (Commission treated letter from *pro se* intervenors indicating that they no longer wished to participate in the case as a request that they be dismissed as parties). Of course, the preferred procedure is to file an appropriate motion seeking an order of dismissal. See, e.g., Order Dismissing the Department of Natural Resources as a Party, *In the Matter of the Application of Big Island Water & Sewer Company for a Certificate of Convenience and Necessity*, Case No. WA-2006-0480 et al. (Nov. 16, 2006) at 1-2 (granting DNR’s motion requesting that it be dismissed as a party after being added as one by the Commission); *Poole v. Int’l Lighting Mfg. Co.*, 171 S.W.3d 165, 165 n.2 (Mo. App. E.D. 2005) (denying a respondent’s motion to dismiss itself as a party to the appeal); *Moran v. Mason*, 236 S.W.3d 137, 138 n.3 (Mo. App. S.D. 2007) (trial court granted “Motion to be Dismissed as a Party” filed by state agency where court had previously added agency as a party to the case).

² 4 CSR 240-2.075(4)(A).

³ Since OEP is no longer a party to this case, there is no need for the Commission to rule on the Motion to Withdraw filed by counsel for OEP on March 27, 2008. Therefore, it is denied as moot.

2. This order shall become effective on April 3, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 3rd day of April, 2008.