

**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 )  |                       |
| Convenience and Necessity to Construct )     |                       |
| and Operate an Intrastate Natural Gas )      |                       |
| Pipeline and Gas Utility to Serve Portions ) | Case No. GA-2006-0561 |
| of the Missouri Counties of Christian, )     |                       |
| Stone and Taney, and for Establishment )     |                       |
| of Utility Rates. )                          |                       |
| )  |                       |

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

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| 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, )    | Case No. GA-2007-0212 et al. |
| Install, Own, Operate, Control, Manage )    |                              |
| and Maintain a Natural Gas Distribution )   |                              |
| System to Provide Gas Service In )          |                              |
| Lebanon, Missouri )                         |                              |
| )   |                              |

**STAFF'S RESPONSE TO COMMISSION ORDER  
WITH ADDITIONAL COMMENTS**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and in Response to the Commission's November 16, 2007 Order Directing Filing states:

1. Staff does not oppose consolidating Case Nos. GA-2007-0168 and Case No. GA-2006-0561.

2. Staff does, for the reasons explained below, oppose consolidation with GA-2007-0212.

3. Staff does not oppose moving the hearing dates for Case Nos. GA-2007-0168 and Case No. GA-2006-0561 to later in this year or January 2008.

4. Staff is prepared to move forward with a presentation of the non-unanimous Stipulation and Agreement filed with Ozark Energy Partners. SMNG has, however, opposed the Stipulation and requested a hearing in that case.

5. If it decides to consolidate Case Nos. GA-2007-0168 and Case No. GA-2006-0561, it would be reasonable for the Commission to schedule more than two days for the hearing and Staff would recommend the Commission schedule at least four days to hear the consolidated cases.

**Regarding Case No. GA-2006-0561**

6. On June 30, 2006, Ozark Energy Partners, LLC (OEP) filed an application for a certificate of convenience and necessity to construct and operate an intrastate natural gas pipeline and gas utility to serve portions of Christian, Stone and Taney counties.

7. Staff and OEP engaged in numerous meetings, discussions and negotiations.

8. On November 8, 2007, Staff and OEP filed a non-unanimous Stipulation and Agreement.

9. On November 13, 2007, SMNG filed its Objection to Non-Unanimous Stipulation and Agreement and Request for Hearing.

10. On November 14, 2007, OEP filed its Motion to Consolidate Cases, Grant late Application to Intervene of Ozark Energy Partners, LLC, or Order New Filing.

11. On November 15, SMNG filed its Southern Missouri Natural Gas' Response in opposition to Ozark Energy Partners' Motion to Indefinitely Postpone Hearing.

12. Staff also opposes any indefinite postponement, but does not oppose hearing dates in December or January 2008.

13. Staff's recommendations in this case are:

- a. This case may be consolidated with GA-2007-0168, however, Staff and OEP are prepared to move forward with presentation of the non-unanimous Stipulation and Agreement filed in this case on November 8.
- b. Staff will file its Memorandum in Support of the Stipulation and Agreement shortly.
- c. Staff opposes consolidation with Case No. GA-2007-0212 as explained below.

**Regarding case No. GA-2007-0168**

14. On October 26, 2006, Alliance Gas Energy Corporation filed an application for a certificate of convenience and necessity to construct, own and operate a natural gas distribution utility to serve portions of Taney and Stone counties.

15. On January 10, 2007, Staff submitted data requests to Alliance, some of which were answered on October 30, 2007 and some of which have not yet been answered.

16. Subsequently, on June 29, 2007, SMNG moved to substitute itself for the applicant, Alliance Gas Energy Corporation, as assignee under the terms of an Asset Purchase Agreement.

17. On July 11, the Commission granted SMNG's Motion for Substitution of Party.

18. On August 10, SMNG submitted its First Amended Application.

19. Staff considers SMNG's feasibility study for the Branson area to be incomplete in several respects and on November 6, Staff submitted additional data requests to SMNG.

20. Staff will be able to submit its memorandum in this case within ten days after SMNG answers Staff's data requests so long as the responses are complete.

21. Responses to these data requests are due on November 26.

**Regarding Case No. GA-2007-0212**

22. On December 6, 2006, Southern Missouri Gas Company, L.P., d/b/a Southern Missouri Natural Gas, (SMNG) filed an application for a certificate of convenience and necessity to provide natural gas distribution service to the City of Lebanon, Missouri.

23. On December 12, 2006, SMNG filed an application for approval to issue approximately \$10 million in equity capital and \$50 million in notes and other indebtedness in order to finance the proposed expansion of its system.

24. 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 View, Missouri.

25. SMNG later withdrew its request to serve Mountain View.

26. The three cases: Case No. GA-2007-0212, Case No. GF-2007-0215 and Case No. GA-2007-0310 were consolidated into GA-2007-0212 at the request of SMNG and without objection by the other parties.

27. The Staff of the Missouri Public Service Commission filed its recommendation in GA-2007-0212 on June 13, 2007.

28. Staff recommended conditionally granting the certificates but withholding approval of the financing application until Staff has reviewed the final terms and conditions of SMNG's financing arrangements and made its Recommendation to the Commission.

29. Staff was not aware at the time that SMNG intended to include Branson in the same financing Application as its Application for the Lebanon, Missouri area.

30. In its June 13, 2007, *Response of Southern Missouri Natural Gas to the Staff Recommendation*, SMNG responded that it agreed with Staff's recommendations and the issuance of a conditional certificate.

31. An evidentiary hearing was held on July 27, 2007, with all parties being present except Southern Star. SMNG presented two witnesses, Randy Maffett and Joe Knapp.

32. Staff presented two witnesses, Tom Solt and David Murray.

33. Staff's recommendations in this case are as follows:

- a. This case should not be consolidated with either GA-2006-0561 or GA-2007-0168. To do so might prevent SMNG from moving forward with its plans to serve the Lebanon area.

- b. The Commission has already granted SMNG a conditional certificate of convenience and necessity to serve the Lebanon area and natural gas service to Lebanon should not be delayed by combining this case with any other case.
- c. Further, in order to avoid any more delay in beginning construction of infrastructure to serve the Lebanon area, SMNG should be ordered to file a separate financing case for service to the Branson area.
- d. This will permit SMNG to complete its financing arrangements to serve Lebanon and begin construction as soon as those arrangements are submitted to Staff for its Recommendation and the Commission issues its Order.

Respectfully submitted,

**/s/ Lera L. Shemwell**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 20<sup>th</sup> day of November 2007.

**/s/ Lera L. Shemwell**