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Attorneys for Mid-Utah Gas Pipeline Co., LLC

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of Mid-Utah Gas Pipeline Co., LLC Requesting a Declaratory Ruling by the Public Service Commission of Utah	DOCKET NO. 15-_____ PETITION REQUESTING A DECLARATORY RULING
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Pursuant to Utah Admin. Code R746-101-1 et seq., Mid-Utah Gas Pipeline Co., LLC (“Mid-Utah”) submits this Petition Requesting A Declaratory Ruling from the Public Service Commission of Utah (“Commission”) establishing jurisdiction over the natural gas pipeline Mid-Utah will build beginning west of Scipio, Utah in Millard County and ending in Sigurd, Utah in Sevier County.

STATUTES, RULES, AND ORDERS TO REVIEW

The statutes the Commission must review are as follows: Utah Code Ann. § 54-2-1(11)(12)(19) and Utah Code Ann. § 54-4-25; Section 1 (c) of the Natural Gas Act at 15 USC 717(c) (the “Hinshaw Exemption”).

FACTS

1. Mid-Utah is a Utah limited liability company organized to construct a 38 mile intrastate natural gas pipeline beginning west of Scipio, Utah at the Kern River Pipeline and

ending in Sigurd, Utah to provide the natural gas required to operate a 580 MW electricity generation plant permitted and licensed to be constructed by Sevier Power Company LLC (“Sevier Power”).

2. Mid-Utah will own and operate the natural gas pipeline for industrial use providing natural gas to Sevier Power and possibly other users. Mid-Utah will seek a certificate of public convenience and necessity before it begins construction on the pipeline.

3. The natural gas Mid-Utah purchases will be transported over Kern River Pipeline. Mid-Utah has consulted with representatives from Questar Pipeline Company (“Questar Pipeline”) and an in-house attorney for Questar Gas Company (“Questar Gas”), however, neither Questar Pipeline nor Questar Gas has facilities or capacity in the area to serve Mid-Utah.

4. Mid-Utah is in the process of obtaining the required consent, franchises, and permits to construct the natural gas pipeline as required by Utah Code Ann. § 54-4-25(4).

5. One permit Mid-Utah must obtain is from the Bureau of Land Management (“BLM”) to traverse minor parts of BLM land.

6. The BLM has required evidence that the Commission will have jurisdiction over Mid-Utah’s intrastate natural gas pipeline which is why Mid-Utah has filed this Petition Requesting A Declaratory Ruling from the Commission establishing jurisdiction.

7. Mid-Utah’s principal customer will be Sevier Power’s power plant in Sigurd, but there may be excess capacity on the pipeline available to other Utah customers in areas along the pipeline. All of the gas transported over Mid-Utah’s pipeline will be consumed in Utah.

DISCUSSION

8. Pursuant to Utah law, Mid-Utah will be a “gas corporation” which includes:
- “... every corporation and person ... owning, controlling, operating, or managing any gas plant for public service within this

state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use ...”

Utah Code Ann. § 54-2-1(11).

9. Pursuant to Utah law, Mid-Utah will own “gas plant” which includes:

“... all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the ... transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.”

Utah Code Ann. § 54-2-1(12).

10. Pursuant to Utah law, Mid-Utah will be a “public utility” which includes:

“... every ... gas corporation ... where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation ... where the gas ... is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.”

Utah Code Ann. § 54-2-1(19)(a).

11. Pursuant to Utah law, the Commission will have jurisdiction over Mid-Utah

because:

“If any ... gas corporation ... performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.”

Utah Code Ann. § 54-2-1(19)(b)(i).

12. Pursuant to Utah law, the Commission also will have jurisdiction over Mid-Utah

because:

“If a gas corporation ... sells or furnishes gas ... to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.”

Utah Code Ann. § 54-2-1(19)(b)(ii).

13. Mid-Utah will be a “gas corporation” because it will own “gas plant” and provide natural gas to Sevier Power and possibly others within the State of Utah for industrial use. Accordingly, Mid-Utah will be a “public utility” subject to the jurisdiction of and regulation by the Commission.

14. The federal Natural Gas Act, regarding the regulation of natural gas companies, provides for an exemption from federal regulation by the Federal Energy Regulatory Commission (“FERC”), known as the Hinshaw Exemption which states as follows:

(c) Intrastate transactions exempt from provisions of chapter; certification from State commission as conclusive evidence.

The provisions of this chapter shall not apply to any person engaged in or legally authorized to engage in the transportation in interstate commerce or the sale in interstate commerce for resale, of natural gas received by such person from another person within or at the boundary of a State if all the natural gas so received is ultimately consumed within such State, or to any facilities used by such person for such transportation or sale, provided that the rates and service of such person and facilities be subject to regulation by a State commission. The matters exempted from the provisions of this chapter by this subsection are declared to be matters primarily of local concern and subject to regulation by the several States. A certification from such State commission to the Federal Power Commission that such State commission has regulatory jurisdiction over rates and service of such person and facilities and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction.

15 U.S.C. § 717(c).

15. Under the facts presented herein, Mid-Utah qualifies for the Hinshaw Exemption, Section 1(c) of the Natural Gas Act (15 USC 717 (c)) and therefore is not subject to the jurisdiction of the FERC. The Hinshaw Exemption requires that Mid-Utah take service from an interstate pipeline, that Mid-Utah’s transportation rates be regulated by the Commission, and that all gas transported on the pipeline be consumed in the State of Utah. Kern River Pipeline, an interstate natural gas pipeline, will transport gas to Mid-Utah within the boundaries of Utah. All

of the gas transported on Mid-Utah's pipeline will be consumed within the State of Utah and the transportation rates for Mid-Utah's pipeline will be subject to the regulation of the Commission.

16. Mid-Utah is serving a copy of this Petition on Questar Gas. No public utility under the Commission's jurisdiction will be adversely affected by a ruling favorable to Mid-Utah. Questar Gas either has no facilities where Mid-Utah's pipeline will go or the facilities Questar Gas has do not have capacity to serve Mid-Utah. See Utah Admin. Code R746-101-2(D).

17. All notices regarding this Petition Requesting A Declaratory Ruling should be sent to the following:

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RELIEF SOUGHT

Mid-Utah requests that the Commission issue a declaratory ruling in compliance with the requirements of Utah Code Ann. § 63G-4-506(6) establishing jurisdiction over Mid-Utah's proposed natural gas pipeline. Mid-Utah further requests that the Commission make such a ruling by February 6, 2015 to enable Mid-Utah to timely complete the permitting process and to begin constructing the natural gas pipeline. See Utah Admin. Code R746-101-4(C). The air quality permit the Utah Department of Environmental Quality issued to Sevier Power is scheduled to expire October 25, 2015.

DATED this 23rd day of January, 2015.

/s/ Brian W. Burnett

State of Utah)
 :
County of Salt Lake)

 Appeared before me this 23rd day of January, 2015, Brian W. Burnett, the signatory of
this **PETITION REQUESTING A DECLARATORY RULING.**

/s/ Kay Lynn Mangum

Kay Lynn Mangum
Commission No. 678152
Notary Public, State of Utah
My Commission Expires: 08/18/2018

CERTIFICATE OF SERVICE

I CERTIFY that on the 23rd day of January, 2015, a true and correct copy of the foregoing, **PETITION REQUESTING A DECLARATORY RULING**, was delivered upon the following as indicated below:

By Electronic-Mail and Hand Delivery:

Public Service Commission of Utah (psc@utah.gov)
160 East 300 South, 4th Floor
Salt Lake City, UT 84114

By Electronic-Mail:

Chris Parker (chrisparker@utah.gov)
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Questar Gas Corporation

/s/ Brian W. Burnett

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