

Exhibit No.
Issue: Certified Territory
Witness: Ronald F. Gatz
Type of Exhibit: Direct Testimony
Sponsoring Party: Empire District
Case No: GA-2007-0289
Date Testimony Prepared: July 13, 2007

**Before the Public Service Commission
of the State of Missouri**

Direct Testimony

Of

Ronald F. Gatz

July 13, 2007

EDGC Exhibit No. 3
Case No(s) GA-2007-0289
Date 10/25/07 Rptr MU

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OF
RONALD F. GATZ
ON BEHALF OF
THE EMPIRE DISTRICT GAS COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION

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DIRECT TESTIMONY
OF
RONALD F. GATZ
ON BEHALF OF
THE EMPIRE DISTRICT GAS COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO: GA-2007-0289

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Ronald F. Gatz and my business address is 602 Joplin Street, Joplin,
4 Missouri 64801.

5 **Q. WHO IS YOUR EMPLOYER AND WHAT POSITION DO YOU HOLD?**

6 A. I am employed by The Empire District Electric Company ("EDE" or "Empire") as
7 Vice President & Chief Operating Officer – Gas. I am responsible for the
8 operation of EDE's wholly owned subsidiary, The Empire District Gas Company
9 ("EDG" or "Company" or "Applicant") and its natural gas distribution operations.

10 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND.**

11 A. I hold a Bachelor of Science Degree in Agricultural Economics from Kansas State
12 University, Manhattan, Kansas and a Graduate Degree in Banking from The
13 Stonier Graduate School of Banking, University of Delaware.

14 **Q. PLEASE INDICATE YOUR PROFESSIONAL EXPERIENCE.**

15 A. Prior to joining Empire I worked in the banking industry and most recently as
16 Executive Vice President, Senior Credit Officer and Chief Financial Officer of a

1 regional bank. I also was Chief Administrative Officer of a national specialty
2 carrier. I joined Empire as General Manager Non-regulated Services in 2001, and
3 attained my present position in 2006.

4 **PURPOSE**

5 **Q. WHAT IS EDG REQUESTING IN THIS CASE?**

6 A. Recall that EDG filed an application for a certificate of public convenience and
7 necessity to construct, install, own, operate, control, manage and maintain a
8 system for the provision of natural gas service to the public pursuant to its
9 approved rates, rules and regulations in Sections 13, 14, 15, 22, 23 and 24,
10 Township 52 North, Range 35 West in Platte County, Missouri. That application,
11 Case No. GA-2007-0457, was consolidated with this case. EDG requests that the
12 Missouri Public Service Commission ("Commission") :

- 13 • Grant EDG a certificate of convenience and necessity to provide natural gas
14 service in Sections 13, 14, 15, 22, 23 and 24 of Township 52 North, Range 35
15 West in Platte County, Missouri
- 16 • Deny Missouri Gas Energy's ("MGE") request to expand its existing service
17 territory in Platte County, Missouri to include Sections 13 and 14 of Township
18 52 North, Range 35 West
- 19 • Find that MGE has not been granted a certificate of convenience and necessity
20 for Sections 1, 2, 3, 10, 11 and 12 of Township 52 North, Range 35 West and
21 sections 4, 5, and 6 of Township 52 North, Range 34 West of Platte County,
22 Missouri

- 1 • Order MGE to correct the service territory description in its tariffs by
2 excluding references to Sections 1, 2, 3, 10, 11 and 12 of Township 52 North,
3 Range 35 West and Sections 4, 5, and 6 of Township 52 North, Range 34
4 West of Platte County, Missouri
- 5 • Order MGE to sell its existing natural gas distribution facilities in Sections 10,
6 11, 12, 13 and 14 of Township 52 North, Range 35 West to EDG at net book
7 value and assist with the orderly transfer of natural gas service from MGE to
8 EDG so that any customer disruption is minimized. Or in the alternative,
9 order MGE to abandon its facilities installed in unauthorized areas at the time
10 EDG facilities are available to serve the affected customers.

11 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

12 A. My testimony will describe EDG's current natural gas operations; the additional
13 service territory EDG is seeking in this application; describe the certified natural
14 gas service territory that the Company acquired in Platte County, Missouri as a
15 result of the acquisition of the Aquila natural gas assets on June 1, 2006; describe
16 the Missouri Gas Energy ("MGE") incursion into EDG's certified natural gas
17 service territory in Platte County, Missouri; and describe the errors in the Platte
18 County territorial descriptions that are contained in the MGE tariffs. Mr. Dan
19 Klein of EDG will provide direct testimony describing how EDG will provide
20 natural gas service to the additional natural gas service territory it is seeking in
21 this case. Mr. Steve Teter of EDG will provide testimony concerning various
22 meetings and conversations EDG has held with MGE concerning the EDG service

1 territory in Section 12 of Township 52 North, 35 West, of Platte County,
2 Missouri.

3 **CURRENT NATURAL GAS OPERATIONS**

4 **Q. PLEASE DESCRIBE THE COMPANY'S NATURAL GAS OPERATIONS.**

5 A. EDG's current natural gas transmission and distribution systems in Missouri
6 involve over \$120,000,000 in utility assets that currently provide service to
7 approximately 47,000 natural gas customers in 44 communities in northwestern
8 and west central Missouri. At the present time, EDG operates over 1,192 miles of
9 natural gas transmission and distribution mains in Missouri. The largest single
10 community in which EDG provides natural gas service is Sedalia, Missouri. The
11 prior owner of these facilities, Aquila, Inc, had provided natural gas service to
12 these same communities for many years. In particular, the community of Platte
13 City, Missouri, has been part of the Company's or its predecessor's authorized
14 service area for well over 50 years. This is of particular importance in this case as
15 a major part of the service territory at issue in this case has already been
16 designated for residential use by Platte County and was proposed for annexation
17 into Platte City in 2006. That annexation proposal was withdrawn, but is
18 expected to be attempted again by Platte City. EDG holds a franchise from Platte
19 City to provide natural gas service within Platte City. In addition, EDG has an
20 order from the County Court of Platte County to construct, operate and maintain
21 pipelines for transmission of gas along, across, or under the roads, highways and
22 public ways of Platte County, Missouri. EDG is clearly qualified to provide the
23 proposed service.

1 **PLATTE COUNTY SERVICE TERRITORY**

2 **Q. IN WHAT AREAS OF PLATTE COUNTY, MISSOURI DOES EDG**
3 **CURRENTLY HOLD A CERTIFICATE FROM THE MISSOURI PUBLIC**
4 **SERVICE COMMISSION TO PROVIDE NATURAL GAS SERVICE?**

5 A. EDG was authorized by the Commission to provide natural gas service in all of
6 the natural gas service territories of Aquila Networks-MPS/L&P by Commission
7 Order issued April 18, 2006, in Case No. GO-2006-0205. The transaction which
8 was the subject of Case No. GO-2006-0205 closed on June 1, 2006. A portion of
9 the natural gas service territory that is currently the subject of some dispute in this
10 case was originally granted to the Missouri Public Service Company by the
11 Commission in Case No. 13,172 on January 12, 1956. In Case No. 13,172, the
12 Commission authorized the Missouri Public Service Company to construct,
13 operate and maintain a natural gas transmission and distribution system in
14 Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 in Township 53 North,
15 Range 35 West and Sections 1, 2, 3, 10, 11, and 12 in Township 52 North, Range
16 35 West, and Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33 in
17 Township 53 North, Range 34 West, and Sections 4, 5 and 6 in Township 52
18 North, Range 34 West of Platte County, Missouri. The additional service territory
19 EDG is requesting in Platte County, Missouri in this case is located adjacent to
20 Sections 10, 11 and 12 in Township 52 North, Range 35 West. I have attached a
21 copy of the Commission's order in Case No. 13,172 as RFG Attachment 1 to my
22 direct testimony.

1 **Q. PLEASE DESCRIBE THE ADDITIONAL NATURAL GAS SERVICE**
2 **TERRITORY EDG IS REQUESTING IN THIS APPLICATION.**

3 A. EDG is seeking authorization from the Commission to provide natural gas service
4 in Sections 13, 14, 15, 22, 23 and 24, Township 52 North, Range 35 West in
5 Platte County, Missouri. These additional land sections are adjacent to and
6 immediately South of EDG's existing service territory in Platte County, Missouri.
7 A map displaying the relationship of this new service territory to our existing
8 service territory was attached to our application as Appendix B. I have attached
9 an enhanced version of this map as RFG Attachment 2 to my direct testimony.
10 This map indicates where natural gas service is currently being provided in
11 Section 12 of Township 52 North, Range 35 West by EDG and MGE. This map
12 also indicates the relationship of the existing service area to the newly requested
13 service territory.

14 **Q. IS THE ADDITIONAL TERRITORY EDG IS REQUESTING TO SERVE**
15 **EXPECTED TO DEVELOP IN THE NEAR FUTURE AND REQUIRE**
16 **NATURAL GAS SERVICE?**

17 A. Yes. Several of these sections are either under active development at the present
18 time or expected to develop in the next few years. For example, Section 13,
19 Township 52 North, Range 35 West is already under development (Seven
20 Bridges) and this development is expected to extend into Section 14, Township 52
21 North, Range 35 West in the very near future. A plat of this development is on
22 file at the Platte County Courthouse. The current plans for this development
23 indicate that around 1,500 homes are expected to be built in multiple phases.

1 Additionally, development is approaching the requested new certificated area
2 from the north and south. There is clearly a need for the service, and I believe it
3 is in the public interest to have natural gas service available as this area develops.

4 **SERVICE PLANS**

5 **Q. HOW DOES EDG PLAN TO SERVE THIS NEW SERVICE AREA?**

6 A. In general terms, EDG has the necessary interstate pipeline transportation
7 capacity to serve the area via an existing transportation agreement it has with the
8 Southern Star Central Pipeline Company. In addition, EDG has the necessary
9 financial wherewithal to expand its existing natural gas delivery system in Platte
10 County to adequately serve the expected increase in demand for natural gas
11 service. EDG will serve the area pursuant to its existing tariff rates, rules and
12 regulations, as they may change from time to time as provided by law. Mr. Dan
13 Klein of EDG will explain the details of our plans to expand the Company's
14 natural gas distribution system into the new Platte County service area to meet the
15 expected increase in demand for natural gas service.

16 **FINANCING PLANS**

17 **Q. HOW WILL EDG FINANCE THE EXPANSION OF ITS EXISTING**
18 **DELIVERY SYSTEM IN PLATTE COUNTY?**

19 A. EDG will use internally generated funds and will not need additional external
20 financing. Therefore, Applicant has the financial ability to provide the proposed
21 service.

1 **ENCROACHMENT**

2 **Q. IS MGE CURRENTLY PROVIDING NATURAL GAS SERVICE TO THE**
3 **GENERAL PUBLIC IN PORTIONS OF THE SERVICE AREA**
4 **AWARDED TO MISSOURI PUBLIC SERVICE COMPANY IN 1956?**

5 A. Yes. As far as EDG has been able to determine, MGE is currently serving retail
6 customers in Section 12 of Township 52 North, Range 35 West, in Platte County
7 in the Seven Bridges Subdivision. In addition, MGE continues to expand its
8 natural gas distribution system in this section, and is using the existence of what
9 appears to EDG as unauthorized gas service to buttress its application to expand
10 its certificated service area in Platte County, Missouri to include Sections 13 and
11 14 in Township 52 North, Range 35 West. As shown in RFG Attachment 1, EDG
12 has the Commission authorization to provide natural gas service in Section 12 of
13 Township 52 North, Range 35 West, not MGE. Finally, MGE has already started
14 to extend its natural gas distribution system in Sections 13 and 14 of Township 52
15 North, Range 35 West, from Section 12 despite the fact that MGE is not
16 authorized by the Commission to be in Section 12 and despite the fact that its
17 expansion into this new area of Platte County, Missouri is being contested by
18 EDG, and the Commission has not awarded MGE a certificate to serve this area.

19 **Q. HAS EDG HELD MEETINGS WITH MGE TO DISCUSS MGE'S GAS**
20 **FACILITIES IN SECTION 12 OF TOWNSHIP 52 NORTH, RANGE 35**
21 **WEST IN PLATTE COUNTY, MISSOURI?**

22 A. Yes. Shortly after EDG acquired the Aquila natural gas properties in Missouri on
23 June 1, 2006, and EDG personnel realized that MGE was providing natural gas

1 service in Section 12 of Township 52 North, Range 35 West, EDG contacted
2 MGE and met with officials of MGE to discuss MGE's gas distribution facilities
3 in Section 12 and what appears to be other incorrect territory descriptions in the
4 MGE tariffs. In addition, I had an opportunity to discuss the matter directly with
5 the President of MGE in August of 2006.

6 **Q. WHAT RESULTED FROM THESE DISCUSSIONS?**

7 A. Nothing. MGE basically gave us a copy of its existing tariff sheet that included a
8 description of the service territory that it was purportedly authorized to serve in
9 Missouri, copies of service area maps that contain errors similar to the errors in
10 the MGE tariffs and MGE continued to provide natural gas service directly to
11 customers in Section 12. Finally, instead of working toward a settlement of this
12 issue, MGE has compounded the damage by continuing to extend facilities in
13 Section 12, installing facilities in Sections 13 and 14 and then filing for additional
14 service territory adjacent to Section 12 of Township 52 North, Range 35 West.

15 **Q. AS PART OF THESE DISCUSSIONS WITH MGE DID EDG REQUEST**
16 **THAT MGE PRODUCE A COPY OF THE COMMISSION ORDER**
17 **GRANTING MGE A CERTIFICATE TO DO BUSINESS AS A NATURAL**
18 **GAS DISTRIBUTION COMPANY IN SECTION 12 OF TOWNSHIP 52**
19 **NORTH, RANGE 35 WEST OF PLATTE COUNTY, MISSOURI?**

20 A. Yes, but to-date MGE has not given EDG a copy of any Commission order that
21 grants MGE a certificate of convenience and necessity for this section of Platte
22 County. Data Requests in this case requesting MGE provide an order granting a
23 certificate for section 12 and other areas in their tariff that conflict with EDG's

1 certificated territory have had the same result. MGE has failed to provide any
2 Missouri Public Service Commission order granting it a certificate for the area in
3 question.

4 **Q. IN WHAT OTHER SECTIONS OF PLATTE COUNTY, MISSOURI DO**
5 **THE MGE TARIFFS APPEAR TO BE IN CONFLICT WITH THE**
6 **COMMISSION'S ORDER IN CASE NO. 13,172, WHICH GRANTED THE**
7 **AUTHORITY TO PROVIDE NATURAL GAS SERVICE TO MISSOURI**
8 **PUBLIC SERVICE COMPANY?**

9 A. In addition to Section 12 in Township 52 North, Range 35 West, MGE's current
10 tariffs erroneously list the following sections in Platte County, Missouri as part of
11 its service territory:

- 12 • Sections 1, 2, 3, 10, and 11 in Township 52 North, Range 35
- 13 • Sections 4, 5, and 6 in Township 52 North, Range 34 West

14 **Q. DOES EDG CURRENTLY HOLD A CERTIFICATE FROM THE**
15 **COMMISSION TO OPERATE A NATURAL GAS TRANSMISSION AND**
16 **DISTRIBUTION SYSTEM IN EACH OF THESE SECTIONS OF PLATTE**
17 **COUNTY, MISSOURI?**

18 A. Yes. The Commission authorized Missouri Public Service Company, the
19 predecessor to EDG, to provide natural gas service in each of these sections of
20 Platte County.

21 **Q. WHAT DOES EDG SEEK WITH RESPECT TO THE ERRORS**
22 **CONTAINED IN THE CURRENT MGE TARIFFS AS THEY RELATE TO**
23 **SERVICE TERRITORY DESCRIPTIONS IN PLATTE COUNTY?**

1 A. EDG requests that the MGE tariffs be corrected to eliminate any claim of
2 Commission authority to provide natural gas service directly to customers in
3 Sections 1, 2, 3, 10, 11 and 12 in Township 52 North, Range 35 West, and
4 Sections 4, 5, and 6 in Township 52 North, Range 34 West of Platte County,
5 Missouri.

6 **Q. WHAT DOES EDG SEEK WITH RESPECT TO THE MGE NATURAL**
7 **GAS DISTRIBUTION SYSTEM CURRENTLY OPERATING IN**
8 **SECTIONS 10, 11 AND 12 OF TOWNSHIP 52 NORTH, RANGE 35**
9 **WEST?**

10 A. EDG seeks a Commission order directing MGE to cease operating as a natural gas
11 distribution company in this section of Platte County, Missouri and to sell the
12 existing MGE natural gas distribution facilities to EDG at net book value or in the
13 alternative, order MGE to abandon its' facilities installed in unauthorized areas at
14 the time Empire facilities are available to serve the affected customers.

15 **Q. DOES EDG HAVE THE COMMISSION'S APPROVAL TO PROVIDE**
16 **GAS SERVICE DIRECTLY TO CUSTOMERS IN SECTIONS 10, 11 AND**
17 **12 OF TOWNSHIP 52 NORTH, RANGE 35 WEST?**

18 A. Yes. In addition, as Mr. Dan Klein of EDG will explain, EDG can have the
19 necessary facilities in place to not only provide natural gas service to the existing
20 MGE customers in the aforementioned sections, but to the natural gas customers
21 in the six additional sections of Platte County that are the subject of the EDG
22 application in this case as they request natural gas service.

1 **COMMISSION ACTION REQUESTED**

2 **Q. WHAT COMMISSION ACTION IS EDG REQUESTING AT THIS TIME?**

3 A. EDG requests that the Commission:

- 4 • Grant a certificate of convenience and necessity to EDG to provide natural gas
5 service in Sections 13, 14, 15, 22, 23 and 24 of Township 52 North, Range 35
6 West in Platte County, Missouri
- 7 • Deny MGE's request to expand its existing service territory in Platte County,
8 Missouri to include Sections 13 and 14 of Township 52 North, Range 35 West
- 9 • Find that MGE has not been granted a certificate of convenience and necessity for
10 Sections 1, 2, 3, 10, 11, and 12 of Township 52 North, Range 35 West and
11 Sections 4, 5 and 6 of Township 52 North, Range 34 West of Platte County
- 12 • Order MGE to correct the service territory description in its tariffs by excluding
13 references to Sections 1, 2, 3, 10, 11 and 12 of Township 52 North, Range 35
14 West and Sections 4, 5 and 6 of Township 52, Range 34 West of Platte County,
15 Missouri
- 16 • Order MGE to sell its existing natural gas distribution facilities in Sections 10, 11,
17 12, 13, and 14 of Township 52 North, Range 35 West to EDG at net book value
18 and assist in the orderly transfer of natural gas service from MGE to EDG so that
19 any customer disruption is minimized. Or in the alternative, order MGE to
20 abandon its' facilities installed in unauthorized areas at the time EDG facilities are
21 available to serve the affected customers.

22 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?**

23 A. Yes, it does.

RFG ATTACHMENT 1

JAN 23 1956

JAN 13, 1956

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
Jefferson City

January 12, 1956

CASE NO. 13-172

Missouri Public Service Company
Mr. Richard C. Green, President
Warrensburg, Missouri

Cities Service Gas Company
Mr. Conrad C. Mount, General Counsel
First National Bank Bldg.,
Oklahoma City, Oklahoma

The Gas Service Company
Mr. Ben C. Adams, President
700 Scarritt Bldg.,
Kansas City, Missouri

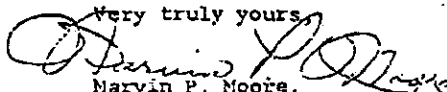
Mayor
Platte City, Missouri

Mayor
Tracy, Missouri

Gentlemen:

Enclosed find certified copy of Report and/or Order in
the above numbered case, receipt of which please acknowledge on
the attached blank.

Very truly yours,


Marvin P. Moore,
Secretary

uncertified copies: . . .

Patterson & Patterson, Attys.,
Kansas City, Missouri

Mr. Kyle D. Williams, Attorney
Jefferson City, Missouri

Hendron & Andree, Attys.,
Jefferson City, Missouri

Price - 13,172

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

*Institution refused
to issue a
letter to the
effect of having been
in 1856*

In the Matter of the Application of)
Missouri Public Service Company for)
a Certificate of Convenience and)
Necessity for ownership, operation)
and maintenance of a natural gas)
system in an area adjacent to Platte)
City and Tracy, Platte County,)
Missouri, as shown on the attached)
map marked Exhibit A.)

CASE NO. 13,172

APPEARANCES:

A. Z. Patterson for the Applicant;
Kyle D. Williams for The Gas Service Company;
Glenn D. Evans for the Commission.

REPORT AND ORDER

This cause is before the Commission by virtue of an application filed on July 1, 1955, by Missouri Public Service Company for a certificate of convenience and necessity authorizing said applicant to own, operate and maintain a natural gas system to serve residential and commercial establishments in a six mile square area adjacent to the communities of Tracy and Platte City, Platte County, Missouri. On September 2, 1955, The Gas Service Company filed its petition to intervene and motion to dismiss. The request to intervene in protest of the application was allowed.

After due notice of hearing to all interested parties, the case was heard by the Commission at its hearing room in Jefferson City, Missouri, on October 6, 1955, and appearances were as noted above. Subsequent to the hearing, briefs were filed on behalf of applicant and protestant.

Findings of Fact

Applicant is a corporation duly organized under the laws of the State of Missouri with its principal office located in Raytown, Missouri. It is engaged as a public utility in the rendition of electric, gas, and water service in various communities in the State of Missouri.

Applicant presently owns and for many years past has operated natural gas properties within the incorporated communities of Tracy and Platte City and is now supplying natural gas service to some 450 consumers in and adjacent to these communities, and contends that requirements for additional gas service within and about these areas will continue to increase as evidenced by present and planned construction of residences and commercial establishments in such areas and that applicant's presently established facilities in Tracy and Platte City may be economically expanded and extended for such service.

Applicant is duly authorized to operate as a gas utility within the corporate limits of Tracy and Platte City by ordinances granting 20-year franchises which expire respectively on April 9, 1960, and November 24, 1967. Copies of these ordinances were submitted as Exhibits "C" and "D". Authority to use the roads, highways and public ways of Platte County for construction of gas mains was granted by a permit issued by the County Court of Platte County on July 27, 1953. A copy of this permit was submitted as Exhibit "B".

The territory for which applicant seeks authority to serve is adjacent to and northwest of the Mid-Continent International Airport. The facilities at this airport, which is a new project of considerable scope, will eventually employ some 2,000 to 3,000 people. This will bring on the construction of homes and businesses in the area around the airport with a resulting need of gas service.

The area involved is specifically described as Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 in T53N, R35W, and Sections 1, 2, 3, 10, 11, and 12 in T52N, R35W, and Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33 in T53N, R34W, and Sections 4, 5, 6, 7, 8, and part of Section 9, T52N, R34W.

Sections 7, 8, and that part of Section 9, Township 52 North, Range 34 West, which are included in the above description, have previously been certificated to The Gas Service Company by this Commission in Case No. 12,632, in its Report and Order dated May 24, 1955. These three sections, hereinafter sometimes referred to as "disputed sections", are located north and adjacent to the airport, and are the subject of the dispute herein between applicant and protestant.

In Case No. 12,632, Gas Service Company filed an application to serve the airport and certain additional territory, including the disputed sections herein, and Missouri Public Service Company intervened in opposition to such application. In Case No. 12,674, this applicant, Missouri Public Service Company, filed an application to serve the airport and a considerable portion of Platte County, including the disputed sections herein, and Gas Service intervened in opposition to the application. The two applications were heard at the same time upon a joint record, and the Report and Order issued on May 24, 1955, covered both cases. Such Report and Order, which was received in evidence herein by reference, gave Gas Service Company the right to serve the airport and certain adjoining territory and denied the application of Missouri Public Service Company. This Report and Order was not appealed from and is in full force and effect.

The present application does not ask for the airport area and leaves out a great deal of territory in the northeast part of Platte County that was covered in the application in Case No. 12,674.

Reference to our Report and Order in Cases Nos. 12,632 and 12,674 shows that our decision against the Missouri Public Service Company was based to a great extent on the finding that such company did not have available a sufficient gas supply to serve the airport and the extensive territory elsewhere in Platte County which it then sought to supply. In the present case it asks authority for a territory of far less extent and lower demand, and claims that the issues and the proof in the present case are entirely different from those in the prior cases. The company produced evidence which shows that it will have gas available to serve the territory which it now seeks to serve.

The closest portion of the disputed sections to applicant's transmission line in or near Platte City is approximately two miles and the nearest transmission line of Gas Service Company is approximately seven miles, its nearest customer being about 8.6 miles. There is no allegation in the pleading, nor did applicant attempt to prove, that Gas Service Company had failed to render service in Sections 7, 8, and 9. In fact, both parties concede that to date there has been no demand for service in such area, but they contemplate such demand in the future.

Conclusions of Law

Applicant contends that the proximity of its Platte City existing system would require much less investment for extension of gas mains in the disputed area; contributions, if any, required by customers would be minimized; and natural gas service in the area would be developed earlier by it than by Gas Service Company under the authority heretofore granted by the Commission.

By such argument we think the applicant is attempting to treat these three sections as an isolated area, and fails to admit or recognize that such sections are a part of a relatively compact area

certificated to Gas service Company in the prior cases. While in such cases the airport area itself was the main "plum" sought by both parties, the Commission very definitely thought and found that service in the territory surrounding the airport - north, south, east and west - was of importance. There was no basis then or now for finding that the demand for service about the airport would be limited to the three disputed sections or that Gas Service would be called upon to extend its line seven miles with no intervening customers. Since all of these factors were fully considered heretofore in the Report and Order issued in Cases Nos. 12,632 and 12,674, we cannot find any justification for revision of our conclusions therein with respect to these three sections. This being true, and since there is no showing or contention that Gas Service Company has failed in any way to render service in the territory certificated to it, we find and conclude that applicant's request to render service in the three disputed sections should be denied.

As regards that portion of the six mile square area, except Sections 7, 8, and 9, no one presently has the authority to render service and in the near future there will be a need and demand for such service. Applicant will be able to furnish the service and the necessary certificate of convenience and necessity should be granted.

In view of our ruling on the merits, we will issue no order on protestant's motion to dismiss.

It is, therefore,

ORDERED: 1. That the application of Missouri Public Service Company insofar as it applies to Sections 7, 8, and 9, Township 52 North, Range 34 West, Platte County, Missouri, be and the same is hereby denied.

ORDERED: 2. That the Missouri Public Service Company be and hereby is authorized to construct, operate and maintain a natural

T53N, R35W, Sec 12.

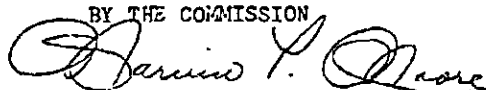
gas transmission and distribution system in Sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36 in Township 53 North, Range 35 West and Sections 1, 2, 3, 10, 11, and 12 in Township 52 North, Range 35 West, and Sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32 and 33 in Township 53 North, Range 34 West, and Sections 4, 5, and 6 in Township 52 North, Range 34 West, all in Platte County, Missouri.

ORDERED: 3. That all construction pursuant to authority granted in "ORDERED: 2." above shall be maintained and operated in a reasonably safe and adequate manner so as not to endanger the safety of the public or to interfere unreasonably with the services of other public utilities.

ORDERED: 4. That this order shall become effective on January 27, 1956, and that the Secretary of the Commission shall for serve on all parties interested herein a certified copy of this Report and Order.

(SEAL)

BY THE COMMISSION


MARVIN P. MOORE
SECRETARY

Burton, Chr., Henson, McClintock,
McQueen and McDonald, CC., Concur.

Dated at Jefferson City, Missouri,
this 12th day of January, 1956.

Milton Burns -
Pat Koeb.
816-756-5252

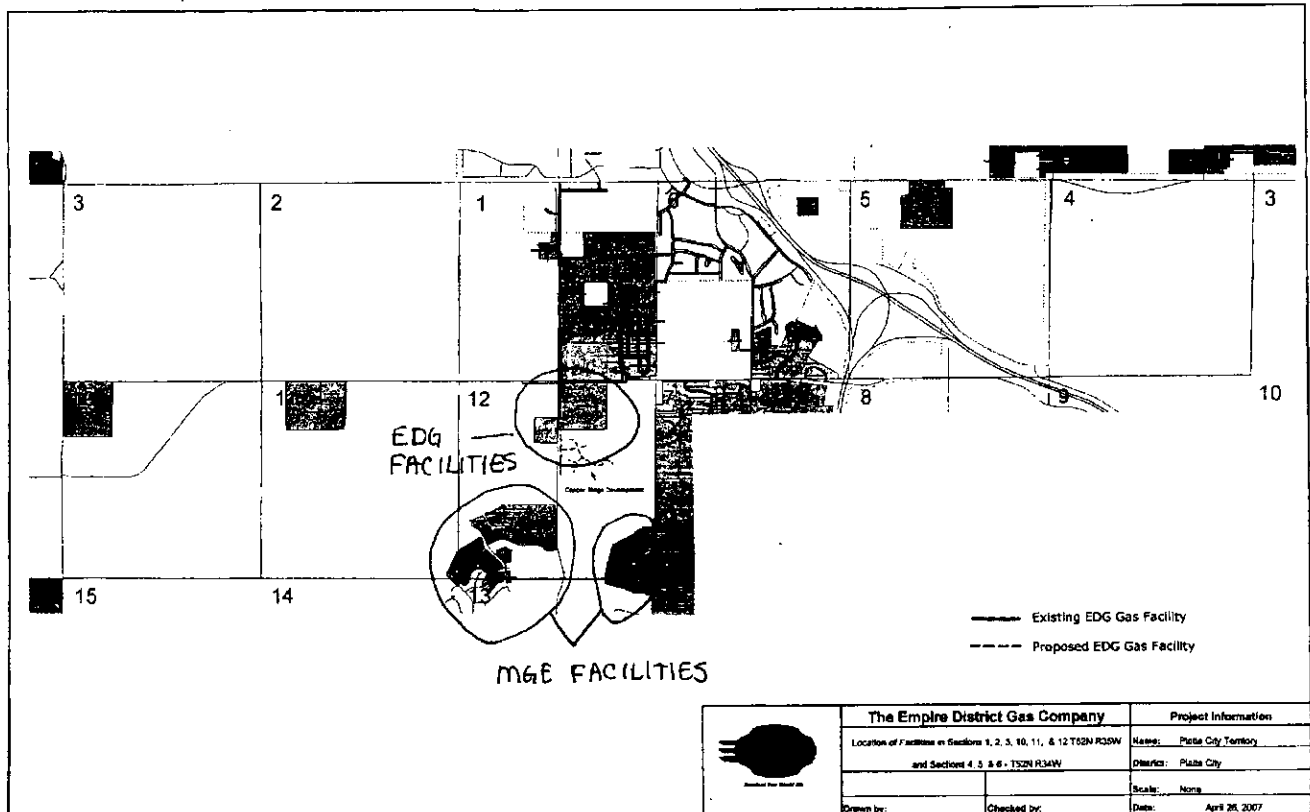
Debbie Ingolia -
816-509-6341

- 360-5605

816
Steve Holcomb's Office.

steve.holcomb@sug.com

RFG ATTACHMENT 2



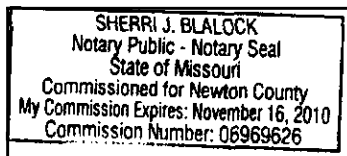
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STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 13 day of July 2007, before me appeared Ronald F. Gatz, to me personally known, who, being by me first duly sworn, states that he is the Vice President & Chief Operating Officer of The Empire District Gas Company and acknowledged that he has read the above and foregoing document and that the statements therein were prepared by him or under his direction and are true and correct to the best of his information, knowledge and belief.

Ronald F. Gatz
Ronald F. Gatz

Subscribed and sworn to before me this 13 day of July 2007.



Sherri J. Blalock
Notary Public

My commission expires: 11-16-2010.