

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

<b>Staff of the Missouri Public Ser-</b>	)	
<b>vice Commission,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	<b>GC-2007-0112</b>
<b>vs.</b>	)	
	)	
<b>The Empire District Gas Company,</b>	)	
	)	
<b>Respondent.</b>	)	

**RESPONSE TO OBJECTION TO INTERVENTION BY  
PITTSBURGH CORNING CORPORATION**

COMES NOW Pittsburgh Corning Corporation, ("Pittsburgh Corning"), and responds to the objection to its timely-filed Application to Intervene.

Empire District Gas Company ("Empire") has objected to Pittsburgh Corning's intervention in this proceeding, apparently on several grounds, each of which we will address.

Empire asserts that Pittsburgh Corning "has no interest in whether this plan was submitted on September 1 or not." However, as plainly noted in Pittsburgh Corning's Application to Intervene, as a signatory to the settlement stipulation in Case No. GO-2006-0205 (which Empire does not refute or deny), Pittsburgh Corning has an interest in the performance of Empire's obligations under that agreement that is neither less nor more than other signatories, including Commission Staff, and different from that of the general public. Indeed, given Empire's demon-

strated struggles with contract compliance, the emphasis needs to be on verification of compliance.

Next, Empire asserts that because Pittsburgh Corning is a transportation customer and the alleged deficiency concerns Empire's sales supply hedging plan or lack thereof, Pittsburgh Corning has no interest in the matter. Pittsburgh Corning, however, plainly stated in its Application to Intervene that "the reliability of Pittsburgh Corning's transportation supplies may depend upon the reliability of Empire's gas supplies for its system sales customers."

Empire's tariffs, adopted from those of Aquila, still contain provisions that could allow diversion of gas from transportation customers if high priority needs are not sufficiently satisfied. Moreover, as the "point operator" under Southern Star Pipeline's FERC transportation tariffs, Empire has the opportunity to avoid significant balancing penalties by "allocating" Pittsburgh Corning's transportation supplies and deliveries so as to "cover" any failures on the part of Empire with respect to its system supply, thereby shifting responsibility for Empire's system supply imbalance penalties. Indeed, Empire could even employ this power to disrupt the flow of Pittsburgh Corning's arranged supplies under the guise of "balancing."<sup>1/</sup>

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<sup>1/</sup> These interests alone make Pittsburgh Corning's interest "different from that of the general public" as required by 4 CSR 240-2.075(4)(A).

Additionally, if Empire fails to hedge adequate supplies to protect its system supply customers, Empire may be highly motivated to "balance on" Pittsburgh Corning's flowing supplies and then attempt to shift financial responsibility to others including Pittsburgh Corning.<sup>2/</sup>

Supply reliability is no less a concern to Pittsburgh Corning than to other customers. While our concerns doubtless differ from that of the Staff as indicated by the complaint, our concerns are nevertheless that the hedging plan be provided, that Empire live up to its obligations under the settlement, and that the gas distribution system work for all that are now Empire customers, including transporters. Thus, while our concerns differ from Staff, they are no less real.

Empire's perception of what constitutes an interest sufficient to support intervention varies depending on which side of the issue Empire is on. For example, in Case No. HR-2005-0450, Aquila's most recently concluded steam rate case, Empire sought to intervene. Joplin-based Empire was neither a steam nor electric customer of Aquila, had no operations of any kind in the St. Joseph area, had no steam operations anywhere, and had no discernable interest in the rates that Aquila sought to charge its six steam customers in St. Joseph, Missouri. Empire nonethe-

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<sup>2/</sup> This interest certainly demonstrates, as did the original Application, that Pittsburgh Corning's interest "may be adversely affected by a final order arising from the case . . . ." 4 CSR 240-2.075(4)(A).

less struggled to urge its interest. Arguing that because it was a public utility in this state, that interest alone entitled it to status as an intervenor, apparently because a commission decision on depreciation on Aquila's steam system in St. Joseph would, under some tortured logic, have an impact on Empire's electric operations in Joplin. And this even though any such "impact" could only result in a wholly **separate** case involving Empire.

Empire's argued interest, which was deemed sufficient, was tenuous and indirect at best and certainly much diluted from the palpable and direct interests Pittsburgh Corning has in **this** proceeding, based on facts that are not nor could not be disputed by Empire.

Let's review: Pittsburgh Corning is a current customer of Empire. Pittsburgh Corning presents a large natural gas transportation load, perhaps the largest individual load (sales or transportation) in Sedalia, and possibly on Empire's newly-acquired system. Service reliability is a key factor for Pittsburgh Corning. Pittsburgh Corning has a indisputable interest in the manner in which Empire operates the gas distribution assets it acquired from Aquila in a case in which Pittsburgh Corning actively participated. As a transportation customer, Pittsburgh Corning -- through incorrectly we note -- pays rates that include to some extent bad debt charges generated from sales customers. As a transportation customer, Pittsburgh Corning -- no less

incorrectly -- periodically has to deal with costs Empire/Aquila incurred in acquiring storage, which is certainly part of any appropriate hedging plan.

At bottom, the gas distribution system is not operated solely for either the sales or transportation customers. Both groups share the physical distribution system resource that is under Empire's control. And it is Empire's performance, as a public trustee, that both groups must monitor. Staff can be expected to do a very credible job of protecting the interests of the captive sales customers, but Staff's record of independently protecting the interests of the no-less-captive transportation customers is less clear. Hence Pittsburgh Corning's need to protect its own interests in the matter.<sup>3/</sup> Given Empire's current proclivities regarding settlements, we even have concerns regarding unilateral modifications to the GO-2005-0205 settlement that might be accepted by Staff in our absence.

As regards Empire's apparent complaint about access to the hedging plan itself, that concern is readily addressed by the Commission's "standard" protective order. Pittsburgh Corning has neither interest nor desire to disrupt, disclose or harm the appropriate operation of that plan. We are, however, concerned, for the reasons aforesaid, that there **BE** an adequate plan, for we have little doubt that we will share in the pain if there is not.

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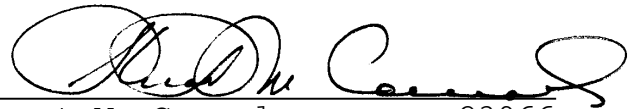
<sup>3/</sup> Staff did not oppose Pittsburgh Corning's proposed intervention.

Finally, Empire asserts that the hedging plan has been provided to Staff and Public Counsel and asserts that this will be further discussed in its yet-to-be-filed answer to the complaint. If so, and the requirement of the GO-2005-0205 settlement agreement has or will be satisfied, then this entire case will disappear.

WHEREFORE, having again shown its pecuniary and particular interest in this matter Pittsburgh Corning prays that its Application to Intervene herein be granted, that Empire's meritless objection thereto be rejected, and that Pittsburgh Corning be permitted to participate in the proceedings as they may be scheduled, to cross-examine witnesses offered, to participate in oral argument if any be had, and to file briefs on the issues presented in this case, and for all other needful relief.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

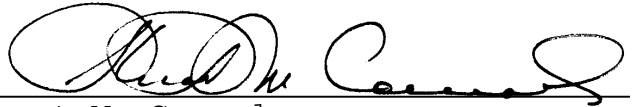
A handwritten signature in dark ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

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Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served the foregoing pleading by postage prepaid first class U.S. mail, by e-mail or by other electronic means addressed to the representatives of all parties as shown by the records of the Commission on this date.

  
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Stuart W. Conrad

Dated: October 13, 2006