

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

In the matter of The Empire District Gas)
Company of Joplin, Missouri for)
Authority to File Tariffs Increasing Rates)
for Gas Service Provided to Customers in)
the Missouri Service Area of the)
Company.)

Case No. GR-2009-0434

**LIST AND ORDER OF ISSUES,
LIST AND ORDER OF WITNESSES, AND ORDER OF CROSS-EXAMINATION**

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and states:

1. On June 5, 2009, The Empire District Gas Company (“Empire”), filed with the Commission proposed tariff sheets bearing an effective date of July 5, 2009, which are designed to produce a gross annual revenue increase of approximately \$2.9 million for natural gas service.

2. On June 12, 2009, the Commission issued its Suspension Order and Notice (“Order”). Among other things, the Commission in its Order directed that the parties file a Joint List and Order of Issues, List and Order of Witnesses, and Order of Cross-Examination on or before December 29, 2009.

3. The Parties to this proceeding are: Staff, Empire, the Office of the Public Counsel (“OPC”), Missouri Department of Natural Resources (“DNR”), Constellation NewEnergy–Gas Division, LLC (“Constellation”), and Pittsburgh Corning Corporation (“Pittsburgh”).

4. In its June 12, 2009, *Order Setting Procedural Schedule* the Commission waived the requirements of Commission Rule 4 CSR 240-2.080(21) regarding the format of the list of issues.

5. On December 18, 2009, Empire, Staff, and OPC filed a non-unanimous stipulation resolving all issues except the transportation tariffs and the funding level of Demand Side Management (“DSM”) programs. DNR, Constellation, and Pittsburgh indicated their non-objection to its terms, and no party has filed an objection to this stipulation within the time permitted by the Rules. Also on said date, Empire, Staff, and OPC filed a non-unanimous stipulation on the issue of the funding of DSM programs. Constellation and Pittsburgh indicated their non-opposition to the terms of the DSM funding stipulation. On December 28, 2009, DNR filed a notice stating that DNR objects to the DSM stipulation and requesting a hearing on the issue of the funding level of DSM programs.

6. The Commission’s July 31, 2009 Order Setting Procedural Schedule and Setting Test Year specified that a Reconciliation for Issues to be Heard be filed by December 29, 2009. None of the issues remaining to be heard will have an impact on Empire’s non-PGA revenues.

LIST OF ISSUES

Demand Side Management and Energy Efficiency

1. At what level should Empire make funding available for DSM and Energy Efficiency programs?

Transportation Tariff

1. Should the Commission approve the changes proposed by Empire District to its Transportation Service tariff, to-wit:
 - i.) Require small-volume transportation customers to install telemetry equipment, at their own cost, including existing small-volume transportation customers who have had this service since 2001 without telemetry being required.
 - ii.) Make small-volume balancing service available only to School Customers of transportation service and not to other existing small-volume transportation customers.
 - iii.) Raise the charge for small-volume balancing service from \$0.0075 per Ccf to \$0.025 per Ccf.

iv.) Add a new Daily Charge of \$1.25 per Mcf for transportation customers whose nominations of gas supplies and deliveries of gas are out-of-balance by more than 10% on a given day.

a) If "no," should all transport customers be subject to a balancing fee?

v.) Add language to its transportation tariff regarding Operational Flow Orders (OFOs), including giving EDG the right to issue an OFO in its "sole judgment."

2. If telemetry is required for all small-volume transportation customers, as proposed by EDG, balancing service should continue to be provided during the transition period, as proposed by Staff.

ORDER OF WITNESSES AND ORDER OF CROSS-EXAMINATION

Thursday, January 7, 2009 9:00 a.m.

Make Entries of Appearance Take Up Outstanding Matters

Opening Statements

Empire
Staff
Public Counsel
Pittsburgh
Constellation
DNR

Overview and Policy

Walters (Empire)
Solt (Staff)
Bolin (Staff)

Demand Side Management and Energy Efficiency

McCormack (Empire)
Warren (Staff)
Kind (OPC)
Wolfe (DNR)

Transportation

Keith (Empire)
Overcast (Empire)
Ensrud (Staff)
Haubensak (Constellation)
Brown (Constellation)

Presentation on Stipulation (questions from Commissioners)

Friday, January 8, 2009 9:30 a.m.

(Continued, as needed, from Thursday.)

ORDER OF CROSS-EXAMINATION

While for specific issues a different order of cross-examination may be more appropriate, generally, the order of cross-examination, based on adversity, is the following:

EDG witnesses

Staff, OPC, DNR, Pittsburgh, Constellation

Staff witnesses

EDG, OPC, DNR, Pittsburgh, Constellation

OPC witnesses

Staff, EDG, Pittsburgh, Constellation, DNR

DNR witnesses

Pittsburgh, Constellation, Staff, OPC, EDG

Pittsburgh witnesses

DNR, OPC, Constellation, Staff, EDG

Constellation witnesses

DNR, OPC, Pittsburgh, Staff, EDG

WHEREFORE, the Staff submits the foregoing list of issues, order of witnesses and order of cross-examination in response to the Commission's *Order Setting Procedural Schedule*.

Respectfully submitted,

/s/ Sarah Kliethermes

Sarah L. Kliethermes

Associate Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 29th day of December, 2009.

/s/ Sarah Kliethermes