

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 1st day of June, 2023.

In the Matter of the Application of The Empire)
District Gas Company d/b/a Liberty for a Certificate) **File No. GA-2023-0110**
of Convenience and Necessity to Construct, Install,)
Own, Operate, Maintain, and Otherwise Control and)
Manage a Natural Gas Distribution System in and)
Around Platte County, Missouri as an Expansion of)
its Existing Certified Areas)

**ORDER APPROVING STIPULATION AND
AGREEMENT AND AMENDING ORDER GRANTING
CERTIFICATE OF CONVENIENCE AND NECESSITY**

Issue Date: June 1, 2023

Effective Date: June 11, 2023

On September 21, 2022, The Empire District Gas Company d/b/a Liberty (EDG) filed the above-referenced application. EDG seeks a certificate of convenience and necessity (CCN) to construct, install, own, operate, maintain, and otherwise control and manage a natural gas distribution system to provide gas service in Platte County, Missouri, as a further expansion of its existing certificated area. On January 25, 2023, the Commission granted EDG's request by order effective February 24, 2023.

On February 24, 2023, Spire Missouri Inc. (Spire Missouri) filed an application for rehearing. Spire Missouri was not a party to the case previously. Spire Missouri states that it is already serving customers in the area in which EDG received its CCN.

On May 10, 2023, EDG, Spire Missouri, and the Staff of the Commission (Staff) filed a Stipulation and Agreement and on May 23, 2023, filed the final appendices (together referred to as the Stipulation). That Stipulation depicts the agreed

apportionment of the CCN area between EDG and Spire Missouri.¹ The Stipulation requests that the Commission amend its order granting the CCN as reflected in the Stipulation. The Stipulation further states that the Commission should deny Spire Missouri's application for rehearing as untimely.

Commission Rule 20 CSR 4240-2.115(2) allows parties seven days to object to non-unanimous stipulations and agreements. More than seven days have elapsed since the Stipulation was filed, and no party has objected. Thus, Commission Rule 20 CSR 4240-2.115(2)(C) allows the Commission to treat the Stipulation as unanimous.

The Commission finds the Stipulation reasonable, and will approve it. The Commission will amend its order granting EDG's a CCN, as permitted by Section 386.490.2 RSMo.

The Commission notes that the Stipulation states that Spire Missouri will apply for a CCN to serve areas apportioned to it in the Stipulation. This order does not affect or prejudice any CCN application Spire Missouri may file.

The Commission further finds the application for rehearing untimely as it was not filed before the order's effective date. So that the parties may expeditiously serve customers as provided in the Stipulation, the Commission finds it reasonable to make this order effective in fewer than 30 days.

THE COMMISSION ORDERS THAT:

1. The Stipulation is approved, and its signatories are ordered to comply with its terms. The Stipulation is attached as Exhibit 1.

¹ On May 24, 2023, EDG filed tariff sheets to implement the Stipulation. The Commission will rule on those tariff sheets in a subsequent order.

2. The Commission's January 25, 2023 Order Granting Certificate of Convenience and Necessity is amended to reflect the service territories EDG and Spire Missouri have agreed upon in the Stipulation.

3. The application for rehearing filed by Spire Missouri is denied as untimely.

4. This order shall become effective on June 11, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, and
Kolkmeier CC., concur.

Pridgin, Deputy Chief Regulatory Law Judge

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

In the Matter of the Application of The Empire)
District Gas Company d/b/a Liberty for a)
Certificate of Convenience and Necessity to)
Construct, Install, Own, Operate, Maintain, and) Case No. GA-2023-0110
Otherwise Control and Manage a Natural Gas)
Distribution System in and Around Platte County,)
Missouri as an Expansion of its Existing Certified)
Areas.)

STIPULATION AND AGREEMENT

COMES NOW The Empire District Gas Company (“EDG”), Staff of the Missouri Public Service Commission (“Staff”) and Spire Missouri Inc. (“Spire Missouri”) (collectively, the “Signatories”), by and through their respective counsel, and, for this Stipulation and Agreement (“Stipulation”), respectfully state as follows to the Missouri Public Service Commission (“Commission”):

Substantive Terms

1. The purpose of this Stipulation is to resolve the issues raised in Spire Missouri’s *Application for Rehearing*, although the Signatories agree that Spire Missouri’s *Application for Rehearing* should be denied as untimely.

2. In its February 27, 2023 Order, the Commission directed Staff and any other party to respond to Spire Missouri’s *Application for Rehearing* no later than March 13, 2023. On March 10, 2023, Staff requested an extension of 30 days for all parties to respond to Spire Missouri’s *Application for Rehearing*. On April 10, 2023, Staff requested a second 30-day extension. The Signatories agree that this Stipulation is filed in lieu of Staff’s and EDG’s response to the Commission order.

3. The Signatories agree that Spire Missouri has natural gas facilities and is providing natural gas service to customers in distinct portions of the Certificate of Convenience and Necessity (“CCN”) Area granted to EDG in this docket, GA-2023-0110.

4. The Signatories agree that the map attached as **Preliminary Appendix A** to this Stipulation depicts the agreed apportionment of the CCN Area between EDG and Spire Missouri. The Signatories also agree that the legal description attached as **Preliminary Appendix B** describes the area that will be apportioned to Spire Missouri. Survey and mapping work is ongoing to confirm the exact legal descriptions of these areas, and the Signatories intend to supplement this Stipulation with final versions of Appendix A and Appendix B within ten (10) calendar days after this Stipulation is filed with the Commission.

5. The Signatories agree that within three (3) calendar days after final Appendices are filed with the Commission, EDG will file to withdraw its request for the parts of CCN Area that will be apportioned to Spire Missouri and file an updated tariff sheet reflecting this withdrawal.

6. The Signatories agree that this Stipulation should be adopted by the Commission to amend its January 25, 2023 *Order Granting Certificate of Convenience and Necessity*, and request the Commission issue an order in accordance with this Stipulation.

7. The Signatories agree that should the Commission not adopt this Stipulation as filed, EDG may revoke the withdrawal agreed to in Paragraph Five (5).

8. The Signatories agree that within 30 days of the Commission adopting this Stipulation and amending its January 25, 2023 Order, Spire Missouri will file a formal CCN application for the areas that are apportioned to it as agreed to in this Stipulation. Such application may seek waiver from one or more evaluation criteria.

General Terms

9. Unless otherwise explicitly provided herein, none of the Signatories shall be deemed to have approved or acquiesced in any other changes EDG's or Spire Missouri's certificated areas or any procedural principle. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this Stipulation in this or any other proceeding. This Stipulation has resulted from extensive negotiations among the parties, and the terms hereof are interdependent and non-severable. If the Commission does not approve this Stipulation unconditionally and without modification, or if the Commission approves the Stipulation with modifications or conditions to which a party objects, then this Stipulation shall be void and none of the Signatories shall be bound by any of the agreements or provisions hereof.

10. In the event the Commission accepts the specific terms of this Stipulation without condition or modification, the Signatories waive their respective rights to present oral argument and written briefs pursuant to RSMo. §536.080.1, their respective rights to the reading of the transcript by the Commission pursuant to §536.080.2, their respective rights to seek rehearing pursuant to §386.500, and their respective rights to judicial review pursuant to §386.510. These waivers apply only to a Commission order approving this Stipulation without condition or modification issued in this proceeding and only to the issues that are resolved hereby. These waivers do not apply to any issues explicitly not addressed by this Stipulation. The Signatories agree that any and all discussions, suggestions, or memoranda reviewed or discussed, related to this Stipulation shall be privileged and shall not be subject to discovery, admissible in evidence, or in any way used, described or discussed.

11. This Stipulation contains the entire agreement of the Signatories concerning the issues addressed herein.

12. This Stipulation does not constitute a contract with the Commission. Acceptance of this Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigatory powers or other statutory powers which the Commission presently has. Thus, nothing in this Stipulation is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information.

WHEREFORE, the Signatories respectfully request the Commission to adopt this Stipulation and Agreement, issue an order amending its *Order Granting a Certificate of Convenience and Necessity* to reflect the agreed apportionment of the CCN area, and provide any other relief as is just and reasonable.

Respectfully submitted,

/s/ Matt Aplington

Matthew Aplington MoBar #58565

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**ATTORNEY FOR STAFF OF THE
MISSOURI PUBLIC SERVICE COMMISSION**

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail to all counsel of record on this 10th day of May, 2023.

/s/ Lew Keathley

Preliminary Exhibit A

Settlement proposal		
	34	35
	3	2
	3	1
Liberty	3, 34, 35, 36 with pipe going through top part of 2	
Spire	2, 1 with small segment in 35 serving customer where current assets are	

Preliminary Exhibit B

All of Section 1 Township 52 North Range 34 West.

Part of the East Half and Part of the Northeast Quarter of the Northwest Quarter being in Section 2, Township 52 North, Range 34 West except the following: Beginning at the Northwest Corner of Section 2 Township 52 North Range 34 West then south 50', then east 2,000' then north 50', then west 2,000' to POB.

Part of the Southeast Quarter of the Southeast Quarter of Section 35, Township 53 North, Range 34 West which is approximately 335' on the west side of NW Interurban Road north of the south line of the SE ¼ Section of Section 35 Township 53 North Range 34 West.



STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 1st day of June, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

June 1, 2023

File/Case No. GA-2023-0110

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.