

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

In the Matter 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 Otherwise Control and Manage a Natural)
Gas Distribution System in and Around Platte)
County, Missouri as an Expansion of its)
Existing Certified Areas)

File No. GA-2023-0110

STAFF RECOMMENDATION

COMES NOW the Public Service Commission Staff (“Staff”), by and through counsel, and recommends that the Commission grant to The Empire District Gas Company d/b/a Liberty (hereafter “EDG” or “the Company”) 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 natural gas service in and around Platte County, Missouri. In support of this *Recommendation*, Staff states as follows:

1. On September 21, 2022, The Empire District Gas Company d/b/a Liberty (hereafter “EDG” or “the Company”) filed its *Application for a Certificate of Convenience and Necessity and Request for Waiver (“Application”)* to construct, install, own, operate, maintain, and otherwise control and manage a natural gas distribution system to provide natural gas service in and around Platte County, Missouri as a further expansion of its existing certified area, and Request for Waiver from the notice provisions of Commission Rule 20 CSR 4240-4.017(1).

2. On September 22, 2022, the Commission issued its *Order and Notice*, setting an intervention deadline of October 7, 2022. No intervention requests were received.

3. On October 11, 2022, the Commission entered an *Order Directing Filing*, which ordered Staff to file its recommendation regarding EDG's *Application* no later than November 10, 2022.

4. On November 10, 2022, Staff filed a *Motion for Extension of Time to File Staff Recommendation*. The request was granted, and the Commission ordered Staff to file its recommendation no later than January 9, 2023.

5. Pursuant to § 393.170.2, RSMo, no gas corporation shall provide service to consumers without first having obtained approval from the Commission. In determining whether or not to grant such approval, the Commission has traditionally applied the five "Tartan Criteria" established in *In the Matter of Tartan Energy Company, et al.*, 3 Mo. PSC 3d 173, 177 (1994): (1) there must be a need for the service; (2) the applicant must be qualified to provide the service; (3) the applicant must have the financial ability to provide service; (4) the applicant's proposal must be economically feasible; and (5) the service must promote the public interest.

6. As explained in the Staff *Memorandum*, attached hereto as Appendix A, Staff conducted an investigation into EDG's request. Based upon its review, Staff concludes that EDG fulfills the requirements of the *Tartan Criteria*.

7. Accordingly, Staff recommends approval, granting the CCN, with conditions described in the Staff *Memorandum*, as granting the requested CCN would be necessary and convenient for the public service.

8. The Commission need not hold a hearing if, after proper notice and opportunity to intervene, no party requests such a hearing. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494 (Mo. App. W.D. 1989).

No party or individual has requested a hearing, so the Commission need not hold a hearing to grant a CCN to the Company.

9. EDG's *Application* contained a request that the Commission waive the 60-day filing notice required by 20 CSR 4240-4.017(1). EDG's *Application* provided a verified declaration that it had not had communication with the office of the Commission (as defined by 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issues likely to be in the case, and therefore, Staff agrees good cause exists, pursuant to 20 CSR 4240.017(1)(D), to waive the 60-day notice requirement.

WHEREFORE, Staff respectfully submits this Staff Recommendation for the Commission's information and consideration, and requests the Commission grant The Empire District Gas Company d/b/a Liberty a Certificate of Convenience and Necessity, with conditions, to provide gas service to the requested service area.

Respectfully submitted,

/s/ Carolyn H. Kerr
Missouri Bar Number 45718
Senior Staff Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-5397 (Voice)
573-526-6969 (Fax)
Carolyn.kerr@psc.mo.gov

Attorney for Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 9th day of January, 2023, to all counsel of record.

/s/ Carolyn H. Kerr