

M E M O R A N D U M

TO: Missouri Public Service Commission Official Case File
Case No. GA-2023-0110, The Empire District Gas Company d/b/a Liberty

FROM: David T. Buttig, PE, Procurement Analysis Department
Francisco Del Pozo, Tariff/Rate Design
Courtney Horton, Auditing Department
Alexis Branson, Auditing Department

/s/ J Luebbert 1/9/2023
Tariff/Rate Design Department / Date

/s/ Carolyn Kerr 1/9/2023
Staff Counsel's Office / Date

SUBJECT: Staff Recommendation to Approve Certificate of Convenience and Necessity

DATE: January 9, 2023

EXECUTIVE SUMMARY

On September 21, 2022, The Empire Gas Company d/b/a Liberty (“EDG”) filed its Application for a Certificate of Convenience and Necessity and Request for Waiver (“Application”) with the Missouri Public Service Commission (“Commission”) for permission and approval to construct, install, own, operate, maintain, and otherwise control and manage a natural gas distribution system to provide gas service in and around Platte County, Missouri, as a further expansion of its existing certificated area. EDG seeks a waiver from Commission Rule 20 CSR 4240-4.017(1) that provides the secretary of the Commission a minimum of sixty (60) days prior to filing a case and a variance from filing requirements of Commission Rule 20 CSR 4240-3.205(1)(A).

On September 22, 2022, the Commission issued its Order directing notice and setting a deadline for intervention requests. The application to intervene was set for no later than October 7, 2022. No parties intervened. On October 11, 2022, the Commission directed Staff to file a recommendation regarding EDG’s Application no later than November 10, 2022. On November 10, 2022, Staff requested a 60-day extension of time to file the Staff recommendation. On November 10, 2022, the Commission approved Staff’s requested 60-day extension, ordering Staff to file a Recommendation no later than January 9, 2023.

CASE BACKGROUND

On September 21, 2022, EDG, an existing regulated gas utility, filed its Application with the Commission seeking a Certificate of Convenience and Necessity (“CCN”) to extend its existing certificated area in an area known as Logistics Park in Platte County, Missouri. Appendix C, attached to EDG’s application, includes a list of 11 potential customers.

Denotes Confidential Information

EDG estimates that the cost of providing gas service to the potential new customers is ** [REDACTED] ** for a 6-inch pipe or ** [REDACTED] ** for an 8-inch pipe. In its application, EDG stated that “A final determination on pipe size has not been made at this point due to a lack of relevant data of what customer loads may be. Therefore, a three year estimate of total design, permitting and construction is given for both 6-inch and 8-inch high-density polyethylene (“HDPE”) systems.” Additionally, EDG anticipates future customer growth in this area. EDG provided a confidential feasibility study showing the expected expenses for the project.

The rates for the proposed area would be those approved and in effect for EDG’s operating unit certified areas.

BACKGROUND OF THE EMPIRE GAS COMPANY

The Empire District Gas Company (“EDG”) is owned and is a direct subsidiary of The Empire District Electric Company and an indirect subsidiary of Liberty Utilities Co. EDG provides regulated natural gas services to the public for particular service areas with specific rates that have been approved by the Commission.

STAFF’S INVESTIGATION

Potential Area Development:

According to *The Platte County Landmark*, the area where EDG seeks the expansion of its existing certificated areas is expected to attract warehousing and manufacturing businesses.¹ The article stated, “Real estate development company Hunt Midwest has procured a parcel of land north of the Kansas City International Airport in the interest of spurring development of what will be one of the largest logistics parks in the state of Missouri. Hunt Midwest will leverage its real estate development expertise, resources, and relationships to offer users optionality for both warehousing and manufacturing.” Staff also notes that the 3,300 acres that could potentially be developed is located next to several businesses such as McDonald’s, Arby’s, CVS Pharmacy, Central Bank and more. Staff also notes that the population of Platte County, Missouri has increased each year since 1960, and Platte County is the 11th most populated county in the state of Missouri. Finally, Staff notes that the majority of residents residing in Platte County utilize gas for heating.

Proposed Capital Investments:

According to EDG’s application and response to Staff Data Request DR No. 13, Spire Missouri’s territory is immediately to the south of the area proposed to be certified to EDG. According to the map, filed as Appendix B to EDG’s Application, the T52N and R24W Sections labelled 10, 11, 12, are Spire territory. EDG is unfamiliar with the exact location of their existing infrastructure

¹ [“Large logistics park planned east of I-29” - \(plattecountylanmark.com\)](https://www.plattecountylanmark.com)

within the boundaries. Per pages 5-6 of its feasibility study, which is attached as Appendix D to its Application, EDG has three year estimates of total design, for the 6-inch HDPE systems (** [REDACTED] **) and 8-inch HDPE system (** [REDACTED] **). No operational cost is included in these estimated design costs, as it will be considered normal operational activities. Also per page 5 of its feasibility study (attached as Appendix D to its Application), EDG contends that the final determination on pipe size has not been made due to a lack of relevant data of what customer loads may be.

Staff analyzed the current capacity of EDG's system and the effect of the additional load of potential customers in the new service territory. EDG expects new customers in the industrial park to be transportation customers, while the residential customers will be subject to EDG's Purchase Gas Adjustment ("PGA") tariff.² EDG currently operates on a reserve margin of 3.6%, and it has 2,000 MCFD (thousand cubic feet per day) of excess capacity.³ At complete buildout, ** [REDACTED] **, the additional load is assumed to be approximately ** [REDACTED] **. ⁴ Since there are no current customers in the territory to be designated, no studies or conversations have been had with Southern Star Gas Pipe Line ("SSGPL") to discuss capacity availability.⁵

Staff recommends that EDG work with SSGPL to analyze the need for any additional capacity and any capacity available.

In response to DR No. 07, EDG stated that "this site will develop when it has a certified gas provider due to the unique amount of land available, but does not currently have any firm commitments."

In response to Staff DR No. 07, EDG acknowledged that there was no residential load calculated, but asserted that the Company has identified more than ten residential customers that could be served immediately when a line is run to serve industrial load. Likewise, in response to Staff DR No. 08, EDG stated that "the system could serve ten or even fifteen projects that use in excess of 200 MCF daily per project." Although, this estimated usage is uncertain, Liberty expects that this site will develop once it is certified. Considering EDG's responses to DR No.'s 08 and 09, an outline of annual revenue estimation is calculated below, although it should be noted that actual revenues are uncertain and heavily reliant on the number and type of customer that ultimately locates within the area.

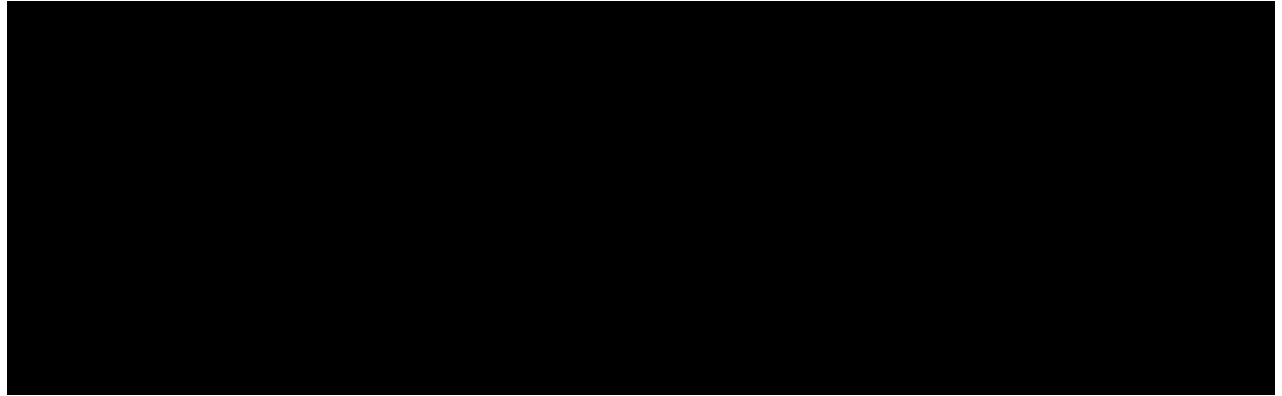
² DR 09

³ DR 12

⁴ DR 14

⁵ DR 11

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If EDG's customer addition assumptions are accurate, Staff estimates revenues to be ** [REDACTED] ** annually, based upon ten residential customers and five industrial-projects developed on the land. However, this is contingent upon the accuracy of EDG's assumptions of residential and industrial customers receiving natural gas service, which is uncertain at this time. Although, there is currently the potential of obtaining more than ten natural gas customers, it could be possible to have less than ten residential and five industrial customers. Since there is no official documentation showing customer commitment, there could be inadequate utility demand that results in an overbuilt, large capacity system that exceeds the needs of prospective ratepayers in the area. Staff recommends that the Commission consider a provision that protects EDG's existing ratepayers from an overbuilt system. Several options exist as potential ratepayer protections including, but not limited to the following:

1. Ensuring that EDG's customers receiving service outside of the requested CCN area do not bear any expenses and investments in excess of billed non-gas revenues from customers in the requested area, excluding infrastructure system replacement surcharge (ISRS) revenues;
2. Including a capacity adjustment in a future rate case to account for the underutilized portion of the system being built as a result of this project;
3. If the land is developed in a manner to produce rate revenue in excess of costs to serve the area, then EDG should bear the cost of this extension.

To be consistent with past Commission practice, all rate making determinations regarding the revenue requirement impact of this service area extension request should be reserved until the Company's next general rate making proceeding. Staff will examine the revenue requirement impacts of the Company's investment in the next rate case and propose adjustments as necessary at that time to remove any imprudent costs in order to establish the economic feasibility of the requested expansion.

TARTAN CRITERIA

In the *Tartan Energy Company* case, the Commission's Order listed five criteria to include in considering when making a determination on whether a utility's proposal meets the standard of being "necessary or convenient for the public service." (The following short description of how Staff believes each criteria has been met is dependent on the implementation of Staff's Recommendations described in detail in the last section on this Memo; and the realization of the expected EDG customer additions described in the previous section), a):

- Is the service needed? This proposed Application is expected to attract warehousing and manufacturing businesses as well as residential developments;
- Is the applicant qualified to provide the service? EDG is a public utility and gas corporation, as those terms are defined in § 386.020, RSMo, and is a corporation incorporated under the laws of the State of Missouri, with its principal office located at 602 South Joplin Avenue, Joplin, Missouri, 64801. A Certificate of Good Standing evidencing EDG's standing to do business in Missouri was verified through the Missouri Secretary of State's website.
- Does the applicant have the financial ability to provide the service? EDG stated in its Application that no external financing is required.
- Is the applicant's proposal economically feasible? EDG's proposed acquisition is financially feasible. EDG's Application implementation can draw upon the significant resources of its own resources, should any shortfall arise.
- Does the service promote the public interest? EDG currently provides gas service to the majority of residents residing in Platte County, the Logistics Park will benefit from this application because it ensures service to expected new County industrial and residential residents.

Staff Recommendation

Based on the information provided above, Staff recommends the Commission approve the Company's requested CCN with the following conditions:

- Reserve all rate making determinations regarding the revenue requirement impact of this service area extension request until the Company's next general rate making proceeding.
- Require EDG to file to an updated tariff sheet incorporating the requested Section for Platte County.
- During its next general rate case, require EDG to provide the Logistics Park acreage development documentation to Staff.
- EDG shall hold customers receiving service outside of the requested CCN area harmless of any expenses and investments in excess of billed non-gas revenues, excluding infrastructure system replacement surcharge (ISRS) revenues.⁶
- EDG shall provide an updated list of customers to be referenced for this application.

Staff has verified that the Company has filed its annual report and is not delinquent on any assessment.

⁶ The Commission could also consider one of the alternative ratepayer protections mentioned on page 4 of this memo.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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District Gas Company d/b/a Liberty for a) File No. GA-2023-0110
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Otherwise Control and Manage a Natural Gas)
Distribution System in and Around Platte)
County, Missouri as an Expansion of its)
Existing Certified Areas)

AFFIDAVIT OF DAVID T. BUTTIG, PE

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW DAVID T. BUTTIG, PE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

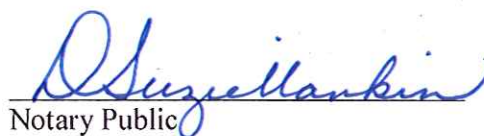


DAVID T. BUTTIG, PE

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 6th day of January 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public

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AFFIDAVIT OF FRANCISCO DEL POZO

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW FRANCISCO DEL POZO and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.



FRANCISCO DEL POZO

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 9th day of January 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

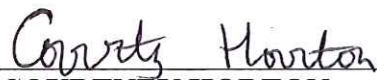
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AFFIDAVIT OF COURTNEY HORTON

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW COURTNEY HORTON and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.



COURTNEY HORTON

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 5th day of January 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
Commission Expires: April 04, 2025
Commission Number: 12412070



Notary Public

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AFFIDAVIT OF ALEXIS BRANSON

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

COMES NOW ALEXIS BRANSON and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Recommendation* in memorandum form; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.


ALEXIS BRANSON

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 9th day of January 2023.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: April 04, 2025
Commission Number: 12412070


Notary Public