

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day
of December, 2006.

In the Matter of the Application of The Empire)	
District Gas Company for a Waiver from the)	<u>Case No. GT-2007-0207</u>
Application of Certain Tariff Language Regarding)	Tariff No. YG-2007-0375
Refunds.)	

**ORDER GRANTING INTERVENTION, SUSPENDING TARIFF
AND SCHEDULING PREHEARING CONFERENCE**

Issue Date: December 21, 2006

Effective Date: December 31, 2006

Syllabus: This order grants the Sedalia Industrial Energy User's Association's (SIEUA's) Application to Intervene, suspends The Empire District Gas Company's tariff for 45 days, and schedules a prehearing conference.

On December 1, 2006, The Empire District Gas Company filed an application asking the Commission to waive certain provisions in its tariffs regarding refunds to its customers. The Application explained that during the final closing of the acquisition of Aquila, Inc.'s natural gas operations in Missouri, Empire became aware of two Kansas *ad valorem* tax refunds from Southern Star Central Pipeline, resulting from Federal Energy Regulatory Commission (FERC) Docket No. RP-98-52-000. Sheets No. 53 through 64 of Empire's tariff require that refunds received and allocated to Firm customers shall be refunded to such customers as a reduction in Purchased Gas Adjustment (PGA) rates, over a twelve-month period. Empire asks that it instead be allowed to provide those refunds to its customers in a lump sum payment or bill credit.

In addition, the Empire tariff provides that transportation customers would receive refunds for only Take or Pay or Transition Cost amounts received from the pipeline. Thus, they would not share in the Kansas *ad valorem* tax refunds. Empire indicates that this result would be unfair because most of the customers that took Large Volume sales service in 1983-1988 – the period in which customers were overcharged and for which the refunds have been ordered – have moved off those rate schedules, and are currently transportation customers. Therefore, Empire requests a waiver from its tariff so that current transportation customers may share in the refund by establishing proof that they were sales customers during the 1983 -1988 period.

Empire's Application was accompanied by a proposed tariff sheet designed to allow the implementation of the customer refund procedure proposed in the Application. That tariff filing was assigned tariff file No. YG-2007-0375, and bears an effective date of January 1, 2007.

On December 5, the Commission issued its Order Directing Notice and Establishing Time for Requesting Intervention and Filing of Recommendations. To provide notice to potentially interested parties the Commission directed its Data Center to send notice to all certified parties to Commission Case No. GO-2006-0205, the case in which the Commission authorized Aquila to sell, transfer and assign certain assets and liabilities to Empire. That order further set December 13 as the deadline to request intervention, directed the Commission's Staff to file a recommendation no later than December 15, and required that any other party wishing to file a recommendation do so by December 15.

On December 6, the SIEUA, an association of large industrial and commercial users of natural gas, filed an application to intervene. The members of that association are many

of the current transportation customers that would receive refunds under MPS' proposal. No party objected to SIEUA's application to intervene.

Commission rule 4 CSR 240-2.075(4) provides that the Commission may grant an application to intervene on a showing that the proposed intervener has an interest that is different than that of the general public and which may be adversely affected by a final order arising from the case, or when granting the proposed intervention would be in the public interest. The Commission finds that SIEUA has an interest in this matter that is different than that of the general public, and that its interest may be adversely affected by a final order arising from this case. Its application to intervene will be granted.

Staff filed its recommendation regarding Empire's Application on December 14. Staff recommends that the Commission approve the Application so that Empire's customers can receive the benefit of the refund immediately, rather than through adjustments to future PGA rates. Staff also recommends that the Commission approve the proposed tariff sheet filed by Empire on December 1, 2006, to allow the implementation of the accelerated customer refund procedure.

SIEUA filed a recommendation on December 15, indicating that it would not object to Empire's Application, but for two concerns. First, SIEUA is concerned that Empire did not calculate the interest due to transportation customers utilizing the same sales/transportation customer ratio that it used to allocate the underlying refunds. Second, SIEUA believes current transportation customers who were previously qualified for refunds by providing information to Aquila sufficient to verify their entitlement to refunds should not have to requalify. SIEUA indicated that if these two concerns were addressed in an amendment to Empire's Application it would not object to such an amended Application.

In order to allow the parties the opportunity to pursue settlement negotiations and allow the Commission to further investigate the proposed tariff to determine whether it is lawful and reasonable, the Commission will suspend Empire's tariffs.

IT IS ORDERED THAT:

1. The Sedalia Industrial Energy Users' Association's Application for Intervention is granted.

2. The following tariff sheets filed by The Empire District Gas Company, and assigned Tariff File No. YG-2007-0375, are suspended until February 15, 2007, or until otherwise ordered by the Commission:

P.S.C. MO No. 1
Revised Sheet NO. 61, Cancelling 7th Revised Sheet No. 61

3. A prehearing conference shall be held on February 2, 2007, beginning at 10:00 a.m., in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This conference will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference. **Parties may participate by telephone by dialing 1-866-800-9344.**

4. This order shall become effective on December 31, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Voss, Regulatory Law Judge