

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 15th day
of February, 2007.

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 APPROVING TARIFF REGARDING REFUNDS

Issue Date: February 15, 2007

Effective Date: February 25, 2007

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 in the 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 12-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 in 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 bore an effective date of January 1, 2007. That tariff was twice suspended by the Commission to allow the parties additional time to resolve the issues in this case. Tariff No. YG-2007-0375 is now scheduled to go into effect on March 15, 2007, unless otherwise ordered by this Commission.

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 Sedalia Industrial Energy Users' Association (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 Empire's proposal. No party objected to SIEUA's application to intervene, and it 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 was 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 did not believe current transportation customers, who were previously qualified for refunds by providing information to Aquila sufficient to verify their entitlement to refunds, should 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.

On December 21, 2006, the Commission issued an order scheduling a prehearing conference in this case. At the request of the parties that conference was cancelled to allow the parties additional time to resolve their issues in this case.

On February 8, 2007, Empire filed a Motion to Grant Application for Waiver and to Approve Tariff without Further Proceedings (Motion). In its motion Empire advised the Commission that SIEUA upon review "concur[s] that the questioned interest calculation

reflects interest that accrues due to the deferred 12-month spreading of the PGA credit distribution to sales customers and is, thus, properly not allocable to transportation customers.” Empire further advised the commission that it “agrees with SIEUA’s position that former sales-now transportation customers that previously qualified for refunds will not be required to requalify.” Empire attached a list of those customers to its motion as Supplemental Exhibit A, and classified that exhibit as highly confidential, as it contains customer-specific information.

On February 8, 2007, SIEUA filed a response concurring with Empire’s Motion. SIEUA further stated that all parties had discussed and agreed to the resolution of issues as set out in Empire’s Motion.

On February 9, 2007, the Commission issued an order giving the parties until February 13, 2007, to respond to Empire’s Motion and SIEUA’s response. No responses were filed.

Based on the information contained in Empire’s verified Application for Waiver, and the verified recommendations of its Staff, Empire’s Motion, and SIEUA’s verified Response, which are hereby admitted into evidence, the Commission determines that the mechanism for distribution of the Kansas *ad valorem* tax refund contained in Empire’s proposed tariff is reasonable. The proposed tariff will be approved.

IT IS ORDERED THAT:

1. The Empire District Gas Company is authorized to refund the money from the Kansas *ad valorem* tax refunds to its customers in the manner described in paragraphs 8 through 12 of its Amended Application for Waiver.

2. The following tariff sheet filed by The Empire District Gas Company, and assigned Tariff File No. YG-2007-0375, is approved as amended to become effective on February 25, 2007. The tariff approved is:

P.S.C. MO No. 1
8th Revised Sheet No. 61, Cancelling 7th Revised Sheet No. 61

3. The Customers listed in the HIGHLY CONFIDENTIAL Supplemental Exhibit A to Empire District Gas Company's Motion to Grant Application for Waiver and to Approve Tariff without Further Proceedings who had previously qualified for refunds will not be required to requalify.

4. This order shall become effective on February 25, 2007.

5. This case may be closed on February 26, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Voss, Regulatory Law Judge