

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

Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	Case No. GC-2007-0112
v.	)	
	)	
The Empire District Gas Company,	)	
	)	
Respondent.	)	

**RESPONSE IN OPPOSITION TO APPLICATION  
TO INTERVENE OF PITTSBURGH CORNING CORPORATION**

COMES NOW The Empire District Gas Company (“EDG”) and for its Response in Opposition to Application to Intervene of Pittsburgh Corning Corporation, pursuant to 4 CSR 240-2.075 and 4 CSR 240-2.080, respectfully states as follows:

1. On or about September 22, 2006, Staff filed its complaint which initiated this proceeding against EDG. The basis for Staff’s complaint is that, according to the complaint, EDG “failed to provide the Staff its [*i.e.*, EDG’s] gas supply and hedging plan as required under paragraph (g) in Section II of the Stipulation” in Case No. GO-2006-0205 by September 1, 2006. The Stipulation provided that said gas supply and hedging plan was to be submitted only to Staff and OPC.

2. The Commission issued its Notice of Complaint on September 26, 2006, to EDG. Said Notice stated that EDG “has 30 days from the date of this notice [September 26] to file an answer or to file notification that the complaint has been satisfied.” On the same date as the Notice was issued giving EDG 30 days to answer the

complaint or file notification that the complaint has been satisfied, Pittsburgh Corning Corporation (“PCC”) filed its Application to Intervene herein. In its Application to Intervene, PCC states that it has gas locally transported by EDG but is not a natural gas purchaser from EDG’s system supply.

3. The Commission’s intervention rule, 4 CSR 240-2.075, provides that an application to intervene “shall state the proposed intervenor’s interest in the case and reason for seeking intervention;” and provides that the Commission may permit intervention on a showing that “(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case, or (B) Granting the proposed intervention would serve the public interest.” PCC’s Application to Intervene fails to meet this standard.

4. PCC does not have an interest sufficient to support intervention in this case:

- It should first be remembered that the gas supply and hedging plan, the submission of which forms the basis of Staff’s complaint, was only to be submitted to Staff and the Office of the Public Counsel; PCC was not entitled to a copy of the plan under the terms of the Stipulation even though PCC was an intervenor in Case No. GO-2006-0205. Therefore, PCC has no interest in whether this plan was submitted on September 1 or not, and in any event certainly has no interest different from that of the general public. The Commission should also recognize that submission of a plan to Staff does not affect quality of service to customers, and even Staff does not allege that EDG’s alleged failure to submit the plan by September 1 had any effect on customer service, which it did not. Furthermore, although the plan may not have been submitted to Staff

and the Office of the Public Counsel on September 1, **the plan has since been submitted** to them<sup>1</sup>.

- As stated by Staff in the complaint, the plan was a *gas supply and hedging plan*. In its Application to Intervene, PCC admits that it is a gas transportation customer but is *not a natural gas purchaser* from EDG's system supply. Therefore, PCC has no interest in whether this plan was submitted on September 1 or not, and in any event certainly has no interest different from that of the general public.

- PCC's Application to Intervene<sup>2</sup> fails to demonstrate how granting its intervention would serve the public interest, other than by a conclusory reference to its status as a transportation customer. Given that the basis of the complaint is simply that EDG failed to submit a gas supply and hedging plan to Staff and the Office of the Public Counsel by September 1, PCC's conclusory allegations fail to demonstrate that its intervention would serve the public interest.

WHEREFORE, EDG requests that the Commission deny the Application to Intervene of Pittsburgh Corning Corporation.

Respectfully submitted,

/s/ **Jeffrey A. Keevil**

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<sup>1</sup> This will be further addressed in EDG's answer to Staff's complaint.

<sup>2</sup> PCC's Application to Intervene states that it was filed pursuant to 4 CSR 240-2.110(14)-(16), although this is the Commission's rule on Hearings rather than the rule on Intervention.

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing was sent to counsel for parties of record and counsel for Pittsburgh Corning Corporation by depositing same in the U.S. Mail, first class postage prepaid, by hand-delivery, or by electronic mail transmission, this 5th day of October, 2006.

**/s/ Jeffrey A. Keevil**

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