BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Gas Company of Joplin, Missouri for Authority to File Tariffs Increasing Rates for Gas Service Provided to Customers in the Missouri Service Area of the Company.	)))))	**Case No. GR-2009-0434** Tariff No. YG-2009-0855

EDG'S STATEMENT OF POSITIONS

COME NOW The Empire District Gas Company ("EDG"), a wholly-owned subsidiary of The Empire District Electric Company ("Empire"), and for its Statement of Positions in this matter respectfully states as follows to the Missouri Public Service Commission (the "Commission"):

EDG's Operations and the Rate Increase Request

On June 5, 2009, EDG submitted revised rate schedules designed to increase EDG's gross annual gas revenues by approximately $2.9 million, exclusive of applicable gross receipts, sales, franchise or occupational fees, and taxes. EDG also submitted the information required by 4 CSR 240-3.030(3)(B). The proposed tariff sheets carried an issue date of June 5, 2009, and a proposed effective date of July 5, 2009.

EDG provides natural gas service to approximately 45,000 gas customers in 44 communities in northwest, north central, and west central Missouri, including the cities of Sedalia, Nevada, Chillicothe, Platte City, and Maryville. EDG serves approximately 39,500 residential customers, 5,300 commercial and industrial customers, and 290 large and small transportation customers. The natural gas distribution system is served by three different interstate pipelines: Southern Star Central, Panhandle Eastern, and ANR. Empire has been operating this gas distribution business since June 1, 2006. (Gipson Direct, pp. 2-3)

This is the first rate case for EDG. Since the business operations were acquired from Aquila, Inc., EDG has been able to reduce expenses in some areas of the operation. For example, the annual administrative and general expenses associated with the gas business have been reduced from approximately $5.5 million to $4.2 million, or 23 percent. (Gipson Direct, p. 4) EDG has 53 employees directly tied to the business of providing natural gas service in Missouri. (Gipson Direct, p. 4) When Empire acquired the business from Aquila, all Aquila gas employees operating the gas distribution system in Missouri were offered jobs with EDG, and all but four accepted this employment offer. This helped to avoid much of the employee confusion and other upset that might have occurred with a change in ownership. (Gipson Direct, p. 3)

The major factors driving the need for this EDG gas rate case are the overall contraction in the number of customers served by the system and the continued decline in usage per customer. (Gipson Direct, p. 5) The reasons for the rate increase request are explained in more detail by Kelly Walters, Empire's Vice President-Regulatory and Services, on page three of her Direct Testimony. The decrease in system volumes is also explained by Ms. Walters, at pages three through five of her Direct Testimony.

As part of the rate case, EDG proposed to add several new energy efficiency programs, as outlined in the Direct and Rebuttal Testimony of EDG witness Sherrill McCormack. EDG considers its proposed energy efficiency programs to be directly linked with its rate design proposals. (Walters Direct, p. 3)

Suspension and Intervention Matters

On June 12, 2009, the Commission issued its Suspension Order and Notice, suspending EDG's revised tariff sheets from July 5, 2009, to November 2, 2009. By the Commission's Order of July 14, 2009, the Missouri Department of Natural Resources ("DNR"), Constellation

NewEnergy-Gas Division, LLC ("Constellation"), and Pittsburgh Corning Corporation ("Pittsburgh") were granted intervention in this matter. The Staff of the Commission ("Staff") and the Office of the Public Counsel ("OPC") are also parties to this case.

The Partial Stipulations and Agreements

On December 18, 2009, EDG, Staff, and OPC filed a non-unanimous Partial Stipulation and Agreement (the "Main Stipulation") in this matter. The Main Stipulation addresses all issues in this proceeding with the exception of the transportation tariff and the funding level of Demand Side Management ("DSM") programs. No party filed an objection to the Main Stipulation within the time permitted by the Commission's Rules, and the Commission may now treat this Main Stipulation as being unanimous.

Among other things, the Main Stipulation provides that the Commission direct EDG to file revised tariff sheets containing rate schedules for natural gas service designed to produce overall Missouri jurisdictional gross annual non-gas revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes, or similar fees or taxes, in the amount of $22,189,218 annually, an increase of $2,600,000. It also provides that the Commission direct EDG to file tariff sheets for service rendered on and after April 1, 2010, in conformity with the specimen tariff sheets attached as Appendix A to the Main Stipulation.

Although the funding level of DSM programs is not addressed in the Main Stipulation, it does address the programs to be implemented by EDG and the process by which the programs will be funded. The Main Stipulation provides that EDG shall implement the following programs: Low Income Weatherization, High Efficiency Water Heating, High Efficiency Space Heating, Home Performance of Energy Star, Large Commercial Audit and Rebate, Apogee, and Building Operator Certification ("BOC"). The Main Stipulation also provides that all expenses incurred related to these programs, including a reasonable assessment of lost margin revenues directly associated with participation in these Empire natural gas DSM programs, shall be included in a regulatory asset account that is amortized over a ten-year period for recovery of prudently incurred costs in the subsequent rate case.

Also on December 18, 2009, EDG, Staff, and OPC filed a non-unanimous Partial Stipulation and Agreement on DSM Funding and Implementation (the "DSM Stipulation"). Two of the non-signatories, Constellation and Pittsburgh, stated their non-opposition to the DSM Stipulation. On December 28, 2009, DNR filed a Notice of Position stating that DNR does object to the DSM Stipulation, and DNR requested a hearing on the issue of the funding level of DSM programs. Accordingly, the contents of the DSM Stipulation may be taken by the Commission as the positions of EDG, Staff, and OPC on the issue of the funding level of DSM programs.

If the Commission accepts and approves the Main Stipulation, only the transportation tariff and DSM funding level issues will remain contested and require determination by the Commission. Accordingly, and pursuant to the Joint List of Issues filed herein by Staff on December 29, 2009, EDG's Statement of Positions addresses only the issues related to the transportation tariff and the funding level of DSM programs.

<u>Demand Side Management and Energy Efficiency</u>

1. At what level should EDG make funding available for DMS and Energy Efficiency programs?

EDG Position: Pursuant to the DSM Stipulation and the agreement of EDG, Staff, and OPC, EDG submits that, with the exception of the Apogee and BOC programs which EDG agreed to implement following the filing of its Direct Testimony, EDG should fund and implement its DSM programs as described in the Direct Testimony of Sherrill McCormack. With the further exception, however, that the High Efficiency Water heating program should be implemented as described in Ms. McCormack's Direct Testimony except that the rebate amount for tank storage water heaters should be $50 per water heater until this amount is adjusted to reflect the higher incremental costs of the tank storage water heaters with an Energy Factor (EF) of .67 (which is scheduled to become the new Energy Star storage tank water heater EF criteria on September 1, 2010).

The Apogee and BOC programs should be implemented as set forth in the Rebuttal Testimony of EDG witness McCormack.

The positions of EDG on the funding level of DSM programs, as set forth in the Direct and Rebuttal Testimony of EDG witness McCormack, and pursuant to the DSM Stipulation, are summarized in the following table:

	Year 1	**Year 2**	**Year 3**
Low Income Weatherization	$71,500	$71,500	$75,000
High Efficiency Water Heating	$28,500	$28,500	$29,925
High Efficiency Space Heating	$51,750	$51,750	$54,338
Home Performance with Energy Star	$25,250	$25,250	$26,513
Large Commercial Audit and Rebate	$40,000	$40,000	$42,000
Building Operator Certification	$4,775	$4,803	$5,229
Apogee Calculators	$9,425	$9,425	$9,425
TOTALS	$231,200	$231,228	$242,430

Transportation Tariff

1. Should the Commission approve the changes proposed by EDG to its Transportation Service tariff, to-wit:

i) Require small-volume transportation customers to install telemetry equipment, at their own cost, including existing small-volume transportation customers?

EDG Position: Yes. The installation of telemetry by all transportation customers (except for those schools exempted by Missouri statute) is required to help EDG operate the system in a safe and adequate manner and provide a reasonable and accurate allocation of costs when EDG's storage and transportation arrangements are used by transportation customers. This approach avoids the potential for overcharging those customers who manage their systems efficiently and effectively.

Keith Rebuttal, pp. 6-7.

Keith Surrebuttal, pp. 2-4.

Overcast Rebuttal, pp. 1-10.

ii) Make small-volume balancing service available only to School Customers of transportation service and not to other existing small-volume transportation customers?

EDG Position: Yes. The Balancing service is designed to compensate EDG's firm customers for the transporters use of EDG's no notice storage service to balance. As proposed by EDG, it is a substitute for the use of telemetry and the Daily charge associated with those customers out of balance by more than the 10% allowed tolerance. Because Missouri statutes provide that School Customers may not be required to utilize telemetry (Section 393.310.4(3), RSMo), the Balancing service would still apply to School Customers even if all other transportation customers install telemetry.

Keith Rebuttal, pp. 8-10.

iii) Raise the charge for small-volume balancing service from $0.0075 per Ccf to $0.025 per Ccf?

EDG Position: Yes. The existing fee ($0.0075 per Ccf) has not been changed since Aquila, Inc. first implemented it in 2001. The charge for this service should be reviewed from time to time, as the revenue derived from the charge flows through to EDG's firm customers as a reduction to the Purchased Gas Adjustment (PGA). EDG's analysis of the storage and transportation costs reflected in EDG's October 20, 2009 Actual Cost Adjustment (ACA) filing on the south system (the largest of EDG's three systems) suggests a charge of $0.027 per Ccf. The $0.025 per Ccf charge proposed by EDG is therefore reasonable.

Keith Rebuttal, pp. 8-10.

Keith Surrebuttal, pp. 5-6.

iv) Add a new Daily Charge of $1.25 per Mcf for transportation customers whose nominations of gas supplies and deliveries of gas are out-of balance by more than 10% on a given day?

EDG Position: Yes. Large volume transportation customers do not currently pay a charge to EDG for balancing. This is a problem because although these customers have telemetry in place and the ability to better match nominations with usage, consumption rarely matches nominations on a daily basis. The over/under deliveries of gas are balanced by EDG using its pipeline storage and transportation arrangements. Without a daily balancing fee, there is little incentive for large volume transportation customers to match nominations and usage on a daily basis. EDG proposes to address this issue through the implementation of a Daily Charge of $1.25 per Mcf. This Charge would be applied to the daily imbalance after providing for a 10% tolerance. The proposed Daily Charge of $1.25 is slightly less than EDG's calculation of the weighted average cost of no notice service on the EDG system and is therefore reasonable.

Keith Rebuttal, pp. 10-14.

Keith Surrebuttal, pp. 5-6.

a) If "no," should all transport customers be subject to a balancing fee?

EDG Position: Yes. Transportation customers are currently balancing through utilization of the pipeline storage and transportation services that are paid for by EDG's firm customers. In the absence of a Daily charge associated with staying within an allowed tolerance, customers should pay their share of those pipeline storage and transportation charges through a balancing fee.

Keith Rebuttal, p. 8-10, 13-14.

Overcast Rebuttal, p. 1-10.

v) Add language to its transportation tariff regarding Operational Flow Orders (OFOs), including giving EDG the right to issue an OFO in its "sole judgment"?

EDG Position: Yes. EDG should have the discretion to call an OFO where it is necessary to preserve the operational integrity of EDG's system in order to provide safe and adequate service. EDG further suggests that any OFO would be limited, as practicable, to address only the problems giving rise to the need for the OFO.

Overcast Rebuttal, p. 10.

2. If telemetry is required for all small-volume transportation customers, as proposed by EDG, balancing service should continue to be provided during the transition period, as proposed by Staff.

EDG Position: EDG agrees that a period of transition, as proposed by the Staff, should be provided for existing customers. Those customers should be granted the ability to subscribe to the Balancing service until their telemetry can be installed.

Keith Rebuttal, pp. 14-15.

Request for Relief

EDG respectfully requests that the Commission accept and approve the Main Stipulation, and, accordingly, authorize EDG to file revised tariff sheets containing rate schedules for natural gas service designed to produce overall Missouri jurisdictional gross annual non-gas revenues, exclusive of any applicable license, occupation, franchise, gross receipts taxes, or similar fees or taxes, in the amount of $22,189,218 annually, an increase of $2,600,000, for service rendered on and after April 1, 2010. EDG also requests that the Commission accept the positions of EDG, Staff, and OPC pertaining to the funding level of DSM programs, and EDG submits that the Commission should accept its positions and authorize the changes requested by EDG with respect to its transportation tariff.

WHEREFORE, EDG respectfully requests that the Commission consider and adopt the recommendations and positions of EDG as set forth above.

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 31st day of December, 2009.

/s/ Diana C. Carter