

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

In the matter of the Application )  
for authority of Sendero SMGC LP Acquisition )  
Company, and Sendero SMGC GP Acquisition )  
Company to purchase the partnership interests ) Case No. GM-2005-0136  
of DTE Enterprises, Inc. and DTE Ozark, Inc. in )  
Southern Missouri Gas Company, L.P., and for )  
Southern Missouri Gas Company, L.P. to execute a )  
Deed of Trust, Security Agreement and Financing )  
Statement to secure a loan to complete the transaction. )

**SUPPLEMENTAL SUGGESTIONS IN OPPOSITION TO APPLICATION TO  
INTERVENE FILED BY EMPIRE DISTRICT ELECTRIC COMPANY**

Come now Sendero SMGC GP Acquisition Company ("Sendero GP Company"), and Sendero SMGC LP Acquisition Company ("Sendero LP Company")(collectively referred to as "Sendero"), and DTE Enterprises, Inc ("DTE Enterprises"), and DTE Ozark, Inc. ("DTE Ozark") (collectively referred to as "DTE") pursuant to 4 CSR 240-2.075, by and through its undersigned counsel, and respectfully requests that the Missouri Public Service Commission ("Commission") deny the Application To Intervene filed by The Empire District Electric Company ("Empire") on December 1, 2004. In order to bring certain crucial information to the attention of the Commission, Sendero and DTE wish to supplement their earlier Suggestions In Opposition to Application To Intervene of Empire District as follows:

1. On December 1, 2004, Empire filed its Application To Intervene in this proceeding. As its grounds for intervention, Empire stated:

Empire obtains natural gas transportation for its electric operations from an interstate pipeline, Southern Star Central Gas Pipeline, Inc., which also provides natural gas transportation to Southern Missouri Gas Company. It is Empire's understanding that said interstate pipeline is fully subscribed at

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the present time. Given this, Empire is concerned about the impact the proposed transaction could have on pipeline deliverability, although at this time Empire does not have sufficient information to fully assess said impact. (Empire's Application To Intervene, p. 2)

2. As previously indicated by DTE and Sendero in their Suggestions in Opposition To Application To Intervene Filed By Empire District Electric Company, the Commission should deny Empire's Application To Intervene since the matter raised by Empire to justify its intervention is not a matter within the jurisdiction or purview of this Commission. If Empire has a concern regarding the adequacy of the pipeline capacity of the Southern Star Central Gas Pipeline ("Southern Star"), it should discuss the matter directly with Southern Star (as Sendero already has), or in the alternative, in a FERC proceeding involving this interstate pipeline. This is not a matter that should be addressed in this proceeding.

3. As part of Sendero's due diligence efforts prior to signing the Agreement, Mr. Randal T. Maffett, President of Sendero Capital Partners, Inc., visited with representatives of Southern Star at length to discuss the current capacity situation on the Southern Star interstate pipeline, and various alternatives which may be feasible to alleviate the current constraints in conjunction with Sendero's growth plans and strategies for Southern Missouri Gas Company, L.P. ("SMGC"). In short, Sendero is fully aware of the current situation and its principals have extensive experience operationally as well as in the regulatory procedures, and otherwise to develop ideas and alternatives to meet the needs of SMGC's customers. (*See* Affidavit of Randal T. Maffett (attached)). It is therefore totally unnecessary to grant Empire's intervention merely to bring to the attention of Sendero representatives any capacity constraints that may exist on Southern Star's interstate pipeline.

4. In this proceeding, DTE and Sendero are seeking regulatory approval to transfer the equity interest of DTE in SMGC to Sendero, pursuant to their Agreement For Purchase Of Partnership Interests (dated November 15, 2004)(attached as proprietary Exhibit 2 to the Application)(hereinafter referred to as "the Agreement"). The Commission's decision to grant or deny this regulatory approval to change the ownership of SMGC will not affect in any way the amount of Southern Star's interstate pipeline capacity available to Empire or any other customer of Southern Star. As a result, Empire does not have an interest in this proceeding that would justify its request for intervention.

5. Based upon the foregoing, Empire's Application To Intervene should be denied. It remains Sendero's and DTE's position that Empire has completely failed to demonstrate how its interest in this case is different from that of the general public. DTE and Sendero were both fully aware of the capacity constraints on the Southern Star interstate pipeline system when they entered into the Agreement, and it is unnecessary to grant Empire's intervention in this proceeding to raise this issue.<sup>1</sup> As a result, Empire's intervention to discuss capacity issues on the Southern Star interstate pipeline is unnecessary and totally irrelevant to this proceeding.

6. Perhaps more importantly, the Commission should be aware that DTE conducted a competitive bidding process when it decided to divest itself of SMGC. In its Application to Intervene, Empire did not disclose that it participated in that competitive bidding process for SMGC, or that Empire was not the successful bidder for SMGC. (See Empire's Application To Intervene). As a result, DTE and Sendero are concerned

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<sup>1</sup> The Commission has also been aware of capacity constraints on the Southern Star system for years, and has dealt with issues that affect Missouri natural gas customers in interstate pipeline proceedings before the FERC. (See *e.g.*, Missouri PSC intervention in Southern Star Rate Case, FERC Docket No. RP04-276)

that Empire may have alternative motives to intervene since they were an unsuccessful bidder for SMGC.<sup>2</sup>

7. As explained in the Motion For Expedited Treatment filed by DTE and Sendero with their Joint Application in this proceeding, DTE and Sendero hope to close this transaction by December 31, 2004, or as soon thereafter as possible. \*\* \_\_\_\_\_

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\_\_\_\_\_.\*\* Given the fact that the winter heating season has already begun, it is particularly important to Sendero, as the buyer, that the transfer of ownership occur as soon as reasonably practical in order to maximize its revenues associated with SMGC's natural gas and transportation services. In addition, DTE desires to divest itself of SMGC as quickly as possible in order to utilize its invested capital in other ways. Finally, it is also in the interests of the existing employees of SMGC to resolve uncertainties related to the change of ownership of SMGC as quickly as possible. Therefore, it is very clear that delay in resolving this matter will be detrimental to the interests of DTE, Sendero, and SMGC's employees.

8. In summary, Empire has not exhibited any interest in this proceeding that is different from that of the general public, or that it will be adversely affected by a final order arising from this case, as required by 4 CSR 240-2.075(4). It has not shown that its intervention will promote the public interest. DTE and Sendero believe that Empire's

<sup>2</sup> In the event that the Commission grants Empire's Application to Intervene, Empire should not be given access to Highly Confidential or Proprietary information in this proceeding that could be used to the detriment of either DTE or Sendero or that may benefit Empire in any unstated competitive or strategic planning process. Additionally, Empire should not be permitted to conduct additional discovery in this proceeding since it has already had complete access to the due diligence materials provided by DTE in connection with the competitive bidding process for SMGC.

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intervention may result in discovery disputes and that the granting of an intervention of Empire to raise extraneous issues related to interstate pipeline capacity or any other unrelated matter will unnecessarily delay the approval process and adversely impact the financial interests of both DTE and Sendero.

WHEREFORE, DTE and Sendero, the Joint Applicants in this proceeding, respectfully request that the Commission deny Empire's request for intervention.

Respectfully submitted,

/s/ James M. Fischer

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COUNSEL FOR DTE AND SENDERO

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 13th day of December, 2004, to:

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/s/ James M. Fischer

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James M. Fischer

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**AFFIDAVIT OF RANDAL T. MAFFETT**

STATE OF TEXAS )  
 ) ss  
 COUNTY OF )


I, Randal T. Maffett, having been duly sworn upon my oath, state that I am duly authorized to make this affidavit on behalf of Sendero Capital Parnters, Inc. and that the matters set forth in this affidavit are true and correct to the best of my information, knowledge and belief. In addition, Randal T. Maffett further states as follows:

- I am the President of Sendero Capital Partners, Inc. which is a capital investment fund that focuses upon investments in the energy sector of the economy. I am the sole owner of Sendero Capital Partners, Inc., and have over 24 years in natural gas and related industries. Other investors in the Southern Missouri Gas Company, L.P ("SMGC") acquisition include: (1) CHx Capital, LLC which is an affiliate of Aspect Energy, LLC which is also a privately held energy investment company principally owned by Alex M. Cranberg with over 25 years in the energy industry; and (2) Mr. Michael J. Lewis, a private investor, who has over 28 years in the natural gas pipeline and distribution industry. Collectively, the Sendero investors represent more than 75 years in the natural gas, pipeline, distribution and related energy industries. Specific related industry experience includes natural gas pipeline engineering, operations and construction, corporate business development, finance and strategic planning, mergers and acquisitions, gas marketing and sales, safety and environmental as well as regulatory compliance at both state and federal levels.

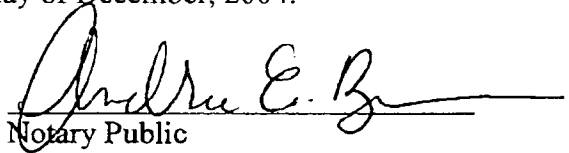
2. The purpose of this Affidavit is to provide to the Missouri Public Service Commission ("Commission") certain information related to my efforts to review interstate pipeline capacity issues related to Sendero's acquisition of Southern Missouri Gas Company, L.P. ("SMGC").
3. As part of Sendero's due diligence efforts prior to signing the Agreement For Purchase Of Partnership Interests (dated November 15, 2004) that is the subject of this proceeding, I visited with representatives of Southern Star at length to discuss the current capacity situation on the Southern Star interstate pipeline, and various alternatives which may be feasible to alleviate the current constraints in conjunction with Sendero's growth plans and strategies for SMGC. In short, Sendero is fully aware of the current situation and its principals have extensive experience operationally as well as in the regulatory procedures, and otherwise to develop ideas and alternatives to meet the needs of SMGC's customers. It is therefore totally unnecessary to grant Empire's intervention merely to bring to the attention of Sendero representatives any capacity constraints that may exist on Southern Star's interstate pipeline.
4. In this proceeding, DTE and Sendero are seeking regulatory approval to transfer the equity interest of DTE in SMGC to Sendero, pursuant to their Agreement For Purchase Of Partnership Interests (dated November 15, 2004)(attached as proprietary Exhibit 2 to the Application)(hereinafter referred to as "the Agreement"). The Commission's decision to grant or deny this regulatory approval to change the ownership of SMGC will not affect in any way the amount of Southern Star's interstate pipeline capacity available to Empire or any other customer of Southern Star. As a result, Sendero does not believe that Empire has an interest in this proceeding that would justify its request for intervention.
5. Given the fact that the winter heating season has already begun, it is particularly important to Sendero, as the buyer, that the transfer of ownership occur as soon as reasonably practical in order to maximize its revenues associated with SMGC's natural gas and transportation services. I also understand that DTE desires to divest itself of SMGC as quickly as possible in order to utilize its invested capital in other ways. Finally, I believe it is also in the interests of the existing employees of SMGC to resolve uncertainties related to the change of ownership of SMGC as quickly as possible. Therefore, it is very clear that delay in resolving this matter will be detrimental to the interests of DTE, Sendero, and SMGC's employees.



6. I hereby swear and affirm that the information presented herein is true and correct to the best of my information, knowledge and belief.

  
Randal T. Maffett

Subscribed and sworn before me this 13 day of December, 2004.

  
Notary Public

My Commission expires on March 13, 2006.

