

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

In the Matter of the Application of The Empire District)
Gas Company, for a Certificate of Public Convenience)
and Necessity Authorizing it to Construct, Install, Own,)
Operate, Control, Manage and Maintain a Natural Gas) Case No. GA-2007-_____
Distribution System to Provide Gas Service in Platte)
County, Missouri, as an Expansion of its Existing)
Certified Area.)

APPLICATION

COMES NOW The Empire District Gas Company (“EDG” or “Applicant”) by
and through the undersigned counsel, and for its Application pursuant to §393.170
RSMo, 4 CSR 240-2.060 and 4 CSR 240-3.205 for a certificate of public convenience
and necessity, respectfully states as follows:

1. EDG is a corporation organized and existing under the laws of the State of
Kansas, with its principal office located at 602 Joplin Street, Joplin, Missouri 64802.

EDG is a “gas corporation” and a “public utility” as those terms are defined in Section
386.020 RSMo and as such is subject to the jurisdiction of the Missouri Public Service
Commission (“Commission”) as provided by law. EDG provides natural gas service in
the Missouri counties of Cooper, Henry, Johnson, Lafayette, Morgan, Pettis, Platte, Ray
Saline, Vernon, Chariton, Grundy, Howard, Linn, Atchison, Holt, Nodaway, Andrew and
Livingston.

2. EDG was authorized to provide natural gas service pursuant to authority
granted by the Commission in Case No. GO-2006-0205, by Commission Order issued on
April 18, 2006. Included in such authority was a certificate of convenience and necessity

to provide natural gas service in what were previously the service areas of Aquila, Inc., d/b/a Aquila Networks – MPS and Aquila Networks – L&P. A certified copy of EDG’s Certificate of Authority to do business as a foreign corporation evidencing EDG’s authority to conduct business in Missouri was submitted in Case No. GO-2006-0205 and is incorporated herein by this reference. EDG has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court within the past three years that involve customer service or rates. EDG has no annual report or assessment fees that are overdue.

3. All correspondence, pleadings, communications, notices, orders and decisions of the Commission with respect to this matter should be sent to the undersigned counsel and to the following:

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4. Attached hereto, incorporated herein by reference and marked as **Appendix A** is the legal description of the area to be certificated, which is Sections 13, 14, 15, 22, 23 and 24, Township 52 North, Range 35 West in Platte County, Missouri.

EDG already has a certificate from the Commission to serve adjacent sections 10, 11 and 12 in that same Township and Range, in addition to numerous other sections in Platte County.

5. Attached hereto, incorporated herein by reference and marked as **Appendix B** is a map of the location of the proposed service area.

6. Attached hereto, incorporated herein by reference and marked as **Appendix C** is a feasibility study containing an estimate of the cost of construction during the first three years of construction and the estimated annual margin to be received from customers during the first three years of operation. The overall net cost of the project will be paid for by Applicant or customer supplied funds pursuant to EDG's extension policy and no external financing for construction related to this area will be necessary. Construction methods will follow EDG's customary standards and the rules of the Commission. EDG's existing rates and regulations for natural gas service contained in its tariff for the Southern or South system, as the same may change from time to time pursuant to law, will apply to service in the proposed area.

7. Attached hereto, incorporated herein by reference and marked as **Appendix D** is a list of residents or landowners in the proposed service area.

8. The area in which EDG is seeking to be certificated hereby is expected to develop and require natural gas service; in fact, the area west of I-435 as shown on the attached map is already growing from three directions. Furthermore, EDG currently holds a franchise from Platte City (shown on attached map) to provide natural gas service within Platte City. The area in which EDG is seeking to be certificated hereby includes territory for which Platte City has announced future annexation plans. To the best

knowledge of EDG, service from a Commission authorized natural gas supplier is not available in the proposed area at the present time. Because EDG does not have a certificate from the Commission for the area where potential customers are located, it is necessary for EDG to obtain the requisite permission from the Commission. Since EDG currently holds a franchise from Platte City and an order from Platte County authorizing use along, across, or under the roads, highways and public ways of Platte County, EDG will not require any additional franchises or permits from municipalities, counties or other authorities in connection with the proposed construction other than the usual and customary state highway, railroad and county road permits which will be obtained prior to construction. Since EDG has the franchise and the ability to provide service in this area by construction of additions to existing facilities, EDG believes that potential new customers in the proposed area should be afforded the opportunity to take service from EDG if they so desire, pursuant to EDG's tariffs. These facts support a finding that the granting of the Application is required by the public convenience and necessity.

9. No gas transmission lines are required to be constructed as a part of this Application.

10. Accordingly, the Commission should grant EDG a certificate of convenience and necessity to construct, install, own, operate, control, manage and maintain a system for the provision of natural gas service to the public pursuant to its approved rates, rules and regulations in Sections 13, 14, 15, 22, 23 and 24, Township 52 North, Range 35 West in Platte County, Missouri.

11. Although to the best knowledge of EDG, Commission authorized service from a natural gas supplier is not available in the proposed area at the present time, in a

related case currently pending before the Commission (Case No. GA-2007-0289) Missouri Gas Energy (“MGE”) has requested a certificate of convenience and necessity from the Commission to construct, install, own, operate, control, manage and maintain a system for the provision of natural gas service to the public in Sections 13 and 14, Township 52 North, Range 35 West in Platte County, Missouri. In its Application in Case No. GA-2007-0289, MGE claims that it “already has a certificate from the Commission to serve adjacent sections 11 and 12 in that same Township and Range” and according to the map attached to its Application in that case as Appendix A, MGE also claims to have a certificate from the Commission for sections 1, 2, 3 and 10 in that same Township and Range and for sections 4, 5 and 6 in Township 52 North, Range 34 West in Platte County, Missouri.

12. EDG disputes that MGE has a certificate from the Commission for sections 1, 2, 3, 10, 11 and 12 in Township 52 North, Range 35 West and sections 4, 5 and 6 in Township 52 North, Range 34 West, in Platte County, Missouri. Those land sections were among the areas previously certificated to Missouri Public Service (**see Case No. 13,172**), and, therefore, are among the areas for which EDG was granted a certificate in Case No. GO-2006-0205. Furthermore, EDG already has facilities in section 12 of Township 52 North, Range 35 West in Platte County that have served customers in section 12 for at least 10 years prior to MGE’s unauthorized construction of distribution facilities in section 12.¹

13. As stated in EDG’s Application to Intervene in Case No. GA-2007-0289, EDG believes that it, and not MGE, has a certificate from the Commission for sections 1,

¹ EDG would note that MGE also has some facilities constructed within section 12 of Township 52 North, Range 35 West, although EDG does not believe MGE has a certificate for this section.

2, 3, 10, 11 and 12 in Township 52 North, Range 35 West and sections 4, 5 and 6 in Township 52 North, Range 34 West, in Platte County, Missouri, as set forth in the Commission's decision in Case No. 13,172. By its Application in Case No. GA-2007-0289, MGE appears to be seeking Commission approval of past and further encroachment into EDG's certificated area² in Platte County. Furthermore, EDG already has facilities in section 12 of Township 52 North, Range 35 West in Platte County, which section is adjacent to those for which MGE seeks a certificate.

14. As set forth above, EDG disputes that MGE has a certificate from the Commission for sections 1, 2, 3, 10, 11 and 12 in Township 52 North, Range 35 West and sections 4, 5 and 6 in Township 52 North, Range 34 West, in Platte County, Missouri. This is because, to date, EDG has been unable to locate any Commission orders granting MGE (or its predecessors) a certificate of public convenience and necessity for these sections. However, despite the absence of any order granting MGE a certificate for these sections, MGE's tariff does list these sections as part of its service area. Furthermore, as set forth above, EDG would note that MGE also has some facilities constructed within section 12 of Township 52 North, Range 35 West, although EDG does not believe MGE has a certificate from the Commission to provide natural gas service in this section. Unlike MGE, EDG clearly has a certificate from the Commission for sections 1, 2, 3, 10, 11 and 12 in Township 52 North, Range 35 West and sections 4, 5 and 6 in Township 52 North, Range 34 West, in Platte County, Missouri (see Case No. 13,172). Given the confusion and conflict caused by MGE's erroneous tariff description, and to prevent further confusion and conflict arising in the future regarding this matter,

² As noted in footnote 1 above, MGE has already constructed, and continues to construct, some facilities in part of EDG's certificated area.

the Commission should take this opportunity to clarify precisely where MGE is currently certificated in Platte County; order MGE to file corrected tariff sheets that reflect only its certificated service area in Platte County; order MGE to transfer its distribution facilities in areas of Platte County in which it is not certificated to EDG at net book value; and order MGE to cooperate fully with EDG in the transfer of customers affected to EDG so as to minimize any potential service impact.

15. Because the instant case and Case No. GA-2007-0289 concern the same service territory (although the instant case concerns four additional land sections, both cases concern Sections 13 and 14, Township 52 North, Range 35 West in Platte County, Missouri) and similar legal and factual issues, EDG believes that it would be the most efficient use of the Commission's and the parties' time and resources to consolidate the two cases.

WHEREFORE, EDG respectfully requests an order from the Commission (a) granting it a certificate of convenience and necessity to construct, install, own, operate, control, manage and maintain a system for the provision of natural gas service to the public pursuant to its approved rates, rules and regulations (as the same may change from time to time as provided by law) in Sections 13, 14, 15, 22, 23 and 24, Township 52 North, Range 35 West in Platte County, Missouri; (b) clarifying precisely where MGE is currently certificated in Platte County, ordering MGE to file corrected tariffs reflecting only its certificated area in Platte County, ordering MGE to transfer its distribution facilities in areas of Platte County in which it is not certificated to EDG at net book value and ordering MGE to cooperate fully with EDG in the transfer of customers affected to EDG so as to minimize any potential service impact; (c) consolidating this case with Case

No. GA-2007-0289; and (d) making such further orders and granting such further relief as the Commission deems necessary and appropriate.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing was sent to the following by depositing same in the U.S. Mail first class postage paid, by hand-delivery, or by electronic transmission, this 30th day of May, 2007.

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