

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

In the Matter of the Application of Missouri Gas Energy,)
a Division of Southern Union Company, for a Certificate)
of Public Convenience and Necessity Authorizing it to)
Construct, Install, Own, Operate, Control, Manage and) Case No. GA-2007-0289, et al.
Maintain a Natural Gas Distribution System to Provide)
Gas Service in Platte County, Missouri, as an Expansion)
of its Existing Certified Area)

**THE EMPIRE DISTRICT GAS COMPANY
STATEMENT OF POSITION**

COMES NOW The Empire District Gas Company ("Empire") or ("EDG"), by and through the undersigned counsel, and submits this Statement of Position on the issues set forth below pursuant to the procedural schedule established herein. It is the understanding of the undersigned that the Statements of Position which have been ordered in this case are not to be in the form of prehearing briefs but, rather, are to merely contain concise statements of a party's position on the issues. Although this Statement of Position addresses the issues set forth in the List of Issues filed herein by Staff on October 5, 2007, EDG reserves the right to cross-examine witnesses, present argument and submit post-hearing brief (s) as to any issues it deems necessary if the need arises at a later date.

ISSUES

1. Who has a certificate of convenience and necessity (CCN) to serve T52N, R35W sections 1, 2, 3, 10, 11, and 12 and T52N, R34W sections 4, 5 and 6, all in Platte County, Missouri?

RESPONSE: EDG takes the position that it has the CCN to provide natural gas service in the aforementioned sections of Platte County, Missouri, and that Missouri Gas Energy (“MGE”) does not hold a CCN to provide natural gas service in the aforementioned sections of Platte County, Missouri. This position is supported by the direct and rebuttal testimony of Mr. Ronald F. Gatz.

2. Should Missouri Gas Energy (MGE) be granted a CCN to serve T52N, R35W sections 13 and 14 in Platte County, Missouri?

RESPONSE: No. EDG takes the position that MGE should not be granted a CCN to serve T52N, R35W sections 13 and 14 in Platte County, Missouri as the sections requested are adjacent to sections where EDG already holds the CCN and the housing development moving into sections 13 and 14 originated in section 12, a section for which EDG holds the CCN to provide natural gas distribution service. This position is supported in the direct, rebuttal and surrebuttal testimony of Mr. Ronald F. Gatz. Furthermore, to the extent that MGE has constructed natural gas facilities or provided natural gas service in section 12 without receiving the necessary authorization from the Commission, MGE should not be rewarded for such action by receiving a CCN to serve sections 13 and 14 as an extension of its unauthorized service in section 12.

3. Should Empire District Gas (EDG) be granted a CCN to serve T52N, R35W sections 13, 14, 15, 22, 23 and 24, in Platte County, Missouri?

RESPONSE: Yes. EDG takes the position that it should be granted a CCN to serve the aforementioned sections in Platte County, Missouri due to the fact that these sections are adjacent to land sections where EDG already holds a valid CCN to provide natural gas service, and the issuance of a CCN to EDG to provide service in the aforementioned sections will provide for continuity of natural gas providers in the area, promote the public interest and provide for the safe and adequate delivery of natural gas. EDG is qualified to provide the service and has the requisite financial ability, its proposal is economically feasible, the service is needed and EDG's proposal would promote the public interest. This position is supported by the direct testimony of Ronald Gatz and Dan Klein of EDG.

4. Has the Commission granted MGE a CCN authorizing MGE to provide natural gas service for Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Township 52 North, Range 35 West; Sections 1, 2, 3, 4, 5 and 6 of Township 52 North, Range 34 West; Sections 1 and 12 of Township 52 North, Range 36 West; and Sections 4, 5 and 6 of Township 52 North, Range 33 West, all in Platte County, Missouri? If the Commission has not granted MGE a CCN authorizing MGE to provide natural gas service in these Sections of land, should the Commission order MGE to correct the service territory descriptions in its existing tariffs by excluding references to these Sections?

RESPONSE: EDG takes the position that the Commission has not granted a CCN to MGE for these sections of Platte County, Missouri, and that the Commission should order MGE to correct the service territory descriptions included in its existing tariff by excluding the aforementioned sections¹. This position is supported by the direct and rebuttal testimony of Ronald Gatz.

5. Has MGE constructed, installed, owned, operated, controlled, managed and/or maintained natural gas distribution facilities (gas plant) and/or provided natural gas service without first obtaining the required authorization from the Commission in Sections 10, 11, 12, 13 and 14 of Township 52 North, Range 35 West, in Platte County, Missouri? If so, what remedy(ies) or relief should the Commission order?

RESPONSE: EDG takes the position that MGE installed and operated natural gas distribution facilities in the aforementioned sections without obtaining the required authorization (s) from the Commission, and the Commission should order MGE to cease operating/providing service as a natural gas distribution company in these sections and sell the facilities to EDG at net book value or in the alternative to abandon these facilities at the time EDG commences to provide natural gas service to these customers. In addition, the Commission should direct its General Counsel's Office to seek injunctive and/or other necessary and appropriate relief against MGE in court, as an incentive for MGE to participate in an orderly transfer of these customers and facilities from MGE to EDG and ensure

¹ Except Section 6, T52N, R33W, which is apparently already excluded from MGE's existing tariffs.

safe and adequate service in these sections of land. This position is supported in the direct testimony of Ronald Gatz.

6. Should the Commission order MGE to formally provide notice to EDG of any future contact MGE has with developers in areas adjacent to the EDG service area boundaries in Platte County so that EDG can determine where and when future development is occurring along its boundaries?

RESPONSE: EDG takes the position that MGE should be ordered to provide notice to EDG of any future development that is taking place along the borders of the EDG service territory in Platte County, Missouri to avoid any further encroachment into EDG's territory by MGE. This position is supported by the surrebuttal testimony of Ronald Gatz.

Respectfully Submitted,

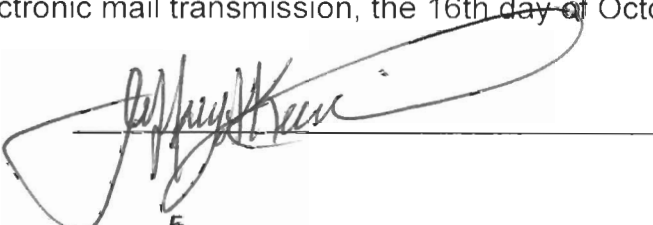


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was sent to counsel for parties of record by depositing same in the U.S. Mail, First class postage prepaid, by hand-delivery, or by electronic mail transmission, the 16th day of October, 2007.



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