

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

In the Matter of the Application of	)	
The Empire District Gas Company for a	)	Case No. _____
waiver from the application of certain tariff	)	
language regarding refunds.	)	

**APPLICATION FOR WAIVER**

Comes now The Empire District Gas Company ("EDG" or "Company"), and for its application pursuant to 4 CSR 240-2.060, 4 CSR 240-3.015 and MPS P.S.C. Mo. No. 1, Sheet (s) No.53 through 64 of its tariff for a waiver of certain tariff language regarding refunds and a waiver of certain tariff language regarding the time limit of 60 days between unscheduled PGA filings, respectfully states as follows:

1. EDG is a Kansas corporation with its principal office and place of business at 602 Joplin Street, Joplin, Missouri 64802. EDG is authorized to conduct business in Missouri and engaged in providing natural gas and heating company utility service in Missouri in those areas certificated to it by the Commission. A certified copy of EDG's Certificate of Authority to do business in this state as a foreign corporation was filed with the Commission in Case No. GO-2006-0205 and said documents are incorporated herein by reference in accordance with 4 CSR 240-2.060(1) (G).

2. EDG is a "gas corporation," a "heating company" and a "public utility" as those terms are defined in Section 386.020 R.S.Mo. 2000. Consequently, it is subject to the jurisdiction and supervision of the Commission as provided by law.

3. EDG has no pending action or final unsatisfied judgments or decisions against it from a state or federal agency or courts, which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this Application.

4. EDG has no overdue Commission annual reports or assessment fees.

5. All correspondence, communications, notices, order and decisions of the Commission with respect to this matter should be sent to the undersigned counsel, and to:

W. Scott Keith  
Director of Planning and Regulatory  
The Empire District Electric Company  
602 Joplin Street  
Joplin, Missouri 64082  
Tel: (417)-625-4266  
Fax: (417)-625-5173  
Email: skeith@empiredistrict.com

6. EDG is filing this Application for Waiver because during the final closing of the acquisition of the Aquila, Inc. (“Aquila”) natural gas operations in the state of Missouri it became aware of two Kansas *ad Valorem* tax refunds from Southern Star Central Pipeline in the Federal Energy Regulatory Commission (“FERC”) Docket No. RP98-52-000. EDG believes that a waiver from current tariff provisions is necessary since there are current transportation customers on the Missouri natural gas system that were sales customers and paid rates that included these overcharges during the 1983 through 1988 period. In addition, the Missouri Public Service Commission (“Commission”) found that such a waiver was warranted in Case No. GE-2004-0528. The circumstances surrounding this particular *ad Valorem* tax refund are almost identical to those in Case No. GE-2004-0528.

7. EDG Tariff Sheet (s) No. 53 through 64 provides that refunds received and allocated to Firm customers shall be refunded to such customers as a reduction in Purchased Gas Adjustment (“PGA”) rates, over a twelve-month period. In this application EDG proposes to use this existing PGA tariff language to credit the sales service customers’ bills with their portion of the *ad Valorem* refund over a twelve-month period (See Appendix E, Revised Tariff Sheet 61). The existing PGA tariff also provides for Transportation customers to receive refunds for only TOP or TC amounts received from the pipeline. This is the tariff language from which EDG is seeking a waiver in this application. Absent this waiver, those current transportation customers who were sales service customers during the refund period 1983 – 1988 would not share in any of the *ad Valorem* refund proceeds. The Missouri natural gas system operated by Aquila, Inc. and purchased by EDG on June 1, 2006, received two refunds from Southern Star Central

Pipelines (SSCP). One refund in the amount of \$71,698 was received by Aquila on September 4, 2001. Another refund was received by Aquila on August 13, 2004 in the amount of \$617,888.

8. EDG proposes that all current sales service customers will receive a reduction in the refund factor applied to their individual monthly bills beginning with usage on and after January 1, 2007. The refund volumetric rate will be calculated as follows: (1) the total refund from the pipeline will be distributed to those customers on the system served by those pipeline, (2) class usage from the overcharge period (1983-1988) will be used to determine that amount of refund attributable to sales service and transportation classes, and (3) the class volumes for the period March 2005 to February 2006 will be used to determine a refund rate for the transportation rate classifications, including large and small volume customers, while the estimated sales for the period January 1, 2007 through December 31, 2007 will be used to develop a refund factor for the sales service customers. The following tables show the calculation of the refund rate for each pipeline and customer class:

<b>Description</b>	<b>Sales Service</b>	<b>Transportation</b>	<b>Total</b>
Usage as % of Total	72.03%	27.97%	100.00%
Class Refund (Line 2 x Refund Amount)	\$591,566	\$224,995	\$816,561
Class Usage (Mcf)	3,105,718	2,738,086	5,843,804
Refund Rate (per Mcf) (Line 3 / Line 4)	\$0.19048	\$0.08217	

9. Most of the customers that took Large Volume sales service in 1983-1988 have moved off those rate schedules, and are currently transportation customers. EDG does not possess 1983-1988 customer usage, rate or revenue data that is necessary to calculate individual refunds for these customers. In addition, since the 1988 a small volume transportation class has been established, and many small volume sales service customers, primarily schools, have moved from the sales service classification to small volume transportation. The estimated sales volumes associated with this small volume transportation service have been included in the transportation category and the allocation of the refund for the transportation class has been

calculated after adjustment for this transfer.

10. EDG proposes that the Commission grant it a waiver such that current transportation customers, both large and small, may share in the Kansas ad Valorem refund by establishing proof that they were sales service customers on the Aquila Missouri natural gas system, MPS-South, in the 1983 through 1988 time period. EDG proposes the following process for calculating the refunds to these customers:

- A. A current large and small volume Transportation customer may furnish EDG with proof that it was a sales service customer on the Aquila Missouri natural gas system, MPS-South during the 1983-1988-refund period. If such customer proves such status by providing EDG with copies of natural gas bills, cancelled checks or customer accounting records, EDG will distribute a refund to those customers at the rate of \$0.08217 per Mcf for customers served on the Aquila MPS-South natural gas system during this refund period. The refund will be calculated by applying the applicable refund rate times each customer's recent actual annual usage. EDG proposes to calculate refunds based on usage from the period March 2005 to February 2006 as a reasonable substitute for usage during the overcharge period. The refund available for distribution to the transportation customers under this provision will not exceed \$224,995 for the Southern system. In total, the ad Valorem refund available for distribution to the EDG sales service customers will not exceed \$591,566 on the EDG South gas system. See Appendix B. The Company will determine whether the proof furnished by a current transportation customer provides a sufficient proof of status as a sales service customer during the overcharge period of 1983 - 1988.
- B. EDG proposes to exclude certain current Large Volume Sales and Large Volume Transportation customers that began service as an Aquila gas customer after the overcharge period of 1983 - 1988. The customers to be excluded from the ad Valorem refund are displayed on Appendix C to this application. These large

volume customers did not pay the 1983 – 1988 overcharge and should not receive a portion of this *ad Valorem* refund. The current annual volumes attributable to these customers are shown on Appendix C, and have been excluded from the refund calculations displayed on Appendix B to this application.

- C. After approval of this plan, all current transportation customers receiving transportation service will be provided with a notice of the impending refund and advised therein of their opportunity to furnish the Company with proof as described in this section within 30 days. The Company will prepare the draft notice and provide notice to its large and small volume transportation customers.
- D. Transportation customers that qualify for a refund will receive their refunds by check if such refund exceeds one hundred dollars (\$100.00). All other refunds may be made by bill credit. Any portion of the refund that is not distributed to the current Transportation customers will be credited to the system PGA account as defined on EDG Sheet (s) 53 through 64.

11. Appendix A, attached hereto, provides the volumes sold by class for the period of the *ad Valorem* Refund. Sales statistics for individual customers for the refund period are not available. Class usage data found in the Aquila FERC Form 2 Filings for the years 1983 – 1988 is available and was used to determine the usage per class on Attachment A. The Aquila FERC Form 2 data is for the total MPS natural gas system; the allocation percentages for the Aquila Southern system was calculated by applying the current total system class percentage to the refund (s). In addition, the transportation and sales service volumes for the refund period of 1983 through 1988 have been adjusted to reflect the transition of small volume sales service customers to the small volume transportation rate.

12. Appendix B provides the refund amount for each class and the resulting refund rates for each class, based upon the expected natural gas usage for the residential and small volume classes for the period January 1, 2007 to December 31, 2007 and based on the twelve-month usage for the period March 2005 through February 2006 for the large and small volume

transportation rate classes. Bill credits or checks for the large and small volume transportation rate classifications would be issued the month immediately following the Commission order approving this refund distribution plan and the individual transportation customer providing proof of sales service from Aquila during the period 1983 - 1988.

13. Appendix C to this application displays those current large volume customers that EDG has proposed be excluded from the ad Valorem refund.

14. Appendix D to this application displays the interest that has been accrued on the ad Valorem tax refund by Aquila and EDG, and included as part of the amounts to be refunded to the current natural gas customers.

15. Appendix E is the proposed revised tariff Sheet No. 61 that will be used to refund the sales service customers portion of the ad Valorem refund.

16. Granting the requests for waiver will expedite the customers' receipt of the benefit of the Kansas *ad Valorem* tax refunds received from the Southern Star Central Pipeline as a result of FERC action. In addition, absent the waiver, the large and small volume transportation customers would not share in any of the ad Valorem refund. EDG filed this application as soon as practicable after being apprised of the subject refunds by Aquila during the final closing of the acquisition of the natural gas property.

WHEREFORE, The Empire District Gas Company seeks an order from the Commission, only with reference to this particular instance involving Kansas *ad Valorem* tax refunds received from Southern Star Central Pipeline, Docket No. RP98-52-000, as described above, which:

- a. Waives the provisions of the EDG PGA tariff Sheet (s) No. 53 through 64 requiring a tariff filing by EDG to implement such refund by way of a prospective reduction in the PGA rate that would exclude transportation customers from sharing in the refund;
  - b. Waives the provisions of the EDG PGA tariff that prohibit a PGA rate change within 60 days of a prior PGA/ACA filing;
  - c. Authorizes EDG to refund such monies as proposed in paragraphs 8-15 above;
- and,

- d. Becomes effective no later than December 31, 2006.

Respectfully submitted,

/s/ **Charles Brent Stewart**

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ATTORNEYS FOR  
THE EMPIRE DISTRICT GAS COMPAY

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was hand-delivered, or sent by electronic mail, on December 1, 2006, to the following:

Kevin Thompson  
Office of the General Counsel  
P.O. Box 360  
Jefferson City, Mo 65102

Lewis R. Mills  
Office of the Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102

/s/ **Charles Brent Stewart**

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