

**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
Maintain a Natural Gas Distribution System to Provide)
Gas Service in Platte County, Missouri, as an Expansion)
of its Existing Certified Area)

APPLICATION TO INTERVENE

COMES NOW The Empire District Gas Company (“EDG”) by and through the undersigned counsel, and pursuant to 4 CSR 240-2.075 and the *Order Directing Notice and Setting Date for Submission of Intervention Requests* issued by the Commission in the above-captioned case on February 2, 2007, applies to intervene and become a party in the above-referenced case and, in support of this Application to Intervene 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, among other areas, a portion of Platte County, Missouri.
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. In the *Order Directing Notice and Setting Date for Submission of Intervention Requests* issued by the Commission in the above-captioned case on February 2, 2007, the Commission ordered that any party wishing to intervene shall file an application to do so no later than February 22, 2007. EDG’s request to intervene is therefore being timely filed.

5. In the Application which initiated this case, Missouri Gas Energy (“MGE”) requests 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, 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 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.

6. 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 GO-2006-0205. Furthermore, EDG already has facilities in section 12 of Township 52 North, Range 35 West in Platte County¹.

7. MGE’s Application does not contain construction plans and specifications which show how or where MGE will construct the new facilities and connect them to its current facilities or if such construction will require MGE to construct in or through those sections of land discussed in paragraph 6 above for which EDG does not believe MGE has a certificate. Furthermore, MGE’s Application does not show where MGE’s

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.

proposed construction of new facilities would be in relation to EDG's existing facilities, which could result in a concern regarding public safety.

8. EDG's interest and reasons for seeking intervention are that it believes it, and not 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, and by its Application MGE appears to be encroaching on EDG's certificated area². 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. It is impossible to tell from MGE's Application where MGE's new construction would be in relation to EDG's existing facilities or EDG's existing certificated area. Since EDG – not MGE – has a certificate for adjacent sections 11 and 12, and since EDG is fully capable of providing natural gas service in the two sections for which MGE is requesting a certificate, the facts do not support a finding that the granting of a certificate to MGE for those two sections of land is required by the public convenience and necessity. Accordingly, EDG opposes the relief sought by MGE, and to the extent that it is required to do so at this time, EDG requests a hearing be set in this matter, after an adequate length of time has been allowed for the conduct of discovery and filing of testimony.

9. EDG's unique interest in this proceeding as a supplier of natural gas service with investment in existing facilities in the area adjoining MGE's requested area, which is fully capable of providing natural gas service in the two sections for which MGE is requesting a certificate and which holds a certificate from this Commission for

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

several of the same sections of land adjoining and near the requested area for which MGE claims to hold a certificate, through which MGE may plan to construct, is different from that of the general public, cannot be adequately represented by any other party to this case, and may be adversely affected by a final order arising out of the case. EDG's unique perspective, and the evidence which EDG will be able to provide to the Commission, will be helpful, relevant and necessary for the public interest determination required of the Commission under Section 393.170 RSMo. For all of these reasons, granting EDG's intervention request and allowing EDG to fully participate as a party in this case will be in the public interest.

WHEREFORE, having timely complied with the requirements of 4 CSR 240-2.075, EDG respectfully requests that the Commission (i) grant this Application to Intervene and permit EDG to intervene herein and become a party to this proceeding for all purposes, (ii) set this matter for hearing and after such hearing deny MGE's requested certificate, and (iii) issue such further orders and grant such further relief as to the Commission seems 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 21st day of February, 2007.

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