

Exhibit No.: _____
Issue: In the Matter of Union Electric Company d/b/a Ameren Missouri's
Tariffs to Increase its Revenues for Natural Gas Service
Witness: Louie R. Ervin Sr.
Exhibit Type: Surrebuttal
Sponsoring Party: Missouri School Boards' Association
Case No.: GR-2019-0077
Date: July 10, 2019

MISSOURI PUBLIC SERVICE COMMISSION

CASE No. GR-2019-0077

SURREBUTTAL TESTIMONY

OF

LOUIE R. ERVIN, SR.

ON BEHALF OF

MISSOURI SCHOOL BOARDS' ASSOCIATION

**Jefferson City, Missouri
July 10, 2019**

General

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Q. Whose testimonies are you rebutting?

A. I am rebutting testimonies of Ameren’s Mr. Harding, Staff’s Mr. Patterson, and Spire’s Mr. Keathley.

Q. There seems to be a lot of confusion by Staff’s Mr. Patterson and Company’s Mr. Harding as to why MSBA is in this docket and what it is proposing; will you please clear up the record on this?

A. Yes, perhaps I wasn’t clear in my testimony. MSBA is NOT proposing to eliminate “balancing.” MSBA is NOT proposing that Ameren eliminate “cash-out” and adopt Spire’s tariff. MSBA is NOT proposing that Company review every school nomination every day.

Q. Why is MSBA in this case?

A. MSBA is in this case to: (1) address the narrow \$2400 issue of whether Ameren’s school cash-out price is cost-based in compliance with Section 393.310 RSMo. and is just and reasonable; and, (2) recommend that Ameren’s tariff provisions that are specific only to schools be located in a separate rate schedule section.

Q. Will you put the dollar amount of the cash-out issue in perspective relative to Ameren’s total requested revenue?

A. For the 11 months of data that Ameren provided, ending May 2019, MSBA’s school pool paid to Ameren about \$2,400 in cash-out fees that were in excess of full market price. These penalties, or excess cash-out charges, equate to about 0.002% of Ameren’s requested annual revenue of \$136,194,385. MSBA’s school pool is by far the largest of

1 all other school pools, so the penalty cash-out issue for all school pools combined will
2 likely be less than 0.5% of the expenses of all parties in this case.

3 **Q. Has MSBA attempted to resolve this issue without the substantial expenses of being**
4 **in this rate case?**

5 A. Yes. MSBA is mindful that schools need to preserve funds for classroom needs.
6 Aggregate purchasing of natural gas provides a savings opportunity for schools, absent a
7 lot of regulatory expenses and utility fees in excess of the cost of serving them. Over the
8 past 17 years, MSBA tried to limit involvement in rate cases because the school
9 aggregate purchasing program issue is very small relative to the expense of navigating a
10 multitude of rate case matters that are not unique to schools.

11 **Q. Is it normally expected that the Company and Staff would ensure that the interests**
12 **of schools are equally represented in rate cases without the need for MSBA to**
13 **participate in this case?**

14 A. Yes, but MSBA intervened in this case because its experiences with both Staff and
15 Company have been that they only recommend rejection of school recommended changes
16 without really researching alternative solutions.

17 **Q. What has MSBA done outside of this case to work with utilities and Staff to resolve**
18 **MSBA's narrow issue?**

19 A. MSBA participated in the last Spire consolidated cases with a focus only on the school
20 program and reached a stipulated agreement which was approved by the Commission.
21 MSBA has attempted to obtain more statewide consistency with regard to cash-out and
22 compliance with the school program enabling statute, Section 393.310 RSMo. In addition
23 to the Commission-approved Spire East and Spire West settlements, MSBA recently

1 reached cash-out agreements with Liberty, Empire, and Summiton cash-out to be
2 submitted for Commission consideration. But, when those agreements were discussed
3 with Staff, the Staff was opposed. So those three utility agreements are being held in
4 abeyance pending the outcome of this Ameren case. MSBA also had discussions with
5 Ameren but no agreement was reached. It appears to MSBA that Staff is opposed to
6 everything MSBA proposes but never offers a single alternative solution to punitive cash-
7 outs; so, MSBA appeals to the Commission to approve MSBA's proposed cash-out
8 solution in this case and correct Ameren's punitive, non-cost-based cash-out provisions.

9 **Stand-alone School-only Rate Schedule Provisions**

10 **Q. Will you clarify MSBA's recommendation that the multiple provisions that are**
11 **specific to schools be located together?**

12 A. Yes. In 2002, for expedience in meeting a very short statutory deadline, Ameren
13 dispersed school-only tariff provisions throughout their existing standard transportation
14 rate schedules to address new requirements of Section 393.310 RSMo. As a result,
15 Ameren has multiple school-only related provisions "shoe-horned" throughout its
16 standard transportation rate schedule in its tariff. This interspersed of school-only
17 provisions throughout the standard transportation rate schedule may not be a problem for
18 Staff, Company, marketers or Pool Operators who deal with tariffs on a daily basis.
19 However, for the convenience of school customers who pay the gas bills, MSBA only
20 asked that the provisions that are only applicable to schools be consolidated. Preferably,
21 the school-only provisions would be in a standalone rate schedule like those of Spire
22 East, Spire West, Summit and Liberty. Alternatively, the school-only provisions could be
23 cut and pasted together in one Section of the general transportation rate schedule which

1 should only take a couple of hours. MSBA doesn't understand why Staff would object to
2 this simple request.

3 **\$2400 Balancing and Cash-out Issue**

4 **Q. Will you explain "balancing"?**

5 A. Yes. Balancing is the act of, or process of, system operators taking actions to maintain the
6 system in-puts and out-puts in balance, or equilibrium, within system pressure tolerances
7 and other operating parameters.

8 **Q. Will you explain "imbalance"?**

9 A. Yes. Imbalance is the inadvertent difference between system in-puts (supply) and out-
10 puts (customer usage) over a period of time, a day for large volume transportation
11 customers and a month for schools.

12 **Q. Will you explain "cash-out"?**

13 A. Yes. Cash-out is one way for parties to settle inadvertent imbalances, by monetizing the
14 imbalance after the end of the month and making payment to the party that is owed.

15 **Q. Is MSBA proposing to change Ameren's current rate schedule to eliminate monthly
16 balancing for schools?**

17 A. No.

18 **Q. Is MSBA proposing to eliminate the schools' responsibility to be cashed-out at the
19 end of each month for inadvertent imbalances?**

20 A. No. MSBA's primary issue is that Ameren's punitive monthly cash-out price for schools
21 is not cost-based as required by Section 393.310 RSMo. Instead, when the schools owe
22 Ameren for more than a 5% imbalance, Ameren charges the greater of 110% of its PGA
23 or the current market price plus \$0.15 per Ccf. But when Ameren owes the schools for

1 greater than 5% imbalance, Ameren only pays the schools 90% of market price. These
2 are not cost-based charges but in fact are penalties originally designed prior to Section
3 393.310 RSMo. to elicit large volume daily balanced transportation customers
4 (industrials) to minimize imbalances.

5 **Q. Why wouldn't the large volume transportation customer's penalty-based cash-out**
6 **prices also be appropriate for schools?**

7 A. Large volume transporters are responsible for their own balancing on a daily basis, do not
8 pay Ameren for a balancing service, and only pay cash-out charges on imbalance
9 volumes – not on all delivered volumes as do schools. Section 393.310, paragraph 4 (2)
10 first specifies that gas corporations provide balancing service for schools on a monthly
11 basis and, second, schools must pay a balancing service fee on all therms delivered to the
12 corporation. This is a materially different requirement than for large volume
13 transportation daily balanced customers which only pay on imbalance volumes.

14 **Ameren's Cash-out Penalties are Not Cost-based and are in Conflict with Statute**

15 **Q. Were the market price penalty multipliers and PGA provisions applicable to schools**
16 **adopted from Ameren's pre-existing large volume transportation rate schedule?**

17 A. Yes. Section 393.310 RSMo. was signed into law in July 2002 establishing school
18 natural gas transportation with a very short deadline of November 2002 for the
19 Commission to approve school program rate schedules. To meet this short deadline, the
20 Commission consolidated cases for every Missouri gas corporation for hearing purposes
21 and all parties compromised and achieved negotiated settlements for "experimental"
22 school transportation tariffs which were different for each company. Spire East (fka
23 Laclede), Spire West (fka Missouri Gas Energy), Summit and Liberty (fka Atmos) all had

1 differing stand-alone “experimental” school rate schedules approved by the Commission.
2 Aquila (now owned by Empire) already had a general small commercial transportation
3 rate schedule and provisions of Section 393.310 RSMo. were incorporated into it but it
4 has since changed. For expediency, Ameren used its existing large volume gas
5 transportation rate schedule and “shoe-horned” various requirements of Section 393.310
6 RSMo. into it, leaving the large volume transportation punitive cash-out market price and
7 PGA multipliers, which effectively made these penalties also applicable to schools.

8 **Q. Is the “no negative impact on others” the only provision in Section 393.310 RSMo.**
9 **which addresses the level of utility charges to school transportation?**

10 A. No. Section 393.310 RSMo. statutorily created a balanced, dual requirement compact: (1)
11 that there be no negative impacts to others and (2) that charges to schools be at the
12 Company’s cost of providing services. Taken together, these dual statutory requirements
13 protect schools, utilities and other customers when gas corporations charge their
14 incremental cost of providing statutorily mandated services without penalties, including
15 for utility-provided monthly balancing service. However, Staff and Company have
16 chosen to only focus on the half of the compact that the program have no negative impact
17 on others and ignore the second statutory provision that services to schools be at the gas
18 corporation’s cost. Therefore, MSBA intervened in the case on behalf of schools to seek
19 Commission relief.

20 **Q. Is the purpose of a rate case for the utility to provide cost support for its charges**
21 **and for the Staff to verify whether the Company’s costs are accurate?**

22 A. Yes.

1 **Q. Has either Ameren or Staff provided any actual test year cost data to support the**
2 **levels of proposed school cash-out charges in this case?**

3 A. No.

4 **Q. Absent cost data in this case to support proposed cash-out charges to schools, what**
5 **basis do Company and Staff give for supporting the proposed punitive cash-out rate**
6 **design charges in this rate case?**

7 A. Rather than providing cost data to support the proposed cash-out penalties, Company and
8 Staff use anecdotal rationale that schools should pay the Company for monthly balancing
9 under the same cash-out penalties as for daily balanced large volume customers. Staff
10 and Company have only focused on the statutory provision that the utility charge schools
11 sufficiently to prevent harming the Company or other customers without considering the
12 second statutory requirement for charges to schools to be cost-based. Nor have they
13 recognized that the utility provides, per statute, a monthly balancing service for which
14 schools pay the utility on every therm consumed; whereas, large volume transportation
15 customers are responsible for their own balancing and only pay on their daily imbalance
16 volumes – not every therm.

17 **Q. Has Company or Staff quantified any harm MSBA's school program has had on**
18 **Company or on other customers?**

19 A. No. There can be no negative impact to the Company because all school cash-out penalty
20 revenue and any associated expense is passed through the PGA. Neither Company nor
21 Staff have attempted to quantify net benefits or costs of school cash-outs due to
22 inadvertent over or under delivery of gas supply, that is imbalance.

1 **Q. Will you explain how schools inadvertent over or under imbalances can either**
2 **create a benefit or expense to the other system customers?**

3 A. Yes. Ameren must reconcile or balance its receipts and deliveries with the pipelines and
4 the pipelines offer the Company various means of curing imbalances. If the Ameren
5 system is short of supply on a given day and the schools have inadvertently over-
6 delivered gas on that day, then Ameren's system imbalance is reduced and there is a net
7 benefit to the system. If the Ameren system is long on supply on a given day and the
8 schools have inadvertently under-delivered gas on that day, then Ameren's system
9 imbalance is again reduced and this too is a net benefit to the system. The converse
10 situations can add to the Ameren's pipeline imbalance and costs.

11 **Q. What are MSBA's concerns with Ameren's school cash-out provisions?**

12 A. MSBA is concerned that the price Ameren uses to reconcile school imbalances penalizes
13 the schools both when there is a system benefit and when there is an expense to the
14 system. Even after schools pay Ameren for balancing service on every therm consumed,
15 schools are subjected to paying punitive non-cost-based market multipliers. When the
16 schools owe Ameren for more than a 5% imbalance, Ameren charges the greater of 110%
17 of its PGA or the current market price plus \$0.15 per Ccf. But when Ameren owes the
18 schools for greater than 5% imbalance, Ameren only pays the schools 90% of market
19 price.

20 **Avoidance of Potential Price Arbitrage**

21 **Q. What is price arbitrage to which Staff and Company have expressed concern?**

22 A. Price arbitrage is an intentional under scheduling of gas supply on days when market
23 prices are high and over scheduling on days when prices are low. The volumes that are

1 intentionally over and under scheduled tend to net out at the end of the month but have
2 extracted an unfair price by manipulating the system.

3 **Q. Did Staff or Company provide any evidence of negative impact to other customers**
4 **from the MSBA school pool operator attempting to price arbitrage?**

5 A. No. Mr. Patterson only selected January 2018 for an apparently ineligible pool operator
6 and claims to have detected potential arbitrage, particularly on January 3, 2018. Mr.
7 Patterson does not indicate, whether those schools in question were even in session on
8 January 3, 2018 or if there are legitimate explanations for the perceived manipulation.
9 We do know that some public schools were closed on January 3, 2018.

10 **Q. Does Mr. Patterson's testimony have fatal errors with regard to price arbitrage?**

11 A. Yes. The gas marketer, or pool operator, that Mr. Patterson reviews for the single month
12 of January 2018 appears to be NOT ELIGIBLE for transportation service under Section
13 393.310 RSMo. and Ameren's school tariff provisions. Mr. Patterson may not have
14 known if Ameren misapplied its tariff and allowed this ineligible marketer to take school
15 transportation service with monthly balancing. Second, nominations are made in advance
16 of market prices being posted, so any attempt at price arbitrage could backfire when
17 actual prices are known. Third, attempts at price arbitrage could result in the Commission
18 cancelling the gas suppliers' certificate to provide energy services in Missouri.

19 **Q. Why would the marketer that Mr. Patterson thinks may have committed price**
20 **arbitrage not be eligible for the statutorily mandated volume school rate schedule?**

21 A. Section 393.310 RSMo. requires eligible school entities be provided service in
22 accordance with aggregate purchasing contracts negotiated by and through a not-for-

1 profit school association. The gas marketer that Mr. Patterson analyzed for one month
2 does not appear to be sponsored by a not-for-profit school association as required.

3 **Q. What does Section 393.310 RSMo. and Ameren’s tariff eligibility say with regard to**
4 **sponsorship through a not-for-profit school association?**

5 A. Section 393.310 RSMo. limits eligibility for school aggregate transportation (Appendix 1
6 to my direct testimony) and states:

7 “4. The tariffs required pursuant to subsection 3 of this Section shall, at a minimum:

8 (1) Provide for the aggregate purchasing of natural gas supplies and pipeline
9 transportation services on behalf of eligible school entities in accordance
10 with aggregate purchasing contracts negotiated by and through a not-for-
11 profit school association;”

12 The first paragraph of Ameren’s Natural Gas Transportation Service rate schedule (Tariff
13 Sheet No. 10) quotes Section 393.310 RSMo with regard to eligibility being limited
14 through aggregate contracts negotiated by and through a not-for-profit school association.

15 **Q. Has Ameren been following its tariff with regard to eligibility under Section 393.310**
16 **RSMo?**

17 A. It appears that Ameren has not been following its tariff for eligible school entities. It
18 appears that Ameren has been allowing more than one ineligible pool operator, including
19 the one Mr. Patterson analyzed for possible price arbitrage, to take service under Section
20 393.310 RSMo. Perhaps the confusion is a result of the school rate schedule provisions
21 of Section 393.310 RSMo. being intermingled within the large transportation customer
22 transportation service. MSBA recommends a stand-alone school transportation rate
23 schedule as set forth by Section 393.310 RSMo.

1 **Q. Are there reasons that Section 393.310 RSMo. limits school purchasing through not-**
2 **for-profit school association?**

3 A. Yes. This statute was created for the benefit of schools which alone typically do not have
4 in-house expertise to operate or manage aggregate natural gas purchasing and
5 transportation, but they can cost effectively obtain these services through an association
6 like MSBA. Their school boards can also hold their not-for-profit association(s)
7 responsible for ensuring school interests are protected rather than leaving their interests
8 only to a “for-profit” pool operator or marketing company. It also provides a level of
9 regulatory and gas utility accountability to help ensure issues like potential price arbitrage
10 can be addressed because the not-for-profit school association has the authority to
11 terminate pool operators for cause.

12 **Q. Has MSBA or its pool operator ever attempted to price arbitrage and did Mr.**
13 **Patterson conduct a similar review of MSBAs’ pool operator’s actions in January**
14 **2018 that might be perceived as an attempt at price arbitrage?**

15 A. Neither MSBA nor its pool operator attempts to price arbitrage. I don’t know whether
16 Mr. Patterson reviewed MSBA or other not-for-profit association’s school accounts for
17 potential price arbitrage, but I would think he would have because the MSBA pool is
18 several times larger than the other school pool that Mr. Patterson references in his
19 testimony. I presume Mr. Patterson would have pointed it out if there was any indication
20 of MSBA’s pool operator attempting to price arbitrage. I do know that MSBA’s pool
21 operator does not attempt price arbitrage and has continually worked to improve its
22 nominating accuracy by developing a weather-based winter nomination algorithm that
23 was provided to Staff. The weather algorithm does not consider price.

1 **Q. Do you have a suggestion on how to help ensure non-eligible entities, like the one**
2 **Mr. Patterson reviewed, is not mistakenly allowed to take Ameren’s monthly**
3 **balanced school rate?**

4 A. Yes. Currently, tariff provisions related to the school aggregate transportation program
5 are intermingled throughout the same Ameren large volume transportation rate schedule.
6 Separation of school rate provisions from standard commercial transportation provisions
7 should make it much easier to determine rate eligibility. School rate provisions should be
8 at one place in the tariff.

9 **Q. Has Company or Staff indicated they have researched alternative methods to using**
10 **after-the-fact large volume transportation customer’s cash-out penalties for**
11 **preventing price arbitrage by school pool operators?**

12 A. It is interesting that Staff and Company claim that cash-out penalties are needed to
13 prevent price arbitrage but, per Mr. Patterson’s testimony, a pool operator, albeit
14 apparently ineligible, potentially committed price arbitrage under the existing penalty
15 cash-out provisions. To my knowledge, neither Company nor Staff researched methods to
16 prevent price arbitrage. Company and Staff simply rejected MSBA’s proposed alternative
17 method of a tariff requirement to nominate daily school usage during winter months
18 based on forecasted weather, specifically degree days. MSBA has not suggested that
19 Ameren adopt the Commission-approved Spire East weather algorithm for school
20 nominations but I provided a similar weather-based nomination algorithm that MSBA’s
21 pool operator developed from experience. MSBA recommended using forecasted degree
22 days as a method to help ensure that pool operators cannot simply under deliver gas on
23 days with high prices or over deliver gas on days when market prices are low. Deviations

1 from the forecasted weather-based algorithm would be only for known factors, such as
2 school closings, Company critical day or other operating requests, intentional adjustments
3 for previous inadvertent over or under deliveries and the like.

4 **Q. Have both Company and Staff proposed weather adjustments for Ameren**
5 **revenues?**

6 A. Yes. Company's proposed a revenue adjustment of \$935,197 based on the impact of
7 weather on consumer consumption. Staff also proposes a weather adjustment. Both
8 Company and Staff support the concept that heating customers' consumption is related to
9 weather, specifically degree days. But, without review or comment, both Company and
10 Staff recommend rejection of MSBA's Pool Operator's weather-based nominations
11 proposal which was designed specifically to minimize imbalances – a win-win for all.
12 The de minimis MSBA imbalance penalties of about \$2,400 annually may be too small
13 for Staff or Company to consider relevant, with but they are not negligible for schools.

14 **Q. Has MSBA provided to Staff a detailed recommended method of nominating**
15 **deliveries based on degree days which takes potential price arbitrage out of the pool**
16 **operator's discretion?**

17 A. Yes. MSBA's confidential response to Staff DR 0293 provides intricate details of
18 MSBA's Pool Operator's latest refinement to its weather-based nomination method.

19 **Q. Did Company or Staff offer any suggested improvements to MSBA's weather-based**
20 **nomination method?**

21 A. No. Neither Company nor Staff provided any indication that they even considered the
22 MSBA proposed weather-based alternative or any other method of preventing potential
23 price arbitrage. Both Company and Staff simply proposed rejection of MSBA's proposal

1 without providing any alternative. Company effectively said they don't have staff time to
2 devote to schools, despite the statutory requirements to base its rates on the gas
3 corporation's cost of providing service to schools.

4 **Q. Would Ameren's Company personnel be required to review every school**
5 **nomination every day and ensure that it is being made prudently and accurately**
6 **without attempting arbitrage?**

7 A. No. Ameren and Staff have portrayed a big misconception that somehow MSBA's
8 proposal will take a lot of Ameren's staff time, which it will not. MSBA has stated that it
9 agrees that it is the school's pool operator's responsibility- not the Company's - to
10 nominate according to the provided weather-based method. If a weather-based
11 nomination algorithm is mandated, as may be adjusted by a school pool operator only for
12 known and recorded reasons, then potential arbitrage should be eliminated. It could not
13 have taken an inordinate amount Mr. Patterson's time to analyze and spot potential price
14 arbitrage by an apparently ineligible pool operator in January 2018. Staff could do a
15 similar review for each gas corporation in rate cases or even in conjunction with annual
16 ACAs. The Commission could suspend or terminate a pool operator's Commission-
17 issued certification to any supplier which is found to be attempting price arbitrage.
18 MSBA maintains that it is unfair to punish all pool operators if there is an infraction by
19 one.

20 **Q. Has Staff or Company proposed any additional Commission requirements for**
21 **school pool operators to be certified, such that certification can be terminated if the**
22 **pool operator has been found to be attempting price arbitrage?**

1 A. Again, Staff and Company have offered no alternative solutions to school concerns. They
2 both just ignored the schools' concern with no recommendations other than to continue
3 the punitive cash-out provisions that were designed for daily balanced large volume
4 transportation customers prior to creation of the school transportation program in 2002.

5 **Q. Does the Commission already have requirements for certifying energy sellers and**
6 **require applicants to sign an agreement?**

7 A. Yes. However, neither Staff nor Company have suggested that the Commission add a
8 requirement that certified energy sellers to schools, including pool operators, must agree
9 to use prudent nomination methods based on degree day forecasts for the winter months
10 of November through March and only make adjustments for other known factors, such as
11 school closings, offsets to previous over or under deliveries and to make best efforts to
12 comply with any gas corporation request to change daily nominations due to critical days
13 or to protect the integrity of the gas system.

14 **Harding Testimony**

15 **Q. Ameren's Mr. Harding, at Page 13 of his rebuttal testimony, states that schools are**
16 **not penalized for being out of balance on a daily basis. He also states at page 13 that**
17 **only schools have the benefit of balancing monthly and on page 14 and that the**
18 **system absorbs daily price differentials. Do you agree?**

19 A. I do agree because that is precisely why Section 393.310 RSMo. prescribes that gas
20 corporations provide daily balancing services to schools and be compensated via an
21 aggregation and balancing fee for that service.

22 **Q. Is Mr. Harding correct that marketers have the ability to intentionally nominate**
23 **short on days when prices are high and nominate long when prices are low?**

1 A. Mr. Harding has not provided any data to support or evidence regarding whether there
2 have been any attempts by marketers to game the system. I know MSBA does not attempt
3 to price arbitrage. This is actually the same issue of potential price arbitrage that I
4 covered in my surrebuttal to Staff's Mr. Patterson. Again, my key point on this subject is
5 neither Company nor Staff have offered any tariff language to ensure any attempt at price
6 arbitrage will have consequences for any marketer that attempts to price arbitrage and
7 does not penalize all schools. Instead both Staff and Company have only rejected all
8 attempts by MSBA to find a fair solution to this concern. As I mentioned earlier, the
9 Commission could suspend or terminate a marketer's certification to be a supplier in
10 Missouri if found to have engaged in price arbitrage.

11 **Q. Referencing Mr. Harding's testimony at the top of Page 15, does MSBA's pool**
12 **operator utilize the Ameren portal to make nomination adjustments to minimize**
13 **imbalances?**

14 A. Yes. To the extent the data is timely posted, MSBA's pool operator utilizes this
15 information along with degree day forecasts, school closings and the like to minimize
16 imbalances. I am told that sometimes that daily data posting is delayed for a few days,
17 particularly over weekends and sometimes due to meter communication failures, but
18 available information is used.

19 **Q. Beginning at the bottom of page 16, Mr. Harding discusses his rationale as to why**
20 **schools should pay the PGA rate for short imbalances. Do you agree?**

21 A. No, I do not agree. This is at the core of the main issue that MSBA has in this case – the
22 PGA is not the cost of providing this service to schools. Section 393.310 RSMo. clearly
23 states in paragraph 2: "Provide for the resale of natural gas supplies, including related

1 transportation service costs, to eligible school entities at the gas corporation's cost of
2 purchasing such gas supplies and transportation, plus applicable distribution costs, plus
3 and aggregation and balancing fee to be determined by the commission, not to exceed
4 four-tenths of one cent per therm delivered during the first year;" Ameren's PGA tariff
5 sheets are attached as Appendix A. The PGA rate has many components which are totally
6 unrelated to the current month's cost of gas PGA.

7 **Q. What PGA components are not related to cost of gas for cashing out schools?**

8 A. First the 110% multiplier applied to the PGA is not cost based as required by Section
9 393.310 RSMo. The PGA is an annualized estimate of gas costs and is not related to the
10 cost of gas only for the current month that is being cashed out. It contains an annual
11 ACA reconciliation component to recover or refund over or under collections of gas costs
12 during the prior PGA year. It contains out of period Ameren financial gas price hedging
13 expenses even though hedging is not done for transportation customers. It contains
14 interest charges. It contains gas demand and seasonal peaking and/or storage charges
15 although the Company does not contract for demand, storage or peaking service for
16 transportation customers. None of these aforementioned costs that are in the PGA have
17 anything to do with the current month cost of purchasing of such gas supplies for schools.
18 Ameren clearly states in its response to MSBA DR #15 (Appendix 3 to my direct
19 testimony): "Ameren Missouri purchases gas supply every day to meet the needs of our
20 distribution system." Thus, Ameren's marginal cost for each respective cash-out month is
21 the actual known market price of gas for that month and is not its multi-month estimated
22 price with out-of-period costs and other non-applicable costs, such as hedging gains and
23 losses for its sales customers.

1 **Q. At the top of Page 17, Mr. Harding makes the point that if the school supply is short**
2 **then there are the costs of pipeline transportation and fuel in additional to the**
3 **market price. Do you agree?**

4 A. Yes. Implicit in the market price is the cost of the pipeline transportation and fuel for
5 short deliveries. In fact, Section 393.310 RSMo. paragraph (2), quoted above includes:
6 “gas corporation’s cost of purchasing such gas supplies and transportation.” So yes,
7 transportation is part of the current cost of purchasing market gas.

8 **Q. Mr. Harding, beginning at Line 4 of Page 18, states that the aggregation and**
9 **balancing charge is designed to recover additional time and expense to administer**
10 **the school aggregation program and to cover the price differential between the daily**
11 **prices that Ameren pays and the monthly cash-out price. Do you agree?**

12 A. I partially agree. The aggregation and balancing fee is designed to recover additional time
13 and expense, if any, to administer the school program, but it also designed to cover all
14 incremental costs of providing monthly balancing service. It is not designed to cover
15 imbalance cash-outs. MSBA accepts Ameren’s proposed aggregation and balancing fee
16 in this case. MSBA’s issue is with the price Ameren charges for cash-out, which exceeds
17 its monthly marginal cost of gas by virtue of price multipliers of 110% of PGA or market
18 price plus \$0.15/therm when the schools pay Ameren and a 90% market price multiplier
19 when Ameren pays the schools.

20 **Q. On Page 19, Mr. Harding states that if school marketers maintain balance, the client**
21 **will not be cashed-out. Is he correct?**

22 A. Yes, but a scenario of perfect balance or sometimes within 5% is not realistic; that is why
23 Section 393.310 RSMO requires schools to pay gas corporation a fee for balancing

1 service. With inaccuracies in weather forecasts and consumer variable usage
2 characteristics, it is virtually impossible for any marketer, Ameren or any other gas
3 corporation to perfectly forecast consumer daily consumption. That is precisely why
4 Section 393.310 RSMo. provides that Missouri gas corporations will provide monthly
5 balancing for schools and why schools pay the gas corporations an aggregation and
6 balancing fee.

7 **Patterson Testimony**

8 **Q. Does Mr. Patterson correctly define “balancing” beginning at Line 4 on Page 3?**

9 A. No. In this context, Mr. Patterson has incorrectly used the term balancing as synonymous
10 with cash-out. He incorrectly defines balancing as the process of reconciling the
11 difference between the amount of gas received by Ameren from the schools’ pool
12 operator and the amount of gas delivered by Ameren to school accounts, which is
13 actually a definition for cash-out. Mr. Patterson has failed to recognize that “cash-out”,
14 not “balancing”, is the process of reconciling inadvertent imbalances between Ameren
15 receipts and deliveries by the transporter or, in this reference, the schools’ pool operator.
16 The process of reconciliation, or cash-out, comes after the end of the month. Balancing is
17 the real time actions taken throughout the month to minimize imbalances that are cashed-
18 out after the end of the month. “Balancing” and “cash-out” have two related but different
19 attributes: (a) balancing are the DAILY actions taken to reasonably match supply
20 deliveries into the Company’s system to the customers’ usage taken from the Company’s
21 system, and (b) cash-out is MONTHLY monetization of imbalances after the end of the
22 month to compensate the appropriate party for inadvertent over or under delivery of gas
23 commodity during the prior month.

1 **Q. Is MSBA proposing to eliminate balancing and is Mr. Patterson correct when he**
2 **states at Line 16, Page 2 of his rebuttal testimony that the MSBA proposal would**
3 **shift the responsibility for balancing from the school pool operator to Ameren?**

4 A. No. MSBA is NOT proposing to eliminate monthly balancing nor attempting to shift
5 nominating responsibility to Ameren. MSBA agrees that forecasting and nomination
6 functions the pool operator's responsibility, so there should be no dispute on that point.

7 **Q. Do you understand why Mr. Patterson attached and referred to a huge attachment**
8 **of pipeline tariffs?**

9 A. Mr. Patterson was making the point that pipeline tariffs do not allow Ameren personnel
10 to actually make a nomination change previously made by the schools' pool operator.
11 This is a distinction without a real difference. In my direct testimony I was not referring
12 to pipeline tariffs but to the Commission-approved Spire enforcement language. The
13 Commission-approved Spire tariff language, authorizes the Company to return schools to
14 sales service, after three notices, if the pool operator personnel do not make the
15 nomination changes with the pipeline as recommend by Company. Possibly the pipelines
16 would allow Ameren to make a nomination change if the schools were to provide written
17 authorization or an agency agreement to permit such action, but given Mr. Harding's
18 testimony about how its staff is just too busy to handle any more work, MSBA agrees not
19 to pursue that possible solution. It apparently is not a concern of Ameren as Ameren
20 states in its responses to MSBA DR #13 (Appendix 3 to my direct testimony) that the
21 Company has not called a "Critical Day" in more than ten years.

22 **Q. Is Mr. Patterson correct when he states at Line 22 on Page 4 that transportation**
23 **customers are responsible for balancing?**

1 A. No, he is not completely correct. Again, I think Mr. Patterson has incorrectly used the
2 terms “balancing” and “cash-out” interchangeably, which they are not, particularly as
3 related to the statutorily mandated school aggregation program. I do agree that the
4 schools’ pool operator is responsible to prudently nominate in order to minimize
5 inadvertent over or under deliveries, or imbalances. However, given weather forecasting
6 errors and other factors, no pool operator can be perfect in making daily nominations. For
7 that reason, Section 393.310 RSMo. specifies that the gas corporations provide balancing
8 services to schools and schools pay the gas corporation an aggregation and balancing fee
9 on 100% of use – not just on the imbalance volumes. Contrary to Mr. Patterson’s
10 testimony, nothing in my testimony suggests that MSBA intends to change balancing
11 responsibilities and shift balancing responsibility from schools to the Company. My
12 testimony, that he apparently is referencing, relates to cash-out prices not being cost-
13 based.

14 **Q. Again, at Line 19, Page 5, Mr. Patterson states that MSBA’s proposal has no**
15 **provision for correcting imbalances and there is no requirement for calculating,**
16 **tracking, correcting or adjusting imbalances. Is he correct?**

17 A. No. Just to the contrary. Mr. Patterson is apparently again using the term “balancing” for
18 “cash-out.” I cannot stress enough that MSBA does NOT propose to change anything in
19 the Ameren’s tariff relating to tracking and cash-out of monthly imbalances, except for
20 the punitive prices being charged for imbalance cash-outs.

21 **Q. Has MSBA proposed to stop paying aggregation and balancing fees?**

22 A. No. Again, MSBA agrees with Staff’s recommendation to accept Ameren’s aggregation
23 and balancing services fee as proposed in this case. MSBA agrees that the Company

1 should be paid for its costs to balance schools and this balancing service charge is
2 specified by Section 393.310 RSMo. as an aggregation AND balancing fee. MSBA is
3 NOT proposing to eliminate Ameren’s balancing requirements with regard to matching
4 deliveries and usage. MSBA is only proposing that Ameren’s cash-out price comply with
5 Section 393.310 RSMo. to be cost-based and to be fair, just and reasonable. Currently,
6 Ameren’s current cash-out prices penalize schools even when they benefit the system and
7 contain penalty multipliers and PGA price which are unrelated to Ameren’s actual
8 incremental cost applicable to schools under provisions of Section 393.310 RSMo.

9 **Q. Does Section 393.310 RSMo. specify how gas corporations are to be compensated for**
10 **any administrative functions and operating expenses for providing balancing**
11 **service?**

12 A. Yes. Section 393.310 RSMo. specifies that Missouri gas corporations provide
13 transportation service to the eligible school entities at the gas corporation's cost, plus an
14 aggregation and balancing fee to be determined by the commission, not to exceed four-
15 tenths of one cent per them delivered during the first year.

16 **Q. Is Mr. Patterson correct when he states starting at Line 11 on Page 25 that “The**
17 **aggregation and balancing fee is mentioned in the context of permitting the gas**
18 **corporation to charge the school pool the cost of resources it provides to support**
19 **transportation services?”**

20 A. If he is saying that the aggregation and balancing fee is only to cover Company’s
21 administrative costs, then he is not correct. However, he is correct in his following
22 sentence where he says the aggregation and balancing fee allows the utility to recover its
23 costs of providing both aggregation, or administrative, functions AND its cost of

1 providing balancing services. This statutory statement does not and was never intended to
2 address compensation to gas corporation for the inadvertent over or under delivery of gas
3 commodity – that compensation is covered by Ameren’s cash-out provisions. MSBA is
4 NOT proposing that Company change anything with regard to its administrative activities
5 to aggregate multiple school accounts into balancing pools and provide a balancing
6 service. Ameren’s balancing pools are pretty typical in the industry in that multiple
7 school accounts are aggregated and balanced as a single entity by pipeline. MSBA
8 accepts the aggregation and balancing fee proposed by Ameren and supported by Staff in
9 this case. MSBA does not propose to change Ameren’s rate schedule except for the one-
10 sided, non-cost-based, and punitive cash-out price, biased against schools, depending on
11 whether Ameren is paying or charging the schools.

12 **Q. Mr. Patterson states at Line 20, Page 19 that it is appropriate for the utility to**
13 **recover the costs from those customers as allowed by Section 393.310.4(2). Do you**
14 **agree with this?**

15 A. Yes. I absolutely agree that the utility should recover its aggregation and balancing
16 services costs from schools via its aggregation and balancing fee. I also agree that the
17 utility should recover its true costs of supplying inadvertent under-delivered gas to
18 school, which actual costs are not the higher of market prices plus \$0.15/therm, or 110%
19 of the PGA price when schools pay Ameren for imbalances over 5% but only 90% of
20 market prices when Ameren pay schools for imbalances over 5%. Schools and Ameren
21 should pay each other the full market price of inadvertent over or under deliveries.
22 MSBA objects to receiving a fraction of market price when Ameren owes the schools and
23 Ameren charging above market prices when schools owe Ameren.

1 **Q. On Page 22 and when referring to NICOR in Illinois, Mr. Patterson refers to higher**
2 **than market prices for “overrun” and “authorized” gas. Are these designations the**
3 **same as Ameren’s cash-out prices?**

4 A. No, not at all. NICOR’s authorized and unauthorized gas rates are not at all for the same
5 purpose as Ameren’s cash-out rates. See Appendix B, which is NICOR’s tariff sheet 51;
6 it clearly states that “unauthorized gas” is a designation for a critical day, which Ameren
7 has not had in over ten years. The NICOR tariff also clearly states that authorized gas has
8 to be pre-approved by the Company and is totally different than inadvertent imbalance
9 that is not known until after the fact. As Mr. Patterson states at Line 1, Page 24, NICOR
10 does not have special tariff provision for schools. NICOR does not charge its customers
11 an “aggregation and balancing fee” as prescribed by Section 393.310, which obviously
12 does not apply to Illinois gas companies. Further, NICOR Rider 25 transportation
13 customers are assigned take and pay for a banking storage service for 30 days of supply,
14 which allows for injections and withdrawals. Whereas Ameren, leases pipeline storage on
15 most pipelines and does mandate customers to take banking or storage service. NICOR
16 Rider 25 is not a monthly balanced school transportation program like in Missouri; Rider
17 25 has daily balancing. NICOR Rider 34 is simply a provision to allow customers to be
18 balanced as a group, using the group’s diversity of use and presumably storage; but
19 NICOR’s Rider 34 is still daily balancing – not monthly balancing as required by
20 Missouri statute.

21 **Q. Mr. Patterson states at Line 21, Page 26 that the Spire West balancing fee is**
22 **payment made in lieu of balancing schools in a pool that do not have EGM,**
23 **electronic gas meter, equipment. Is he correct?**

1 A. No, Mr. Patterson's statement is wrong. In 2002 when Section 393.310 RSMo. become
2 law with the specified aggregation and balancing fee and the Commission approved
3 Ameren's school tariff provisions, I don't believe any gas corporation had EGM for
4 eligible small volume schools. The aggregation and balancing fee is for balancing eligible
5 school entities, which use 100,000 therm or less annually, and does not make a
6 distinction as to whether the eligible schools have or don't have EGM.

7 **Q. Mr. Patterson states at Line 25, Page 26 that schools on Spire's system that have**
8 **EGM equipment are pooled separately because it is possible to calculate an**
9 **imbalance. Is he correct?**

10 A. No. EGM records daily usage relative to the cost conventional monthly-read meters
11 which are used for residential and small commercial customers as well as for most
12 schools. Section 393.310 RSMo. makes the distinction between large and schools. Per
13 Section 393.310, schools with annual use of 100,000 therms or less are not required to
14 have telemetry or special metering. Larger schools take transportation service under
15 standard transportation tariffs which require EGM to record and balance on a daily basis;
16 whereas, smaller schools eligible for monthly balancing under Section 393.310 RSMo.
17 are balanced monthly. Therefore, the reason schools, with and without EGM equipment,
18 are in separate pools is because the former is balanced DAILY under standard
19 transportation rates and the latter is MONTHLY balanced. Perhaps there would not be
20 confusion on this point and other differences between tariff provisions for school and
21 standard transportation rate provision if Ameren's tariff separated school provisions in a
22 standalone rate schedule like those Commission-approved school rate schedules of
23 Liberty, Summit, Spire East and Spire West.

1 **Q. Mr. Patterson states at Line 18, Page 19 and again at Line 4, Page 19 and Line 7,**
2 **Page 28 that schools do not normally pay for distribution resources when the pool**
3 **operator delivers too little gas. Is he correct?**

4 A. No. Schools pay the full tariff distribution delivery charges on 100% of gas metered and
5 consumed - not on how much gas was over or under delivered by the pool operator. Plus,
6 schools in the aggregation program pay the tariff extra aggregation and balancing fee.

7 **Q. Mr. Patterson states at Line 15, Page 13 that he anticipates that Spire West will**
8 **balance school pools as it does with other transportation customers. Is he missing**
9 **something here?**

10 A. Yes. Mr. Patterson fails to understand that Section 393.310 RSMo. specifies that gas
11 corporations provide a monthly aggregation and balancing service at a cost-based fee for
12 schools with annual use of 100,000 therms or less. The statute for the past 17 years does
13 not give gas corporations the discretion to offer or not offer a monthly balanced program
14 for schools. The statutorily required monthly balancing for school is different from daily
15 balancing for other large volume transportation customers.

16 **Q. Mr. Patterson states at Line 13, page 14 that Staff is not aware of all factors the pool**
17 **operator uses to nominate gas for schools. Is that a correct statement?**

18 A. No. MSBA provided an extensive response to Staff DR 0293 which details MSBA's pool
19 operator's weather-based nomination algorithm.

20 **Q. Beginning at Line 6, Page 21 of rebuttal testimony Mr. Patterson states that the**
21 **Illinois Commerce Commission's (ICC) orders in Docket Nos. 11-0282 and 15-0439**
22 **did not address the appropriateness of the PGA as a basis for imbalance cash-outs.**

1 **Does his down-playing of the ICC orders accurately reflect importance of the ICC's**
2 **orders?**

3 A. I will let the ICC orders speak for themselves. The fact is that the ICC orders were in
4 both Ameren-Illinois Company (AIC) cases and in both cases the ICC did not approve
5 Ameren's proposed tariff with regard to charging PGA prices to transportation customer
6 for cash-outs. The ICC order in Docket No. 15-0439 states: "The Commission finds, that,
7 as in Docket No. 11-0282, the current cash-out provisions of Rider T are sufficient at this
8 time and AIC's proposed changes are rejected." This indicates Ameren twice proposed to
9 charge transportation customers for cash-out based on PGA price and twice the ICC
10 rejected Ameren's attempt.

11 **Q. At Line 16, page 25 Mr. Patterson states that Staff is unclear how balancing is**
12 **accomplished through the aggregation and balancing fee and that the fee is applied**
13 **at a unit rate to all gas delivered. He further states that it does not return gas or**
14 **cash-out payments to pool operators when they deliver more gas than used. Can you**
15 **clarify these points for Staff?**

16 A. Yes. MSBA does NOT propose to change anything with regard to Ameren's balancing
17 provisions nor to its cash-out provisions, except for the penalty prices above market price
18 that are applied to cash-outs. MSBA accepts Staff's recommendation that the
19 Commission approve Ameren's proposed aggregation and balancing fee. The aggregation
20 and balancing fee is applied to all school use volumes and not just the inadvertent
21 imbalance volumes as a common mechanism to distribute and socialize discrete expenses
22 over all volumes for the customers within a class or sub-class of schools in this instance.
23 It is the cash-out provisions and not the aggregation and balancing services fee that

1 charges or returns or compensates the pool operator of inadvertently over or under
2 delivered volumes.

3 **Keathley Testimony**

4 **Q. Will you comment on Spire's Mr. Keathley's testimony?**

5 A. Yes. Mr. Keathley shares Spire companies' experiences with its experimental school
6 transportation programs and may prefer some of the language in the Ameren school tariff.
7 MSBA welcomes the opportunity with work with Spire and all other Missouri gas
8 companies to achieve more state-wide consistency, where appropriate, among all the
9 companies in implementing the school transportation program.

10 **Conclusion**

11 **Q. Will you summarize MSBA's primary issue in this case?**

12 A. Yes. MSBA's primary issue is very narrow; it amounts to about \$2400 annually; and, it
13 pertains only to cost-based prices applicable to school transportation service (STP)
14 pursuant to 393.310 RSMo. Neither Company's Revenue Requirement nor Base Rates to
15 any customer class or subclass are affected by MSBA's position.

16 Staff and Company may view the dollar amount of these penalties to school penalties as
17 being of no real concern when compared to Ameren's proposed annual gas revenues but
18 these overcharges can equate to having and not having class room instruction, computers
19 and other learning equipment. MSBA appeals to the Commission to understand MSBA's
20 narrow issue and order cost-based cash-out rates at full market prices which protects both
21 other customers and schools as required by Section 393.310 RSMo.

22 **Q. Will you summarize MSBA's secondary issue in this case?**

1 A. For administrative efficiency and customer understanding, MSBA wants a separate
2 section or rate schedule within Company's natural gas tariff which applies only to
3 schools taking service pursuant to Section 393.310 RSMo.

4 **Q. Will you state what MSBA wants the Commission to order in this case.**

5 A. MSBA requests the Commission to order:

6 1. STP customers will continue to be cashed out monthly but at the Company's
7 incremental cost of purchased gas which shall be the month's average daily market
8 index prices for the respective interstate pipelines.

9 2. To minimize imbalances and as a preventative measure against potential price
10 arbitrage, STP Pool Operators shall nominate deliveries from pipelines to the
11 Company's distribution system prior to the beginning of each month and update
12 nominations intra-monthly. Nominations for November through March shall adhere
13 to a weather forecast algorithm, except for adjustments for known factors such as
14 school closings, to comply with system operations orders or requests and to adjust for
15 prior over or under imbalances. Such adjustments shall be logged by the school Pool
16 Operator by date and a reason noted for each adjustment.

17 3. Company shall create a separate section or rate schedule within its tariff which
18 applies only to schools taking service pursuant to Section 393.310 RSMo.

19 **Q. Does this conclude your surrebuttal testimony?**

20 A. Yes.

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

**In the Matter of Union Electric Company)
d/b/a Ameren Missouri's Tariffs to)
Increase Its Revenues for Natural Gas Service)**


Case No. GR-2019-0077

AFFIDAVIT OF LOUIE R. ERVIN, SR.

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

Louie R. Ervin Sr., being first duly sworn on his oath, states:

1. My name is Louie R. Ervin Sr. I work in Cedar Rapids, Iowa and am employed by Latham, Ervin & Associates as the Executive Vice President.
2. Attached hereto an made a part of hereof for all purposes is my Testimony on behalf of Missouri School Boards' Association which has been prepared in written form for introduction into evidence in the above referenced case.
3. I hereby swear and affirm that my answers contained in the questions therein propounded are true and correct to the best of my knowledge and belief.



Louie R. Ervin Sr.
Executive Vice President
Latham, Ervin & Associates

Subscribed and sworn to before me this 10th day of July, 2019.



Melissa Kay Largent
Notary Public

My commission expires: 10/7/2022