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

In the Matter of The Empire District Gas)
Company's d/b/a Liberty Request to File)
Tariffs to Change its Rates for Natural Gas) **File No. GR-2021-0320**

REPLY BRIEF OF STAFF

Respectfully Submitted,

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June 2, 2022

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CASE NO. GR-2021-0320**

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COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and submits the following *Reply Brief of Staff* in response to the initial briefs of the Missouri School Boards’ Association (“MSBA”), The Empire District Gas Company d/b/a Liberty (“EDG”), and the Office of the Public Counsel (“OPC”):

INTRODUCTION

The purpose of a Reply Brief is for a party to respond to the opposing arguments made by the other parties to a proceeding. Rather than replying to every individual statement made by the other parties in their initial briefs, having presented and argued its positions in its *Initial Brief*, Staff is limiting its replies to those matters which Staff believes will most aid the Commission in its determinations. Therefore, the failure of this *Reply Brief of Staff* to address any matter raised in the initial briefs of the other parties should not be construed as agreement in any way unless otherwise stated herein.

EDG’s current aggregation, balancing, and cash-out charges, contained in its tariff, were ordered by the Commission in Case No. GR-2009-0434 based upon the record in that case. EDG has not proposed to change these charges, and therefore, has not proposed new or different charges in the proposed tariffs it filed in this case.¹

¹ Tr. Vol. 3., p. 54.

Staff, EDG, and OPC all recommend the Commission deny MSBA's requests for tariff modifications in this case.²

RESPONSE

Response (1): EDG's current aggregation and balancing fees are consistent with Section 393.310 RSMo and are just and reasonable.

In its initial brief, MSBA states that one of its two main issues in this case is that "A. aggregation and balancing services are not at Empire District Gas' [.....] incremental cost."³ MSBA asserts that this issue is addressed by Section 393.310 RSMo⁴ and more specifically states that this particular "statute is clear that gas corporations are to charge their incremental costs of the aggregation program to ESEs [Eligible School Entities] to ensure there are no negative impacts to others."⁵ Moreover, MSBA states that "EDG provided no incremental or any other cost support in this case for charges uniquely applicable to ESEs."⁶

Again, MSBA refers to Section 393.310 RSMo. yet inaccurately summarizes the language of this statute. Importantly, in its position that EDG can only charge MSBA EDG's "incremental costs", MSBA ignores the language in the statute that is in bold:

² See Staff's *Initial Brief*; *Initial Brief of The Empire District Gas Company d/b/a Liberty*; *The Office of the Public Counsel's Initial Brief*; all filed on May 23, 2022.

³ *Missouri School Boards' Association Post-Hearing Brief*, p. 1.

⁴ *Id.*

⁵ *Id.* at p.5.

⁶ *Id.*

4. The tariffs required pursuant to subsection 3 of this section shall, **at a minimum**:

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

(2) Provide for the resale of such natural gas supplies, **including related transportation service costs**, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, **plus an aggregation and balancing fee to be determined by the commission**, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue **at least equal** to all incremental costs caused by the experimental aggregation program. Except as may be mutually agreed by the gas corporation and eligible school entities and approved by the commission, such tariffs shall not require eligible school entities to be responsible for pipeline capacity charges for longer than is required by the gas corporation's tariff for large industrial or commercial basic transportation customers.

As noted above, Section 393.310.5. RSMo states that the Commission shall approve an ESE tariff upon a finding that the aggregation program will not have any negative impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue “at least equal” to all increment costs caused by the program. The language does not state that the charge can

be no more than the incremental cost. Further, Section 393.310.4.(2) RSMo explicitly gives the Commission the authority to determine an aggregation and balancing fee.

As noted in Staff witness Keenan Patterson's rebuttal testimony, the Commission approved the current fees in Case No. GR-2009-0434 based on the record in that case, and those fees are presumably just and reasonable.⁷ Once MSBA recommended changes, or elimination of these fees, in its direct testimony in this case, Staff completed a basic analysis⁸ that suggested that EDG's fees for aggregation and balancing might be too low.⁹ However, Staff acknowledged that its analysis was only in response to the issues MSBA raised in its direct and was not meant to support a change in fees or rates.¹⁰ Moreover, Staff reviewed the record from Case No. GR-2009-0434 and agreed, and still does agree, with EDG's position to keep its current fees for aggregation and balancing.¹¹

Response (2): Cash-out imbalance multipliers are a cost that EDG reasonably passes on to transportation customers.

MSBA further states in its initial brief that its other main issue in this case is that "B. cash-out imbalances is not at EDG's cost of purchasing gas supplies."¹² MSBA's position on this is curious. First, EDG passes on to its transportation customers (including ESEs) the costs of multipliers that apply to its imbalances on upstream pipelines.¹³ Each of EDG's upstream pipelines has its own schedules of cash-out multipliers, but EDG applies only the least severe of these cash-out multipliers to its service area.¹⁴ Simply

⁷ Ex. 100, p. 10.

⁸ Ex. 100, pp. 12-13 and Ex. 102.

⁹ Ex. 100, pp. 12-13.

¹⁰ Id. at p. 13.

¹¹ Id. at p. 12.

¹² *Missouri School Boards' Association Post-Hearing Brief*, p. 1.

¹³ Ex. 100, p. 16.

¹⁴ Id.

put, EDG is passing on a its cost of purchasing gas, of which an imbalance is such a cost, to ESEs, which is explicitly permitted per Section 393.310.4.(2) RSMo.

WHEREFORE, for the reasons set forth herein and in Staff's *Initial Brief*, Staff requests that the Commission will issue an order finding in Staff's favor on each issue in this case.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record this 2nd day of June, 2022.

/s/ Jamie S. Myers