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**

INITIAL BRIEF

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its *Initial Brief*, respectfully states:

BACKGROUND

On August 23, 2021, The Empire District Gas Company d/b/a Liberty ("EDG") filed tariff sheets designed to implement a general rate increase of $1.36 million for its gas service territory. After the filing of testimony and completion of local public hearings, the parties to this case began negotiations. The negotiations resulted in several parties agreeing to a series of compromises and ultimately a mutually acceptable resolution was reached on all issues except for the issues concerning the Missouri School Boards' Association's ("MSBA") requests for changes to various provisions of EDG's tariffs.[1]

The Commission held an evidentiary hearing in this matter on April 25, 2022, where the remaining contested issues were heard,[2] and evidence was offered and admitted into the record. Staff's pre-filed testimony, Staff's testimony at the evidentiary hearing, and the other evidence that has been admitted into this record do not support the Commission granting MSBA's requests for numerous tariff changes. The Office of the

[1] See *Stipulation and Agreement*, filed April 12, 2022, EFIS Item No. 108, Case No. GR-2021-0320.
[2] Note: The *Staff Statement of Position*, filed on April 20, 2022, addressed the issues that were contained in the *Joint List of Issues*, filed on April 15, 2022. At the evidentiary hearing in this matter, on April 25, 2022, counsel and witness for EDG both noted that EDG was no longer pursuing issue 1.c. contained in the *Joint List of Issues*. As such, Staff is only addressing issues 1.a. and 1.b. in its *Initial Brief*.

Public Counsel ("OPC") and EDG also recommend the Commission reject MSBA's requests.[3]

DISCUSSION

1. Should the Commission approve the recommendations filed on behalf of the MSBA?

No. As further discussed in the sections below, Staff does not recommend the Commission grant MSBA's requests for modifications to EDG's tariffs. MSBA's requests are not supported by the evidence in the record nor are the requests required by law.

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.[4] MSBA has not provided evidence of what these charges should be but yet insists that the Commission must change them.[5]

MSBA further insists that the current EDG tariff is inappropriate for schools because there is not a separate stand-alone tariff for school transportation consumers.[6] However, no law requires a separate, stand-alone tariff for school transportation consumers, nor is it practically necessary.[7]

Continuously, MSBA cites Section 393.310 RSMo. as the relevant law that requires MSBA's requested changes.[8] However, the actual language of this statute, as

---

[3] Tr. Vol. 3.
[4] Tr. Vol. 3., p. 54.
[5] *See* Exs. 300, 301 and 302.
[6] Id.
[7] Ex. 100, pp. 17 – 18.
[8] Exs. 300, 301 and 302.

provided below, does not require, and often does not support, the very changes MSBA is requesting.[9]

> **393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — extension of tariffs. —** 1. This section shall only apply to gas corporations as defined in section 386.020. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.
>
> 2. As used in this section, the following terms mean:
>
> (1) **"Aggregate"**, the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;
>
> (2) **"Commission"**, the Missouri public service commission; and
>
> (3) **"Eligible school entity"** shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.
>
> 3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.
>
> 4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

[9] See Tr. Vol. 3, pp. 54 - 56, for Mr. Fischer's questions to Mr. Ervin,

> Q. You were asked a question by Mr. Brownlee about paragraph four of a statute. And that statute happens to be attached to Louis Ervin, II's direct testimony. Do you have a copy of Mr. Ervin's direct testimony? And I'd like to refer you to that statute that he includes at Appendix 1. Do you have that now?
>
> A. Yes.
>
> Q. I'd like to refer for you to Section 393.310. And he asked you about paragraph four. That paragraph states: "The tariffs required pursuant to subsection 3 of this section shall, at a minimum," and then I'd like to drop down to subsection 2 there. Where it says: 'Provide for the resale of such natural gas supplies, including related transportation costs to the eligible school entities at the gas corporation's cost of purchasing of gas supplies and transportation, plus all applicable distribution costs.' Is that what that says?
>
> A. Yes.
>
> Q. So that says that that portion has to be at cost; is that how you read that?
>
> A. Correct.
>
> Q. Let's go on, though. It says: 'Plus, an aggregation and balancing fee to be determined by the commission.' Is that right? Is that what the statute says?
>
> A. Correct.
>
> Q. Does that say to be determined at cost by the commission?
>
> A. No.
>
> Q. Has the commission determined the appropriate aggregation, balancing and cash out fees for Empire District Gas in the past rate case?
>
> A. Yes.

> (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.
>
> 6. The commission shall treat the gas corporation's pipeline capacity costs for associated eligible school entities in the same manner as for large industrial or commercial basic transportation customers, which shall not be considered a negative financial impact on the gas corporation, its other customers, or local taxing authorities, and the commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.
>
> 7. Tariffs in effect as of August 28, 2005, shall be extended until terminated by the commission.

a. Should the Commission modify EDG's Aggregation, Balancing, and Cash-out Charges in this case?

No. Staff recommends the Commission deny MSBA's request to modify the aggregation, balancing and cash-out charges in EDG's tariff. Staff's analysis indicates that these costs of have increased, although neither EDG nor Staff are recommending an increasing in any of these charges.[10] EDG's charges for services to small transportation customers – aggregation, balancing, and cash-out charges – were supported by the evidence in the record, including evidence of costs, when the current charges were established in Case No. GR-2009-0434.[11]

Section 393.310.4, RSMo, provides that tariffs required pursuant to subsection 3 of the statute "shall, at a minimum … (2) Provide for the resale of such natural gas supplies, including related transportation services 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. [***Emphasis added***].

Aggregation, Balancing and Cash-outs

EDG's current, and proposed tariff, includes an aggregation service for small and medium general service transportation customers.[12] All eligible school entities that participate in the school aggregation program are in pools.[13] Aggregation pools are treated as a single transportation costumer for the purposes of balancing.[14] Because the pools are treated as a single customer for balancing purposes, the over-deliveries and under-deliveries of the customer in the pool are netted out, which likely reduces the average cost of the imbalances for the pools and is advantageous for the participating schools.[15]

[10] Ex. 100, pp.12 - 13.
[11] Id. at p. 12.
[12] Id. at p. 3.
[13] Id.
[14] Id.
[15] Id. at p. 4.

Balancing is a process by which a transportation service provider ("TSP") and a shipper of gas reconcile the differences between the amounts of gas the TSP receives and delivers for the shipper.[16] Balancing is important because natural gas pipelines and gas corporations must assure that the amount of gas they receive into their transmission or distribution systems closely matches the amount they deliver to customers.[17] Transportation customers' imbalances could cause a gas corporation, such as EDG, to need to buy additional gas on the spot market, inject or withdraw gas from storage, or adjust other supply purchases.[18] All of these actions could cause the sales customers' gas costs to be higher than they otherwise would have been if the costs associated with the transportation customers' imbalances are not recovered from the transportation customers.[19]

The transportation customers are responsible for balancing.[20] All of the gas pipelines that transport gas to EDG have balancing provisions in their tariffs.[21] Specifically, these pipelines are ANR Pipeline, Panhandle Eastern Pipe Line ("PEPL"), and Southern Star Central Gas Pipeline ("SSC").[22] All Missouri gas corporations' tariffs have balancing provisions for transportation customers, and, with the exception of Spire Missouri, all Missouri gas corporations use cash-out balancing for schools.[23]

Cash-out balancing is an administratively simple method, when compared to other methods of balancing.[24] Transportation customers or aggregators pay for or receive

[16] Id. at p. 3.
[17] Id. at p. 4.
[18] Id.
[19] Id. at p. 4.
[20] Id. at p. 5.
[21] Id.
[22] Id.
[23] Id. As discussed in more detail below, Spire Missouri uses the carry-over method instead of cash-out.
[24] Id. at p. 6.

credits for their imbalances at a price that recognizes the market cost of gas and the utility's resources that are used to deal with imbalances.[25] Each month, the customer receives either a bill or payment indicating its balancing performance.[26] These cash-outs provide a timely economic signal to customers or aggregators about their balancing performance and incentivize costumers to properly balance.[27]

Cash-out Balancing is Appropriate for EDG

MSBA proposes that the Commission order EDG to adopt the carry-over method of balancing instead of the current cash-out method.[28] The carry-over method that is currently only used by Spire Missouri and requires school aggregation pools to balance by adjusting nominations in the month following the month in which an imbalance occurs.[29] While MSBA is quick to cite that Spire Missouri's tariff uses the carry-over method for balancing, what MSBA does not mention are the many differences between EDG and Spire Missouri.

First, Spire Missouri operates extensive distribution systems with high-pressure lines that provide it with greater flexibility of managing line pack than that of a smaller utility like EDG.[30] Further, in the eastern part of its service area, Spire Missouri (East) has on-system storage, which no other Missouri gas corporation has, and which provides it with some capacity to respond to imbalances without resorting to supply adjustments or storage on interstate pipelines.[31] Further, in the western part of its service area, Spire Missouri (West) has schools within its pools on different meter reading schedules,

25 Id.
26 Id.
27 Id.
28 Id. at p. 6.
29 Id. at p. 5.
30 Id. at p. 7.
31 Id.

making it difficult to properly determine imbalances and calculate cash-outs.[32] For these reasons, the carry-over method has been adopted for Spire Missouri.

In short, each utility's tariff related to balancing is shaped by its history, resources, and demands, and this will be different for each utility.[33] The mere fact that Spire Missouri employs the carry-over method does not make it the appropriate balancing method for EDG. Staff recommends that it is appropriate for EDG to maintain its current cash-out balancing method and Staff more generally recommends that the cash-out balancing method should eventually be used for all Missouri gas corporations as it properly places financial incentives on customers to closely balance their delivered gas and usage.[34]

<u>EDG's Current Charges for Aggregation and Balancing and its Application of Multipliers to the Index-Based Cash-out Prices are Reasonable and Represent the Costs of Balancing Performance</u>

Under its proposed tariff, EDG would continue to charge small and medium general service customers, including school aggregation pools, an aggregation fee of $0.004 per 100 cubic feet (Ccf) and a balancing fee of $0.015 per Ccf.[35] The Commission approved these current charges in Case No. GR-2009-0434, based upon the record in that case.[36] MSBA has stated that these particular fees, or rates, charged by EDG are not appropriate and are not based on "cost".[37] However, MSBA has not provided any proposal, yet alone an analysis, on what would be an appropriate rate for these fees. Further, MSBA seems to gloss over the relevant language of the statute that clearly states

32 Id.
33 Id. at p. 6.
34 Id. at p. 8.
35 Id. at p. 10.
36 Id.
37 *See* Exs. 300, 301 and 302.

it is within the Commission's authority to establish these particular fees,[38] which again, the Commission did in Case No. GR-2009-0434.

The application of multipliers to cash-out prices is another common practice of gas corporations and interstate pipelines that use an economic signal to encourage shippers to closely balance gas delivered and received, however, MSBA objects to the application of these multipliers and often refers to them as "penalties".[39] These multipliers are intended to encourage transportation costumers to closely balance their system by charging a higher price for increasingly severe under-deliveries and crediting them decreasing prices for more severe over-deliveries. [40] Because the index-based prices for cash-outs is a weekly average, these multipliers also decrease the likelihood that the cash-out prices would be advantageous in relation to the daily spot prices.[41] between these prices could create situations where it would be advantageous for a transportation customer to buy or sell gas to the gas corporation at an average price that is advantageous relative to the spot price, and, therefore, create large imbalances.[42] Large imbalances could cause other customers' gas supply, transportation, or distribution costs to go up.[43] Multipliers discourage imbalances and protect the costs paid by other customers by reducing such opportunities.[44]

[38] Section 393.310.4. RSMo., includes: (2) Provide for the resale of such natural gas supplies, including related transportation services 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 [***Emphasis added***.].
[39] *See* Exs. 300, 301 and 302.
[40] Ex. 100, at p. 15.
[41] Id.
[42] Id.
[43] Id. at p. 4.
[44] Id. at p. 15.

The specific multipliers used by EDG are consistent with those it is charged by upstream pipelines, however, EDG structures its schedules of multipliers after the least severe pipeline tariff.[45] Essentially, EDG is just passing on the "cost" of the multipliers that apply to its imbalances on upstream pipelines to its transportation costumers.[46]

b. Should the Commission establish a section within EDG's tariff or standalone rate schedule applicable only to special statutory provisions for School Transportation Program? If so, when should a revised tariff be submitted to the Commission?

Staff recommends the Commission deny MSBA's request for a separate school aggregation tariff at this time. Conceptually, Staff is not opposed to organizing the school programs into a separate, stand-alone tariff, however there are challenges with creating a new tariff structure.[47] A new tariff is likely to have complex interactions with the existing transportation tariff and possibly other tariff provisions, and these may result in unintended consequences if the tariff is not thoroughly reviewed.[48] While MSBA is requesting the separate, stand-alone tariff, MSBA did not propose specific tariff language and confusingly points to different utility tariffs as possible models for a stand-alone tariff.[49]

A separate tariff is not required nor practically necessary to implement a school aggregation program.[50] School aggregation pools are fundamentally transportation customers, and EDG's current, and proposed tariff has been able to adequately address

[45] Id. at p. 16.
[46] Id.
[47] Id. at pp. 18 – 19.
[48] Id. at p. 18.
[49] Id. at pp. 18 – 19.
[50] Id. at p. 17.

the unique statutory requirements for school aggregation pools.[51] Further, the aggregators are gas marketers with expertise in gas trading who also provide services to commercial, industrial, and utility customers in multiple utilities and in multiple states.[52] It is likely not a hardship for these sophisticated entities to understand the current EDG tariff.[53]

CONCLUSION

Staff recommends the Commission reject MSBA's requests in this case as they are not supported by the evidence in this record, nor are they practically necessary or required by law.

WHEREFORE, Staff submits its *Initial Brief* for the Commission's information and consideration.

Respectfully submitted,

/s/ Jamie S. Myers
Jamie S. Myers
Deputy Counsel
Missouri Bar No. 68291
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 526-6036 (Telephone)
(573) 751-9285 (Fax)
jamie.myers@psc.mo.gov

[51] Id.
[52] Id.
[53] Id.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 23rd day of May, 2022, to all counsel of record.

/s/ Jamie S. Myers