

Exhibit No.: _____
Issue: In the Matter of the Propriety of the Rate Schedules for Natural Gas
Service of Union Electric Company, Doing Business as Ameren Missouri
Witness: Louie R. Ervin Sr.
Exhibit Type: Direct
Sponsoring Party: Missouri School Boards Association
Case No.: GR-2018-0227
Date: November 20, 2018

MISSOURI PUBLIC SERVICE COMMISSION

CASE No. GR-2017-0227

DIRECT TESTIMONY

OF

LOUIE R. ERVIN, SR.

ON BEHALF OF

MISSOURI SCHOOL BOARDS ASSOCIATION

**Jefferson City, Missouri
November 20, 2018**

1 **Q. Please state your name and business address.**

2 A. Louie R. Ervin Sr., Suite 300, 150 First Avenue NE, Cedar Rapids, Iowa 52401.

3 **Q. On whose behalf is your testimony presented?**

4 A. The Missouri School Boards' Association (hereinafter "MSBA").

5 **Q. Will you briefly describe MSBA and its interest in this case?**

6 A. MSBA is a 501(c)(6) not-for-profit corporation representing 387 elementary and
7 secondary school districts in the State of Missouri as a trade association with
8 approximately 2,000 individual school locations, several of which have multiple natural
9 gas meters. MSBA sponsors a statewide aggregate natural gas purchasing program and
10 takes services under School Transportation Program (STP) tariffs of all Missouri gas
11 corporations in accordance with Section 393.310 RSMo (Appendix 1). MSBA's
12 purchasing cooperative is denominated as MOPURC (Missouri Purchasing Resource
13 Center), also known as the MSBA Natural Gas Consortium. MSBA is the authorized
14 purchasing agent for over 2,300 school accounts of which 290 STP accounts are in the
15 Ameren service area. The Consortium purchases natural gas on the open market and
16 arranges for gas supply, pipeline delivery, and local utility transportation to Missouri
17 school meters with annual consumption of approximately 30,000,000 therms.

18 **Q. Who benefits from the STP?**

19 A. Public school students, administrators, and tax payers benefit from STP. MSBA's natural
20 gas program ultimately supports class room needs. Absent these funds, many schools
21 would have fewer teachers, computers and other classroom learning tools.

22 **Q. By whom and in what capacity are you employed?**

23 A. I am Executive Vice President of Latham, Ervin & Associates, which is based in Cedar
24 Rapids, Iowa.

1 **Q. Will you briefly describe Latham, Ervin & Associates?**

2 A. Latham, Ervin & Associates is an independent energy advisor and is not affiliated with
3 any utility, energy marketer, broker or pipeline. Among our client base are education
4 institutions, municipal utilities, rural electric cooperatives, and industrial and commercial
5 enterprises. Our firm has advised statewide school natural gas programs in Missouri,
6 Illinois, Wisconsin, Nebraska and Kansas for many years.

7 **Q. Please state your educational and relevant background business experience.**

8 A. A more detailed description of my education and industry experience is provided in
9 (Appendix 2). I have B.S and M.S. engineering degrees from the University of Missouri-
10 Columbia, and an MBA from the University of Iowa. I have over forty years of
11 experience in the natural gas and electric utilities industries with primary responsibilities
12 for rates, regulations, contracts and operations. I was primarily responsible for the startup
13 of several energy aggregation purchasing consortia, including MSBA's statutory STP
14 program in Missouri initiated in 2002 in conformance with Section 393.310 RSMo.

15 **Q. Have you testified before courts, legislatures, and regulatory bodies?**

16 A. Yes. I testified before the Federal Energy Regulatory Commission, the Missouri Public
17 Service Commission, the Illinois Commerce Commission, the Iowa Utilities Board, the
18 Iowa legislature and various state and federal courts.

19 **Q. Are you the same Louie R. Ervin, Sr. who testified before this Commission in the**
20 **original multiple gas corporation cases held to implement Section 393.310 RSMo as**
21 **it relates to the aggregate purchasing and transportation of natural gas by Missouri**
22 **school districts?**

23 A. Yes. I drafted language which ultimately became Section 393.310 RSMo and I testified
24 before this Commission regarding its implementation. I have testified on behalf of MSBA

1 in numerous rate cases and negotiated multiple settlements with Missouri's investor
2 owned natural gas utilities.

3 **Q. What is the fundamental difference between schools receiving natural gas under**
4 **STP and purchasing natural gas under utilities "sales service" rate schedules?**

5 A. For sales service, utilities purchase wholesale natural gas supply, arrange for delivery to
6 its distribution system from pipelines and deliver the supply to end user meters. For
7 service under STP, schools with annual use of 100,000 therms or less can purchase
8 natural gas supply in aggregate in the open market and arrange for delivery from the
9 pipeline to the utility distribution system for delivery, or transportation, to end user
10 meters. STP allows schools to transport on the utility delivery system in a similar manner
11 as do large commercial and industrial transportation customers.

12 **Q. What are MSBA's positions with regard to the Federal Tax Act and the propriety of**
13 **Ameren's rate schedule?**

14 A: The Tax Cuts and Jobs Act ("the Federal Tax Act") became effective January 1, 2018,
15 which lowered the federal corporate income marginal tax rate from 35% to 21%. The
16 Federal Tax Act potentially lowers the level of federal taxes paid by every investor-
17 owned utility in the country. MSBA is aware utility regulators in states around the
18 country have and are addressing the level of tax reductions and methods of passing tax
19 savings to customer and customer classes. MSBA's position is that benefits of the tax
20 reduction should be immediately passed through to rate payers in the same manner as
21 charges were established; that is, on each rate component which is affected by taxes.

22 **Q. Have you looked at other states and how they are handling this issue?**

1 A. A review of other state proceedings, settlements, utility proposals, and recent Missouri
2 Public Service Commission (“PSC”) rate case decisions reveals several methodologies
3 for resolving this issue. In some other jurisdictions, regulators have already approved
4 immediate pass through of tax savings to rate payers without deferring the matter to a
5 pending or future full rate case. As an example, a tax benefit rider was approved by the
6 Iowa Utilities Board to pass through credits to customers of all classes commencing May
7 1, 2018. I believe Ameren has already passed the savings on to its Illinois electric and
8 gas rate payers. Missouri utilities have historically utilized multiple riders, adjustment
9 clauses and reconciliation true-ups to address single issue items, including immediate
10 pass through of changes in sales taxes.

11 **Q. Does MSBA have any solutions for the Commission to consider?**

12 A. One method is an Income Tax Annual Adjustment (ITAA) which would be similar to the
13 Annual Cost Adjustment (ACA) for Missouri natural gas utilities. Similarly, the ITAA
14 would require utilities to annually file rates based on projected income taxes, beginning
15 in 2018, and in the following year file an income tax true-up for the previous tax year.
16 Over or under collections of projected income tax revenue, plus interest, would be
17 credited in the following year to the utilities’ rate components which generate or can
18 generate taxable revenue through the monthly basic service charges as well as volumetric
19 charges.

20 **Q. Does the Federal Tax Act affect each rate class equally?**

21 A. No; the Federal Tax Act impacts each rate class differently. The Federal Tax Act lowers
22 each utility’s revenue requirement resulting from tax impacts on the equity portion of the
23 utility’s rate of return on rate base, on deferred accumulated depreciation and other

1 factors, which are allocated to each rate class in rate cases. The result is that the Federal
2 Tax Act impacts the Commission-approved allocation of each utility's revenue
3 requirement to each rate class differently and the resulting tariff rates for each customer
4 class are different.

5 **Q. How does the Federal Tax Act affect rates which school pay?**

6 A. Schools take service under several of Ameren's conventional non-residential sales and
7 transportation rates; so, although every Missouri school taking Ameren electric and/or
8 natural gas service is impacted differently, each school is paying higher rates based on
9 higher than current federal taxes for both: (a) fixed monthly charges, and (b) delivery
10 service volumetric charges. MSBA believes, to be fair and equitable, tax reduction
11 benefits to all schools (STP and non-STP) and commercial customers should be
12 consistently applied to both: (a) the fixed monthly charges and (b) delivery service
13 volumetric charges. Tax benefits should not be passed through across the board to all
14 customer classes on a single volumetric-only basis; nor should the tax benefits be passed
15 through as a single fixed percentage across all customer classes; and nor should the tax
16 benefits be credited to each customer class through the PGA gas cost factor or similar
17 volumetric only factors.

18 **Q. Will you summarize MSBA's position with regard to the Federal Tax Act and its**
19 **effects on rates which school pay?**

20 A. Yes;

- 21 1. MSBA supports a simple, fair and immediate action which would result in:
- 22 (a) passing full tax benefits of the Federal Tax Act to schools and other rate payers
- 23 at the earliest possible date; and,

1 (b) utilizing a PSC approved pass-through mechanism which fairly, equitably and
2 consistently passes through benefits of the Federal Tax Act to each customer
3 class by recalculating each respective utility's revenue requirement for each rate
4 classes and applying each respective rate class's non-gas supply revenue
5 requirement to both fixed monthly and volumetric delivery rates, in the same
6 manner as was approved by the Commission in either an on-going rate case or
7 the most recent rate case for each respective utility.

8 2. MSBA does not support the following:

9 (a) a pass-through mechanism which credits tax savings through the PGA
10 calculation or through any other volumetric-only or percentage-only basis,
11 because lower utility taxes impact both the fixed monthly and volumetric
12 charges but do not affect the gas supply or PGA charge.

Appendix 1
Issue: In the Matter of the Propriety of the Rate Schedules for Natural Gas
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MISSOURI PUBLIC SERVICE COMMISSION

CASE No. GR-2017-0227

APPENDIX 1

SECTION 393.310 RSMo

ON BEHALF OF

MISSOURI SCHOOL BOARDS' ASSOCIATION

**Jefferson City, Missouri
November 20, 2018**



Words ▼

1st search term

And ▼

2nd search term

**Effective 28 Aug 2006**

Title XXV INCORPORATION AND REGULATION OF CERTAIN UTILITIES AND CARRIERS

Chapter 393

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:

(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.

(L. 2002 H.B. 1402, A.L. 2003 H.B. 208 merged with S.B. 686, A.L. 2004 S.B. 878 merged with S.B. 968 and S.B. 969, A.L. 2006 S.B. 558)

< end of effective 28 Aug 2006 > 

[use this link to bookmark section 393.310](#)



In accordance with Section **3.090**, the language of statutory sections enacted during a legislative session are updated and available on this website **on the effective date** of such enacted statutory section.

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► **Other Information**



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Appendix 2
Issue: In the Matter of the Propriety of the Rate Schedules for Natural Gas
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MISSOURI PUBLIC SERVICE COMMISSION

CASE No. GR-2017-0227

APPENDIX 2

LOUIE R. ERVIN SR. RESUME

ON BEHALF OF

MISSOURI SCHOOL BOARDS' ASSOCIATION

**Jefferson City, Missouri
November 20, 2018**

Resume Louie R. Ervin Sr, P.E.

Office – Latham, Ervin & Associates, Inc.
150 First Avenue NE, Suite 300
Cedar Rapids, Iowa 52401-1110

Phone: 319-365-6488
Mobile: 319-560-3092
E-mail: ErvinLR@qwestoffice.net

INDUSTRY EXPERIENCE:

- Executive Vice President of Latham, Ervin & Associates, Inc.
- Licensed Professional Engineer
- Expert witness in federal anti-trust case involving wholesale electric wheeling. Expert witness in Louisiana district court involving wholesale/retail wheeling and potential power sales. In-house expert witness in electric, gas and water rate cases before Federal Energy Regulatory Commission, Missouri Public Service Commission and Iowa Utilities Board.
- Responsible for clients representing over 500 mW of electrical load
- Advisor for implementation and operation of multiple aggregate energy purchasing consortiums in Illinois, Iowa, Nebraska, Missouri and Wisconsin.
- Perform engineering and economic generation analysis for industrial and municipal clients.
- Analysis and development of retail electric revenue requirements and rate design for municipal utilities. Develop real time wholesale tariffs for municipal cooperatives.
- Develop energy strategy for industrial and municipal clients.
- Directed a study of the economic impact of Divestiture of IES Utilities Gas Business as part of the Securities and Exchange Commission's merger requirements.
- Past Board Director, Iowan's for Choice in Electricity
- Responsible for construction of transmission and substation facilities.
- Responsible for management of Environmental, Substation Maintenance, Relaying, Metering, Communications and Electric Equipment Repair for large Investor Owned Utility.
- Directed electric operations for Lafayette Utilities System, including 360 mW of natural gas fired steam turbine generation and over sight of 50% ownership in a 560 mW coal plant.
- Performed consultant/agent functions for 40 municipal and REC utilities in Louisiana and Iowa in the area of energy supply.
- Responsible for power supply, marketing, cogeneration, transmission, distribution, field and commercial operations, stores, transportation, system protection, rates and environmental.
- Primary responsibility for integrating the system and personnel following a \$63 million acquisition of an electric utility service territory.
- Negotiated power, steam and natural gas contracts for sales of over \$250 million.
- Received Gas Industries magazine **1993 Outstanding Manager of the Year Award** for directing a \$25,000,000 three-year project, installing over 500 miles of pipe for 52 towns.
- Served on Oversight Teams for Information Systems, Integrated Resource Planning, Economic Development and Environmental.

EDUCATION AND PROFESSIONAL:

- BS & MS Electrical Engineering - University of Missouri (with honors)
- MBA - University of Iowa (with highest honors)
- Public Utility Executive Program - University of Michigan
- Edison Electric Institute Rate Program – Indiana University
- Licensed Professional Engineer
- Academic Honor Societies: Beta Gamma Sigma, Tau Beta Pi, and Eta Kappa Nu
- Past Chair of Missouri Valley Electric Association's Rates and Marketing Committee
- Past member of Southwest Power Pool's Operations Committee
- Member of Mid-continent Area Power Pool's Environmental Committee
- Representative to Midwest Ozone Transport Group
- Past member of Edison Electric Institutes' Metering Committee
- Member of Edison Electric's Environmental Committee

EMPLOYMENT:

- Executive Vice President, Latham, Ervin & Associates, Inc. - July, 1996 - present
- Adjunct Professor, Business Policy/Strategic Management - University of Iowa - 1993-1999
- IES Utilities Company - 1985 -1996:
 - Director- Environmental, Industrial Applications & Maintenance Engineering - 8/95
 - Director- Industrial Applications and Maintenance Engineering - 1/95
 - Director - Operations Planning & Development -1994
 - Director - Operations Services and District Manager - 1993
 - Manager - Gas Operations & District Manager - 1991
 - Manager - Eastern District - 1989
 - Manager - Rates & Contracts - 1987
 - Manager - Rates - 1985
- Lafayette Utilities System - Lafayette, Louisiana:
 - Associate Director - Generation, Engineering & Operations - 1984
 - Associate Director - Power Development & Sales - 1983
- Missouri Utilities Company 1971

ACTIVITIES:

- Board Chair of Aging Services, Inc.
- Member Robins, IA Planning and Zoning Commission
- Board member of Chamber and Economic Development Corporation
- Board member of Cedar River Shelters
- Trustee of St. Paul's United Methodist Church
- Family activities, including golf, canoeing and grandchildren

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

In the Matter of the Propriety of the
Rate Schedules for Natural Gas Service of
Union Electric Company, Doing Business as
Ameren Missouri

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File No. GR-2018-0227

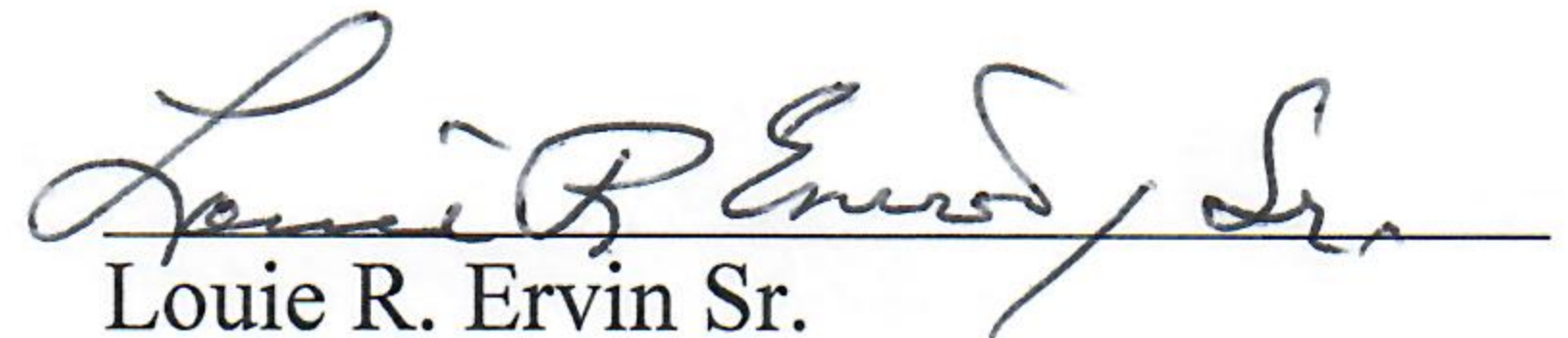
AFFIDAVIT OF LOUIE R. ERVIN, SR.

^{Florida}
STATE OF ~~MISSOURI~~)
COUNTY OF Charlotte)

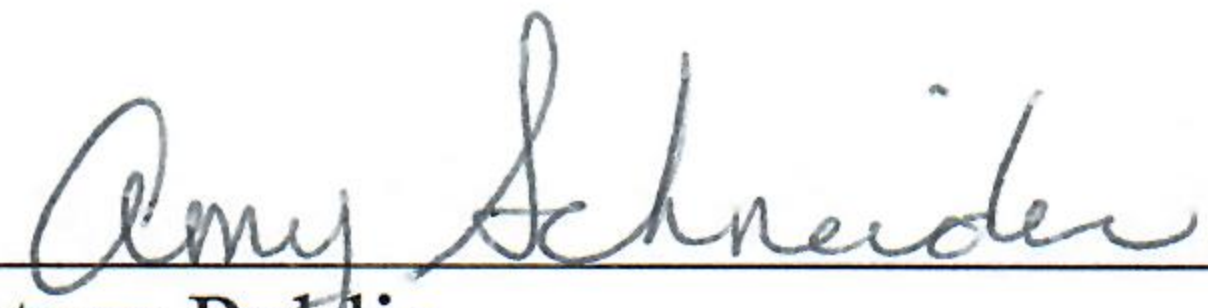
ss.

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 & Associates as the Executive Vice President.
2. Attached hereto an made a part of hereof for all purposes is my Direct 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.

Subscribed and sworn to before me this 20th day of November, 2018.


Notary Public

My commission expires: 05/29/2022



Amy Schneider
Notary Public
State of Florida
My Commission Expires 05/29/22
Commission No. GG 223129