

**BEFORE THE MISSOURI 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 Service)**

Case No. GR-2021-0320

**MISSOURI SCHOOL BOARDS’ ASSOCIATION
APPLICATION FOR REHEARING OR RECONSIDERATION**

Comes Now the Missouri School Boards’ Association (hereinafter “MSBA”), by and through counsel, RSBIII, LLC, Richard S. Brownlee, III, and pursuant to Section 386.500 RSMo. and 20 CSR 4240-2.160, and for its Application for Rehearing or Reconsideration states:

1. The Commission issued its Report and Order for Empire District Gas Company (hereinafter “the Company”) on June 23, 2022, with an effective date of July 3, 2022. The Report and Order involved a general rate case proceeding and specific school transportation issues as set forth in Section 393.310 RSMo.

2. Based upon these statutory and regulatory grounds for MSBA’s Application for Rehearing or Reconsideration, the Report and Order is unlawful, unjust, and/or unreasonable and is not based upon competent and substantial evidence on the whole record in the following particulars:

a. The Commission’s Report and Order erred as it fails to require the Company to file any supporting evidence to support its current school transportation rates. Further, the record is totally devoid of any cost supporting evidence for school rates being currently charged.

b. The Commission’s Report and Order erred by approving continuance of 2009 tariff charges without the Company filing any new cost support to determine whether the charges are just and reasonable.

c. The Commission's Report and Order erred by allowing Balancing service charges to be based in part on the Company's contracted off system gas storage when the only evidence in the case is that the Company does not contract for storage for transportation customers like schools.¹

d. The Commission's Report and Order erred by abandoning the Commission's universal rate making principle/rule of not allowing single/limited issue rate making. By approving rate increases in some rates and allowing other 2009 rates to remain without cost support is paramount to allowing a utility to select and file only charges it wants to increase while retaining other charges in perpetuity with impunity thereby denying customers due process in rate cases.

e. The Commission's Report and Order erred by stating and relying on pure speculation that the Company's costs for Aggregation and Balancing had increased since 2009 despite there being no cost support by the Company in this case to support that speculation.

f. The Commission's Report and Order erred by approving cash-out charges of up to 50% more than the gas corporation's cost of purchasing gas supplies which is in direct violation of Paragraph 4(2) of Section 393.310 RSMo which requires gas corporations to charge its cost of purchasing gas supplies.

g. The Commission's Report and Order erred by allowing the Company to pursue penalties against the schools which is contrary to the statutory provisions of Section 393.310 RSMo.

h. The Commission's Report and Order erred in its interpretation and application of "to be determined by the Commission" as stated in Paragraph 4(2) of Section 393.310 RSMo as being applicable to all component charges listed as a series in Paragraph 4(2) thereby

¹ See Exhibit 302, Appendix 4 – Empire's response to MSBA DR 7.2.

declaring the Commission has the authority to order penalties of up to 50% more than gas supply actual costs. The phrase in Paragraph 4(2) "to be determined by the Commission" only modified Aggregation and Balancing and Paragraph 5 was a statutory mandate that further emphasized how that authority regarding how Aggregation and Balancing charges were to be determined by the Commission. That phrase does not modify the other components listed in the sentence as minimum statutory requirements.

i. The Commission's Report and Order erred by not interpreting Section 393.310 RSMo in its entirety. The Commission cites Section 393.310.4 RSMo as being in conflict with MSBA's argument. Although the Commission doesn't specify how they find there to be conflict in the statute and our argument, it appears that the Commission's Report and Order failed to consider Section 393.310.5 which states:

"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." [emphasis added in bold italics].

j. The Commission's Report and Order erred by overturning the 2002 Commission's seven Orders requiring each gas corporation to record and report its incremental cost of providing Aggregation and Balancing services so the Commission could comply with the cost mandated of Section 393.310 paragraph (5) as it relates to Aggregation and Balancing charges. The original orders can only be changed by competent and substantial evidence, none of which exist in this case.

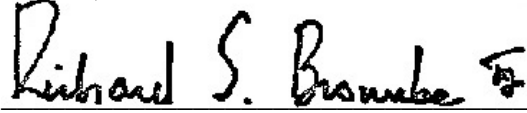
k. The Commission's Report and Order states the burden of proof on rates is on the Company and the Company's costs have increased but the Company submitted absolutely no cost support to justify the rates. Instead, Staff only states that the Company's costs probably have increased yet the Order states without any competent and substantial evidence that the costs have increased.

l. The Commission's Report and Order erred in ignoring the provisions of paragraph 4(2) of Section 393.310 RSMo which require all rates, including Aggregation and Balancing services be at cost.

m. The Commission's order erred by incorrectly interpreting "transportation" in Paragraph 4(2) of Section 393.310 RSMo as utility distribution transportation. It appears distribution transportation has been confused with pipeline transportation.

WHEREFORE, the Missouri School Boards' Association respectfully requests that the Commission reconsider its Report and Order for the grounds set forth and issue findings consistent with this Application, or for any other relief set forth in Section 386.500 RSMo.

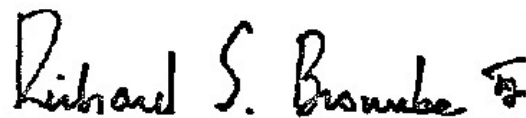
Respectfully submitted,
RSBIII, LLC



Richard S. Brownlee III, MO Bar #22422
Attorney for Missouri School Boards' Association
121 Madison Street
Jefferson City, MO 65101
(573) 616-1911
rbrownlee@rsblobby.com

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties on the official service list for this case on this 1st day of July, 2022.



Richard S. Brownlee III, Attorney