

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

In the Matter of)	
Summit Natural Gas of Missouri Inc.'s)	<u>File No. GR-2014-0086</u>
Filing of Revised Tariffs to Increase Its)	Tracking No. YG-2014-0285
Annual Revenues for Natural Gas Service)	

MISSOURI SCHOOL BOARDS' ASSOCIATION
INITIAL POST-HEARING BRIEF

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INITIAL POST-HEARING BRIEF
OF
MISSOURI SCHOOL BOARDS' ASSOCIATION
CASE NO. GR-2014-0086

I. STATEMENT OF FACTS

A. MISSOURI SCHOOL BOARDS' ASSOCIATION (MSBA)

MSBA presented testimony through Louie R. Ervin, Sr., Executive Vice President of Latham and Associates, an independent energy consulting firm (Tr. 342). They are not an affiliate of any utility, energy marketer, broker or pipeline. Their client base is education institutions, municipal utilities, rural electric cooperatives, industrials and commercial enterprises. Over the past sixteen years, the firm has advised statewide school aggregate natural gas and electric programs in Missouri, Illinois, Wisconsin, Minnesota, Nebraska and Kansas.¹

MSBA's membership consists of approximately 400 public school districts with approximately 2,000 individual school locations. MSBA is a not-for-profit corporation which serves as a trade association for its member school districts. The MSBA has sponsored an aggregate natural gas purchasing program for Missouri schools since 1999. MSBA achieved passage of legislation to allow Missouri schools to aggregate purchases and transportation of natural gas which is codified as Section 393.310 of the RSMo.

A number of schools in MSBA's program purchase natural gas distribution delivery services, or transportation, from Summit Natural Gas ("SNG") for delivery of third-party competitive commodity natural gas supply. As sponsor, MSBA, in conjunction with its third party administrator and advisor, manages the contractual relationships with utilities and suppliers

¹ MSBA evidence presented in Exhibits 400, 401, 402, 403, and 404 (Tr. 342-376).

to transport natural gas to approximately 256 Missouri school districts with annual consumption of approximately 32,000,000 therms.

B. THE STATUTE - SECTION 393.310 RSMO

Originally enacted in 2002, the statute was designed to mandate that all gas corporations file tariffs to allow eligible school entities, in this case eleven (11) school districts and seventy-six (76) school accounts, to purchase interstate pipeline transportation service natural gas supply for delivery to the local distribution Company, SNG, for re-delivery to the schools at its applicable Commission-approved distribution delivery rate, plus an aggregation and balancing fee. The Commission was required to treat SNG's pipeline capacity costs in the same manner as large industrial or commercial basic transportation customers, and in a manner with no negative financial impact on the gas corporation, other customers, or local taxing authorities. [Section 393.310 RSMo](#) is attached hereto as Appendix A, or can be viewed by clicking the underlined blue hyperlink.

II. ISSUES

A. COMPANY PROPOSAL FOR MSBA MEMBER SCHOOLS CREATES RATE SHOCK

1. RATE COMPONENTS

a. BASIC TRANSPORTATION DELIVERY CHARGE RATES

The Company's proposed rate increase for the eleven (11) small, rural school districts (76 school accounts) is estimated to be from 42% to 97% for the distribution delivery services.

In understanding these figures, it is important to note the following:

1. These increases are in addition to what the schools pay for the commodity natural gas supply at market prices.

2. These basic rate figures were proposed by Staff in its Cost of Service Study (COS) and have been accepted by all parties.
3. The percentage increase to the two-part rate, consisting of a fixed monthly charge and a volumetric charge basic, is only the starting point for the overall rate increase analysis.
4. There are two additional add-ons to the distribution delivery two-part rate figure: the increase due to the loss of the flex rate discount and the increase due to a new cashout provision.

The following is the relevant excerpts from Exhibit 404 (Tr. 366-369) which was the rate shock summary exhibit prepared by MSBA. Again, the stated two part rate increase figures from the Staff COS have been accepted by all parties.

See Staff response to MSBA DE 234	Staff proposed Two Part % Increase	Staff proposed Two Part % Incr. Relative to 2013 pre-loss of flex	Staff proposed Two Part % Incr. Relative to 2013 pre-loss of flex + Cashout % Incr.
Ava	51.64%	57.20%	77.20%
Rogersville	55.79%	61.80%	81.80%
Mansfield	52.19%	57.81%	77.81%
West Plains	56.29%	62.35%	82.35%
Willow Springs	57.92%	64.16%	84.16%
Mountain Grove	49.42%	54.74%	74.74%
Fordland	28.94%	32.06%	52.06%
Cabool	45.08%	49.93%	69.93%
Norwood	19.47%	21.57%	41.57%
Lebanon	59.23%	77.54%	97.54%
Seymour	37.46%	41.49%	61.49%

The rate increases to the eleven (11) districts range from a low of 41.57% to a high of 97.54%, which a simple average being computed at 72.79% (Tr. 368).

b. FLEX RATES TO SCHOOLS

A second component to the rate increase proposed by SNG is described as the flex rate increase (Tr. 354). Previous to this case being filed, SNG had offered a program to the individual schools to allow a discounted flex rate if the schools would convert from propane service to natural gas (Tr. 353-354). After having offered this rate incentive to switch from propane to gas, the Company unilaterally withdrew this discounted flex rate effective January 1, 2014. MSBA Exhibit 404 sets forth these additional rate increases by district to be a 10.77% add-on for all districts (except Lebanon which is 30.91%).

c. CASHOUT PRICE INCREASE TO SCHOOLS

The third component to the rate increase is the cashout price increase (Tr. 354). To have an understanding of the phrase “cashout price increase to schools,” one must recognize that nearly all transportation customers create gas supply imbalances when a transportation customer’s (the schools) delivered supply to the Company’s distribution system is greater than or less than the customer’s actual usage. Imbalances can be daily or monthly. Heretofore, SNG carried the schools’ imbalance on its books until the next month when MSBA and Company worked to offset the imbalance overage or shortage during the following month(s). SNG has proposed in this case not to carry over imbalances but instead to cash them out (cashout) after the end of the month. That is, if a transportation customer under-delivers, then the Company supplies that difference and charges the customer a punitive escalated price to discourage imbalances to the extent possible. If the transportation customer over-delivers, then the Company retains that difference as part of its own supply and pays the customer a punitive discounted price to discourage imbalances to the maximum extent possible.

This third cash-out component creates an additional projected 20% increase to the schools (Tr. 354).

d. COMMODITY NATURAL GAS RATES

Ancillary to the rate shock created by the distribution delivery transportation rate increases proposed, the issue was raised as to how that rate factor would be combined with the commodity cost of the gas supply purchased by MSBA at market prices and delivered to SNG from the pipeline for re-delivery to the consumer's meter.

Staff attempted to illustrate this total rate increase analysis by preparing Exhibit 139. Sponsored by Staff Witness Imhoff, the exhibit used the total percentage increase of the two-part rate, then factored a PGA additive to show the transport rate and gas cost combined. The exhibit set forth a total rate increase at a high of 24.87% to low of 9.06% (Tr. 324-341). However, on cross-examination, the Staff witness admitted the schools in fact buy gas on the open market and do not use the PGA rate (Tr. 341).²

MSBA witness Ervin sponsored a similar exhibit as Staff Exhibit 139 which relied upon relevant MSBA actual gas commodity market prices. The total average increase of 72% for the SNG delivery charge is somewhat diluted in the school's total bill which also includes market-priced natural gas commodity supply. Typically, the delivery charge component for gas companies is in the 20% to 30% range, here they will be in the 70% range under the Company proposal. With the delivery charge for SNG being so large compared to the gas commodity supply charge, the concept of rate shock is directly before the Commission. While the Commission has no jurisdiction or control over the gas commodity charge paid by the schools, it does have control over the Company delivery charge.

² This figure is the accurate total of the entire bill to the schools, as opposed to the PGA computation prepared by SNG Staff witness Imhoff, which the schools in fact do not pay.

e. COMMODITY CHARGE vs. TRANSPORTATION DELIVERY CHARGE

It is significant to note that in this case, the percentage allocation of the overall charge to the schools is heavily weighted to the transportation delivery charge (which goes to SNG) as compared to the commodity charge (which pays for the actual gas used). MSBA’s unrefuted evidence shows that in most gas cases, the transportation delivery charge (which goes to the Company) is 20 to 30 percent. In this case, after the flex rate discount is taken from the schools, the delivery rate goes to 60 percent, and with the cashout proposal, it goes to 70 percent of the total bill (Tr. 356). Therefore, any action taken by the Commission to reduce the rate increase is a real savings to the schools.

III. ARGUMENT

In reviewing rate increases the Commission must ensure requested rates are not “unjust, unreasonable, unjustly discriminatory or unduly preferential” § 393.140(5), RSMo. The duty to set just and reasonable rates involves a “balancing of the investor and the consumer interests.” Fed. Power Comm’n v. Hope Nat. Gas Co., 320 U.S. 591, 603 (1944). The Commission is not required to establish “any particular return” for the Company. State ex rel. Capital City Water Co. v. Pub. Serv. Comm’n, 298 Mo. 524, 252 S.W. 446, 456 (Mo. banc 1922). The rates must be fair to both the Company and its customers. State ex rel. Valley Sewage Co. v. Pub. Serv. Comm’n, 515 S.W2d 845, 850 (Mo. App. 1974). This balancing of interests allows a “fair rate of return” but one in which recognizes consumers should not pay, “excessive prices” . . . which is something “regulation seeks to prohibit.” State ex rel. MO Gas Energy v. Pub. Serv. Comm’n., 186 S.W3d. 376, 383 (Mo. App.W.D. 2005), quoting State ex rel. Assoc. Nat. Gas Co. v. Pub. Serv. Comm’n, 706 S.W.2d 870, 875 (Mo. App. W.D.1985).

This ratemaking requires making “pragmatic adjustments” to the rate to avoid unjust or unreasonable results. *Assoc. Natural Gas Co.* 706 S.W.2d at 873. As part and parcel of balancing interests the Commission strives to set rates at a reasonable amount to avoid a shocking increase to consumers. See, *Beatty et al., v. Metro. St. Louis Sewer Distr.*, 867 S.W.2d 217, 219 (Mo banc 1993); *State of MO, ex. Rel. KCP&L Greater Missouri Operations Company et al., v. MO Pub. Serv. Comm’n*, 408 S.W.3d 153, 170 (Mo.App.W.D. 2013); and *State of MO, ex rel. Public Counsel v. MO Pub. Serv. Comm’n*, 289 S.W.3d 240, 246 (Mo.App.W.D. 2009).

The statutory powers of the Commission are broad and state that the Commission “may make such order in reference to such rate, charge, form of contract or agreement, rule, regulation or practice as would be proper” § 393.150, RSMo. Tempered with the requirement that rates be just and reasonable the Commission should strive to set rates below those requested by the Company when doing so will avoid “rate shock” to consumers. §§ 393.140 & 150, RSMo. As proven in the case of *State ex. rel., MO Gas Energy v. Pub. Serv. Comm’n*, 186 S.W.3d 376 (Mo. App. 2006) (transfer denied April 11, 2006), the Commission has the authority to set a rate substantially lower than that originally requested by the Company.

As set forth above, the rates requested by the Company are simply not just and reasonable to the MSBA and the rural schools which ultimately receive the gas for use. The Commission is not required to guarantee a certain rate of return for the Company. The Commission should balance the interests of the Company with those of the MSBA and the rural schools in setting rates even if that means reducing the rate requested by the Company.

As part of the balancing of interests and pragmatic adjustments to rates requested by the Company it may be an equitable solution in this instance, beyond disallowing the rate increase in full, to provide a reasonable phase-in period of a requested rate increase. The concept of phasing

in rate increases is more commonly applied in electrical rates, but it may be an available option in this instance to establish a time period by which to gradually phase-in allowable rate increases for the Company. See, § 393.155, RSMo Section 393.155.1 RSMo states, “such phase-in shall allow the electrical corporation to recover the revenue which would have been allowed in the absence of a phase-in and shall make a just and reasonable adjustment thereto to reflect the fact that recovery of a part of such revenue is deferred to future years.” There is no statutory prohibition to the same principal being applied in this case.

IV. THE SOLUTION TO RATE SHOCK

MSBA suggests there are two viable remedies:

1. The first is to deny or limit the requested rate increase to the Company based upon its failure to demonstrate or meet its past projections and commitments for service area and customer base.
2. Phase-in of proposed rate increase to the schools.

Although MSBA offered no substantive testimony on the denial or limitation of the requested rate increase, it would support the position of Public Counsel in terms of denying or otherwise restricting the requested rate increase due to the Company’s failure to demonstrate or meet its past projections of sales volumes and number of customers presented in the past to the Commission as justification for constructing the system. Based on Public Counsel analysis, the Company has performed substantially below its projections for number of customers and sales volumes for each of SNG’s four divisions. The Company undertook the risks associated with connection of customers and sales volumes, and that exposure should not be saddled on the schools in its service area.

The second solution to the rate shock issue would be for the Commission to order a phase-in of the rates charged to the schools. Since the schools have a statutory budget deadline of July 1st of each calendar year, any rate increase of this magnitude will create serious budget problems that can only be alleviated by cost cutting measures such as teacher layoffs or program limitations.

It may be argued that a phase-in will create a negative financial impact on other customers in violation of Section 393.310-5 RSMo. However, the MSBA witness explained that in a phase-in, the Company (and thus the customer) would ultimately have a full recovery of its cost of debt or carrying charge (Tr. 347-348). The loss of schools to propane service would for sure cause rate shock to the other customers.

V. CONCLUSION

It is clear SNG has failed to meet its customer and volume projections for the four districts, and whether a direct or indirect consequence, it is equally clear the schools served by SNG under Section 393.310 RSMo are being asked to pay the consequences. In this case, the undisputed facts demonstrate a rate increase (combining three factors of the two part increase, the loss of flex rate %, and the cashout %) is an average of 72.79% for the eleven districts!

It is difficult to imagine a case which could better illustrate the meaning of rate shock.

WHEREFORE, the Missouri School Boards' Association respectfully offers this post-hearing brief and prays that the Commission conform its decision in this case to the arguments contained herein.


Respectively Submitted,

Handwritten signature of Richard S. Brownlee III in black ink.

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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 16th day of September, 2014.


Richard S. Brownlee III, Attorney