

At a session of the Public Service Commission held at its office in Jefferson City on the 15th day of October, 2002.

) **Case No. GT-2003-0034**  
) **Tariff No. JG-2003-0050**

**Syllabus:** This order approves the stipulation and agreement of the parties and directs Union Electric Company, d/b/a AmerenUE, to submit tariff sheets in compliance with the order.

On August 1, 2002, AmerenUE filed its proposed gas aggregation tariff for approval by the Missouri Public Service Commission under Section 393.190.1 et seq., RSMo 2000,<sup>[1]</sup> as currently supplemented. The proposed tariff effective date is November 1, 2002.

On August 22, 2002, the Missouri School Boards' Association was granted permission to intervene. After a prehearing conference and other negotiations, the parties filed a Unanimous Stipulation and Agreement. Attached to the agreement were proposed tariffs.

House Bill No. 1402 includes the creation of Section 393.310, RSMo. This section requires Missouri gas corporations to file tariffs allowing school districts to purchase natural gas and pipeline transportation in the aggregate. AmerenUE filed such tariffs.

(A) Allow school associations to negotiate, for eligible schools, aggregate contracts for the purchase “of natural gas supplies and pipeline transportation services”; [2]

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purchasing . . . plus all applicable distribution costs . . . [and] 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;”<sup>[3]</sup>

(C) “Not require telemetry or special metering, except for individual school meters measuring over one hundred thousand therms annually.”<sup>[4]</sup>

The Commission must approve the tariffs if it finds that:

[I]mplementation of the aggregation program . . . 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.<sup>[5]</sup>

## The Agreement

The parties included illustrative tariff sheets with their agreement. The parties have agreed that the Commission should approve the illustrative tariff sheets and authorize AmerenUE to file identical tariff sheets. The agreement contains the following major provisions:

- A. The tariff is proposed to become effective on November 1, 2002.
- B. The program will expire on June 30, 2005, which coordinates with the expiration of the statute.<sup>[6]</sup>
- C. The tariff provides for eligible school entities at multiple meter locations and exempt schools that use less than 100,000 therms annually from mandatory telemetry as required by the statute.
- D. The tariff will not result in a *material* change to the revenue requirement of the company.
- E. The company will report its *actual* incremental costs of the program by June 1 of each year, so that the Commission can make a determination by November 1 as to whether there has been an over recovery or under recovery of those costs.
- F. The schools will be required to pay local taxes or similar fees, in the same amount as they would have had to pay if they were not using the program.
- G. The proposed tariff sheets have also been designed to prevent material financial impacts on other customers of AmerenUE. This design includes purchased gas adjustment credits as part of the program.
- H. The parties will not cause any unreasonable delays in implementing changes

to the program and will not oppose a reasonable request for expedited treatment if changes are necessary.

- I. All the pending issues are resolved and that the stipulations are sufficient for the Commission to make its necessary findings under Section 393.310.
- J. The parties have waived their rights with regard to a hearing and to cross-examination and request that the written testimony submitted by Staff and the company be admitted into the record.

On October 2, 2002, Staff filed suggestions in support of the stipulation and agreement. Staff stated that in its opinion the settlement is appropriate because it is designed to meet the reasonable interpretation of the requirements in Section 393.310 and it will allow the Commission to make its necessary findings under that law. Staff further suggests that the Commission require the Missouri School Boards' Association to report the amount of tax payments made by the aggregator so that Staff and Public Counsel can determine if the amount of taxes paid changes.

## **Decision**

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.<sup>[7]</sup> The Commission has reviewed the Unanimous Stipulation and Agreement, including the proposed tariff sheets, the written testimony, and the suggestions in support. Based on its review, the Commission finds that having no aggregation or balancing fee for the first year of the program as proposed in the tariff is appropriate. The mechanism designed by the parties and provided for in the tariff sheets should allow AmerenUE to report its actual revenues and expenses for the program and implement any changes in the aggregation or balancing fee in the latter years of the program.

The Commission finds that the proposed tariff allows school associations to negotiate, on behalf of eligible schools, aggregate contracts for the purchase natural gas supplies and transportation services. The Commission further finds that the tariff allows "for the resale of natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing . . . plus all applicable distribution

costs . . . [and] an aggregation and balancing fee . . .”<sup>[8]</sup> which does not “exceed four-tenths of one cent per therm delivered during the first year.”<sup>[9]</sup> And, the Commission finds that the proposed tariff does “[n]ot require telemetry or special metering, except for individual school meters measuring over one hundred thousand therms annually.”<sup>[10]</sup>

The Commission recognizes, as did the parties in their agreement, that arguably the statute contains certain inconsistencies. Specifically, the statute requires the Commission to approve the tariff only after a finding that the aggregation and balancing fee “is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program”;<sup>[11]</sup> however, the fee is capped for the first year of the program. The parties have stipulated that the proposed tariff sheets are “designed to preclude negative, material financial impacts . . .” to AmerenUE. The tariff includes an administrative charge of \$40.00 per month which the parties agree includes fees for aggregation and balancing. The company has agreed to report its actual expenses and revenues so that any adjustment in aggregation or balancing fees deemed appropriate to comply with Section 393.310 may be made in the subsequent years of the program. The statute provides that the Commission may, no later than November 1st of each year of the experimental program, implement any adjustments in aggregation or balancing fees deemed appropriate to comply with Section 393.310. Based on this stipulation, the Commission finds that the proposed tariff sheets meet the requirements for approval.

Because of the provisions in the proposed tariff, the Commission further finds that the aggregation program will not have any negative financial impact on AmerenUE, its customers not in the program, or any local taxing authorities. The Commission finds that Staff’s request for reports regarding taxes is appropriate and it will direct the Missouri School Boards’ Association to make such reports.

The Commission determines that the stipulation and agreement should be approved. The Commission also determines that the proposed tariff attached to the agreement should be approved. The Commission will direct AmerenUE to file tariff sheets in compliance with the agreement.

**IT IS THEREFORE ORDERED:**

1. That the tariff filed on August 1, 2002, tariff number JG-2003-0050, is rejected.
2. That the Unanimous Stipulation and Agreement filed on September 26, 2002, by Union Electric Company, d/b/a AmerenUE, the Staff of the Missouri Public Service Commission, the Missouri School Boards' Association, and the Office of the Public Counsel, is approved. (See Attachment 1).
3. That Union Electric Company, d/b/a AmerenUE, shall file tariff sheets in compliance with the terms of the Unanimous Stipulation and Agreement no later than October 18, 2002, to become effective on November 1, 2002.
4. That the Staff of the Missouri Public Service Commission shall file a recommendation for approval or rejection of the tariff no later than October 22, 2002.
5. That any other responses to the tariffs shall be filed no later than October 22, 2002.
6. That the parties shall comply with the provisions of the Unanimous Stipulation and Agreement.
7. That the Missouri School Boards' Association shall report to the Staff of the Missouri Public Service Commission and to the Office of the Public Counsel, no later than June 1 of each year of the program, the amount of tax payments made by the aggregator under the agreement.
8. That the written testimony filed by the Staff of the Missouri Public Service Commission and Union Electric Company, d/b/a AmerenUE, is admitted into evidence.
9. That this order shall become effective on October 18, 2002.

**BY THE COMMISSION**

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Simmons, Ch., Murray, Lumpe,  
Gaw, and Forbis, CC., concur.

Dippell, Senior Regulatory Law Judge

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[1] All subsequent statutory references are to the Missouri Revised Statutes 2000 as currently supplemented.

[2] Section 393.310.4(1).

[3] Section 393.310.4(2).

[4] Section 393.310.4(3).

[5] Section 393.310.5.

[6] Section 393.310.7.

[7] Section 536.060, RSMo Supp. 2001.

[8] Section 393.310.4(3).

[9] Section 393.310.4(2).

[10] Section 393.310.4(3).

[11] Section 393.310.5.