

MISSOURI PUBLIC SERVICE COMMISSION

STAFF REPORT

COST OF SERVICE

APPENDIX 6

**UNION ELECTRIC COMPANY,
d/b/a Ameren Missouri**

CASE NO. ER-2021-0240

*Jefferson City, Missouri
September 2021*

MISSOURI, KANSAS UTILITIES MAY USE LOOPHOLE TO CHARGE CUSTOMERS FOR FOSSIL FUEL LOBBYING

Sierra Club: ‘Millions of Americans may be unwittingly contributing to political advocacy on the behalf of fossil fuel interests’

**By Allison Kite / The Missouri Independent
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KANSAS CITY — Missouri and Kansas residents’ utility bills may be helping to bankroll energy sector lobbying against policies aimed at lowering greenhouse gas emissions.

Federal and state rules prohibit utility companies from passing their lobbying costs on to customers through bills. But in both Kansas and Missouri, utilities like Evergy, Ameren and Spire can include memberships in national trade groups in what residents pay for electricity and gas.

And while utilities are required to carve out those organizations’ lobbying costs, even the remaining sum they are allowed to pass on to customers can go toward efforts that shape major policy, according to environmental groups pushing federal regulators to adopt more stringent policies.

“Millions of Americans may be unwittingly contributing to political advocacy on the behalf of fossil fuel interests when they pay their monthly bills,” said Rachel Golden, director of the Sierra Club’s clean buildings campaign, “and it’s totally inappropriate for utilities to be bankrolling industry group dues and anti-climate lobbying with customer energy bills.”

The Center for Biological Diversity filed a petition earlier this year with the Federal Energy Regulatory Commission in an effort to make it more difficult for utilities to pass on those fees. Other environmental groups, like the Sierra Club, joined in, claiming national energy industry trade groups, like the American Gas Association and Edison Electric Institute, work on influencing policy using members’ fees — not just dedicated lobbying funds.

The move comes as more than a dozen states across the country, including Kansas and Missouri, passed legislation prohibiting cities and counties from adopting bans on natural gas hookups in newly constructed buildings. The environmental groups, which vehemently oppose the legislation, say the AGA played a role in helping shape bills introduced around the country.

In turn, they claim, utility customers helped finance the campaign.

“In allowing utilities to categorize trade association dues in presumptively recoverable ... accounts, regulators often end up enabling utilities’ evasion of legal prohibitions on the recovery of promotional and political advertising expenses, thereby forcing ratepayers to bear the cost of

advocacy that is not in their interests,” the Sierra Club, Earthjustice and other environmental groups said in a filing with FERC.

Both EEI and AGA pushed back against those claims.

Electrical providers, including Evergy and Ameren, belong to EEI. Both Ameren and Spire are members of AGA.

“This filing isn’t about what’s good for the environment or what’s good for electricity customers,” EEI’s vice president of regulatory affairs, Adam Benshoff, said in a statement.

Benshoff said EEI’s member companies have led the charge in reducing carbon emissions.

“To suggest that EEI and our member companies are ‘anti-clean energy’ is disingenuous and inconsistent with the facts,” Benshoff said. “Likewise, to suggest that EEI member company dues are used to pay for lobbying is flat out wrong.”

Utilities and lobbying

In both Kansas and Missouri, utility companies are prohibited from passing their lobbying costs on to customers. But they can pass on their trade association memberships — at least in part.

The Kansas Corporation Commission allows up to just 50% of trade association dues to be passed on, said Jake Fisher, a spokesman for the commission.

The Center for Biological Diversity, Sierra Club and others want those costs to be borne by the utility by default, placing the burden on the company of proving costs are appropriate to include in customers’ rates.

Earthjustice, the Sierra Club and others submitted comments in support, saying utility trade associations “act in the interests of their corporate members, which are often contrary to the interests of those members’ captive ratepayers.”

The group specifically cited the American Gas Association and the Edison Electric Institute.

Those trade organizations can provide information and education to their members. But regulators with both the Kansas Corporation Commission and Missouri Public Service Commission have to sort through, at times, what costs are appropriate.

Right now, Spire, which provides natural gas to households around Kansas City and St. Louis and much of western Missouri, has a rate increase request pending before the PSC.

Spire submitted a detailed explanation of why it needs a rate increase. In response, PSC staff said it had included its membership dues to the Missouri Energy Development Association, which staff said was “engaged in governmental affairs and lobbying activities on behalf of Missouri regulated utilities on an ongoing basis.”

“These types of costs primarily benefit Spire shareholders and should therefore be absorbed by the shareholders of Spire,” the report says.

MEDA testified in favor of Missouri’s bill barring cities from adopting prohibition on new natural gas hookups.

Spire set aside about 6% of its fee to the AGA as lobbying, but the rest could be allowed to be considered as part of gas customers’ rates.

In a statement, Spire said it was “focused on providing customers the affordable, reliable and clean energy they need.”

“Our membership with the American Gas Association advances that goal,” said Jason Merrill, a spokesman for Spire. “The AGA’s support of initiatives such as (Low Income Home Energy Assistance Program), energy efficiency and safety helps us keep Missouri customer bills lower and our systems safer, and we would not be supportive of an effort impacting these benefits to customers.”

Kansas Gas Service’s parent company, ONE Gas, is a member of AGA, the company said in an email, allowing it to connect with more than 200 fellow local natural gas companies “to share industry-wide best practices on safety, reliability, affordability and how to best use natural gas and our delivery systems as part of a cleaner energy future, which will require many types of energy sources collaborating together.”

“As a local distribution subsidiary of ONE Gas, Kansas Gas Service and its customers similarly benefit,” said Leah Harper, corporate communications manager. “All of our expenses, including professional organization memberships, are disclosed to the Kansas Corporation Commission.”

KGS supported the preemption bill on natural gas prohibitions in Kansas. It said it wasn’t aware of AGA being involved.

Evergy, which provides electrical power to Kansas City and much of western Missouri, sought during its 2018 rate case to pass the cost of its Edison Electric Institute on to customers.

Evergy did not respond to multiple requests for comment.

FERC has not ruled on the Center for Biological Diversity’s petition, and if it does, it wouldn’t necessarily affect most utilities. FERC has jurisdiction over utility organizations that do business across state lines, like the Southwest Power Pool, the regional transmission organization Evergy belongs to.

But the Center for Biological Diversity said FERC’s rules serve as the industry standard for state-level regulators that govern local utility companies.

Fight over natural gas

A major part of the Center for Biological Diversity's claim deals with the push to bar cities from adopting natural gas prohibitions.

It's not clear any city in Kansas or Missouri was considering such a policy. Instead, legislators repeatedly invoked Berkeley, California, the first city in the country to pass what environmentalists call "electrification."

Supporters of the requirement say it's essential to reduce greenhouse gas emissions from powering buildings to prevent the most harmful impacts of climate change. And they argue that local governments, not states, should get to make those decisions for their communities.

But opponents, including the natural gas industry and some consumer advocates, say customers should get to choose, and that limiting access to natural gas could push energy prices up.

This spring, both Kansas and Missouri passed legislation barring the cities from implementing the bans. In a Missouri Senate hearing, Sen. Eric Burlison, a Battlefield Republican, specifically invoked Berkeley.

"These radical policies have cost their citizens hundreds and thousands of dollars and have taken their right to choose an energy source away from them," Burlison said.

In its comments to FERC, the Sierra Club pointed to a various campaigns by the American Gas Association that, taken together, it says work against customers' interests.

And it claims AGA only defines a small part of its work as "lobbying," which allows utilities to include most of the membership fee in customers' rates. As a result, customers can end up paying for AGA advocacy.

For example, AGA advocated against stronger Department of Energy rules for efficiency of water heaters, a way the "gas industry keeps itself relevant" in a market where electric alternatives are better, the group wrote.

"This advocacy to preserve gas throughput comes at significant costs, but those costs would not be included in AGA's tally of 'lobbying' costs for tax purposes," Earthjustice and the Sierra Club wrote.

In a statement, AGA did not directly address the lobbying issue, but said it exists to serve local gas distribution companies and help them improve service to customers.

"AGA is committed to help improve member companies' safety, reliability, and environmentally responsible practices, and to support cost-effective and efficient delivery of natural gas by sharing industry-wide best practices and avoiding an unnecessary 'learning curve,'" the company said.

As to the ban on natural gas prohibitions, the group said it “will absolutely oppose any effort to ban natural gas or sideline our infrastructure anywhere the effort materializes, statehouse or city steps.”

But the organization said that was “not counter to the environmental goals we all share.”

While direct influence by national trade organizations was not apparent in Kansas’ or Missouri’s discussions about preempting cities from banning new natural gas hookups, the trade group has played a role in other states, according to other reports.

Spire, the American Petroleum Institute, the Missouri Energy Development Association and other trade and business groups and some municipal utilities supported the legislation in a Missouri Senate committee meeting early this year. Environmental groups and the Missouri Municipal League opposed it.

Similarly, in Kansas, the legislation was backed by trade groups, conservative policy organizations and business interests. Environmental groups, local governments, and clean energy advocates opposed it.

Documents obtained by the Climate Investigations Center and shared with National Public Radio show an AGA slide presentation from early last year listed a goal of keeping “natural gas an integral part of a clean energy future by reframing the debate.”

Under the organizations initiatives, it listed “model and preemptive legislation — Introduced in AZ, TN, MN.”

“Communities throughout the United States are debating how to provide affordable, reliable energy while also reducing emissions,” AGA’s statement said. “Those conversations are also taking place at AGA meetings as America’s natural gas utilities share their experiences and leading practices for serving our nation’s evolving energy needs.”

Ameren, which is a member of both AGA and EEI, did not take a position on the Missouri legislation. In a statement, an Ameren spokesperson said the company was a member of “several key trade organizations which provide direct, immediate and long-term benefits for our customers and stakeholders.”

“Benefits include mutual assistance to provide additional electric and natural gas crews to restore service after severe weather and sharing best practices, including safely serving customers during the pandemic, cybersecurity and enhancing sustainability reporting,” the company said.

In Missouri, the legislation also had the support of the Consumers Council of Missouri, normally a counterbalance to utility companies.

John Coffman, an attorney for the consumers council, said the group feared an effective ban on new natural gas customers would mean a gas utility’s future expenses would be concentrated

among a stagnant or shrinking number of customers, driving up rates for those customers. He likened it to the rising prices of landline phone service as it lost popularity.

Though his group supported the ban on local natural gas prohibitions, he said determining what industry group membership costs can be passed onto ratepayers is something his organization deals with regularly.

“I think it’s good for them to receive scrutiny on these things,” Coffman said. “There are a lot, I think, of things that EEI does that wind up raising utility rates.”

Dave Nickel, consumer counsel for the Citizens’ Utility Ratepayer Board in Kansas, said his organization was “intrigued” by the petition with FERC. He said while not all trade dues are inappropriate, they “sometimes work to benefit the bottom line for the shareholder.”

“CURB is not familiar enough with the petition to support or not support it fully at this time, recognizing that the change in the rule would have policy ramifications for FERC jurisdictional utilities,” Nickel said.

“Nonetheless,” he added, “CURB very fervently advocates that all dues, donations and contributions to charitable, civic and social organizations and entities made by utilities must benefit the ratepayer and be reasonable for any part of them to be included in rates.”

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