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March 12, 2002

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³

MAR 12 2002

Missouri Public
Service Commission

**RE: United Cities Gas Company,
Case No. GA-98-464**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 8 copies of **Public Counsel's Response in Opposition to Atmos Energy's Request for Decision Regarding Application for Subsequent Accounting Authority Order and Request for Hearing**. Please "file stamp" the extra-enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

Douglas E. Micheel
Senior Public Counsel

DEM:kh

cc: Counsel of record

Enclosure

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

FILED³

MAR 12 2002

Missouri Public
Service Commission

In the matter of the application of United Cities)
Gas Company, a division of Atmos Energy)
Corporation, for an accounting authority order)
related to investigation and response actions)
associated with its former manufactured gas plant)
site in Hannibal, Missouri.)

Case No. GA-98-464

**PUBLIC COUNSEL'S RESPONSE IN OPPOSITION TO
ATMOS ENERGY'S REQUEST FOR DECISION REGARDING
APPLICATION FOR SUBSEQUENT ACCOUNTING
AUTHORITY ORDER AND REQUEST FOR HEARING**

COMES NOW the Office of the Public Counsel ("Public Counsel") and for its Response in Opposition to Atmos Energy's Request for Decision Regarding Application for Subsequent Accounting Authority Order states as follows:

1. United Cities has renewed its request that the Commission issue a subsequent accounting authority order to authorize it to defer in account 182.3 all costs incurred in connection with the investigation, assessment and environmental response at the Hannibal MGP site. United Cities also requests the Commission remove the condition that United Cities file a rate case by a specific date to have the deferred costs considered for recovery.

2. Public Counsel opposes United Cities' attempt to include the amounts deferred from March 1998 to March 9, 2001 in any subsequent AAO that may be requested by United Cities. The amounts deferred from March 1998 to March 9, 2001 should be written-off United Cities' books. The Commission allowed United Cities twenty-four months to seek recovery of these deferrals. United Cities did not file for rate relief. Therefore, it is reasonable to assume United Cities was

earning a reasonable return on its investment and recovery of the deferrals are not necessary. In fact, United Cities hasn't filed a rate case for over a year since the amounts deferred pursuant to the initial AAO became null and void.

3. Public Counsel opposes granting a further AAO to United Cities regarding its MGP costs at Hannibal. Pursuant to 393.140(8) RSMo. 2000, Public Counsel requests a hearing be held upon United Cities request for the new AAO. Public Counsel believes United Cities' expenses are not material to justify the granting of an AAO and believes it would be wholly inappropriate to include costs from March 1998 and March 9, 2001 in any subsequent AAO.

4. Public Counsel also objects to United Cities' request that any AAO granted remove the condition that United Cities file a rate case by a specific date. In support of this request United Cities cites Re UtiliCorp United, Case No. GA-2002-285 (issued January 10, 2002). This case is distinguishable and is an exception to the Commission rule that deferrals "cannot be allowed to continue indefinitely." Matter of Missouri Public Service, 1 MPSC 3d 200, 206 (1991). The UtiliCorp case deals with compliance with the Commission's emergency cold weather rule¹ where the Commission via an emergency rule established a utility's right to get an AAO for the cost of complying with the emergency rule. These are costs that occur in the normal course of United Cities' business and are not the result of compliance with an emergency rule promulgated by the Commission. Moreover, the Commission has already determined it is appropriate to limit the deferral of costs related to MGP to no longer than two years.

5. Public Counsel does believe it is appropriate for the Commission to finally decide the issues raised in this case.

¹ Atmos/United Cities have refused to comply with the emergency rule.

WHEREFORE: Public Counsel requests the Commission deny United Cities' request to "modify" the accounting authority order issued on February 25, 1999. In the alternative, that the Commission set this matter for hearing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY:



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been faxed, mailed or hand-delivered to the following counsel of record on this 12th day of March, 2002:

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