

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Atmos Energy	)	
Corporation Purchased Gas Adjustment	)	<u>Case No. GR-2001-396</u>
Factors to be Audited in Its 1999-2000	)	Tariff No. 200100751
Actual Cost Adjustment	)	

DISSENTING OPINION OF COMMISSIONER KELVIN L. SIMMONS

The Missouri Public Service Commission today approves a substantial rate increase for Atmos Energy Corporation under its Purchased Gas Adjustment (PGA) tariff provision. I dissent in the Commission's decision.

Natural gas prices are volatile; they are subject to rapid and extreme fluctuations. The PGA mechanism permits Missouri natural gas utilities to respond rapidly to fluctuations in natural gas prices. Rates can be quickly raised or lowered, on ten days notice, depending on market conditions. Each gas utility seeks an initial PGA rate order in the late summer, based upon a forecast of gas prices for the upcoming heating season. In the spring, an adjustment is typically made, based on the record of the heating season just completed. If necessary, unscheduled adjustments can be made. Unfortunately, in the present regime of an unusually cold winter and rising prices at the wellhead, Atmos Energy is seeking to raise rates.

The PGA mechanism has existed since the 1960s and has been approved by the Missouri courts. See Midwest Gas Users Association v. Public Service Commission of the State of Missouri. Nonetheless, despite its long acceptance and judicial approval, the time has come for the Commission to reconsider the PGA mechanism. The current heating cost

emergency raises an unavoidable question: Are the natural gas utilities doing everything in their power to protect consumers from the effects of unexpected, extreme fluctuations in the price of natural gas? Are they engaging in appropriate hedging programs? Are they storing adequate reserves, purchased when prices are low? The Commission has opened a recent case to investigate these matters. I am in complete agreement with that decision.

The PGA mechanism was created by the Public Service Commission. Although the courts have upheld the PGA process, the Missouri General Assembly has never yet spoken on the subject. I also believe that the time has come for the General Assembly to provide guidance to the Commission with respect to the PGA mechanism. If the legislature believes the process should be altered or changed completely, then the Commission would be ready to implement those changes. The legislature would also be in a position to recommend the appropriate staffing and resource considerations that would be necessary to carry out the legislatures wishes. Certainly, the legislature has a necessary role to play in protecting consumers from the effects of extreme and unexpected gas price fluctuations.

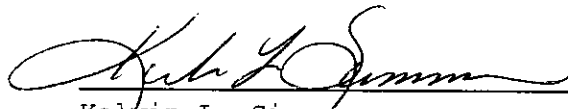
The Office of the Public Counsel is an independent state agency, expressly created to represent consumers before this Commission. It is noteworthy that the Public Counsel has not asked the Commission to reject or suspend Atmos Energy's unscheduled PGA tariff. I believe an emergency audit should be conducted as the Public Counsel requested in a recent Purchased Gas Adjustment (PGA) Tariff involving similar companies. However, I caution such an audit will take some months to complete.

The current crisis is not limited to Missouri. It is a problem of national dimension. The wells that produce natural gas are not located in Missouri; they are beyond the reach of this Commission. It is the duty of the federal government to examine gas-pricing practices to determine

whether or not gas wholesalers are gouging consumers in Missouri and elsewhere. That is an investigation in which the Missouri Attorney General has a vital role to play. I will continue to urge the Attorney General to review this matter and to take whatever steps he can to protect Missouri ratepayers.

It appears that the current PGA process, which is statutorily silent and upheld in the courts, gives the Commission very limited options but to approve Atmos Energy's unscheduled PGA rate increase request. Some would even argue that if we did not approve the increase, Atmos Energy would soon exhaust its reserves of gas and cash and find itself in a position in which it was unable to purchase further natural gas supplies. That would not assist Missouri consumers in any way. I however remain unconvinced that our current process for evaluating a consistent cost recovery method under these extreme set of circumstances gives rise for automatic approval. *I look for a way to provide our consumers with close to absolute certainty that the cost for natural gas processed through the PGA mechanism is reliably assured given today's extraordinary volatility with high natural gas prices.* For these reasons, I respectfully dissent.

Respectfully submitted,



Kelvin L. Simmons
Commissioner

Dated at Jefferson City, Missouri,
on this 30th day of January, 2001.