`BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy's Tariffs Increasing Rates for Gas Service Provided to Customers in the Company's Missouri Service Area	))))	**Case No. GR-2006-0422**

DISSENTING OPINION OF COMMISSIONERS
ROBERT M. CLAYTON III AND STEVE GAW

These Commissioners dissent from the majority's Report and Order that continues the untested and company beneficial shift in PSC policy for utility rate design.[1] The Order grants the Straight Fixed Variable (SFV) rate design under the guise of "declining customer usage coupled with the current rate design ... exacerbate[ing] MGE's inability to recover it[s] fixed costs."[2] The SFV rate design is clearly beneficial to utilities by eliminating virtually all volatility in its regulated revenues. It accomplishes this goal by decreasing a consumer's ability to control costs through conservation and increasing costs to low volume users (including low income consumers). The traditional rate design of both a volumetric and fixed rate element has been used and supported by Commission Staff for years. Until this year, the Commission considered it to be the fairest rate design for high and low volume users.

The SFV rate design also shifts all risk from fluctuating weather from an equitable sharing mechanism and places the risk on consumers. The traditional rate design encouraged conservation due to the combination of these elements. The SFV rate

[1] *See* Dissent of Commissioners Clayton and Gaw in PSC case no. GR-2006-0387.
[2] *See* this majority's Report and Order at p. 11.

design decreases the incentive to conserve. The majority awards the SFV rate design without sufficient conservation and energy efficiency programs. These Commissioners believe it is critical that a significant effort toward conservation and efficiency be required before this rate design is allowed.

The majority states that "[i]f the SFV design is adopted, the company is committed to offering several natural gas conservation initiatives."[3] However, the $1,500,000 projected program expenditures on which the majority relies is completely funded by ratepayer dollars, lacks any contribution or commitment by the utility and adds up to less than 1% of MGE's gross revenues. The same majority recently used the 1% of gross revenues standard (which these Commissioners argued was insufficient), in Atmos' last rate case as the minimum level that the *utility*, not the ratepayers, should expend in order to receive a SFV rate design. Now, in this Order, the majority abandons both the 1% threshold and the mandate of utility funding and places all of the cost of the conservation "commitments" on ratepayers.

These Commissioners are also concerned that despite the significant reduction risk granted on behalf of the company, the majority has failed to reflect that reduction of risk in the company's Return on Equity (ROE) award. The majority awards the same ROE to MGE as was granted in the last rate case with no downward adjustment. Not only is this Report and Order inconsistent with prior Commission decisions, it is also contrary to the national trend of declining Commission-granted ROEs.

These Commissioners are disturbed by the majority's pattern of disregarding risk reductions as a major element to consider in setting ROE when it should benefit ratepayers, and yet, in contrast, consistently increasing the ROE while there is a

[3] *Id.*

perceived elevation in risk when it benefits the utility. In MGE's last rate case, the majority ultimately granted a return of 10.5%, which these Commissioners believed to be too high for reasons specified in the dissent in case number GR-2004-0209. This Order also grants a return of 10.5%, while reducing the risks of the company through stabilized revenues. Such a decision unjustifiably increases profit margins while unjustly shifting costs to ratepayers. Logic suggests a decrease in a utility's ROE when there is decreased risk to maintain a degree of balance between the company and ratepayers. This, unfortunately, was not the approach Staff presented nor that adopted by the majority.

Conservation efforts and efficiency improvements are vital if we are to attempt to reduce consumption, reduce overall costs to consumers and become more energy independent and environmental friendly as a nation. The use of a SFV rate design lowers the incentive of attaining all of these goals absent significant and comprehensive energy efficiency programs. It also increases costs to many low income ratepayers who attempt to save money through lower usage and lower bills. Such a shift should not be considered without sufficiently balanced programs to benefit other stakeholders. It should only be considered as a part of a significant effort toward the goals of conservation and efficiency and with a plan for protecting low income ratepayers. The efforts made here do not rise to the level that justifies giving MGE the SFV rate design. In conclusion, these Commissioners believe that rates can not be considered just and reasonable. For these reasons these Commissioners dissent.

Respectfully Submitted,

Robert M. Clayton III, Commissioner

Steve Gaw, Commissioner

Dated at Jefferson City, Missouri,
On this 18th day of September, 2007.