

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

In the Matter of Proposed Amendment)	Case No. GX-2006-0434
To Commission Rule 4 CSR 240-13.055.)	

**SUPPLEMENTAL COMMENTS
OF
MISSOURI UTILITIES**

On June 15, 2006, the Public Service Commission of the State of Missouri ("Commission") caused to be published in the Missouri Register a notice of a Proposed Amendment to the Commission's Cold Weather Rule, which is currently set forth at 4 CSR 240-13.055. *See* Missouri Register, Vol. 31, No. 12, pages 902-905. In the Notice, the Commission invited interested parties to submit comments within 30 days of publication.

In response, Laclede Gas Company ("Laclede" or "Company"), Missouri Gas Energy ("MGE") and Atmos Energy Corporation (hereinafter collectively referred to as the "Missouri Utilities") submitted written comments and recommendations and participated in the public hearing that was held in this matter on July 19, 2006. Upon conclusion of the public hearing, the Presiding Judge indicated that the Commission would hold the record open for an additional week in order to receive supplemental comments, including additional citations to Missouri cases where tracker mechanisms like the one proposed by the Missouri Utilities in this case have been used to address other expense items. To that end, the Missouri Utilities submit the following supplemental comments:

REVISIONS TO RECOMMENDATIONS

During the public hearing, a number of concerns were raised regarding rule clarifications and revisions that the Missouri Utilities submitted in response to the Proposed Amendment. First, AARP suggested that providing customers with only one opportunity to take advantage of the more lenient payment terms set forth in the Proposed Amendment was too harsh. The Missouri Utilities continue to believe that these more lenient payment terms should not be offered on a routine basis given their potential to exacerbate arrearage levels to the detriment of both the customer making use of them as well as all other customers who must ultimately shoulder the cost of bad debts incurred by the utility. At the same time, however, the Missouri Utilities do not object to providing customers with more than one opportunity to take advantage of these terms as long as the time afforded between those opportunities is sufficient to minimize adverse impacts and arrearage levels. The Missouri Utilities believe that a requirement to offer these more lenient terms no more than once in any five year period would satisfy this goal and have accordingly revised their recommended rule language to reflect such a change. (See Attachment A (Revised)).

Second, a concern was also mentioned that in a higher gas commodity price environment it may no longer be appropriate to maintain in its present form the utility's right to file tariffs under which the availability of the Cold Weather Rule's payment terms can be limited to households with net income levels below 150% of the federal poverty level. 4 CSR 240-13.055(13). Specifically, the Office of the Public Counsel suggested that if such a right were to be maintained, the net income percentage should be raised to 185% of the federal poverty level -- a percentage that corresponds to the income criteria

currently used to determine food stamp eligibility. The Missouri Utilities believe that this is a reasonable modification and have reflected such a change in Attachment A (Revised) hereto.

Finally, concerns were raised regarding the uncollectible expense tracker mechanism proposed by The Missouri Utilities. Notably, none of those concerns identified any legal problems with the Commission's use of such an accounting tracker. Nor did any of them articulate exactly why such an accounting tracker (which trackers have been effectively used by the Commission in the past to address increases and decreases in numerous cost-of-service items, including pension expenses, post-retirement medical benefit expenses, environmental costs and the cost impact of prior Cold Weather rule changes) is not a reasonable way to address revenue losses and uncollectible expenses that are largely driven by utility collection practices that have been expressly limited by Commission rules.¹

In fact, the only substantive concern to the use of such a mechanism was the one articulated by Chairman Davis regarding whether utilities would still have an incentive to pursue collection activities and other measures designed to reduce bad debts if such a tracker was established. As the Missouri Utilities indicated during the hearing and in their comments, since the uncollectible expense accounting tracker does not contemplate any allowance for carrying costs associated with deferred increases in uncollectible expense, they believe a strong incentive to pursue such measures does exist under the

¹ The use of such trackers in situations where costs are largely driven by mandated regulatory requirements is also consistent with a deferral mechanisms that have previously been approved by the Commission such as those established to address safety line replacement program impacts (i.e. property taxes, depreciation expense and carrying costs associated with specific Commission-mandated safety requirements).

mechanism as proposed.² Nevertheless, in an effort to put this concern to rest, the Missouri Utilities have modified the proposed accounting tracker to provide that the utility would continue to absorb 10% of any increase (or benefit from 10% of any decrease) in uncollectible expenses between rate cases. In other words, only 90% of any increase or decrease in uncollectible expense would be deferred for recovery or return to customers in a general rate case proceeding. At the same time, utilities would also continue to absorb any carrying costs associated with an increase in such expenses.³

By proposing this change, the Missouri Utilities believe that they have incorporated into the tracker a robust incentive to pursue whatever collection, disconnection and other measures for mitigating uncollectible expense that they still have the discretion to exercise under the Commission's extensive rules in this area. At the same time, by ensuring that something less than the full amount of uncollectible expenses actually incurred by the utility will be deferred, such a modification also responds to concerns over whether the proposed tracker captures more costs than what has been caused by the Commission's most recent rule changes in this area.⁴

²In Kansas, the KCC addressed this concern by requiring LDCs to file reports summarizing each LDC's policy and procedures for recovering uncollectible accounts and information allowing the Commission to assess the LDC's aggressiveness in pursuing collection activities. See Order Approving Joint Application, Re: Joint Application of Atmos Energy Corporation, Aquila, Inc. d/b/a Aquila Networks-KGO, and Kansas Gas Service, a Division of ONEOK, Inc. for Approval to Recover The Gas Cost Portions of the Uncollectible Accounts Through Their Purchased Gas Adjustment ("PGA") or Cost of Gas Rider ("COGR") Tariffs, Docket No. 06-ATMG-643-GIG, pp. 7-8 (June 24, 2005).

³Deferring only 90% of any increase or decrease in uncollectible expense, with the utility remaining at risk for 10% of the difference as an incentive to minimize its actual expense level is also consistent with an approach adopted last year by the Michigan Public Service Commission for Michigan Consolidated Gas Company. See *Re: Michigan Consolidated Gas Company*, Case Nos. U-13898 and U-13899, 240 P.U.R.4th 387, 2005 WL 1159407 (Mich. P.S.C), Order issued April 28, 2005.

⁴The Missouri Utilities would note that other accounting trackers approved by the Commission have typically deferred *all* increases or decreases in the expense item, without any adjustment of the kind proposed herein or, for that matter, any adjustment to the utility's return on equity to reflect any perceived change in risk. Nevertheless, in a further effort to address all reasonable concerns raised during the public

With these changes, the Missouri Utilities would submit that the uncollectible expense accounting tracker proposed herein represents a fair, legally sound and entirely workable method for ending the impasse over funding issues that have complicated prior rulemakings involving the cold weather rule. It is also a method that is well grounded in Commission precedent for addressing expense items of a similar nature. For all of these reasons, the Commission should approve the uncollectible expense accounting tracker, as modified and set forth in Attachment A (Revised), hereto.

AUTHORITY FOR ACCOUNTING TRACKERS

During the Public Hearing, Chief Regulatory Law Judge Dale requested additional references detailing Commission cases in which the Commission has approved accounting trackers similar to the one being proposed by the Missouri Utilities in this proceeding. In response thereto, the Missouri Utilities have included an Attachment B hereto which sets forth the cases in which such trackers have been approved, together with a description of what expense items are covered by the tracker.

In addition, Attachment B includes selections from the direct, rebuttal and surrebuttal testimony of Staff witness Doyle L. Gibbs in Commission Case No. ER-2004-0570 (Empire Rate Case), in which the Staff proposed the use of an accounting tracker for pension expense. The testimony is instructive because it provides an abbreviated history of where such trackers have been implemented in the past and makes many of the same points that have been raised by the Missouri Utilities in explaining why such a mechanism should be approved in this proceeding. Specifically, Mr. Gibbs noted in his testimony that such a tracker ..."protects the ratepayer and the Company from over or

hearing, the Missouri Utilities have incorporated such a feature in their proposed uncollectible expense accounting tracker.

under-recovery of the pension expense that is actually incurred compared to the level of recovery included in rates." (*See Re: Empire District Electric Company*, Case No. ER-2004-0570; Rebuttal Testimony of Doyle Gibbs, page 3, line 22 to page 4, line 2). In other words, a tracker is fair because it works both ways -- to protect both the customer and the utility from either paying or recovering too much or too little for a particular expense.

Mr. Gibbs also noted, as the utilities have in this proceeding, that trackers can be particularly useful where an expense item is very volatile due to the impact of market forces or other factors such that it is simply not possible when setting rates to make reasonably accurate forecasts of that expense based on historical information or assumptions. (*Id.* page 4, lines 11-18). As Mr. Gibbs put it, while one can calculate an expense level for such items based on certain historical assumptions, the " ...problem is that there is no assurance that the assumptions will reflect anything close to what actually occurs." (*Id.* page 4, lines 17-18). Certainly, this is true of prior efforts to calculate uncollectible expense levels as evidenced by the wide disparity between what has been estimated and reflected in rates for this item and what has actually been incurred by utilities like Laclede and MGE.

Finally, Mr. Gibbs testimony is helpful because it provides an example of where trackers have been promoted by the Staff (and ultimately approved by the Commission) as a means of keeping current rates lower than they otherwise would have been without the tracker. While some at the public hearing suggested that accounting trackers were simply another vehicle for protecting utilities from increasing costs, history shows that

they have, in fact, been proposed by those on both sides of the ratemaking divide and that customers have benefited from them through lower rates.

For all of these reasons, and those set forth in their initial Comments, the Missouri Utilities request that the Commission approve their recommended changes to the Proposed Amendment as modified in these supplemental comments.

Respectfully Submitted,

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