

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

In the Matter of a Proposed Amendment to the)
Cold Weather Rule 4 CSR 240-13.055)

Case No. GX-2006-0434

AARP's APPLICATION FOR REHEARING

COMES NOW the AARP, pursuant to Section 386.500 RSMo. 2000 and 4 CSR 240-2.160, and respectfully applies for a rehearing of the Public Service Commission's ("Commission's") Final Order of Rulemaking issued in the above-styled matter on August 11, 2006.

AARP appreciates the fact that the Commission has attempted to adopt a rule that would incrementally improve the terms for the connection for needy customers during the cold winter months. However, the Commission has added a complication new "recovery" scheme in the final order which the public did not have adequate opportunity to address and which would allow natural gas utilities the benefit of an untried mechanism that is unreasonably and unfairly skewed against ratepayers.

The Final Order is unlawful, unjust, unreasonable, arbitrary, capricious, and unsupported by competent and substantial evidence on the whole record, in the following respects:

- a. The Commission's Final Order includes "recovery" language proposed by the natural gas industry after the rulemaking hearing concluded and the record was closed in this matter, and thus violates substantial notions of fair

play and adequate due process. This new complicated AAO procedure would allow utilities an inappropriate return on alleged costs through hidden charges determined in proceedings separate and apart from general rate cases and contains other single-issue ratemaking features for which the public received insufficient notice. Insofar as the Commission adopted language that was outside the proposed rule, without sufficient notice, and based upon proposals that the general public was unable to address in comments or testimony, the Final Order is unlawful and unreasonable.

b. The Commission's Final Rule also includes within subsection (G) a provision that would allow gross costs to be determined for pass-through to ratepayers in a manner that does not necessarily permit all relevant factors to be considered pursuant to Chapters 386 and 393 RSMo. This language was adopted even though alternate language was presented that would have limited a gas utilities' cost recovery to the net costs actually incurred by that utility, rather than recovery of gross costs. However, the language adopted by the Commission could actually allow extra recovery of some costs and ratepayers could be without any recourse to prevent the utility from receiving a windfall. The incomplete accounting method was also extended to the recovery of costs for the Emergency Cold Weather Rule in effect for the last winter season of 2005-2006 (another subject that was not included in the Commission's Proposed Rule). For these reasons, the Commission has not treated ratepayers and shareholders in an even-handed manner and the Final Rule is thus unlawful and unreasonable.

c. Moreover, the Commission's Final Rule includes an extremely unreasonable provision that would punish consumers for potential inaction on behalf of the Commission itself. This penalty on consumers is described in the last sentence of subsection (G)(2), which would impose a timing restriction if the Commission fails to act within 180 days. It is entirely unreasonable for the Commission to make ratepayers suffer for its failure to act within its own self-imposed deadline.

WHEREFORE, AARP respectfully request that the Commission grants its Application for Rehearing and issues a new order that addresses the concerns expressed herein.

Respectfully submitted,

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