

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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| OFFICE OF THE PUBLIC COUNSEL, |) | |
| Complainant, |) | <u>Case No. GC-2006-0180</u> |
| vs. |) | |
| SOUTHERN MISSOURI GAS COMPANY, L.P., |) | |
| Respondent. | | |

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

These Commissioners respectfully dissent from the majority's Order Approving Unanimous Stipulation and Agreement. By approving the Stipulation and Agreement, this Commission fails to address Southern Missouri Gas Company's (SMGC) lack of prudent preparation for the gas needs of its customers for the 2005-2006 winter heating period. The Commission has lost an opportunity to send a clear message that it expects Missouri gas companies to protect consumers from extreme price fluctuations by utilizing sound supply preparations for the winter heating season. The Stipulation in this case fails to identify damage to consumers and requires the company to take action it was already required to do.

Due to a variety of reasons, volatility in the price of natural gas set the stage for a potentially disastrous winter for consumers in 2005-2006. Consumers avoided an unprecedented financial burden from home heating costs because of a warmer-than-average winter season. Over the objections of Commissioner Gaw, SMGC's PGA went into effect in October 2005. Once approved, the Commission lost the ability to review or amend the adjustment until the next

ACA prudence review which does not occur until December 2006 – the beginning of the next winter heating season.

Normally, PGA adjustments are approved as a matter of course without scrutiny beyond Staff's recommendation. The magnitude of the increase demanded the Commission to hold a hearing to learn of the Company's policies and efforts at price mitigation for consumers. At the hearing, the Commission learned that SMGC failed to implement any hedging practices for the 2005-2006 winter heating period contrary to "Natural Gas Price Volatility Mitigation" rule. 4 CSR 240-40.01. Staff's recommendation in the PGA case and in this Complaint case, withheld determination of the prudence of SMGC's gas purchasing practices until the ACA review in December 2006.

After the approval of the PGA in October 2005, the OPC filed a complaint alleging a continuing violation of 4 CSR 240-40.018 that requires LDC's to:

"As a part of a prudent planning effort to secure adequate natural gas supplies for their customers, natural gas utilities should structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas spikes, and provide a level of stability of delivered natural gas prices."

In its Complaint, the OPC stated that "SMG established a strategy that was entirely a gamble based on a hope that market prices would decline this fall and winter." Complaint at p.3. The OPC requests the Commission to find SMGC in violation of this rule and to impose appropriate penalties. The filing occurred as approaching colder temperatures encouraged public outcry for significantly increasing prices.

The Commission now has before it a Stipulation supposedly resolving all the issues in the Complaint, which primarily focuses on a newly adopted hedging and gas purchasing strategy for

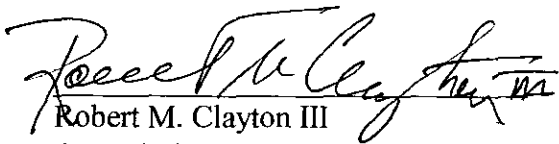
the Company. The parties acknowledge that the Company had no strategy nor did it take any action in preparation for the winter. The Commission should be aware of what the financial impact that inaction inflicted on customers. That information is a critical piece needed to ascertain whether or not SMGC's customers were harmed by the utility's failure to hedge. A complaint case that fails to determine if harm resulted from a utility's acts or omissions has little worth, especially when the complaining party requests appropriate penalties without presenting any supportive evidence.

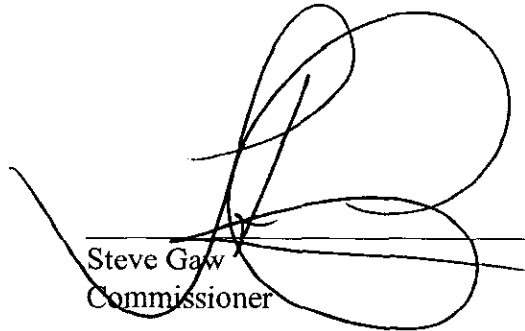
The negotiation between the SMGC, the OPC and the Staff of the Commission resulted in a proposed settlement which produces insignificant consequences for SMGC's failure to protect its customers by utilizing hedging practices. The resulting Order Approving Unanimous Stipulation and Agreement is only prospective in nature. It simply requires SMGC to begin to do what has always been required of it by administrative rule.

The PSC Rule in question, 4 CSR 240-40-018, sets a low bar for LDCs in their gas purchasing practices. The Company failed to traverse that bar. The settlement sends the message that any LDC may take the same route as the Company without the threat of penalty. Such a message fails to address a gas utility's obligations to mitigate gas volatility. The majority's interpretation leaves Missouri's natural gas consumers with inadequate protections and that is unacceptable.

For these reasons, we respectfully dissent.

Respectfully submitted,


Robert M. Clayton III
Commissioner


Steve Gaw
Commissioner

Dated at Jefferson City, Missouri,
on this 2nd day of May, 2006.