

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

In the Matter of The Empire District Gas)	
Company of Joplin, Missouri for Authority)	
to File Tariffs Increasing Rates for Gas)	Case No. GR-2009-0434
Service Provided to Customers in the Missouri)	
Service Area of the Company.)	

CONCURRING OPINION OF CHAIRMAN ROBERT M. CLAYTON III

This Commissioner concurs in the Commission's Report and Order addressing a rate increase request of The Empire District Gas Company of Joplin (Empire).

First of all, the Commission is making a strong stand on funding of Energy Efficiency (EE). As part of the Commission's recent shift of policy on EE, this rate case is the second time the Commission is pegging its goal of EE funding at .5% of gross operating revenues of the company, which amounts to approximately \$325,000. This figure compares with an amount of less than \$100,000, which has been spent annually for the last several years. The Energy Office of the Missouri Department of Natural Resources (DNR) has advocated for spending targets between .5% and 1.5% of gross operating revenues, in accordance with the National Action Plan for Energy Efficiency. The Commission is mandating expenditures of approximately \$231,000 per year, which most parties have agreed can be spent effectively and efficiently in 2010, while the Energy Efficiency Collaborative (Collaborative)¹ will work towards the .5% goal in future years. The goal of increased EE funding will be addressed regularly through on-going Commission involvement should the Collaborative fail to reach agreement or run into policy differences. While the Commission should continue to monitor and increase that funding level

¹ The Energy Efficiency Collaborative is a group of stakeholders charged with the task of formulating detailed programs to effectuate the intent of the Commissions Report and Oder in regard to planning and implementing cost effective energy efficiency programs within the utility's service area.

based on feedback from the Collaborative, this Commissioner believes this steady increase is the most responsible manner of stepping up efforts at empowering customers to reduce their energy usage.

Secondly, customers will not be responsible for funding EE programs through rates. The rates stemming from this order will not include an EE component, but rather, Empire will be required to fund the EE programs in advance. Those expenditures will be tracked in a regulatory asset for potential recovery in the next rate case. The Commission will be watching closely as programs are created, implemented and tracked for their cost-effectiveness.

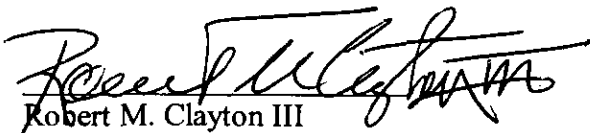
Thirdly, the Commission in this case is sending the message that it intends to stay involved as the Collaborative works through implementation of its programs. It is this Commissioner's hope that the Collaborative can continue to operate in a consensus and advisory fashion and, if any dispute or roadblock occurs, that the Commission can address differences in policy determinations. Expenditure levels, program types and funding as well as feedback from rate payer experiences are items that the Commission will have the ability to monitor and contribute to the dialogue.

In conclusion, this Commissioner is compelled to commend the parties involved in this case who have effectively settled the vast majority of issues relating to rates, rate design and many other issues. While the Commission is prepared to make the challenging decisions on controversial and complicated matters, the public can take solace that each of the stipulating parties have placed their names on the line to responsibly reach a compromise on an appropriate level of rates. While rate increases are never easy or welcome, the evidence in this case demonstrates that higher rates have been necessitated by prudent infrastructure investments and increases in general operating costs. The Commission has approved this increase unanimously

and will engage in future filings to insure that the Commission directives are implemented. The Commission has a responsibility to insure that the utility offers safe and adequate service at "just and reasonable" rates. Following staff audit, evidentiary hearing, partial settlement and transparent Commissioner deliberations, the Commission finds that these new rates to be appropriate.

For the foregoing reasons, this Commission concurs.

Respectfully submitted,


Robert M. Clayton III
Chairman

Dated at Jefferson City, Missouri
on this 24th day of February 2010.