BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Missouri Gas Energy and its Tariff Filing to Implement a General Rate Increase for Natural Gas Service	)))	**File No. GR-2009-0355**

CONCURRING OPINION OF CHAIRMAN ROBERT M. CLAYTON III

This Commissioner concurs in the Commission's Report and Order addressing a rate increase request of Missouri Gas Energy (MGE). For the reasons set out below, this Commissioner believes that the Commission has moved toward a much more reasonable and acceptable approach since MGE's last rate increase granted in 2007, in Case No. GR-2006-0422. In that case, this Commissioner dissented based on a number of concerns in the decision including the shift to a rate design known as the Straight Fixed Variable (SFV) rate design, the award of an inappropriately high Return on Equity (ROE) and a failure to adequately address customer energy efficiency (EE) programs in funding, in program implementation and in comprehensive planning. Today, this Commission has addressed each of the latter points which make the SFV an appropriate rate design that benefits a majority of consumers.

As referenced in my Dissent in 2007, the SFV is a significant shift in policy away from the standard rate designs utilized for many years. Prior to 2007, natural gas customers paid rates that included a fixed charge component, amounting to approximately 55% of distribution costs, with the remaining 45% paid through a volumetric charge based on usage. Lower usage customers had lower bills. If a winter was warmer than normal, customers would benefit from their own lower usage. Further, if a customer invested in energy efficiency improvements, that customer would recognize lower bills based on that lower usage. Higher usage customers tended to subsidize lower usage customers. Utility revenues and profits tended to fluctuate, sometimes wildly, because of the dependence on weather patterns and the accompanying usage. Under the traditional rate design, utilities tend to make more money during colder winters. Volumetric rates had a time-tested validity in that customers tended to have greater control of their bills and the utility tended to face greater risks.

It was this Commissioner's opinion then, and it continues to be this Commissioner's opinion now, that any shift to the SFV is inherently beneficial to the utility in that its revenues are stabilized and the company faces less risk. The difference between this Order and the Order issued in 2007, is that while the SFV is maintained, there is now an emphasis on addressing the inequities that are built into the system.

First of all, the Commission is making a strong stand on funding of energy efficiency. For the first time ever, the Commission is pegging its goal of funding at .5% of gross revenues of the company, which amounts to approximately $4 million. This figure compares with the sum of $750,000 from the last case. 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 over and above $1.5 million per year, and the goal of increased funding will be addressed regularly through on-going Commission involvement. While the Commission should continue to monitor and increase that funding level based on feedback from the Energy Efficiency Collaborative,[1] this Commissioner believes this steady increase is the most responsible manner of stepping up efforts at empowering customers to reduce their energy usage.

[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 MGE's service area.

Secondly, the funding of EE programs will not be built into rates as they were in 2007. Even after the Commission majority attempted to make EE a priority in the last case, MGE failed to fully spend the funds that were advanced by rate payers in the amount of approximately $1 million. MGE will be expected to pay for EE programs first using this unspent $1 million. Additional expenditures will be advanced by the utility, not by the rate payer, and 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.

Lastly, the Commission is taking a strong step in address inequities in the SFV rate design. Low usage customers are adversely affected by the SFV because 100% of costs are transferred to the fixed monthly charge and none of the costs are recovered through a volumetric charge. The only volumetric charge on the bill is for the actual commodity used by the consumer. This means that all residential customers are charged the same amount for the distribution system costs regardless of usage and regardless of income. In theory, the increased fixed monthly charge means that customers pay a higher amount during low usage periods of the year, like during summer months while they pay a lower amount during higher usage periods during the winter. Customers who use lesser amounts of gas, therefore, are paying a slightly higher cost than under the traditional rate design, while higher usage customers have a slight reduction.

Testimony during the evidentiary hearing established the "break-even" point of where customers are better or worse off with the new rate design at annual usage of approximately 824 ccf. Customers that use less than 824 ccf pay more with the SFV than with the traditional rate design while customers over the 824 ccf, pay less with the SFV. Generally, all customers do better during colder than normal winters because there is less volumetric charge on the bill. Some customers may do worse during warmer than normal winters because of the absence of the volumetric charge and all costs assessed in the fixed monthly charge. Testimony also established that customers who use natural gas to space heat their homes generally can be categorized as using at least 400 ccf per year. These customers make up approximately 36% of the total population of MGE customers.

This Commissioner applauds the Commission for including the directive that the Energy Efficiency Collaborative work together to address this inequity and unfairness to low usage, space heating customers who use more than 400 ccf but less than 824 ccf. The Commission has directed that the Collaborative identify these customers and find a way to either offset the rate increase and/or find ways of further helping these customers reduce their usage. The Collaborative may look at rate offsets, accelerated EE programs or allocate more of the funds within the .5% of gross revenues to address this inequity. It is expected that the Collaborative will report back with proposals for the Commission to consider. The Commission will benefit from further analysis of who makes up this group of customers, whether they are low income, whether they are senior citizens or disable citizens or whether they need additional assistance with weatherization or EE programs.

In conclusion, this Commission is compelled to identify the difference in the Return on Equity (ROE) award to the company. While this Commissioner found staff's testimony compelling in an even lower ROE, the Commission majority was within 25 basis points of staff's high end range. The ROE award of 10 % is reasonable and appropriate under the circumstances. It is certainly an improvement from the 2007 award of 10.5%, and it recognizes the reduced risk that the SFV offers to the utility's risk profile. With this reduction, the rate payers receive an identifiable benefit to the change in rate design and the change in risk that goes with it.

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 10th day of February 2010.