

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the PGA/ACA Filing of)
Atmos Energy Corporation for the West)
Area (Old Butler), West Area (Old) File No. GR-2008-0364
Greeley), Southeastern Area (Old SEMO),)
Southeastern Area (Old Neelyville),)
Kirksville Area and the Northeastern Area)

CONCURRENCE OF COMMISSIONER JEFF DAVIS TO THE REPORT AND ORDER

I respectfully concur with my colleagues in the reasoning and decision in the above-referenced case, but wish to add a few additional thoughts.

In almost eight years of being a member of the Missouri Public Service Commission, I have seen more than my fair share of senseless, ridiculous arguments brought here by utilities, consumers and the PSC staff alike. However, the arguments presented by the PSC Staff in this case rise to the level of being the most ridiculous arguments I have seen made here in my eight years at the Commission. Either Atmos Energy is completely innocent or the PSC Staff wholly failed to prove its case.


Like the string of cases involving Missouri Pipeline, Staff will bemoan the fact that if they could have just gotten those gas receipts, they could have proved that Atmos was really doing bad things. Unlike the string of Missouri Pipeline cases, I sincerely doubt the outcome in this case would have been any different because the company's unregulated affiliate was buying different volumes of gas at different times.

It's been said that regulation is a surrogate for competition. Competition must be healthy in Missouri because the largest investor-owned gas distribution company and the second largest investor-owned water company, Aqua America, have both exited Missouri. Here, we have a pretty clear cut case that the PSC Staff abused the regulatory process, rang up tens of thousands, if not more than a hundred thousand dollars in legal bills for the company, and the company is now leaving the state. This case may be one of the most egregious abuses of the administrative process that I have ever seen.

How much money did Atmos pay out in attorney fees to win this case? We'll never know because the information does not appear to be contained in the record and Atmos, the largest gas distribution company in the United States, has sold its assets to another company and is exiting the state, but it's hard to justify reducing any company's request for attorney fees when they have to journey to the Commission and respond to the PSC Staff's shifting arguments.

In conclusion, the PSC staff responsible for bringing the case against Atmos failed the taxpayers and the ratepayers of this state by wasting everyone's time. The Commission made the right decision, but we should have put an end to this nonsense much earlier in the process thereby saving everyone's time and expense. If the PSC Staff chooses to keep pursuing and handling cases in this manner, the only utilities we're going to have left to regulate will be those that are too big to go anywhere else.

Respectfully submitted,



Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 13th day of January, 2012.