

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

In the Matter of Atmos Energy's RPGA Filing                    )     **Case No. GR-2003-0219**

**CONCURRING OPINION OF CHAIRMAN KELVIN L. SIMMONS**

The Missouri Public Service Commission has approved Atmos Energy Corporation's proposed tariff sheet, which was designed to reflect estimated changes in the cost of natural gas. Atmos filed the proposed tariff sheet in conformance with its Commission-approved Purchased Gas Adjustment (PGA) clause. Even though I concur with the Commission's decision, I am seriously concerned about the PGA mechanism.

I continue to be somewhat skeptical of the PGA process because of the portion of the natural gas industry that is not regulated by this Commission. Even though the Missouri courts have recognized the PGA process,<sup>1</sup> the Missouri General Assembly has never addressed whether this is a good process for the citizens who purchase natural gas to heat their homes. Recent history has shown us that gas producers can manipulate the market. If the producers have manipulated the markets, the natural gas consumers suffer an immediate harm when they pay their gas bills. However, under the PGA mechanism the consumer cannot know, at the time the bill is paid, whether they are paying the correct amount. Furthermore, it may be months before any adjustments are made.

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<sup>1</sup> See, Midwest Gas Users Association v. Public Service Commission of the State of Missouri, 976 S.W.2d 485 (Mo.App. W.D.1998).

My concerns about the PGA mechanism are not new. During the 2000-2001 winter heating season, I dissented from the Commission decisions<sup>2</sup> that drastically, and almost automatically, raised the cost of natural gas to consumers in Missouri. In my dissents, I raised the issue that even though the Commission conducts a prudence review under the PGA mechanism, we could not be certain that the natural gas producers were not manipulating the gas markets. And as a result of that heating season, the Federal Energy Regulatory Commission (FERC) is currently investigating companies that could have contributed to the manipulation of the natural gas markets through questionable trading activity. In fact, the FERC has recently found that some producers did manipulate the market.

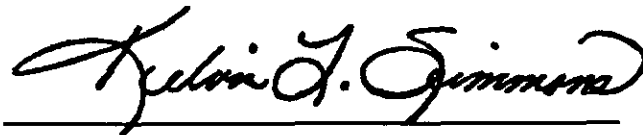
And although the current rate increase measures in the single digits, today's spot market suggests that double-digit increases will return. The Commission should be looking at a variety of policies, including the phase-in of rate increases over multiple billing periods. Because the Commission has little control over the cost of gas, we are left at the mercy of the FERC and the market, and I am unconvinced that there have been proven changes to protect the consumer.

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<sup>2</sup> See, Case Nos. GR-2001-382, GR-2001-387, GR-2001-388, GR-2001-394, GR-2001-396, and GR-2001-397.

For now, I respectfully concur in the decision but with the foregoing reservations about the PGA mechanism.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kelvin L. Simmons", written over a horizontal line.

Kelvin L. Simmons, Chairman

(SEAL)

Dated at Jefferson City, Missouri,  
on this 30 day of October, 2003.