

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Atmos Energy)
Corporation to Modify its Approved Cast Iron Main)
and Unprotected Steel Main Replacement Program) **Case No. GO-2006-0253**

Concurring Opinion of Commissioner Clayton

Although this Commissioner concurs with the majority's Order Approving Application granting Atmos a modification of its previously approved Cast Iron Main and Unprotected Steel Main Replacement Program, this Commissioner has significant concerns regarding the request for relief and the failure of Atmos to comply with a previous Order of the Commission. The underlying case involving the service line replacement program concluded with mandated replacement dates for high and low pressure cast iron main, for unprotected steel lines as well as the phasing out of the use of copper lines for providing natural gas service in the city of Hannibal.

Fourteen years and eleven months after the Commission approved a plan of line replacement, Atmos appears before the Commission requesting an Order in 19 days for permission to amend its plan. On the surface, one could argue that the case filing has a suspect appearance of attempting to pull a "fast one" over on the Commission. That appearance requires close scrutiny of the company in making the filing as well as Staff who agreed to the plan with uncharacteristic efficiency and speed.

The history of this case is set out in part in the majority's Order which includes detail on the schedule of line replacement throughout the community of Hannibal. Due to lack of infrastructure

investment and significant safety concerns, the line replacement program was ordered in an effort to reduce the threat to life and property. The consequences of failing to address deteriorating infrastructure for natural gas utilities can be potentially fatal. The prior order was based on the existence of 413 leaks annually detected on the system with many of them being Class I or Class II leaks, the most dangerous.

On December 17, 1991, the Commission issued an Order in Case No. GO-91-276 approving United Cities Gas Company's (Atmos Energy Corporation) pipeline replacement program in Hannibal. The program requires the replacement of all cast iron main (190,550 feet) by 2020 and the replacement or cathodic protection of all unprotected steel main (111,160 feet) by 2005. In its replacement plan of 1991, Atmos gave higher replacement priority to high-pressure, unprotected steel main than cast iron main due to a higher incidence of leakage occurring in the steel main. Staff supported this prioritization. Today, all of the high-pressure, unprotected gas main has been replaced. Atmos purchased the natural gas distribution system in 1997 from United Cities Gas.

After a "complete records review by Atmos" in 2005, it discovered that 6,053 feet of unprotected steel main was still in service requiring replacement or to be cathodically protected. Atmos believes it erroneously classified this additional 6,053 feet of unprotected steel main as cathodically protected steel main. This discovery allegedly occurred in late summer or early autumn 2005 with the parties indicating that Atmos contacted Staff upon the discovery of the mis-classified footage. Atmos and Staff suggest that they began working on a plan to remedy Atmos' mistake as quickly and safely as possible.

The 6,053 feet of misclassified and recently discovered unprotected steel main are characterized to be low pressure main and appear to be interspersed among cast iron main throughout

this low-pressure area. Presently, Staff records show that there are no leaks among the area from either the low pressure cast iron or from the low pressure unprotected steel lines.

On December 12, 2005, just 19 days before the ordered deadline to replace all unprotected steel mains, Atmos filed an Application to Modify Its Approved Cast Iron Main and Unprotected Steel Main Replacement Program And Motion for Expedited Treatment before the Commission. Atmos requested the Commission allow an extension of the December 31, 2005, deadline for unprotected steel main to December 31, 2010. The Commission entered an Order Modifying Cast Iron Main and Unprotected Steel Main Replacement Program on December 29, 2005. However, instead of granting Atmos its application, the Commission extended the program's deadline from December 31, 2005 to March 1, 2006, to provide the Commission time to review the circumstances surrounding the main replacement program.

First of all, this Commissioner has serious concerns with the limited amount of time afforded the Commission to review this plan. Although the parties have indicated that Staff has been working with the company since approximately September, the Staff does not make the ultimate decision to alter the plan. The Commission has the responsibility of modifying the plan and such information needs to be conveyed to the Commissioners in a timely manner, whether prior to the filing of a case or after. The company and Staff should be mindful of notifying the Commission in a manner that would allow for more deliberative study and analysis.

Secondly, the most important issue involving this application is the safety of the citizens of Hannibal and specifically those that reside in the area where main replacement will be delayed. It only takes a single catastrophic event to question the entire program and the Commission's rationale for agreeing to the program.

The present request is to delay the replacement of 6,053 feet of low pressure unprotected steel lines, which should have been replaced no later than December 31, 2005. Instead, Atmos requests that it be given until 2010 to replace the lines. On the surface, such a request should cause significant concern for the Commission. However, additional scrutiny establishes that this is a safe and appropriate plan of action, and that granting the modification of the plan is the prudent course of action in this situation.

The modification of the replacement plan allows Atmos to focus on a more immediate classification of pipe, high-pressure, 2 1/4 inch diameter cast iron main. During the additional 5 years, Atmos will commit its Hannibal resources to the 2 ¼ inch cast iron main AND to the complete replacement of the remaining Hannibal low pressure area. The remaining cast iron main in this area may be replaced sooner under this plan than would have occurred under the 2020 deadline.

In the meantime, the Order directs Atmos to leak survey all remaining unprotected steel main and service line segments semi-annually until they are replaced instead of annually as required by 4 CSR 240.40.030(14). Additionally, if Class 3 or 4 leaks are detected in the remaining portions of the unprotected service lines, Atmos is required to replace these non-hazardous leaks within six months of detection which is sooner than the current requirement of replacement within 5 years. 4 CSR 240.40(14)(C)(3). Atmos will continue to file an Annual Report with the Commission which includes the results of the semi-annual leak surveys.

In addition, denial of this application will result in a de facto re-prioritization of the replacement of service lines. The “lower priority”, low-pressure unprotected steel lines will succeed the high pressure, cast iron main which are now due to be replaced. Those mains have revealed the greatest number of leaks and pose the greatest threat to the citizens of Hannibal. Approximately,

22,000 feet of such service lines require replacement which will take 3 years to address. Safety should be the top priority and this proposal continues that effort.

Atmos and Staff both point out that denial of the modification would result in the same area of streets and land being dug up on two separate occasions. Requiring Atmos to immediately replace the low-pressure, unprotected steel now and then subsequently return (prior to 2020) to the same area to replace all cast iron main and upgrade to high-pressure would be inefficient and may irritate and inconvenience the Hannibal residents. While this Commissioner does not want the citizens in Hannibal to be unduly inconvenienced, the first concern is for their safety and well-being.

This Commissioner supported the majority's Order for the foregoing reasons. In the future, this Commissioner encourages all gas providers and Staff to communicate with the Commission immediately upon the discovery of a problem of this magnitude instead of waiting until 19 days before a 15 year deadline to file an action before the Commission.

This Commissioner respectfully submits this concurrence.

Respectfully submitted,



Robert M. Clayton III
Commissioner

Dated at Jefferson City, Missouri,
on this 27th day of January, 2006.