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Commissioners
KELVIN L. SIMMONS
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SHEILA LUMPE
STEVE GAW
BRYAN FORBIS

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

March 21, 2002

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. GA-98-464

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S RESPONSE TO REQUEST FOR DECISION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Dennis L. Frey
Associate General Counsel
(573) 751-8700
(573) 751-9285 (Fax)
dfrey03@mail.state.mo.us

DLF:ccl
Enclosure
cc: Counsel of Record

MAR 21 2002

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

FILED COPY

In the Matter of the Application of United)
Cities Gas Company, a division of Atmos)
Energy Corporation, for an Accounting)
Authority Order Related to Investigation)
and Response Actions Associated with its)
Former Manufactured Gas Plant Site in)
Hannibal, Miss)

Case No. GA-98-464

STAFF'S RESPONSE TO REQUEST FOR DECISION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), and respectfully states as follows:

1. On April 15, 1998, United Cities Gas Company, a division of Atmos Energy Corporation ("United Cities" or "Company"), filed with the Missouri Public Service Commission ("Commission") an Application for Accounting Authority Order to defer costs associated with the investigation, assessment, and environmental response actions at the Company's former Manufactured Gas Plant ("MGP") site in Hannibal, Missouri.

2. On February 25, 1999, the Commission issued an Accounting Authority Order ("AAO") with respect to "costs incurred or payments received between March 31, 1998 and the effective date of the rates established in United Cities' next general rate case or the beginning of the deferral period of any subsequent accounting authority order for the same costs, whichever is earlier." Ordered paragraph No. 3 states: "That this accounting authority order shall become null and void in the event United Cities does not file tariff sheets proposing a general increase in rates

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within twenty-four (24) months from the effective date of this order.” Ordered paragraph No. 6 states: “This order shall become effective on March 9, 1999.”

3. On February 5, 2001, United Cities filed a motion requesting that the Commission modify the subject AAO by extending the date on which the AAO would become null and void (unless a general rate case is filed) from March 9, 2001 to March 9, 2002. The Company explained that it does not believe it would be desirable to file a rate case before March 9, 2001, and that accordingly, if the time frame of the AAO is not extended, the Company will be required to write off some \$377,000 in costs already incurred, as well as an additional \$123,000, which it expects to incur over the next twelve (12) months. Both the Office of the Public Counsel (“OPC”) and the Staff subsequently filed pleadings opposing the Company’s request, and the Commission heard arguments on the matter.

4. On March 11, 2002, United Cities filed with the Commission a Request For Decision Regarding Application For Subsequent Accounting Authority Order. The pleading withdraws the Company’s request in its February 5, 2001 motion that the Commission extend the date the original AAO would become null and void from March 9, 2001 to March 9, 2002, and instead requests that a subsequent AAO be established to capture “all costs incurred to date and all future costs to be incurred in connection with” the clean-up of the MGP in Hannibal. According to United Cities, the expended amount by the end of fiscal year 2001 is \$510,000. In addition, United Cities requests that, in establishing a subsequent AAO, the Commission not include a condition that the Company file a rate case by a specific date. The Company argues that some other states do not impose such a date restriction, and further, cites Case No. GA-2002-285 a case involving UtiliCorp United, Inc. as one in which the Commission did not set a deadline.

5. On March 12, 2002, OPC filed a response in opposition to the Company's latest request that the expenditures incurred between March 1998 and March 9, 2001 be included in any subsequent AAO, as well as the Company's request that the Commission decline to set an expiration date in a subsequent AAO. OPC stated, however, that it "does believe it is appropriate for the Commission to finally decide the issues raised in this case."

6. The Staff joins OPC in opposing both the Company's request for a subsequent AAO to collect the costs referenced in paragraph 4 and its request that the subsequent AAO not include an expiration date. As noted above, in February of last year, United Cities initiated this dispute by requesting that the Commission extend for one year the expiration date of its AAO for MGP (March 9, 2002) or, alternatively, issue another AAO that would reincorporate MGP costs from 1998-2001. The passage of time since then is telling, and only serves to strengthen the case of both Staff and OPC. Indeed, March 9, 2002 has come and gone. The Company filed its latest request after the passing of the time period for which it sought an extension of the original AAO. During that time period, United Cities still did not see fit to file a rate case; hence the Company's February 5, 2001 request for modification of the original AAO would seem to be moot under its own terms. Moreover, in Staff's view, the original AAO, along with the costs collected thereunder, was self-extinguishing, having expired by its own terms as a result of United Cities' failure to file a rate case by March 9, 2001. Thus, United Cities' latest request, to issue a new AAO covering both 1998-2001 costs and ongoing costs, is wholly inappropriate.

7. In its earlier Motion To Dismiss, filed March 22, 2001, the Staff noted that as of March 9, 2001, United Cities had been allowed to defer almost three years' worth of AAO-eligible cost, and stated its opinion that it would be unprecedented for the Commission to allow United Cities to defer a fourth year of costs under an AAO. With yet another year having now

passed, clearly it would be absolutely unprecedented to allow ongoing deferrals for five or even more years. Moreover, to do so would defeat the purpose of an accounting authority order in this state, which is to permit deferral of unusual and extraordinary costs for a period of time so that they might be considered in the utility's next rate case. An accounting authority order is not intended to allow the utility to stockpile costs year after year until it should happen to decide to file a rate case.

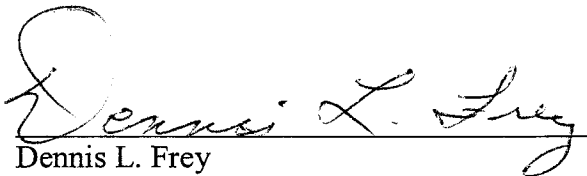
8. The Company's request that any new AAO not include a time limit should also be rejected. OPC is correct that the recent order in Case No. GO-2002-285, which does not contain an expiration date, is easily distinguishable from typical accounting authority orders, including United Cities' now-defunct AAO and the one the Company now seeks. This is because the Commission's order in GO-2002-285 is based upon language in a Commission rule allowing gas utilities to recover incremental costs incurred under the Emergency Cold Weather Rule. The rule is silent on the issue of time limits. By contrast, United Cities' AAO (along with almost all other accounting authority orders) does not come under this rule.

9. At bottom, the costs at issue are those incurred in an approximate three-year period between March 31, 1998 and March 9, 2001. Both the Staff and OPC continue to believe that as a result of the expiration of the original AAO, those costs cannot now be included in a subsequent accounting authority order. If United Cities wishes to obtain a new accounting authority order for MGP costs incurred after March 9, 2001, the Company is free to file a new application. At that point, Staff, OPC, and other parties to the case would be able to conduct a proper investigation and develop their positions.

WHEREFORE, the Staff recommends that the Commission deny the Company's March 11, 2002 request for a subsequent accounting authority order, and further, the Staff hereby renews its March 22, 2001 Motion that this case be dismissed.

Respectfully submitted,

DANA K. JOYCE
General Counsel

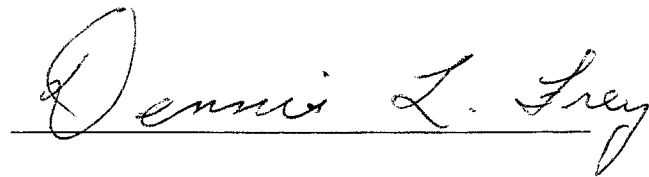
A handwritten signature in cursive script, reading "Dennis L. Frey", written over a horizontal line.

Dennis L. Frey
Associate General Counsel
Missouri Bar No. 44697

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8700 (Telephone)
(573) 751-9285 (Fax)
e-mail: dfrey03@mail.state.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 21st day of March 2002.

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

Service List for
Case No. GA-98-464
Verified: March 21, 2002 (ccl)

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

James M. Fischer
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101

Mark G. Thessin
VP – Rates & Reg. Affairs
United Cities Gas Company
810 Crescent Centre Dr., Ste. 600
Franklin, TN 37067

Douglas C. Walther
Atmos Energy Corporation
1800 Three Lincoln Center
5430 LBJ Freeway
Dallas, TX 75240

Mark A. Martin
Atmos Energy Corporation
381 Riverside Drive, Suite 400
Franklin, TN 37064