

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

FILED²
SEP 12 2005

Missouri Public
Service Commission

In the Matter of an Investigation into the)
Status of Missouri's Natural Gas Local)
Distribution Companies' Compliance with)
Commission Rule 4 CSR 240-40.018)

Case No. GW-2006-

PUBLIC COUNSEL'S MOTION TO OPEN A NEW CASE

COMES NOW the Office of the Public Counsel and for its Motion to Open a New Case states as follows:

1. In 2003, the Commission promulgated Rule 4 CSR 240-40.018, which requires natural gas utilities to "structure their portfolios of contracts with various supply and pricing provisions in an effort to mitigate upward natural gas price spikes, and provide a level of stability of delivered natural gas prices."

2. All indications point to wholesale natural gas prices for the upcoming winter reaching record highs. Even if the winter proves to be a mild one, high end-user gas prices will create serious hardship to many customers. A harsh winter coupled with record-high prices will cause untoward human suffering and severe economic disruption. It is incumbent on the Commission to ensure that natural gas utilities have done everything in their power to mitigate price spikes and keep rates stable.

3. In its Agenda meeting on September 6, 2005, the Commission discussed beginning a process in which natural gas utilities would make presentations on their efforts to comply with 4 CSR 240-40.018. The Commission should structure its investigation as a formal one in a docketed case. A docketed case will allow the Commission to take evidence and create a record that documents the natural gas utilities' efforts to keep the delivered price of natural gas

stable. Before the winter heating season begins, and before utilities raise their rates through the Purchased Gas Adjustment process, they should be required to demonstrate their compliance with the rule.

4. While some information about specific contracts, prices, and hedging strategies may not be public information, this should not dissuade the Commission from opening a case and taking evidence on the record. The Commission can issue its standard protective order to protect such information.

5. Public Counsel suggests that the Commission docket this case with a "GW" designation. This type of investigation case does not typically culminate in a Commission order, but rather in a report from the participants in the investigation. This type of case is not considered contested, so that the Commission may confer with members of its Staff. Creating an investigation case strikes a balance between a free flow of information and the need to create a record documenting compliance.

6. If, during the course of the investigation case, it appears that a utility has not fully complied with Rule 4 CSR 240-40.018, the Commission should immediately institute a complaint against that utility. Furthermore, if the investigation, or the events of the upcoming winter, show that the current rule did not prompt utilities to undertake adequate actions to mitigate price spikes and keep prices stable, the Commission should revise the currently toothless rule to provide significant penalties (such as imputed lower gas costs) for noncompliance.

WHEREFORE, Public Counsel respectfully requests that the Commission issue open a case for the purpose of investigating that status of natural gas utilities' compliance with 4 CSR 240-40.018, and that it take evidence on the record concerning that compliance.

Respectfully submitted,

OFFICE OF THE Public Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 12th day of September 2005:

/s/ Lewis R. Mills, Jr.