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February 13, 2001

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

FILED<sup>3</sup>

FEB 13 2001

Missouri Public  
Service Commission

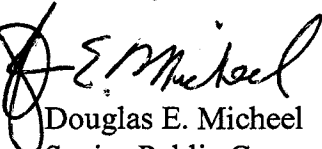
**RE: United Cities Gas Company,  
Case No. GA-98-464**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 8 copies **Public Counsel's Response to United Cities' Reply**. Please "file stamp" the extra enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

  
Douglas E. Micheel  
Senior Public Counsel

DEM:kh

cc: Counsel of Record

Enclosure

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

**FILE COPY**  
**FILED**<sup>3</sup>  
FEB 13 2001  
Missouri Public  
Service Commission

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, Missouri. )

Case No. GA-98-464

**PUBLIC COUNSEL'S RESPONSE TO UNITED CITIES' REPLY**

COMES NOW the Office of the Public Counsel ("Public Counsel") and for its Response to United Cities' Reply states as follows:

1. On February 8, 2001 United Cities Gas Company ("UCG"), a division of Atmos Energy Corporation filed its Reply to Public Counsel's Response in Opposition to United Cities' Motion for Modification of Accounting Authority Order.

2. UCG alleges "it would not be desirable for the Company or its ratepayers to file a general rate case at this time." (Reply, ¶ 2). As this Commission is aware, natural gas rates are bifurcated. If UCG has a need to increase its non-gas rates at this time it should file a rate case. Nothing is preventing UCG from filing a base rate case – save its own business decisions. As recently noted In the Matter of the Application of St. Joseph Light & Power Company for the Issuance of an Accounting Authority Order Relating to its Electrical Operations, Case No. EO-2000-845:

Implicit in the Commission's previous orders regarding requests for AAOs is a requirement that there must be some reason why the expense to be deferred could not be immediately included for recovery in a rate case.

(Slip Opinion p. 8). UCG does not present any compelling reason why it could not file a rate case prior to March 9, 2001 to seek recovery of the amounts deferred. UCG merely has chosen not to file a rate case.

3. UCG claims that it “is perplexed why the Office of Public Counsel, an agency charged with the responsibility of protecting the public, would be opposed to United Cities being provided the opportunity to make an argument for the recovery of these costs in its next general rate case.” (Reply, ¶ 5). Public Counsel’s opposition is rooted in Public Counsel’s belief that the requested deferrals already have had a two-year life. UCG should not be allowed to continue deferrals yet another year. The deferral of costs from one period to another period for the development of a revenue requirement violates the traditional method of setting rates. Matter of Missouri Public Service, 1 MPSC 3d 200, 205 (1991). Obviously, the expenses related to the deferrals are not significant enough for UCG to file a rate case.

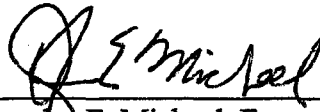
4. Finally, UCG claims that abnormal weather “typically is normalized in general rate cases to eliminate the weather effects on the test year results.” (Reply, ¶ 7). This claim misses the point. At this time, UCG Missouri operations are earning at or above its authorized return. UCG should not be allowed to continue to defer costs when it is making excess profits.

WHEREFORE, Public Counsel request the Commission reject United Cities’ request to modify the accounting authority order granted on February 25, 1999.

Respectfully submitted,

**OFFICE OF THE PUBLIC COUNSEL**

BY:

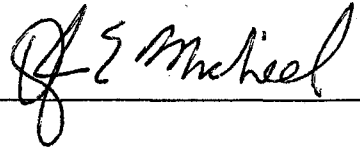
  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been faxed, mailed or hand-delivered to the following counsel of record on this 13<sup>th</sup> day of February, 2001:

General Counsel  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City MO 65102

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