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March 6, 2001

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Missouri 65102

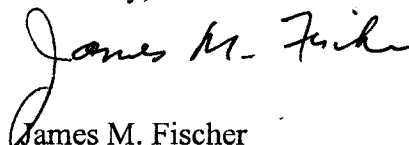
RE: *United Cities Gas Company, a division of Atmos Energy Corporation*  
Case No. GA-98-464

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of United Cities Gas Company's Reply to Staff Suggestions. A copy of the foregoing Reply has been hand-delivered or mailed this date to parties of record.

Thank you for your attention to this matter.

Sincerely,



James M. Fischer

Enclosures

cc: Office of the Public Counsel  
Dan Joyce, General Counsel

MAR 06 2001

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

In the Matter of the Application of United Cities Gas	)	
Company, a division of Atmos Energy Corporation,	)	
for an Accounting Authority Order Related to	)	Case No. GA-98-464
Investigation and Response Actions Associated with	)	
Its Former Manufactured Gas Plant Site in Hannibal,	)	
Missouri.	)	

**REPLY TO STAFF SUGGESTIONS**

COMES NOW United Cities Gas Company, a division of Atmos Energy Corporation (hereinafter "United Cities") and, pursuant to 4 CSR 240-2.080, for its Reply to Staff Suggestions filed on March 2, 2001, states to the Missouri Public Service Commission ("Commission"):

1. On March 2, 2001, the Staff of the Missouri Public Service Commission ("Staff") filed "Staff Suggestions" in this proceeding.<sup>1</sup> In its Suggestions, Staff opposes United Cities' request for an extension of one-year of the AAO for the following reason: "The two-year time period established in this case, in addition to being clear and definite, helps to minimize the required regulatory oversight. To have the Commission subsequently extend that date would make such an up-front deadline meaningless." (Staff Suggestions, p. 3).

2. Contrary to Staff's suggestions, United Cities' request to extend the AAO by one-year does not make the original two-year AAO time period "meaningless." In fact, the Commission's

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<sup>1</sup> Staff's Suggestions appear to be substantially out of time since the Company filed its original Motion on February 5, 2001. 4 CSR 240-2.080(16) states:

Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the Commission.

original AAO clearly contemplated the possibility that there would be a "**subsequent accounting authority order granted for the same costs. . .**" (AAO, p. 3) when it stated:

2. That the accounting authority order will apply 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 granted for the same costs**, whichever is earlier. (emphasis added)

An extension of the AAO would recognize that the environmental remediation efforts related to the Hannibal Manufactured Gas Plant are extraordinary, non-recurring costs that must, by necessity, be expended over several years. It would also recognize that United Cities should not be required to write-off these extraordinary, non-recurring costs merely because it has not filed a general rate case by March 9, 2001. The extension of the AAO for an additional twelve-month period or the adoption of a new AAO covering the same costs, as contemplated in the original AAO, would clearly be within the discretion of the Commission.

3. **In the event that the Commission grants United Cities' request that the AAO be extended to March 9, 2002, unless a rate case is filed, United Cities will commit to the Commission that it will not request a subsequent extension of the AAO or request the adoption of a new AAO for the same costs.** In the past, the Commission has recognized that a two-year period may not be sufficient to accomplish the goals of an AAO. In *Re Laclede Gas Company*, Case No. GR-99-315 (December 14, 1999), the Commission granted Laclede a three-year AAO for certain Safety Replacement Program costs, provided that the Company filed a rate case during the third year of the AAO. The Company would request that it be allowed to file a rate case during the third year of the AAO and that the costs of the environmental remediation of the Hannibal Manufactured Gas Plant be considered in the context of the Company's next rate case. If the

Company does not file a rate case by March 9, 2002, then the AAO would expire. Otherwise, these costs will be reviewed in United Cities' next rate case.

4. In its Accounting Authority Order issued on February 25, 1999, the Commission authorized United Cities to defer in Account 182.3 (formerly Account 186) all costs incurred in connection with:

- a. the investigation, assessment, removal, disposal, storage, remediation or other clean-up of residues, substances, materials and/or property associated with the Hannibal manufactured gas plant;
- b. the dismantling and/or removal of facilities formerly utilized in manufactured gas plant operations;
- c. efforts to recover such costs from potentially responsible third parties and insurance companies; and
- d. payments received by United Cities as a result of such efforts.

5. By seeking a one-year extension of the AAO in this matter, United Cities is not requesting approval of any ratemaking treatment of these costs at this time. The review and appropriate disposition of these costs would be reserved for and determined in United Cities' next general rate case. By extending the previously-approved AAO in this matter, United Cities will merely preserve the opportunity to defer these extraordinary and non-recurring costs until they can be reviewed in the next general rate case. Otherwise, without an extension of the AAO, United Cities will not have the opportunity, absent a rate case filing, to recover these extraordinary expenses. *See Re: St. Louis County Water Company*, Case No. WR-96-263, Report and Order at 13 (December 31, 1996). Since the Commission will have the opportunity to review these expenditures in the Company's next rate case, it is difficult to understand how the extension of the AAO would affect the Commission's "regulatory oversight." The Commission clearly will retain the opportunity to disallow any expenditures it finds to be imprudent in the next rate case.

5. As previously explained, the costs associated with the investigation and response action at the former manufactured gas plant in Hannibal are clearly non-recurring and extraordinary in nature and by virtue of the complex nature of the remediation process must be spread over a period of years. The work at the site is being conducted pursuant to United Cities obligations under Missouri law and an Order with another state agency, the Missouri Department of Natural Resources. Moreover, the work is consistent with sound public policy and the interests of the public in a cleaner environment.

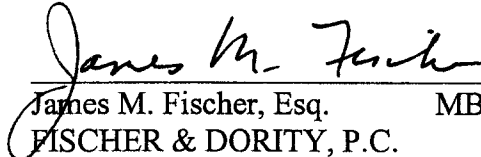
7. Under these circumstances, United Cities' believes that it would be fair and reasonable for the Company and its ratepayers to extend the AAO as requested in United Cities' motion. Since United Cities is maintaining all documentation related to these expenditures in a readily available format, the extension of the AAO will not hinder Staff's ability to review these costs in the next general rate case.

8. Staff is also opposed to the Company's alternative suggestion of granting "a new manufactured gas plant AAO without the opportunity for all parties to submit new evidence to the Commission on the matter." (Staff Suggestions, p. 3). In response, Company would note that the Commission issued the original AAO without a hearing, after the Staff filed its "Staff Recommendation for Approval of Request for an Accounting Authority Order" on July 10, 1998, in which it recommended approval of the AAO with conditions. The underlying circumstances of the environmental remediation project at the Hannibal Manufactured Gas Plant have not changed, and it would be unnecessary to hold a hearing at this stage of the proceeding, after the Commission has already found that "request by United Cities for an AAO to be reasonable." (Accounting Authority Order, p. 3). As previously discussed, the Commission's original AAO contemplated the possibility that there would be a subsequent AAO covering the same costs. (AAO, p. 3).

9. The only alternative acceptable to the Staff that would ensure that the Commission's AAO remains meaningful and otherwise effective would be for the Company to file a general rate case by March 9, 2001. As the Commission and the Company's ratepayers are most certainly aware, the price of natural gas to United Cities' consumers increased substantially during the 2000-01 heating season, due to the dramatic rise of the wholesale cost of natural gas. As a result, United Cities does not believe that it would be desirable for the Company or its ratepayers to file a general rate case at this time. However, this alternative is apparently the only one that Staff would find acceptable if the Company is to avoid writing off the extraordinary, and non-recurring cost of the environmental remediation of the Hannibal Manufactured Gas Plant. The Company would respectfully request that the Commission reject the Staff position that a rate case must now be filed to avoid the write-off of these substantial costs.

**WHEREFORE**, having responded to Staff's Suggestions, United Cities respectfully renews its request that the Commission issue its Order Modifying the Accounting Authority Order issued on February 25, 1999, by extending the date that the AAO would become null and void from March 9, 2001 to **March 9, 2002**, unless a general rate case is filed, or in the alternative, issue a subsequent accounting authority order to authorize United Cities to defer in Account 182.3 all costs incurred in connection with the investigation, assessment and environmental response actions at the Hannibal MGP.

Respectfully submitted,

  
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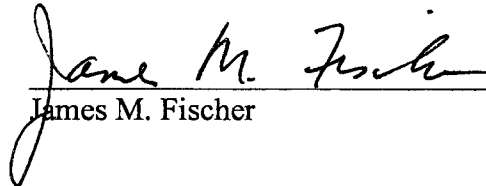
ATTORNEY FOR  
UNITED CITIES GAS COMPANY,  
a division of ATMOS ENERGY CORPORATION

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, postage prepaid, this 6<sup>th</sup> day of March, 2001, to:

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

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

  
James M. Fischer