

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of a tariff filed by St. Joseph Light &)
Power Company to reflect a PGA change to be reviewed)
in Company's 1989-1990 ACA filing for the areas not)
formerly served by Missouri Valley Gas Company.)

CASE NO. GR-90-84

APPEARANCES:

Gary W. Duffy, Attorney at Law, Brydon, Swearngen
& England, P.C., P.O. Box 456, Jefferson City, Missouri
65102-0456, for St. Joseph Light & Power Company.

Lewis R. Mills, Jr., First Assistant Public Counsel,
Office of the Public Counsel, P.O. Box 7800,
Jefferson City, Missouri 65102, for
Office of the Public Counsel and the public.

William M. Shansey, Assistant General Counsel,
Missouri Public Service Commission, P.O. Box 360,
Jefferson City, Missouri 65102, for Staff of the
Missouri Public Service Commission.

HEARING EXAMINER: Beth O'Donnell

REPORT AND ORDER

Procedural History

The matter at issue herein arose when St. Joseph Light & Power Company (Company) filed a tariff in this case on May 18, 1990, proposing an actual cost adjustment (ACA) rate which reflected a much lower figure for the overrecovery of gas costs in the 1989-1990 ACA period than the Commission's Staff (Staff) believed to be accurate from its audit. Company filed and, subsequently, withdrew a motion for summary judgment and a motion for a summary judgment from Staff was denied by order of the Commission. The Commission subsequently established a procedural schedule.

Testimony was prefiled and the parties presented their cases at a hearing held December 3, 1991. Briefs were filed by the parties pursuant to a schedule established by the hearing examiner.

Findings of Fact

The Missouri Public Service Commission having considered all of the competent and substantial evidence on the whole record, makes the following findings of fact.

Company is a utility company rendering gas and electric service in the State of Missouri in the northwest part of this state.

In order to facilitate understanding of the matter at issue herein it is necessary to explain the ACA process. The wholesale gas costs incurred by this or any other local gas distribution company change periodically as a result of changes in wholesale rates charged the company by its suppliers. These changes in wholesale rates are authorized by the Federal Energy Regulatory Commission (FERC). To reflect these changes, the Commission has approved a Purchased Gas Adjustment (PGA) clause for Company which allows interim changes in Company's rates during its revenue year. These changed rates are subject to refund until made permanent. The Actual Cost Adjustment (ACA) account for Company tracks the overcollection and undercollection from Company's ratepayers of gas costs incurred by Company during its revenue year. Each year, after an audit by Staff, the net balances are cleared and distributed over the following twelve-month period.

Company requests that the Commission adjust its ACA factor for the 1988-1989 ACA period (March 25, 1988 to April 30, 1989) to reflect less revenue for that period since Company states that it had inadvertently reported an incorrect level of revenue for that period. Specifically, Company states that it incorrectly reported to the Commission revenue from February 25, 1988 to March 25, 1988 at a level which was based on rates which became effective for service on and after March 25, 1988. Company further states that, despite recording the correct revenue on its books, it did not discover that it had used the wrong figure in reporting revenue for that ACA period until after the

reconciliation for that ACA period had been completed, and the ACA factor for that period had been made permanent and the case closed.

Company believes that it should be allowed to adjust this figure in the instant case which is considering the appropriate ACA factor for the subsequent ACA period of 1989-1990. Company argues that it is reasonable to change this ACA figure because the purpose of an ACA is to reconcile estimated revenues and costs with actual revenues and costs.

Staff opposes Company's request and states that the permanent ACA figure from a prior, closed ACA case cannot be changed because to do so would violate the principle of finality of decisions which was articulated by the Commission in Case No. GR-90-233. Staff asserts that to allow the change of such a figure after the case is closed would be a form of retroactive ratemaking which is prohibited in the State of Missouri. Staff further argues that permanent ACA figures should only be changed for new or corrected information not under the Company's control. For example, when a supplier renders the Company a new or corrected bill, or an incorrect meter reading is discovered. Staff points out that, to do otherwise, would be to remove Company's incentive to provide accurate data.

The Commission determines that the ACA balance should not be adjusted to reflect the lower revenue collected by Company in the 30 days preceding the effective date of Company's tariffs on March 25, 1988. The ACA factor for the period 1988-1989 has become permanent and the case is closed. To paraphrase Case No. GR-90-233, Company will not be permitted to adjust its ACA to account for a revenue figure which Company considers incorrect after the ACA factor for that period has been made permanent. Company had ample opportunity to provide Staff with the figures which Company considers correct during the time that case was open. These figures were available to Company at the time Company gave Staff the incorrect data and continued to be available to Company throughout the pendency

of that case. Company filed no application for rehearing in that case in which a final order was issued January 31, 1990.

In deciding this case, the Commission does not need to determine whether the method of calculating the revenue for that period as originally set forth by Company and Staff was correct. This calculation is not a matter relevant to the issue in the instant case. Rather, the issue in this case revolves around the finality of closed ACA cases and ACA factors which have been made permanent. The Commission does not need to determine whether Staff is correct in saying that there are exceptions to this finality principle. This case is analogous to Case No. GR-90-233 in that the correct information was known to Company and, without finality, there is no incentive for companies to be careful to provide accurate data.

Company correctly argues that the Commission cannot legally apply rates retroactively. However, the Commission is not persuaded that this argument is germane to the matter at issue. Company admits the correct rates were charged ratepayers during the period in question. The issue in this case concerns whether the revenue reported by Company in reconciling actual costs to estimated costs may be changed now that the ACA factor in question is permanent and the case considering it is closed. The Commission has found that this figure may not be changed now that the case is closed.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Company is subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1986, as amended.

The Commission has found that the ACA balance for the period 1988-1989 should not be adjusted in this case to account for a revenue figure submitted by Company for that period which Company now considers incorrect. The Commission's

finding was based upon considerations of finality of decisions and the salutary effect of such finality for inducing companies to provide accurate date. In the matter of *United Cities Gas Company*, Case No. GR-90-233, (April 5, 1991).

IT IS THEREFORE ORDERED:

1. That pursuant to the findings and conclusions in this Report And Order, the request of St. Joseph Light & Power Company to adjust in this case its actual cost adjustment figure for the period of 1988-1989 be denied hereby.

2. That any objections not heretofore ruled upon be overruled hereby and any outstanding motions be denied hereby.

3. That this Report And Order shall become effective on the 14th day of April, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

McClure, Chm., Mueller, Rauch,
and Perkins, CC., Concur and
certify compliance with the provisions
of Section 536.080, RSMo 1986.
Kincheloe, C., Not participating.

Dated at Jefferson City, Missouri,
on this 3rd day of April, 1992.