

B-
726
38
22
10

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 7th
day of July, 1998.

In the Matter of the Application	)	
of Southern Union Company for	)	
Authority to Make Non-Control	)	<u>Case No. GF-98-425</u>
Investments, Either Directly or	)	
Indirectly, in Non-Jurisdictional	)	
Energy Utilities.	)	

ORDER GRANTING INTERVENTION, DENYING MOTION TO REJECT APPLICATION,
AND SETTING EARLY PREHEARING CONFERENCE

On April 6, 1998, Southern Union Company (Southern Union) filed an application requesting that the Commission authorize it to make investments in gas and electric utilities without the necessity of prior Commission approval of each investment. Southern Union limits its request to non-control (i.e., less than 10%) investments in utilities that are not regulated by the Commission. Southern Union further limits its request to investments that, in the aggregate, total less than \$50,000,000, and suggests that the authority granted be limited to five years' duration.

On May 13, Atmos Energy Corporation (Atmos) filed an application to intervene, or in the alternative, to participate without intervention. Atmos states that Southern Union's practice of purchasing the stock of other gas corporations has directly affected Atmos in the past. Atmos also believes that the Commission's decision may establish precedent that could affect Atmos. Atmos states that currently it has insufficient information to identify all issues that may arise in this case, and purports to reserve the right to state its position on the issues in this case.

On May 19, Southern Union filed suggestions in opposition to Atmos' application to intervene. Southern Union notes that Atmos is not a municipality or political subdivision. Southern Union states that, in its opinion, Atmos' interest in this proceeding is no different than that of the public at large, and that Atmos' claims that its intervention will promote the public interest are not plausible.

On May 27, Atmos filed a response to Southern Union's May 19 suggestions, and on May 29, Southern Union filed a reply to Atmos' May 27 response. These two pleadings generally restate the positions in the parties' earlier filings.

The Commission has reviewed the application for intervention and finds that it is in substantial compliance with Commission rule 4 CSR 240-2.075. Atmos has an interest in this matter which is different from that of the general public, and Atmos' intervention will serve the public interest. Because of the prior dealings between the applicant and Atmos, Atmos may have a point of view that will be helpful to the Commission's analysis of the potential effects of granting the application. Although the Commission's rules require parties seeking intervention to identify their positions on the issues, and Atmos has not done so, the Commission recognizes that it may not always be feasible to identify issues and positions at the time of intervention. The Commission concludes that the application for intervention should be granted.

On June 9, the Office of the Public Counsel (Public Counsel) filed a motion to reject the application, or in the alternative, to set this matter for hearing. Public Counsel moves the Commission to reject Southern Union's application on the grounds that §393.190 RSMo 1994 allows an analysis of the effects of a specific proposed acquisition of stock

before the Commission decides whether to allow the acquisition. §393.190 also provides interested entities the opportunity to present evidence at a hearing. The Commission will not summarily reject the application as requested by Public Counsel, but instead will allow the parties to fully develop the issues through testimony and briefs, if necessary. Although the Commission will not set a date for hearing in this order, it will do so upon receipt of a proposed procedural schedule from the parties.

On May 18, Southern Union filed a motion to establish an early prehearing conference in which it suggested that the parties meet to identify issues presented in its application or discuss a procedural schedule. An early prehearing conference will be scheduled to afford the parties the opportunity to discuss and define the issues presented in the application, and to discuss the procedural schedule to be established. The Commission will also set a date for the filing of a proposed procedural schedule in order to ensure that this case progresses.

IT IS THEREFORE ORDERED:

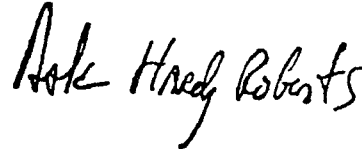
1. That the application for intervention filed by Atmos Energy Corporation on May 13, 1998, is granted.
2. That the motion to reject application filed by the Office of the Public Counsel is denied, and the request for hearing will be addressed in a later order.
3. That a prehearing conference will be held on July 16, 1998, at 10:00 a.m. at the Commission's offices on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

4. That anyone with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing or hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

5. That the parties shall file a proposed procedural schedule no later than July 23, 1998.

6. That this order shall become effective on July 17, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
Schemenauer and Drainer, CC., concur.

Mills, Deputy Chief Regulatory Law Judge

RECEIVED
JUL 07 1998
COMMISSIONER OF COURTESY
PUBLIC SERVICE COMMISSION