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July 3, 2003

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

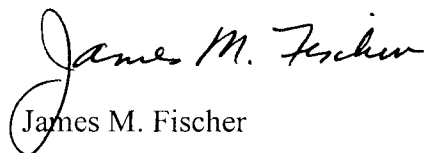
RE: Proposed Natural Gas Price volatility mitigation rule;
Case No. GX-2002-0478

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the Initial Comments Of Missouri Gas Utilities filed on behalf of Atmos Energy Corporation, Laclede Gas Company, and Missouri Gas Energy. A copy of the Initial Comments has been hand-delivered, emailed, or mailed this date to the counsel listed below.

Thank you for your attention to this matter.

Sincerely,


James M. Fischer

Enclosures

cc: Office of the Public Counsel
General Counsel, Missouri Public Service Commission
Thomas M. Byrne
Dean Cooper
Michael C. Pendergast
Robert J. Hack
Douglas Walther

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

In the Matter of Proposed Rulemaking Concerning)
Mitigation of Natural Gas Price Volatility) **Case No. GX-2002-478**

**INITIAL COMMENTS OF
MISSOURI GAS UTILITIES**

COME NOW Atmos Energy Corporation, Laclede Gas Company, and Missouri Gas Energy (“MGE”), a division of Southern Union Company (hereinafter collectively referred to as the “Missouri Gas Utilities), by and through counsel, and pursuant to the Commission’s Notice in the June 2, 2003 edition of the Missouri Register, Vol. 28, No. 11, submit the following comments in response to the Commission’s Proposed Rule relating to natural gas price volatility mitigation.

The Missouri Gas Utilities are generally supportive of the proposed rule set forth in 4 CSR 240-40.018 (hereinafter the “Proposed Rule”). If adopted, the Proposed Rule will represent the first clear statement by the Commission of a general policy regarding gas price volatility mitigation. The Missouri Gas Utilities believe it is important for the Commission to promulgate such policy statements as a means of providing needed assurances (in advance of regulatory action) of the prudence of using hedging instruments to lessen volatility even where the ultimate effect of such actions may be to increase gas costs. A rulemaking is an appropriate procedural mechanism for providing such guidance.

Although they are generally supportive of the Proposed Rule, the Missouri Gas Utilities do have several concerns about the timeliness of its promulgation and a number of other, more technical drafting matters. As to timing, the Missouri Gas Utilities understand that the genesis of the Proposed Rule is primarily the natural gas price spikes

that occurred during the winter of 2000-2001. More than two years, however, have elapsed since the conclusion of that winter. During that time, the Commission Staff has recommended significant gas cost disallowances in proceedings related to the winter of 2000-2001 on the basis of alleged deficiencies in local distribution companies' decisions regarding gas price volatility mitigation despite the fact that no Commission policy statement existed on the matter prior to the winter of 2000-2001¹ Moreover, in both the period leading up to the winter of 2000-2001, as well as the period following it, the Commission itself has taken a number of actions, including the discontinuance and retroactive modification of tariffed hedging programs, that have served to erode confidence in the notion that gas utilities will be treated fairly in connection with their use of hedging instruments.² Nevertheless, despite these considerations and, in some respects, because of them, the Missouri Gas Utilities believe it is important for the Commission to move forward and adopt a clear statement of general policy regarding this important matter.

As to the more technical drafting matters, the Missouri Gas Utilities offer the following comments:

- The stated purpose of the Proposed Rule includes the notion of mitigating “upward natural gas price volatility.” Section (1)(A) of the rule includes the phrase “mitigate upward natural gas price spikes” and section (1)(C) of the rule “dampen upward volatility.” As a factual matter, all price volatility mitigation measures— and all successful efforts to enhance price stability, serve to reduce

¹ See, for example, Case No. GR-2001-382, *Re: Missouri Gas Energy*; Case Nos. GR-2001-396 and GR-2001-397, *Re: Atmos and United Cities*; Case No. GR-2001-394, *Re: Greeley Gas*; Case No. GR-2001-461,

² See, for example, *Re: Missouri Gas Energy*, Case No. GO-2000-705; *Re: Laclede Gas Company*, Case No. GR-2001-387.

both the upward and downward movement of prices. Locking in prices prevents participation in both a falling market and a rising market on those volumes subject to fixed prices. Similarly, volumes covered by call options will participate in a falling market, but not to the fullest extent otherwise possible because of the costs necessarily incurred to purchase the call option financial instrument. To suggest that the purpose (or expected result, goal or objective) is to mitigate or limit only upward price volatility defies economic reality and is simply incorrect. Consequently, the Missouri Gas Utilities suggest that the word “upward” should be removed from purpose clause and sections (1)(A) and (1)(C) of the Proposed Rule.

- The Missouri Gas Utilities infer from sections (1)(B) and (1)(C) of the Proposed Rule that the Commission intends for costs associated with price mitigation efforts, including gains and losses associated with financial instruments, to be recoverable from customers subject to applicable prudence review procedures, unless a tariff provision or incentive mechanism for a particular utility provides for different treatment. This intent should be clarified by adding to the Proposed Rule a new subsection (1)(D) to read as follows: “Unless otherwise provided by the gas corporation’s tariffs, costs associated with price mitigation efforts shall be reflected in the gas corporation’s purchased gas adjustment/actual cost adjustment rates subject to applicable prudence review procedures.”
- The Missouri Gas Utilities note that the listing of items contained in section (2) of the proposed rule does not contain index-based contracts. The Missouri Gas Utilities suggest that “index-based contracts” should be added to this list because

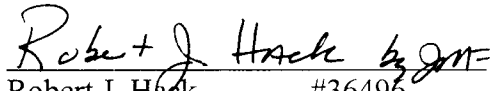
they will and should almost always comprise some percentage of a local distribution company's natural gas supply portfolio.

- The Missouri Gas Utilities note that section (2)(G) of the Proposed Rule contains the phrase “management of price and/or usage volatility.”³ The stated purpose of the proposed rule, however, is to mitigate natural gas *price* volatility. All of the items specifically listed in section (2) of the proposed rule are measures capable of being used to mitigate price volatility; none of these measures are useful in, or capable of, mitigating usage volatility of the customer. Measures capable of mitigating usage volatility of the customer — such as weatherization of buildings to make them more energy efficient and installation of energy efficient appliances — should be evaluated as an important issue. However, they are well beyond the purpose of the Proposed Rule. Consequently, unless the phrase “usage volatility” is intended to mean something other than usage of the customer, the Missouri Gas Utilities suggest that the phrase “and/or usage” should be deleted from section (2)(G) of the proposed rule. If the phrase “usage volatility” is intended to mean something other than usage by the customer, then the phrase needs to be better defined because such meaning is not apparent from a reading of the Proposed Rule.

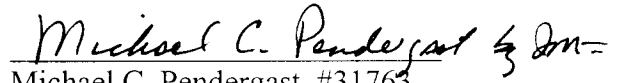
³Each of the Missouri Gas Utilities contract for supply sufficient to meet their actual system demands which are highly variable depending on the weather in their respective service territories.

In view of the foregoing, the Missouri Gas Utilities respectfully request that the Commission issue its Proposed Rule with the modifications proposed in these comments.

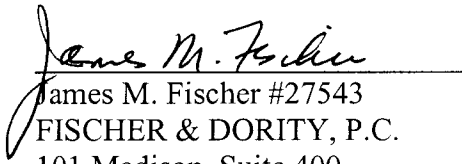
Respectfully submitted,


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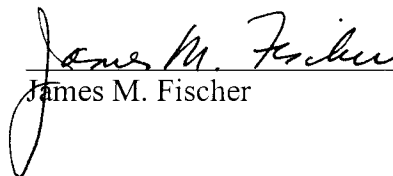
CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed, or hand-delivered this 3rd day of July, 2003, to:

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