



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE CIVIL ENGINEER SUPPORT AGENCY

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**Missouri Public
Service Commission**

Mr. Jeff Davis
Chairman
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Dear Mr. Davis,

I am an attorney with the Air Force Judge Advocate General Corps and am assigned to the Air Force Utilities Litigation Team at the Air Force Civil Engineering Support Agency at Tyndall AFB, FL. We represent Federal Executive Agencies in utility matters in 16 states, to include the State of Missouri. In this capacity, we act as stewards of the interests of Federal taxpayers.

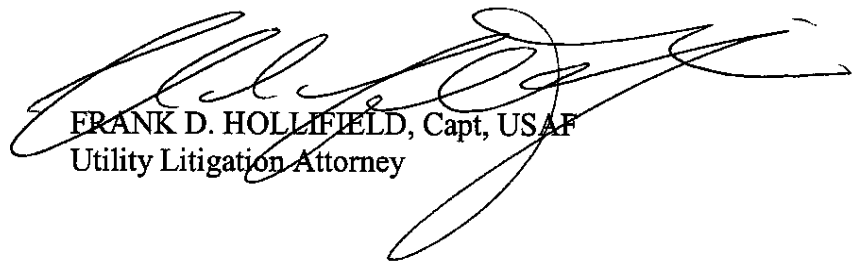
The set of proposed rules governing the adoption of a fuel adjustment clause (FAC) or rate adjustment mechanism (RAM), as published in the 17 July 2006 *Missouri Register*, gives some cause for concern. For the sake of brevity, I will address three of the concerns we have noted. First, the provisions of 4 CSR 240-20.090(1)(B) (definition of "Fuel and purchased power costs") are not as specific and restrictive as they should be, in order to prevent the over-inclusion of inappropriate cost factors in a proposed FAC and/or RAM. The use of the standard of "prudence" is subject to wide interpretation and potentially limits the ability to hold utilities accountable for *imprudent* decision-making. This, coupled with no clear listing of what is includible and not includible in a FAC or RAM, leaves the proposed rule exposed to the greatest potential misuse of FAC's or RAM's: use as a means of engaging in de facto and under-regulated rate-making.

Second, the provisions of 4 CSR 240-20.090(2)(E) essentially vest the regulated utilities with veto power over the Commission's modified version of a proposed FAC or other RAM. This potential arrangement gives the regulated utilities the ability to drive their own regulation. This represents an additional danger, in light of the fact that FAC's and RAM's can be misused as a means of engaging in de facto and under-regulated rate-making.

Third, the proposed regulatory scheme concerning FAC's and/or RAM's only appear to provide a minimum of incentives for the regulated utilities to both avoid wasteful behavior and use optimal practices to save customers' money. The proposed rules incentivize some avoidance of wasteful behavior where there is some limitation of what may be included in the RAM or FAC as "beyond the control of the utility." The proposed rules will provide greater benefit where they more explicitly deny the utilities' the ability to include some, other inappropriate

potential costs and/or only include a part of certain costs associated with fuel purchase, etc. (thereby shifting some of the risk back onto the utilities, vice the customers). The rules would also better serve both customers and the utilities through incentivizing optimal economic behavior, where the utilities are rewarded by keeping some of the savings from engaging in optimal business or economic practices.

The proposed rules represent a significant concern for Federal taxpayers where Federal Executive Agencies are utility customers in Missouri. The FAC's and/or RAM's represent not just a matter of administrative convenience, but they also represent a significant question of accountability of regulated utilities to both Missouri customers and the Federal taxpayers at large. We ask only that these comments and others submitted by other, concerned individuals and entities be given due consideration in order to insure the best outcome for all parties concerned. If you have any questions or requests of me, please contact me at (850) 283-6348.



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