

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,)
Complainant v. Union Electric Company d/b/a Ameren) **Case No. GC-2006-0350**
UE, Respondent)

Concurring Opinion of Commissioner Clayton

Although this Commissioner concurs with the majority's Order Approving Stipulation and Agreement, the penalties assessed are alarmingly inadequate in the deterrence of future safety violations by Missouri gas utilities. This Commissioner has significant concerns with the current natural gas pipeline safety statutes and rules, which need urgent attention and updating. Additionally, this Commissioner would also like to see the PSC Staff adopt a more aggressive and creative approach in interpreting the current statute to hold gas utilities accountable for their actions.

For the last sixteen years and through as many legislative sessions, the Public Service Commission has advocated for sweeping revisions to our gas safety laws. In fact, federal law mandates that this Commission aggressively pursue stiffer penalties and tougher standards. This legislative proposal, known most recently as SB1031 and SB846, increases the maximum penalty the PSC could assess against a public utility for violating one of its rules. Despite bi-partisan Commissioner advocacy, the bill has been left to die at various stages of a particularly lethal legislative process.

The General Assembly should recognize the importance of improved natural gas safety

laws and make the PSC's gas safety proposal a priority in the 2007 legislative session. Missouri should join the other forty-nine states in the union that have already adopted the updated versions and send a message to their constituents that safety is a top concern.

In addition, this Commissioner strongly encourages the PSC Staff to review its analysis of what constitutes a rule violation or number of violations arising from such an accident. As Staff points out:

[a] violation of this rule occurs when a low-pressure distribution system is operated at high pressure. In this case, an employee under the supervision of Ameren connected a high-pressure gas line to the low-pressure system, causing an over-pressurization of the low-pressure distribution system. The language contained in Commission rules does not define the rule violation, or even the number of violations, based on the number of customer service lines that are connected to the low-pressure distribution system. (Staff Response to Order Directing Filing, July 18, 2006).

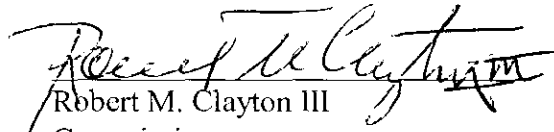
However, the absence of a definition in statute or rule does not prohibit Staff from arguing an interpretation that the number of violations equals the number of Ameren customers affected by the explosion, for example. Alternatively, the statute does not expressly prohibit an interpretation that a violation is the number of fires or explosions or the number buildings damaged or the number of people injured. Under this analysis, the penalty would more accurately reflect the damage incurred by a community. Boonville suffered property damage in the amount of approximately \$600,000, with seven residential structures and the fire station damaged by fire, smoke and multiple explosions. Current law as interpreted by the parties allows for a penalty of the paltry sum of \$2,000, which is .001% of Ameren's 2005 gas revenues.

The Commission should opt for strict enforcement of our current gas safety laws and continue to lead the charge for the enactment of tougher provisions in the Missouri General Assembly. While everyone is thankful that this accident involved no injuries or deaths, all

incidents demand a thorough review and the tough assessment of penalties to deter future occurrences. The recommendations of Staff and Ameren's agreement for corrective action are critical components of this Stipulation that warrant support from the Commission. They will lead to improved safety. In contrast, the \$2,000 penalty, the alleged maximum under the law, is an inadequate gesture to safety and the public welfare.

For the foregoing reasons, this Commissioner concurs.

Respectfully submitted,


Robert M. Clayton III
Commissioner

Dated at Jefferson City, Missouri,
on this 23rd day of August 2006.