

Gunning for the PSC

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Gunner DeLay, the Republican candidate for attorney general, feels that the Arkansas Public Service Commission's present structure and performance on behalf of Arkansas ratepayers "stinks to high heaven."

Now that's one elevated stench by anyone's yardstick. On its Web site, the PSC described itself as "a proactive, solutions-oriented agency that maximizes customer value and enhances the economic environment of the state. This is done by ensuring safe, reliable and reasonably priced utility service. . . ." Has a reassuring ring to it, eh? However, in a recent press release, DeLay stated that the commission has mutated into an agency that protects "the interests of the powerful utility companies that have dominated the state for years. If the ratepayers of this state are going to survive, we need to totally retool this agency from top to bottom." When it comes to favoring rank-and-file Arkansans over wealthy utilities with their lobbyists, valued readers, DeLay is firing from my turret. I couldn't care less about his political affiliation. He cited specific examples from a recent Arkansas Oklahoma Gas rate case where he says the three PSC members accommodated the utility at the expense of customers who must pay whatever the commission allows if they want to stay hydrated, clean, warm or cool, or communicate electronically. "The commission's actions in this case clearly show how 'utility friendly' this agency has become and . . . [this] underscores the need for massive change of the system," DeLay wrote. I penned a column back in December about this shameful rate case after DeLay complained that members of the public had been assured that their transcribed concerns would be made a part of the commission's record, but they weren't. Now DeLay contends that the problems in the case reflect the degree to which the PSC can assist those it is supposed to be carefully regulating. In January, a lawsuit was filed in Sebastian County Circuit Court on behalf of several ratepayers. The action alleged that AOG jumped the gun in imposing a rate increase approved by the PSC for implementation "on or after" Dec. 1. DeLay

said the utility is alleged to have imposed the higher December rates on gas consumed in November."After the lawsuit was filed against AOG, the PSC-without notice or even being asked-changed its order to allow AOG to keep the extra money it had charged residential customers," DeLay said. That action, he added, will result in AOG receiving about \$500,000 more in ratepayers' money than it was entitled to keep under the initial PSC order. Another concern in the case came to light when the PSC began filing legal briefs on AOG's behalf as a part of the litigation in Sebastian County."I don't think the role of state government is to do free legal work for the very company it is supposed to be regulating and against the very ratepayers it is supposed to be protecting," DeLay said. "Taxpayer dollars should not be spent supporting a utility's efforts to take money away from the ratepayers."Yet another "impropriety" surfaced, DeLay said, when it was discovered that PSC staff had counseled and advised the gas company's attorney about legal strategy in the pending lawsuits, including a suit pending before the PSC itself. He said the plaintiffs obtained e-mails from the PSC that disclosed "an ongoing course of communication between AOG and the commission."According to DeLay, the e-mails discussed both strategies of how the gas company could win the lawsuits and issues pending before the commission "on which the commission was supposed to be acting as a neutral judge, not an advocate." "This . . . conduct clearly shows that the ratepayers of this state are not playing on a level playing field at the commission," he claimed. As attorney general, DeLay said, he'd propose sweeping legislative reforms inside the commission. He believes, as do I, that our state's three PSC commissioners must be publicly elected rather than appointed by the governor because the present structure allows no accountability."When you don't have to face the voters, you can get away with anything, and that is exactly what has been going on," he said. DeLay wants the elected commissioners to be subject to the Judicial Code of Conduct to ensure that they avoid conflicts of interest, including improper communications with party litigants. Also, the commission staff must be prohibited from taking any position in rate cases, he said, adding: "The commission is a quasi-judicial agency, yet its own staff is allowed to take positions in rate cases." Finally, DeLay said that staff and commissioners alike should be prevented from accepting jobs with the public utility companies the PSC regulates until two years after they depart the PSC."This will ensure that decisions aren't being based on future prospects for employment." he said. "I am going to fight the utilities and the commission with everything I have to implement these much needed changes." There is a definite need for serious PSC reform in our state, which is filled with good people earning average wages while being overtaxed and over-utilized into the poor house. Turn up the gas, Gunner, and strike the match.—•— Staff columnist Mike Masterson is the former editor of three Arkansas daily newspapers.

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