BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the PGA Filing for Laclede Gas Company.	))	**Case No. GR-2004-0273**

REPORT AND ORDER

Issue Date: **June 28, 2007**

Effective Date: **July 8, 2007**

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the PGA Filing for Laclede Gas Company.	))	**Case No. GR-2004-0273**

APPEARANCES

Michael C. Pendergast, Vice President and Associate General Counsel, and **Rick Zucker**, Assistant General Counsel–Regulatory, Laclede Gas Company, 720 Olive Street, St. Louis, Missouri 63101, for Laclede Gas Company.

Marc D. Poston, Senior Public Counsel, Office of the Public Counsel, Post Office Box 2230, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Lera L. Shemwell, Senior Counsel, **Steven Reed**, Litigation Counsel, and **Blane Baker**, Legal Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REGULATORY LAW JUDGE: Nancy Dippell, Deputy Chief.

REPORT AND ORDER

Syllabus: This order finds that under the specific facts of this case, Laclede Gas Company was not imprudent in purchasing the right to buy swing supply gas at first-of-month pricing during the 2003-2004 Actual Cost Adjustment (ACA) period. In addition, Laclede Gas Company is directed to adjust its ACA balance.

Procedural History

This case was opened to review the ACA filing of Laclede in order to set the ACA and refund balances with regard to Laclede's Purchased Gas Adjustment (PGA) clause. The Staff of the Missouri Public Service Commission reviewed Laclede's actual gas costs and conducted an analysis of its billed revenues for the period October 1, 2003, through September 30, 2004. Staff filed its recommendation on December 29, 2005, in which it requested certain disallowances be made in Laclede's ACA balance. Laclede filed its response on February 27, 2006, in which it disagreed with Staff's disallowances and responded to the recommendations of Staff.

Following some technical conferences and negotiations, Staff filed a notice on August 24, 2006, informing the Commission that parties had resolved all issues with the exception of a disallowance for the purchase of swing supplies at first-of-month (FOM) prices.

Prefiled testimony and prehearing briefs were received, and a hearing was held on January 29, 2007, at which all parties were represented by counsel. The post-hearing briefs were filed on March 5, 2007.

On June 13, 2007, per the Commission's order, Staff filed Staff's Supplemental Recommendation setting out the (over)/under-recovery of ACA and refund balances to be collected from ratepayers as a result of this case. Staff included the balances to be recovered for both the inclusion and disallowance of swing supply demand charges. On June 20, 2007, Laclede responded stating that it had no objection to Staff's calculations as presented in the supplemental recommendation with the exception that the LP Sales balance was incorrect. Staff filed a further response on June 21, 2007, stating its concurrence with Laclede. No response was received from the Office of the Public Counsel.

On February 13, 2007, the Errata Sheet of David Sommerer was received. This Errata Sheet modifies the Deposition of David Sommerer taken on January 18, 2007, received into evidence as Exhibit 11. No objection was received to the Errata Sheet and it is hereby incorporated into Exhibit 11 and admitted into evidence.

The parties identified three primary issues in this case: 1) Was it imprudent of Laclede to purchase the right to buy swing supply gas at first-of-month (FOM) pricing during the 2003-2004 ACA period?; 2) If so, were Laclede's customers harmed by this action?; 3) If customers were harmed, in what amount were they harmed, and what amount of gas costs, if any, should be disallowed to Laclede?

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

1. Laclede is a Missouri corporation engaged in providing natural gas service in the areas of Missouri certificated to it by the Commission.

2. The ACA period at issue is the period from October 1, 2003, through September 30, 2004.[1]

3. Laclede has filed tariff sheets for the 2003-2004 ACA period which were approved by the Commission as interim and subject to refund.

4. In its PGA filings Laclede estimated its gas costs for the upcoming year.

5. In the ACA audit, Staff reconciled the estimated costs with the actual cost of gas to ensure that the claimed costs are properly attributed to the period under review and that the pipelines and natural gas suppliers charged Laclede the correct amounts for the volumes received and under the appropriate contract rates.[2]

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[1] Exhibit 1, Sommerer Direct, p. 5.

[2] Exhibit 1, Sommerer Direct, p. 4.

6. Staff also reviewed Laclede's gas purchasing practices to determine the prudence of the purchasing and operating decisions.[3]

7. Based on its review, Staff recommended, among other things, that Laclede's ACA balance be adjusted by $2,055,864[4] for Laclede's swing supply demand charges.

8. Without Staff's proposed disallowance, the parties agree that the following ACA and Refund balances should apply:[5]

	Firm Sales Non-LVTSS	Firm Sales LVTSS	Interruptible Sales	LP Sales	Firm Transportation	Vehicular Fuel	Refund
Ending ACA Balance	$18,661,505	$ 1,032,722	$ (3,604)	$ 3,294	$ 464,331	$ 18,752	$348,488

9. "Swing supply" is one of several types of gas supply which Laclede utilizes.[6]

10. Swing supply has great flexibility in that it allows the buyer to order the gas on very quick notice, and allows the buyer to take anywhere from zero volume to the Maximum Daily Quantity.[7]

11. Swing supply is sometimes characterized as peaking supply in that it is only used on colder days.[8]

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[3] Exhibit 1, Sommerer Direct, p. 5.

[4] Staff's requested disallowance was originally $2,424,020, but was amended at the hearing to $2,055,864. *See*, Exhibit 10; Transcript p. 38.

[5] *Staff Recommendation*, filed December 29, 2005, *Staff Notice to the Commission*, filed August 24, 2006, *Staff's Supplemental Recommendation*, filed June 13, 2007, *Laclede Gas Company's Response to Staff's Supplemental Recommendation*, filed June 20, 2007, and *Staff's Correction to Its Supplemental Recommendation*, filed June 21, 2007.

[6] Ex. 1, Sommerer Direct, p. 7.

[7] Ex. 1, Sommerer Direct, p. 7.

[8] Ex. 1, Sommerer Direct, p. 7.

12. Swing contracts provide Laclede with flexibility to increase or decrease its requests for gas in response to changing weather and customer requirements and for flexibility in managing storage so that Laclede complies with its storage contracts.[9]

13. Natural gas prices are commonly established by a published index.[10]

14. A FOM index is established each month and represents a sampling of prices during the last few days of the prior month.[11]

15. Similar to a FOM index, a daily index is published.[12]

16. Laclede has traditionally used a FOM index for its swing supplies.[13]

17. Laclede consistently paid demand charges in connection with these swing supplies for at least a decade prior to the 2003-2004 ACA period.[14]

18. Swing supplies priced at the FOM index also have producer demand charges associated with them.[15]

19. A producer demand charge is a fixed charge paid to suppliers for holding natural gas supplies ready to be delivered to the buyer.[16]

20. The producer demand charge is paid each month even if no gas is nominated from a contract for that month.[17]

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[9] Ex. 1, Sommerer Direct, p. 8.

[10] Ex. 1, Sommerer Direct, p. 6.

[11] Ex. 1, Sommerer Direct, p. 7.

[12] Ex. 1, Sommerer Direct, p. 7.

[13] Ex. 1, Sommerer Direct, p. 8.

[14] Ex. 4, p. 7.

[15] Ex. 1, Sommerer Direct, p. 8.

[16] Ex. 1, Sommerer Direct, p. 8.

[17] Ex. 1, Sommerer Direct, p. 8.

21. Laclede structured its swing supply contracts for the 2003-2004 ACA period so that it paid the FOM price for all swing supplies bought for a particular month.[18]

22. An alternative to FOM pricing is to pay the daily index prices for swing supply.

23. Fixed producer demand charges for daily pricing tend to be less than for FOM pricing.[19]

24. The daily index price for gas may be higher or lower than the FOM price depending on the market fluctuations. Overall, daily prices tend to be higher than FOM prices.[20]

25. In both FOM and daily pricing, the price the local distribution company will eventually pay for the gas is unknown until after the index price is set.[21]

26. Laclede conducted a formal study regarding the 1995-1996 winter heating season with regard to demand charges (the "1995 study"). [22]

27. The 1995 study contained data for only one heating season.[23]

28. The 1995 study as prepared showed that Laclede received a benefit by purchasing gas at the FOM pricing even though demand charges were paid.[24]

29. This was the only formal study that Laclede conducted with regard to examining demand charges, until after the 2003-2004 ACA period.

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[18] Ex. 1, Sommerer Direct, p. 8.

[19] Ex. 1, Sommerer Direct, p. 9.

[20] Transcript, p. 175.

[21] Ex. 1, Sommerer Direct, p. 4.

[22] Transcript, p. 216, l. 19-21 and Exhibit 18.

[23] Transcript, p. 216, l. 19-21 and Exhibit 18.

[24] Godat Direct, p. 8.

30. Laclede did not perform a formal study comparing FOM pricing demand charges to daily pricing demand charges.

31. The 1995 study assumed that demand charges for FOM pricing were the same as those for daily pricing.[25]

32. The 1995 study did not separate Laclede's gas supplies into base load, combo, and swing supplies.[26]

33. The 1995 study did not separate the off-system sales costs and revenues from on-system supplies.[27]

34. Laclede made no attempt to try to determine the amount of swing supplies that went to off-system sales in the preceding years. [28]

35. The 1995 study does not consider the current cost of demand charges when planning gas supplies and only considers the historical information.

36. Laclede did not consider how high demand charges should go before a decision to alter purchasing practices should be made.[29]

37. Laclede did not formally analyze its use of storage to avoid daily price spikes while purchasing swing gas at daily prices.[30]

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[25] Exhibit 18.

[26] See, *Staff's Post-Hearing* Brief, p. 3.

[27] Transcript, p. 223, l. 16-18.

[28] Transcript, p. 224, l. 3-8.

[29] Transcript, p. 213-214.

[30] Transcript, p. 180.

38. If Laclede had performed a formal study immediately prior to the 2003-2004 ACA period, it would have shown that paying FOM prices had saved ratepayers $7,922,753 in 2000-2001 and $12,235,265 in 2002-2003.[31]

39. Laclede considered the 1995 study but did not rely heavily on it when making decisions in 2003.[32]

40. Demand charges were paid by Laclede for swing supply contracts for the months of November 2003 through April 2004.[33]

41. Total producer demand charges for the 2002-2003 ACA period were approximately $11.9 million.[34]

42. Total producer demand charges for the 2003-2004 ACA period were $20,291,999.[35]

43. Staff's witness David Sommerer's testimony that the producer demand charges had "nearly doubled" is an exaggeration.[36]

44. George Godat has a Bachelor of Science degree in mechanical engineering from the University of Missouri-Rolla, and has worked for Laclede since January of 1992. He was promoted to Distribution Engineer in 1994 and further promoted to Gas Supply Administrator in 1996. He was promoted to Senior Gas Supply Administrator in 1998 and became Manager of Energy Services in October 2001. He was promoted to the position of

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[31] Exhibit 19.

[32] Transcript, p. 215.

[33] Transcript, p. 195.

[34] Sommerer Rebuttal, p. 4, ln.8; Exhibit 17.

[35] Sommerer Rebuttal, p. 4, ln.8; Exhibit 11, p. 6, lns. 16-20; Exhibit 17.

[36] Sommerer Rebuttal, p. 4-6.

Director of Gas Supply in October of 2003 and is responsible for directing most of the day-to-day gas supply purchasing, sales, risk management and accounting functions for Laclede.[37]

45. Mr. Godat was the primary person responsible for the gas supply analysis during the 2003-2004 ACA period.[38]

46. Even though this was the first year he undertook the primary responsibility for gas supply purchasing, Mr. Godat had sufficient experience and knowledge to perform these functions.

47. In September 2003, before entering into swing contracts, Laclede sent out Request for Proposals (RFPs), a competitive bidding process.

48. When the RFPs were received by Laclede, it knew that total producer demand charges had risen significantly from the 2002-2003 to the 2003-2004 heating season.[39]

49. Laclede did not reissue its RFPs to request daily pricing. [40]

50. Daily demand charges for the 2003-2004 swing supply would have cost $524,271.[41]

51. FOM swing supply demand charges cost $4,194,169 for the 2003-2004 ACA period.[42]

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[37] Exhibit 4, Godat Direct, p. 1, lns. 9-18.

[38] Transcript, p. 192, lns. 21-22.

[39] Transcript, p. 208; Exhibit 17.

[40] Transcript, p. 193, l. 21-23.

[41] Exhibit 10.

[42] Transcript, p. 229, l. 24 – p. 230, l. 16; Exhibit 10.

52. Commodity savings for the 2003-2004 ACA period were $1,614,034[43] for FOM pricing compared to daily pricing.[44]

53. Total gas cost for Laclede for the 2003-2004 ACA period was $518,310,337.[45]

54. Demand charges for the 2003-2004 ACA period comprised about 4% of Laclede's total gas costs.[46]

55. Swing demand charges for the 2003-2004 ACA period were approximately 20% of the total cost of swing gas.[47]

56. The Public Service Commission Natural Gas Task Force stated in its 2001 final report that demand charges under 5% of gas costs were reasonable.[48]

57. The total volume of swing gas contracted in the 2003-2004 period was less than the volumes contracted in 2002-2003 but Laclede paid approximately $600,000 more in swing demand charges in the 2003-2004 period.[49]

58. Demand charges for the 2003-2004 swing supply increased approximately 30% from the year before.[50]

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[43] This amount was calculated using the daily price on the first of the month and not the actual daily price.
[44] Exhibit 10.
[45] Transcript, p. 45.
[46] Transcript, p. 172, lns. 5-8.
[47] Transcript, p. 172, l. 5-13.
[48] Transcript, lns. 12-23.
[49] Transcript p. 67, line 11 to Transcript p. 68, l. 20; Transcript, p. 173, l. 18-25.
[50] Ex. 1, Schedule 2-11; Transcript p. 43, l. 20-22.

59. Total demand charges for 2003-2004 increased by approximately 70% from the year before.[51]

60. The Stipulation and Agreement and the On-the-Record Presentation in GR-2002-356 (the 2002 rate case) did not limit the Commission with regard to prudence reviews.[52]

61. The winter of 2002-2003 had "normal" temperatures; however, given that the previous years had been warmer than normal, demand for gas was high.[53]

62. As recently as February 2003, Laclede had seen huge intra-month price spikes in the natural gas markets[54] and record low storage levels that threatened to drive prices even higher.[55]

63. The temperatures during the winter of 2003-2004 were warmer than normal.[56]

64. The Commission Staff sent a letter to local distribution companies (LDCs) in the summer of 2003. In the letter the Staff requested that LDCs provide information regarding their storage and hedging strategies.[57]

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[51] Transcript, p. 43.

[52] Transcript, p. 123-124.

[53] Transcript, p. 246.

[54] Ex. 4, p. 8.

[55] Transcript, pp. 215, 243, and 246.

[56] Transcript, pp. 76 and 78.

[57] Ex. 11, pp. 68-70.

65. The Staff has not recommended that any other LDC perform a study to determine if paying daily demand charges is more economical than paying FOM demand charges. In addition, Staff has never performed such a study.[58]

66. The ratepayers receive a benefit in the form of some price stability by having FOM prices instead of daily prices, especially in situations where the daily prices are spiking erratically.[59]

67. Natural gas prices increased from $2 per MMBtu to as much as $15 per MMBtu in the ten years prior to February of 2006, according to a report of the Commission issued on February 7, 2006.[60]

68. Laclede and the entire natural gas industry had experienced extraordinary intra-month price spikes during the later part of the 2002-2003 ACA period.[61]

69. In Laclede's 2002 rate case, GR-2002-0356, the approved Partial Stipulation and Agreement required a $3.8 million imputation to ratepayers for capacity release and off-system sales.[62]

70. In the 2003-2004 ACA period, customers paid $4.2 million for swing demand charges and received $2-to-2.5 million in revenue imputation from off-system sales.[63]

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[58] Ex. 11.

[59] Ex. 11, p. 62.

[60] Transcript, pp. 74-75.

[61] Ex. 11, pp. 30 and 45-46.

[62] Sommerer Rebuttal, p. 6; Exhibit 12.

[63] Transcript, p.164, l. 1-5.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Jurisdiction

Laclede is an investor-owned public utility engaged in the provision of natural gas service in the state of Missouri. Laclede is, therefore, a "gas corporation" as defined in Section 386.020(18), RSMo 2000. As a "gas corporation," Laclede is subject to the jurisdiction of the Commission under Chapters 386 and 393, RSMo 2000.

Burden of Proof

Section 393.130.1, RSMo 2000, requires that all charges made or demanded by any gas corporation must be just and reasonable. Section 393.150.2, RSMo 2000, provides that in any hearing involving a rate increase, the gas corporation proposing such rate increase has the burden of proving that the proposed increased rate is just and reasonable. The Commission has also held that the gas corporation has the burden of showing that the gas cost that it proposes to pass on to ratepayers through operation of its PGA tariff is just and reasonable.[64]

The Prudence Standard

It is not, however, sufficient to state that Laclede, as the gas corporation, has the burden of proving that its gas costs are just and reasonable. The fact that Staff is challenging the prudence of incurring some of those costs brings into effect an additional standard, the prudence standard. The Commission established its prudence standard in a

[64] *In the Matter of Tariffs filed by Western Resources, Inc., d/b/a Gas Service, a Western Resources Company, to Reflect Rate Changes to be Reviewed in the Company's 1992-1993 Actual Cost Adjustment*, 3 Mo. P.S.C. 3rd 480, 488 (1995).

1985 case involving the costs incurred by Union Electric Company in constructing its Callaway nuclear plant.[65] In determining how much of those costs were to be included in Union Electric's rate base, the Commission adopted a standard for determining the prudence of costs that had been established by the United States Court of Appeals, District of Columbia, in a 1981 case.[66]

The standard adopted by the Commission recognizes that a utility's costs are presumed to be prudently incurred, and that a utility need not demonstrate in its case-in-chief that all expenditures are prudent. "However, where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling those doubts and proving the questioned expenditures to have been prudent."[67]

The Commission, in the *Union Electric* case, further established that the prudence standard was not based on hindsight, but upon a reasonableness standard. The Commission cited with approval a statement of the New York Public Service Commission that:

> . . . the company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.[68]

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[65] *In the Matter of the Determination of In-Service Criteria for the Union Electric Company's Callaway Nuclear Plant and Callaway Rate Base and Related Issues. In the Matter of Union Electric Company of St. Louis, Missouri, for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Missouri Service Area of the Company*, 27 Mo. P.S.C. (N.S.) 183, 192-193 (1985).

[66] *Anaheim, Riverside, Etc. v. Fed. Energy Reg. Com'n*, 669 F.2nd 799, 809 (D.C. Cir. 1981).

[67] *Union Electric*, 27 Mo. P.S.C. (N.S.) 183, 193 (1985).

[68] *Union Electric*, at 194, quoting *Consolidated Edison Company of New York*, Inc., 45 P.U.R. 4th 331 (1982).

Since its adoption, the Commission's prudence standard has been recognized by reviewing courts.[69]

In the *Union Electric* case, the Commission found that the showing of $2 billion in cost overruns associated with the building of the Callaway nuclear plant was sufficient to raise serious doubts about the prudence of Union Electric's expenditures, thus shifting the burden to Union Electric to show that its expenditures were prudent. In this case, Staff raises serious doubts about the prudence of Laclede's expenditures for the purchase of its swing supplies at FOM pricing. Staff showed that Laclede could have paid $3,669,898 less for demand charges had it purchased its swing supplies at daily prices instead of FOM prices. Staff successfully raised serious doubts about the prudence of paying these charges. This could have resulted in an overall savings to the ratepayer of $2,055,864. Therefore, the burden shifted to Laclede to prove that its payment of FOM demand charges was prudent.

<u>The Stipulation and Agreement in GR-2002-356</u>

Laclede argues that the Stipulation and Agreement in its previous rate case, GR-2002-0356, precluded the Commission from reviewing the FOM demand charges for prudence. The Stipulation and Agreement clearly contemplated that prudence reviews would be made with regard to how the off-system sales and capacity release transactions were to be handled[70] and does not preclude this review.

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[69] *See, e.g., State ex rel. Associated Natural Gas Company v. Pub. Serv. Com'n*, 954 S.W.2d 520, 529 (Mo. App. W.D. 1997).
[70] Ex. 12.

The Hedging Rule

The Commission's hedging rule recognizes that it is prudent to use hedging instruments even though they may result in prices that are occasionally above the spot market price for gas.[71]

Decision

The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. After applying the facts as it has found them to its conclusions of law, the Commission has reached the following decision.

The initial burden is on those challenging the prudence of Laclede's decisions to raise serious doubts about their prudence. Staff showed that Laclede should have recognized that demand charges for swing supply were increasing more drastically than other demand charges. Laclede did not know whether FOM pricing was the most economical way to purchase swing supply, because it had only compared FOM pricing to daily pricing for all supply. Had it compared the cost of only the swing supply demand charges, Laclede would have been alerted to the need to look at other alternatives and it would have issued new RFPs with a request for the daily pricing demand charges.[72]

Second, Staff raised doubts about Laclede's prudence by showing that Laclede had not considered the impact of the demand charges on the ratepayers, but rather, only

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[71] 4 CSR 240-40-018.

[72] Transcript, p. 193, l. 21-23.

looked at the demand charges as a whole. Clearly, in conducting its one and only study in 1995 regarding the cost of demand charges, Laclede only considered the overall effect on the company (that is, the shareholders) of the demand charges. Laclede did not exclude off-system sales, with or without the imputed amount, to see if FOM pricing would have benefited the ratepayers or the shareholders.

Because Staff created serious doubts as to the prudence of Laclede's decision, the burden to show that paying the FOM demand charges were prudent shifts back to Laclede. To determine whether Laclede's decision was prudent, the Commission must be careful not to use hindsight. The Commission must look at the facts which Laclede knew or should have known at the time the decisions were made and determine if those decisions were reasonable under the circumstances.

Laclede's decision to purchase the right to buy swing supplies at FOM pricing during the ACA period was an integral, longstanding, and effective component of its overall gas purchasing strategy. Laclede had consistently paid demand charges in connection with these swing supplies for at least a decade prior to the 2003-2004 ACA period.[73] Further, Staff, after nearly a decade of ACA reviews, management audits, and other proceedings in which it had the opportunity to question the propriety of this practice, had not questioned it. Nor had Staff questioned any other company as to its failure to analyze their method of paying demand charges for swing supply (e.g., to determine whether FOM pricing would have been more advantageous than daily demand charges). In fact, Staff sent the opposite message in the years immediately preceding the ACA period, by sending letters and reports emphasizing the potential for higher and even more volatile gas prices

[73] Ex. 4, p. 7.

and the need to pursue measures aimed at mitigating the effect of such prices on utility customers.

Purchasing swing supplies at FOM prices gives some benefits to ratepayers. It protects ratepayers from daily, intra-month price spikes, caused by cold weather or other factors, since Laclede is able to buy needed swing supplies at the lower FOM price under these circumstances. This helps to stabilize the price of gas.

Under the circumstances in which Laclede was purchasing these gas supplies, Laclede did not believe that demand charges were escalating in any unusual or unexpected way considering what was happening with other natural gas pricing mechanisms. Laclede's experienced personnel looked at the shortfall in storage inventories at the national level, took note of the extraordinary intra-month price spikes that had been experienced during the later part of the 2002-2003 ACA period, examined forward prices and, with a detailed knowledge of how cold weather and increased price volatility could have affected Laclede's gas costs, determined that it was reasonable to pay the increase in demand charges.[74] Even if Laclede had issued additional RFPs and found that demand charges for daily prices were significantly less, a reasonable person in the same circumstance would have made the same decision as Laclede.

Laclede argues that if it had suddenly abandoned its decade-long practice of paying FOM demand charges, it is likely that Staff would have argued *that* decision was imprudent. The Commission agrees. This is especially true if the weather had been normal or colder than normal instead of warmer than normal, causing prices to spike like

[74] Ex. 6, p. 7; Transcript p. 205.

they had in two of the previous three winters. Even with the warmer than normal weather, the actual cost of gas was $1,614,034[75] less at FOM prices than at daily prices.

The Commission determines that Laclede has met its burden of proving that under similar circumstances, even if Laclede had issued further RFPs and analyzed the impact on the ratepayers, it was prudent in this instance to continue with its longstanding practice in order to avoid intra-month price spikes. Laclede has proven that its decision to purchase swing supplies at FOM pricing, and therefore incurring FOM demand charges for this particular year, was prudent. Because the Commission determined that Laclede's decision was prudent, the Commission need not determine if customers were harmed or by how much they may have been harmed by Laclede's decision.

After reviewing all of the evidence, including the Staff's recommendation and the supplemental recommendation, the Commission determines that the ending balances without Staff's disallowance as shown above are reasonable and will be approved. The Commission shall direct Laclede to establish new ACA balances as set out below.

IT IS ORDERED THAT:

1. Staff's proposal to disallow $2,055,864 in costs for first-of-month demand charges for swing supply natural gas incurred by Laclede Gas Company in its 2003-2004 ACA period is rejected.

2. Laclede Gas Company shall adjust the ACA account balances in its next ACA filing to reflect the (over)/under-recovered ACA and Refund balances as follows:

	Firm Sales Non-LVTSS	Firm Sales LVTSS	Interruptible Sales	LP Sales	Firm Transportation	Vehicular Fuel	Refund
Ending ACA Balance	$18,661,505	$ 1,032,722	$ (3,604)	$ 3,294	$ 464,331	$ 18,752	$348,488

75 Ex. 10.

3. Any pending motions or objections that the Commission has not specifically ruled upon are hereby denied or overruled.

4. This Report and Order shall become effective on July 8, 2007.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, and Appling, CC.,
concur;
Gaw and Clayton, CC., dissent;
and certify compliance with the provisions
of Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 28th day of June, 2007.