

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 8th day of
April, 2008.

In the Matter of Laclede Gas Company/Fidelity)
Natural Gas, Inc.'s Purchased Gas Adjustment)
for 2005-2006)

Case No. GR-2007-0179

ORDER APPROVING STIPULATION AND AGREEMENT

Issue Date: April 8, 2008

Effective Date: April 18, 2008

Background/Procedural History

On February 21, 2006, the Commission issued an order in Case GM-2006-0183 granting Laclede Gas Company (Laclede) a certificate of convenience and necessity to provide natural gas service as a gas corporation and public utility, subject to the jurisdiction of the Commission, in the service areas previously served by Fidelity Natural Gas, Inc. ("Fidelity"). The Commission approved Laclede's ownership of Fidelity effective February 24, 2006, and Laclede filed a new tariff to provide gas service in the areas previously served by Fidelity on March 31, 2006. Laclede/Fidelity provided natural gas service to an average of about 1,300 sales customers in Franklin and Crawford Counties, including the cities of Sullivan and Oak Grove Village.

On April 17, 2006, the Commission issued an order approving Laclede's tariff adopting Fidelity's tariff, and Fidelity's certificate of convenience and necessity was canceled, effective May 1, 2006. On November 3, 2006, Laclede filed tariff sheets reflecting the scheduled Winter Purchased Gas Adjustment ("PGA") for the company's

newly acquired customers. This filing reflected Fidelity's former PGA filing. Because of the overlap in ownership during a portion of the relevant time period, the recommendations in this 2005-2006 ACA case, GR-2007-0179, affect both Fidelity and Laclede.

On December 31, 2007, the Commission's Staff filed its recommendation. Staff's recommendation indicated that Staff has completed an audit of billed revenues and actual gas costs included in the computation of Laclede/Fidelity's ACA balances for the period from November 2005 to November 2006. Staff also conducted a prudence review regarding Laclede/Fidelity's gas purchasing practices. Further, Staff conducted a reliability analysis of the Laclede/Fidelity's estimated peak day requirements and capacity levels to meet those requirements, and a review of Laclede/Fidelity's hedging policy for the 2005/2006 ACA.

On February 7, 2008,¹ Laclede/Fidelity responded to Staff's recommendation, agreeing to it in part and disputing it in part. The Commission scheduled a procedural conference for February 28, during which the parties began negotiations to resolve their disputes. These negotiations culminated with Staff and Laclede/Fidelity filing a Non-Uniform Stipulation and Agreement ("Agreement") on March 26. Staff represents that the Office of the Public Counsel ("Public Counsel"), the only other party to this matter, has indicated that it will not request a hearing. On April 1, Public Counsel filed a pleading confirming that it would not oppose the Agreement.

Legal Standard for Approving a Non-Uniform Stipulation and Agreement

The Commission has the legal authority to accept a stipulation and agreement as

¹ All dates from this point forward in the order refer to the year 2008 unless otherwise noted.

offered by the parties as a resolution of issues raised in this case.² Furthermore, Section 536.090, RSMo 2000, provides that when accepting a stipulation and agreement, the Commission does not need to make either findings of fact or conclusions of law.

While Public Counsel has not joined in the Agreement, Commission Rule 4 CSR 240-2.115(2) provides that if no party objects to a nonunanimous stipulation and agreement within seven days of its filing, the Commission may treat that stipulation and agreement as unanimous. A party's failure to timely object to a non-unanimous stipulation and agreement constitutes a full waiver of that party's right to a hearing.³ No party filed a timely objection to the Agreement and the Commission will treat it as being unanimous.

The Agreement

The signatory parties agreed to four adjustments to the ending ACA balances for 2005-2006. The first adjustment reflects a decrease in the revenue balance of \$9,874 to reflect actual revenues recovered during the months of February 2006 and March 2006. The second adjustment is a gas cost reduction of \$14,284 to correct an error in recording Panhandle transportation costs in February 2006. The third adjustment is a gas cost reduction of \$3,167 related to fuel losses associated with volumes Fidelity turned back to its supplier in January 2006. Finally, the parties agree that any remaining issues including hedging adjustments will be settled by a reduction in gas costs of \$21,641.

The agreed adjustments reflect a total over-recovery of \$29,218. Fidelity shall forward this amount to Laclede by means of check or wire transfer no later than 10 days

²Section 536.060, RSMo 2000.

³ Commission rule 4 CSR 240-2.115(2)(B). The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496(Mo. App. 1989).

after a final order approving the Agreement is effective. Since Fidelity's customers were the consumers who paid the gas costs, and because that service area is now operated by Laclede, Laclede has agreed to refund the amount of \$29,218 through a one-time bill credit to the approximately 1,300 active customers in the service area, within sixty (60) days of Laclede receiving the funds from Fidelity.

The parties further agreed that if the Commission accepts the specific terms of the Agreement without condition or modification, they would waive their respective rights to: (1) call and cross-examine witnesses pursuant to Section 536.070(2); (2) present oral argument and written briefs pursuant to Section 536.080.1; (3) the reading of the transcript by the Commission pursuant to RSMo Section 536.080.2; (3) seek rehearing, pursuant to Section 536.500; and, (4) judicial review pursuant to Section 386.510.⁴

Decision

After reviewing the unopposed Agreement and Staff's supporting memorandum, the Commission concludes that the Agreement is reasonable, and should be accepted as a resolution of Laclede/Fidelity's 2005-2006 ACA audit.

IT IS ORDERED THAT:

1. The Non-Unanimous Stipulation and Agreement is approved. A copy of the Agreement is attached to this order.
2. The signatory parties to the Non-Unanimous Stipulation and Agreement are directed to comply with the terms of the Agreement.
3. The adjusted balances for Laclede Gas Company's and Fidelity Natural Gas, Inc.'s 2005-2006 Actual Cost Adjustment are established as provided in the following table:

⁴ All statutory references throughout this order are to RSMo 2000 and Supplements unless otherwise noted.

Description	Ending ACA Balance Per Filing	Staff Adjustments	Ending ACA Balance Per Staff
2004-2005 ACA Ending Balance	(\$24,646)	\$0	(\$24,646)
Cost of Gas/Transportation	\$2,455,326	(\$17,451) (A) (\$21,641) (B)	\$2,416,234
Revenues	(\$2,519,147)	\$9,874	(\$2,509,273)
ACA Approach for Interest Calculation	\$2,879	\$0	\$2,879
Total (Over)/Under Recovery 2005-2006	(\$85,588)	(\$29,218)	(\$114,806)

(A) (\$3,167) + (\$14,284)

(B) Hedging

4. This order shall become effective April 18, 2008.

5. This case shall be closed on April 19, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
and Jarrett, CC., concur.

Stearley, Regulatory Law Judge