BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Laclede Gas Company/Fidelity Natural Gas, Inc.'s Purchased Bas Adjustment for 2005-2006.	)))	Case No. GR-2007-0179

PUBLIC COUNSEL'S RESPONSE TO THE NON-UNANIMOUS STIPULATION AND AGREEMENT

COMES NOW the Missouri Office of the Public Counsel and for its response to the Non-Unanimous Stipulation and Agreement states:

1. On March 26, 2008, Fidelity Natural Gas, Inc. (Fidelity), Laclede Gas Company (Laclede), and the Staff of the Commission filed a Non-Unanimous Stipulation and Agreement to resolve all issues in this case. The Commission directed any responses to the Stipulation to be filed no later than April 2, 2008. While Public Counsel will not oppose the Stipulation nor request a hearing, Public Counsel did not enter into the Stipulation for the reasons explained below.

2. The issues in this case include a number of adjustments suggested by the Staff in its December 31, 2007 Staff Recommendation. The Staff concluded that Fidelity's lack of fixed price purchases prior to the 2005-2006 winter months exposed Fidelity's customers to high winter prices. Staff also concluded that Fidelity could have reasonably avoided the higher market prices by following their traditional hedging practice.

3. In response to the Staff's Recommendation, Fidelity explained one of the reasons it delayed its hedging for the winter of 2005-2006:

> FNG began negotiations to sell all of its gas operations to Laclede in early 2005. Negotiations and due diligence were in process throughout the spring and summer of 2005, until an Asset Purchase Agreement was finally signed

> in September 2005. Throughout the whole process, FNG was hesitant to enter into fixed-price futures contracts, knowing that FNG might be getting out of the natural gas distribution business, possibly before the winter heating season began, and not wanting to lock-in futures contracts.

This is consistent with Fidelity's October 15, 2005 gas presentation to the Commission where Fidelity claimed that it "did not want to buy high-priced contracts that Laclede would not want to assume." Fidelity also claimed in the gas presentation that ongoing negotiations with a gas supplier were "delayed by Laclede wanting to review the terms of the new contract."

4. It appears Fidelity modified its hedging strategy to benefit Fidelity's shareholders and to appease Laclede during negotiations for the sale of the Fidelity distribution system. When prices spiked in 2005, Fidelity's customers were not adequately protected. According to the Staff's Recommendation, if Fidelity had continued to implement its traditional hedging practices, Fidelity's customers would have been better protected from price spikes and would have paid less for gas. As Fidelity's shareholders benefited from their failure to purchase futures contracts, Fidelity's captive customers were harmed. Fidelity should not be rewarded for leveraging its hedging practice to effectuate the sale of its system. The price spikes during the damaging 2005 hurricane season highlight the reasons why fixed price purchases are a component of a prudent hedging plan.

5. The credits going to former Fidelity customers under the Stipulation, while helpful to consumers, falls short of the harm caused by Fidelity's purchasing decisions. In the past, the Commission has shown its concern with protecting customers from detrimental impacts caused by system acquisitions, and this case should be no exception.

6. Public Counsel does not believe that opposing the Stipulation and taking this matter to hearing would result in more disallowances than the $29,218 over-recovery recommended in the Stipulation. For this reason, Public Counsel chooses not to oppose the Stipulation and Agreement.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to the Non-Unanimous Stipulation and Agreement.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

By: **/s/ Marc D. Poston**

Marc D. Poston (#45722)
Senior Public Counsel
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 1st day of April, 2008:

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Rick Zucker
Laclede Gas Company
720 Olive Street
St. Louis, MO 63101
rzucker@lacledegas.com

James Fischer
Fidelity Natural Gas, Inc.
101 Madison Street--Suite 400
Jefferson City, MO 65101
jfischerpc@aol.com

/s/ Marc Poston