

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 24<sup>th</sup> day of March, 2021.

In the Matter of Vicinity Energy Kansas ) **File No. HT-2021-0245**  
City's Adjustment of Its PACC Tariff ) Tracking No.: YH-2021-0156

**ORDER APPROVING STIPULATION AND REJECTING PRODUCTION  
ADJUSTMENT COST CLAUSE (PACC) TARIFF**

Issue Date: March 24, 2021

Effective Date: April 1, 2021

**INTRODUCTION**

On February 1, 2021,<sup>1</sup> Vicinity Energy Kansas City, Inc. filed tariff sheets (Tracking No. YH-2021-0156) and supporting testimony of Scott Stordahl, General Manager of Vicinity, to revise its Production Adjustment Cost Clause (PACC) rates for steam service for the twelve month recovery period beginning April 1, 2021, through March 31, 2022. The tariff sheets have a proposed effective date of April 1, 2021. The Commission issued notice of the filing, set an intervention deadline, and directed the Commission's Staff (Staff) to submit a recommendation. On March 2, Staff and Vicinity filed a Joint Motion for Extension of Time, asking the Commission to extend the deadline for Staff's recommendation until March 12. The request explained that after the February 1 filing, Vicinity experienced a period of extraordinarily high gas costs which might have a dramatic impact on future PACC adjustments. Vicinity and Staff sought to extend the deadline to investigate. The Commission set March 12 as a deadline for Staff's recommendation on revised tariff sheets, and March 15 as a deadline for comments on

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<sup>1</sup> All date references will be to 2021 unless otherwise indicated.

revised tariff sheets or Staff's recommendation. On March 12, in lieu of a recommendation, Staff and Vicinity filed a Stipulation and Agreement Resolving Issues Arising from Gas Price Spikes of February 2021 (Stipulation). The Stipulation contained exemplar tariff sheets reflecting the agreements set out in the Stipulation. On March 12, Vicinity also filed a Motion for Expedited Treatment, requesting that the Commission approve the Stipulation in time to allow compliance tariffs to be approved to go into effect by April 1.

More than seven days have passed since the parties filed the Stipulation on March 12 with neither the Office of Public Counsel nor any other person objecting thereto. The Stipulation will, therefore, be treated as a unanimous stipulation.<sup>2</sup>

Vicinity's PACC adjustment is required under the terms of a stipulation and agreement approved by the Commission in File No. HR-2014-0066. The procedure for the calculation of the PACC for steam service sales is set out in Vicinity's Tariff Sheets Nos. 31 through 37, which are titled "Production Adjustment Cost Clause." The Stipulation states that per the revised tariff sheets which were filed on February 1, 2021 the proposed PACC factor was (\$1.2651)/mlb, before rounding. The factor was negative (that is, customers' bills would be reduced by the implementation of this factor) because the production costs related to calendar year 2020 and included in the calculation of the factor had declined relative to the base level established in the 2018 rate case (HR-2018-0341). The main driver of the reduction in costs in 2020 was the cost of natural gas in 2020

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<sup>2</sup> 20 CSR 4240-2.115 (2)(B) provides: Each party shall have seven (7) days from the filing of a non-unanimous stipulation and agreement to file an objection to the non-unanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. Subsection (C) then provides that if no party timely objects to a non-unanimous stipulation and agreement, the commission may treat the non-unanimous stipulation and agreement as a unanimous stipulation and agreement.

versus the cost of natural gas in the base PACC cost. The February 1 tariff sheets also accommodated an additional refund for the benefit of tariff customers attributable to a correction to the company's 2019 PACC filing.<sup>3</sup>

The Stipulation states that the currently effective PACC factor is (\$0.2901)/mlb. Like the factor proposed in the February 1 tariff sheets, this factor is negative and, thus, reduces customers' bills. The Stipulation states that the proposed factor is significantly more negative than the current PACC factor, and would, therefore, lead to a larger reduction in customers' bills.

The Stipulation states that after the February 1 PACC filing, for more than a week in the middle of February, much of the mid-continent was hit with record-setting cold which negatively affected production and transmission of natural gas and greatly increased demand (Weather Event). It states that these factors sent gas prices "skyrocketing across the region." The Stipulation states that Vicinity's natural gas cost is the largest component in the calculation of its PACC and predicts that because of the weather event, the PACC factor will be switched from the current negative number to a significantly positive number in the next PACC filing. The Stipulation states that the current estimate is that the excess costs will at least double Vicinity's 2021 gas cost as compared to its 2020 gas cost, depending on a number of factors being resolved by gas suppliers and transportation companies; and that because of these factors, neither the precise cost nor when it will be determinable is now known. The Stipulation states the Company is unable to offer any reasonable estimate of the future PACC factor at this time.

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<sup>3</sup> The Stipulation cites the Direct Testimony of Mr. Stordahl concerning an additional refund proposed for the benefit of tariff customers attributable to a correction to its 2019 PACC filing. The 2020 PACC filing supported annual customer credits of \$579,806 while the correction of the 2019 PACC filing resulted in additional customer credits of \$152,132 to eligible customers.

The Stipulation states Vicinity's PACC tariffs allow for changes to the PACC to be filed annually by February 1, or semi-annually by August 1 and February 1. The tariffs provide that PACC changes filed on August 1 will become effective on October 1, and that changes filed on February 1 will become effective April 1. The Stipulation states that Vicinity's cost increases from the February 2021 gas price spikes are significant enough that Vicinity plans to incorporate the related gas costs in the PACC as soon as possible, likely in an August 1 (or earlier) filing. If that is the case, those changes would increase customers' bills only six (or fewer) months after the currently pending PACC changes would reduce those bills, if implemented. The Stipulation states that because the PACC factor proposed in the February 1 tariffs is significantly more negative than the current PACC factor and because the next PACC filing is known to result in a positive PACC factor, implementation of the February 1 tariff's proposed PACC factor will cause extreme volatility in customer bills.

The Stipulation states that its provisions are designed to both eliminate the up and down swings and to mitigate the impact of the February weather event and gas price spikes on customers' bills. It states that in general terms, the Signatories propose that rather than implementing the larger reduction to customers' bills proposed in the pending February 1 tariffs, the Commission instead approve a PACC factor that results in a current change of \$0 to customers' bills.<sup>4</sup> It states that doing so will create a much smoother transition to the coming PACC factor that will increase customers' bills. It states that the amounts that would have been refunded to customers will be captured as a regulatory

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<sup>4</sup> This change would be achieved by the rejection or disapproval of the PACC changes sponsored in the Direct Testimony of Mr. Stordahl.

liability and used to directly offset a portion of the PACC increase driven by the February gas price spikes.

### **TERMS AND CONDITIONS OF THE STIPULATION AGREEMENT**

The parties propose the following terms and conditions:

1. The Signatories request that the Commission issue an order that authorizes Vicinity to defer into a regulatory liability the amount of \$731,938, representing \$579,806 for the amount that otherwise would flow as credits to customers through the PACC from April 1, 2021 through March 31, 2022, plus \$152,132 for the one-time refund for the error in the 2019 filing described in the Stipulation and the Introduction of this order.

2. The Signatories request that the Commission reject the tariffs filed by Vicinity on February 1, 2021, and order Vicinity to file tariffs in compliance with its order approving this Stipulation that are substantially similar to the exemplar tariffs attached to the Stipulation.

3. Vicinity agrees to submit a PACC filing no later than August 1, 2021, or as soon thereafter as allowed by the PACC tariffs once the cost of the gas price spikes are reasonably known and to the extent payment has been remitted. The next PACC filing will reflect only the additional costs resulting from the gas price spike, net of the aforementioned customer credits to be recorded in a regulatory liability account. The Signatories may jointly or separately seek an approval by the Commission in that filing to flow the gas costs through a Reconciling Adjustment that would recover the costs over a Recovery Period of greater than one year in order to avoid unnecessarily significant impacts on customers. The regulatory liability established pursuant to Paragraph 8 of the

Stipulation will be amortized or relieved over a period consistent with the Recovery Period established by the Commission in the next PACC filing.

4. Pursuant to generally accepted accounting principles, Vicinity anticipates that it may be required to record greater purchased gas expense in 2021 to recognize the full estimated cost of the extraordinary spike in gas costs (under accrual basis accounting), than the total amount the Company may remit as payment to its suppliers in 2021 (cash or paid basis proposed for cost inclusion in PACC). Under the PACC Tariff Sheet Nos. 32 and 34, the PACC factor is based on actual production costs incurred during the accumulation period (e.g., calendar year 2021) which would include any accrued purchased gas expense in excess of any amounts paid associated with the gas price spikes.

5. In order to avoid the possibility of including any accrued but unpaid gas costs in the next PACC filing, the Signatories request that the Commission issue an order that authorizes Vicinity to defer into a regulatory asset account any accrued but unpaid extraordinary gas costs that would otherwise be charged to purchased gas expense in 2021. This regulatory asset account would be relieved or reduced concurrent with payments to Vicinity's suppliers. Those additional payments would then increase purchased gas expense and be eligible for PACC inclusion in 2021 or any future period. Approval of this regulatory asset accounting would not limit the Commission's ability to consider and review recovery of these costs in one or more future PACC filings.

## **DECISION**

The Commission finds that because of the February weather event, the implementation of the PACC factor set out in the pending tariffs, which decreases

customers' bills, is likely to result in significant rate volatility and "rate shock" for Vicinity's customers with the next PACC adjustment proceeding. The Commission finds that the Stipulation provides a reasonable way both to accommodate and meet the requirements of the PACC tariff and to mitigate the effect of the weather event on rates. The Commission finds that the Stipulation achieves just and reasonable rates under all the circumstances and is in the best interests of Vicinity and Vicinity's customers. The Commission will approve the Stipulation, reject the tariffs filed by Vicinity on February 1, 2021, order Vicinity to file tariffs in conformity with the Stipulation with an effective date of April 1, 2021, and issue orders as requested by the parties. Because the Commission will order Vicinity to file tariffs with an effective date of April 1, 2021, the Commission will grant Vicinity's Motion for Expedited Treatment and make this order effective on April 1, 2021.

**THE COMMISSION ORDERS THAT:**

1. Vicinity's Motion for Expedited Treatment is granted.
2. The Stipulation and Agreement Resolving Issues Arising from the Gas Price Spikes of February 2021 filed March 12, 2021 is approved, and Vicinity Energy Kansas City, Inc. is ordered to perform and comply with all of its terms and conditions. The Stipulation and Agreement is attached as Exhibit A to this order, and its terms and conditions are incorporated herein by reference.
3. The pending tariff sheets, assigned Tracking No. YH-2021-0156, are rejected.
4. No later than March 25, 2021, Vicinity shall file tariff sheets in conformity with the Stipulation with an effective date of April 1, 2021. Any party objecting thereto

shall do so no later than March 26, 2021. The Commission delegates its authority to the presiding officer to approve the compliance tariff after it is filed.

5. The Commission authorizes Vicinity to defer into a regulatory liability the amount of \$731,938, representing \$579,806 for the amount that otherwise would flow as credits to customers through the PACC from April 1, 2021 through March 31, 2022, plus \$152,132 for the one-time refund for the error in the 2019 filing described in the body of this order.

6. The Commission authorizes Vicinity to defer into a regulatory asset account any accrued but unpaid extraordinary gas costs that would otherwise be charged to purchase gas expense in 2021.

7. This order shall be effective on April 1, 2021.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and  
Holsman CC., concur.

Graham, Regulatory Law Judge