

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 19th day
of May, 2010.

In the Matter of The Empire District Gas Company's)
Purchased Gas Adjustment Tariff Filing.) **File No. GR-2008-0368**

**ORDER APPROVING STIPULATION AND AGREEMENT,
ESTABLISHING ACTUAL COST ADJUSTMENT BALANCES,
AND CANCELING PROCEDURAL SCHEDULE**

Issue Date: May 19, 2010

Effective Date: May 29, 2010

The Commission opened this case to receive the 2007-2008 Purchased Gas Adjustment (PGA) filings and Actual Cost Adjustment (ACA) filing of The Empire District Gas Company. On December 30, 2009, the Procurement Analysis Department of the Commission's Staff filed a recommendation and memorandum indicating that Staff had reviewed Empire's ACA filing and recommended certain adjustments. Empire filed a response on February 11, 2010. Empire did not agree with a number of Staff's recommendations.

Empire, Staff, and the Office of the Public Counsel participated in a procedural conference on March 4, 2010, and on May 5, 2010, Staff and Empire filed a nonunanimous stipulation and agreement in settlement of all issues previously identified. Public Counsel did not sign the stipulation but indicated to Staff and Empire that it would not oppose it. More than seven days have passed and no party has objected to the stipulation; therefore,

pursuant to rule 4 CSR 240-2.115, the Commission will treat the stipulation as a unanimous agreement.

Staff filed a memorandum in support of the stipulation on May 6, 2010. Staff related that Empire is in agreement with Staff's ACA adjustments with the exception of one, the specifics of which are considered highly confidential. This issue concerned whether the cost should be treated as a litigation cost and subject to possible recovery in the context of a rate case or as a payment resulting directly from a gas supply contract and thus possibly subject to recovery in the PGA. Staff's position is that it is more akin to a legal settlement payment; Empire's position appears to be that the payment was a cost of gas. Since the issue involved uncertainty relating to the method of cost recovery and would involve additional discovery and litigation costs, and the overall amount was not a significant percentage of gas costs, the parties agreed on a dollar settlement of the issue.

The Cheyenne Plains adjustment proposed by Staff was conditioned upon the agreement reached on the issue described above. Since the parties agreed on the dollar adjustment for that issue, the parties also agreed to exclude those costs from the Cheyenne Plains allocation calculation. The costs were reallocated between Empire's three systems with no total gas cost change. Empire and Staff are in agreement with these changes.

The Stipulation provides that Empire should be directed to adjust the ACA account balance in its 2009/2010 ACA filing to reflect the following adjustments and to reflect the (over)/under-recovered ACA balance:

Description (+) Under-recovery (-) Over-recovery	8-31-08 Ending Balances Per Filing	Commission Approved Adjustments Prior to 2007-2008 ACA	Staff Adjustments for 2007-2008 ACA	Staff Recommended 8-31-08 Ending Balances
<u>South System:</u>				
Firm ACA	\$1,286,283	\$38,936	\$15,995	\$1,341,214
Interruptible ACA	\$47,099	\$0	\$0	\$47,099
Take-or-Pay	\$0	\$0	\$0	\$0
Transition Cost	\$0	\$0	\$0	\$0
Refund	\$0	\$0	\$0	\$0
<u>North System:</u>				
Firm ACA	\$293,668	(\$46,172)	(\$3,288)	\$244,208
Interruptible ACA	\$56,098	\$0	\$0	\$56,098
Take-or-Pay	\$0	\$0	\$0	\$0
Transition Cost	\$0	\$0	\$0	\$0
Refund	\$0	\$0	\$0	\$0
<u>NW System:</u>				
Firm ACA	\$395,903	(\$11,231)	(\$4,485)	\$380,187
Interruptible ACA	\$0	\$0	\$0	\$0
Take-or-Pay	\$0	\$0	\$0	\$0
Transition Cost	(\$2,586)	\$0	\$0	(\$2,586)
Refund	\$0	\$0	\$0	\$0

Having reviewed the stipulation and Staff's memorandum in support, the Commission finds that the stipulation shall be approved as a resolution of the issues addressed. The Commission will also establish Empire's ACA account balances as agreed to by Staff and Empire. and set out above.

Since the Commission is approving the stipulation, which disposes of the issues in this case, the Commission will cancel the procedural schedule previously established.

THE COMMISSION ORDERS THAT:

1. The Stipulation and Agreement filed on May 5, 2010, is approved as a resolution of the issues addressed by that stipulation. The signatories are ordered to comply with its terms.
2. The Actual Cost Adjustment account balances as stated in the table above are approved.

3. The procedural schedule previously established, including the hearing scheduled on July 27, 2010, is canceled.

4. This order shall become effective on May 29, 2010

5. This case may be closed on May 30, 2010.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', is written over a faint, circular embossed seal.

Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge