BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of Missouri Pipeline Company for authority to file tariffs increasing rates for gas transportation services to customers within its service area.))))

CASE NO. GR-92-314

APPEARANCES: James F. Mauzé and Thomas E. Pulliam, Attorneys at Law, Moline, Ottsen, Mauzé, Leggat and Shostak, Commerce Bank Building, 11 South Meramec, Suite 1010, St. Louis, MO 63105, for Missouri Pipeline Company.
Richard W. French, Assistant General Counsel, Laclede Gas Company, 720 Olive Street, Room 1517, St. Louis, MO 63101, for Laclede Gas Company.
Diana M. Schmidt, Robert C. Johnson, and Arthur L. Smith, Attorneys at Law, Peper, Martin, Jensen, Maichel and Hetlage, 720 Olive Street, 24th Floor, St. Louis, MO 63101, for American National Can Company, Anheuser-Busch, Inc., Chrysler Motors Corporation, Ford Motor Company, General Motors Corporation, MEMC Electronic Materials, Inc., McDonnell Douglas Corporation, and Monsanto Company.
Ronald K. Evans, Attorney at Law, P.O. Box 149, St. Louis, Missouri 63166, for Union Electric Company.
Gerald E. Roark, Attorney at Law, Hendren and Andrae, P.O. Box 1069, Jefferson City, MO 65102, for Williams Natural Gas Company.
James M. Fischer, Attorney at Law, 102 East High Street, Suite 200, Jefferson City, MO 65101, for Fidelity Natural Gas, Inc.
Tom Marshall, Attorney at Law, P.O. Box 472, Sullivan, MO 63080, for City of Sullivan, Missouri.
Lewis R. Mills, Jr., First Assistant Public Counsel, Office of the Public Counsel, P.O. Box 7800, Jefferson City, MO 65102, for Office of the Public Counsel and the public.
William M. Shansey, and Thomas H. Luckenbill, Assistants General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, for Staff of the Missouri Public Service Commission.

HEARING EXAMINER: Joseph A. Derque, III.

REPORT AND ORDER

PROCEDURAL HISTORY

On June 30, 1992, Missouri Pipeline Company (MPC) submitted tariffs to the Missouri Public Service Commission (Commission) reflecting an increase of rates for MPC's transportation of natural gas to customers within its certificated service area pursuant to the Commission's order in Case No.

GA-89-126. The proposed effective date contained in the tariff filing was August 1, 1992, and the tariffs were designed to produce a net increase of approximately $4,177,725 (or 70%) in MPC's charges for the transportation of natural gas within the state.

On July 24, 1992, the Commission issued an order suspending the proposed tariff and setting a procedural schedule. On August 21, 1992, the Commission issued an order allowing intervention in this case by Laclede Gas Company (LGC), Fidelity Natural Gas, Inc. (FNG), Union Electric Company (UE), and the Industrial Intervenors including American National Can Company, Anheuser-Busch, Inc., Chrysler Motors Corporation, Ford Motor Company, General Motors Corporation, MEMC Electronic Materials, Inc., McDonnell Douglas Corporation, and Monsanto Company (Industrial Intervenors). On September 2, 1992, the Commission issued an order allowing intervention by the City of Sullivan, Missouri (City of Sullivan), Williams Natural Gas Company (WNG), and Mississippi River Transmission Corporation (MRT). Hearing was held in this matter beginning on February 4, 1993. At the hearing, as the result of a request by FNG and the Commission Staff (Staff), Exhibit #43 was reserved for a late-filed exhibit from MPC regarding the cost to construct six MPC city gate facilities. Exhibit #43 was filed on February 19, 1993. The parties were given until February 26, 1993 to file objections to the entry of the exhibit into evidence. No objections were forthcoming and, therefore, Exhibit #43 will be admitted into evidence.

FINDINGS OF FACT

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

MPC is currently the sole intrastate gas pipeline transporter in the State of Missouri. Its natural gas pipeline, as represented in Schedule #1 of Exhibit #20 (the direct testimony of Dr. Michael S. Proctor) extends in a southerly direction from Curryville, Missouri to Washington, Missouri, with an approximate 31-mile spur extending east from Old Monroe, Missouri to West Alton, Missouri, and from Washington, Missouri generally southwest to Sullivan, Missouri, which portion is known as the Franklin County delivery spur. In addition, approximately one-half mile south of Washington, Missouri, LGC has a spur line extending northeast toward St. Louis, Missouri and known as the Laclede Lateral. MPC also has six access facilities (interconnection facilities), owned by MPC and located along the main pipeline, from Curryville to Washington, and an additional access facility located at the City of Sullivan, Missouri and owned by the City of Sullivan. These access facilities are known generally as "city gates" for purposes of this case. MPC's original pipeline was authorized by the Commission in Case No. GR-89-126, and the Franklin spur was authorized in Case No. GR-90-280.

Prehearing conference was held in this matter beginning January 4, 1993, with the following parties appearing and participating: MPC, WNG, LGC, MRT, FNG, UE, Industrial Intervenors, Office of the Public Counsel (OPC) and Staff.

A number of issues were settled as a result of this conference including agreement as to a revenue requirement for MPC based on estimated volume of sales. Issues settled at the prehearing conference are set out in the Hearing Memorandum, admitted into evidence as Exhibit #2. As part of that agreement the parties have agreed that the revenue requirement for MPC should be set at a total mount of $8,032,599, reflecting an increase in revenue of $2,289,159, or roughly 40 percent. Two issues remain unsolved and are presented to the Commission for decision in this case, those being: (1) whether a Staff proposal for zoned rates should be adopted, and (2) whether the cost of the six main-line (Laclede) city gates should remain in or be removed from MPC's rate base.

I. Revenue Requirement

As all parties have agreed to a revenue requirement of $8,032,599 (an increase of roughly 40 percent), in the Hearing Memorandum, the Commission finds this amount to be reasonable and warranted and hereby adopts the above revenue requirement.

II. Zoned Rates

As proposed by Staff, the zoned rate concept is based on distance-related costs. A graphic illustration of the proposed zones is set out in Schedule 1 of Dr. Proctor's direct testimony and both the zoned rates and standard rates, based on the agreed-to revenue requirement, are set out in Attachment A of the Hearing Memorandum. Staff testimony maintains that distance-related rates are a method of cost allocation based on the cost necessary to extend service to the customer. It is the Staff's position that certain costs are related to the distance gas must travel from its source to its destination, those costs increasing the further the user is from the source. The Staff witness testified that distance-related rates have taken two forms, those being mileage based rates and zone rates. Mileage rates are typically charged on a MMBtu-mile basis, and zoned rates are separate specified charges for each of several zones along a pipeline, those which are farther from the source having higher rates, but every take-point in the zone paying the same rate.

The Staff states that its primary reason for recommending this zone-rate proposal is that the customers served by MPC north of the juncture of the Laclede Lateral line, shown on attached Schedule 1, do not benefit from that portion of the pipeline which runs south to Sullivan, Missouri. Staff concludes that, since these customers do not benefit from that portion of the line, they should not be required to pay the cost of the line south, beyond the Laclede Lateral.

In forming the zoned rates, the Staff used forecasted volumes for Zones 2 and 3, with an additional rate impact, over and above uniform rates, of .58 cents per therm, all according to Dr. Proctor's testimony at the hearing.

As set out in the Hearing Memorandum, MPC and UE did not oppose the Staff's zoned-rate proposal, in effect, lending support to the proposal at the hearing. LGC affirmatively supported the proposal throughout. FNG was adamantly opposed to the proposal. The arguments of MPC, UE, and LGC will be reflected together, along with Staff's position, as the supporting arguments of the various parties are essentially identical.

The supporting parties argue that the zoned rate concept is proper in this case as customers in zone 1 do not benefit from the existence of the portion of the MPC's pipeline located in zone 2, and should not be required to pay the cost of that portion of the pipeline extending through zone 2. The argument is made that the differential in rates between proposed zone 1 and zone 2 is largely based on the increased mileage incurred in transporting gas from its point of interconnection with MPC's supplier to zone 2 local distributing companies (LDCs).

It is maintained that the continuation of uniform rates on the MPC system will result in the subsidization of the customers in zones 2 and 3 by the substantially larger group of St. Louis customers taking service from LGC. As justification for the location of the zone boundaries, testimony showed that the boundary between zone 1 and zone 2 was set just downstream from the Laclede Lateral because the MPC extension to the Lateral, and the Lateral itself provide an additional receipt point by which LGC can more efficiently serve its large customer load. In addition, locating the Laclede Lateral in zone 1 ensures use of the various zone 1 receipt points based on operational needs of the St. Louis metropolitan load and not based on price differentials.

It was maintained in the Staff testimony that sound cost of service reasons were used in the establishment of the zoned rates, and, in addition, that the diameter of the pipeline narrows at the Laclede Lateral interconnect.

Finally, it was noted that, as a matter of policy, the Commission was asked to establish zoned rates in order to send distance-related price signals to potential downstream customers. It was argued by Staff that embedded cost of service principles could be maintained only with the adoption of the zoned rate proposal as only this type of rate design represents distance-related transportation charges.

FNG, the sole opponent of the zoned rate proposal, is a local distributing company whose service area is in and around Sullivan, Missouri, and is located in proposed zone 2. FNG alleges it provides service in a highly competitive market area and seeks to maintain downstream costs at as low a level as possible.

FNG argues that, in Case No. GA-90-280, which was taken official notice of and entered into evidence as Exhibit #1, the Commission established a regulatory policy designed to ensure that natural gas service could be developed along the I-44 corridor, and that the Commission's current policy is one of averaged rates. The Commission stated in that case:

> The Commission has considered MPC's proposal, and evidence supporting same, to charge the same transportation rates in its requested pipeline extension as it presently charges its existing pipeline. At hearing, this single rate was referred to as a "blanket" rate. The Commission finds that MPC's proposal for one blanket rate is reasonable and supported by the evidence. The Company's increased volumes, through deliveries to Laclede under the ESCO contract, will make it feasible to recoup its new investment without increasing its rates. The Commission also finds that maintaining MPC's present rate will help keep the cost of downstream deliveries of natural gas in the I-44 corridor, discussed infra, at a competitive level.

FNG maintains that this policy includes approving MPC tariffs reflecting averaged rate structure throughout MPC's service territory. FNG contends that the current

Commission policy of averaged rates is the more progressive in terms of encouraging the availability of natural gas in those areas of the state currently unserviced or in development.

As indicated at the hearing, FNG argues that the zoned rate issue is one of public policy, requiring a balance of interests. FNG states that testimony clearly indicates that, regardless of the decision in this matter, there will be substantial impact on the further development of natural gas along the I-44 corridor. In this regard, FNG quotes the trial testimony of both Mr. John Dunn,

> "When the Commission makes a decision, I think it's going to send out a powerful signal one way or the other. And, if it makes a decision that's dominated by the notion of cost rather than by some notion of Commission policy with respect to the use of gas, I think it will have a chilling effect on the further development, not only of Fidelity, but natural gas up and down I-44. And I think that's probably the most important part of this case, whether or not there's going to be additional use and extension of natural gas service."

and Dr. Michael Proctor,

> "...I think the public policy issue that the Commission is faced with to me is very clear, and that is there are times when you go away from cost based rates when there are countervailing reasons to do that, and I think they -- that what this case is really about is whether or not there are countervailing reasons in evidence here for doing that. And that's exactly the type of policy issue that the Commission ought to be making and not Mike Proctor or Craig Jones or anybody on the Staff."

FNG maintains, as acknowledged in the Staff's testimony, that the Commission should take into account other factors besides cost of service information when establishing ratemaking policies, those being: rate shock, economic efficiency, economic development consequences, and fairness and equity concerns. As a result, FNG believes that the Commission should give serious consideration to the public policy factors, particularly the economic development consequences along the I-44 corridor, in making its decision in this case. FNG maintains that the impact of the zoned rate concept, as proposed in this case, will create a serious disincentive by way of creating noncompetitive gas prices for potential and existing LDCs along the I-44 corridor in zones 2 and 3.

FNG argues that the specific Staff proposal is flawed in detail. It was the testimony of FNG's witnesses that the approximate 27.5 mile distance proposed as zone 2 is contrary to the traditional practices of the Federal Energy Regulatory Commission (FERC) and other regulatory agencies in that traditional FERC zones, outside the field zone, are a minimum of 100 miles in length and reflect significant differences in cost of transportation. In addition, the creation of the proposed 27.5 mile zone is not theoretically sound in that, since all individual customers live different distances from the source of supply, all have different costs of service. Regulatory agencies generally, however, have not used such differences in cost of service as a reason to "de-average" rates. FNG's witness testified that the actual cost difference, when reviewed by other regulatory agencies has been "more apparent than real".

FNG requests the Commission adopt the uniform rate system, set out as an alternative in Attachment A of the Hearing Memorandum, as being based on sound public policy, which will also promote the development of natural gas along the I-44 corridor.

Initially, the Commission, in considering this issue, states that it is cognizant of the fact that MPC is currently the only intrastate pipeline in the State of Missouri. Further, the Commission is aware that adoption of the zoned rate proposal of Staff could have profound long-term consequences in the downstream economic development of proposed zones 2 and 3, and in those areas not yet included in the proposed zone configuration. The Commission considers these possible long-term consequences of critical importance in evaluating the positions of the various parties in regard to this issue. The Commission is fully aware that this is a case of first impression as MPC is the sole intrastate pipeline operating in the State of Missouri at this time.

The Commission has no intention of abandoning, at this time, its longstanding policy regarding cost of service based rates. The Commission would also state that, generally, throughout the various regulated industries in Missouri, methods which could loosely be termed "rate averaging" are typically in effect. Ratepayers generally share development costs when physical plant is placed in service and is "used and useful" regardless of the direct benefit gained by any individual ratepayer.

In addition, it is frequently extremely difficult if not impossible to properly determine embedded cost of service for various classes of customers within a utility system. This is true of this case, as no cost of service study appears to have been done nor embedded costs ascertained for customers in any particular zone. The zoned rate proposal seems based exclusively on a theory of diameter-weighted miles from MPC's source of supply. The exact relation, if any, of relative volume to mileage is not explained in the record. Equally problematic is the question as to why the additional cost factor for zone 2 was determined from the MPC source of supply, not, for example, from the zone 2 boundary at the Laclede Lateral.

The following Staff testimony, in response to questions by the Commission, is illustrative of the fact that the zoned rate proposal requires more thorough analysis and in-depth study as to its application and possible impact:

QUESTIONS BY CHAIRMAN MCCLURE:

Q. Dr. Proctor, you had a discussion with Mr. Fischer regarding policy considerations and what role they play. Mr. Fischer listed several items as possible considerations which the Commission has or may take into account. And my question to you is, did you consider any of those factors, did you try to weigh any of those, when you made your recommendation on zoned rates?

A. Primarily, we looked at -- or, as I looked at it, I looked at the customer impact issue and I looked at the equity issue, okay. I did not look at economic development. I did not look at the issue of competitive resource allocation or if -- I would call that the efficiency issues. ...

Q. Well, isn't it a fine line many times between cross-subsidization and rate averaging?

A. ...I simply looked at where that pipe was going and who it was serving and averaged the total costs together in coming up with the zoned rate. ...

QUESTIONS BY COMMISSIONER MUELLER:

...Q. When you started to talk about a diameter weighted mile, --

A. Yes.

Q. -- did you take into consideration that there's differentiation in pressure?

A. No, because the diameter weighted miles were related to the cost of the pipe, not particularly the volumes. I never used the volumes in the zones to come up with the allocations. I did to develop the rate. ...

Q. So you focused on the cost factor of the pipe rather than on capacity?

A. That's correct. ...

It is clear from the above testimony, and the whole record, that the zoned rate proposal for intrastate gas pipelines is, in this instance, premature. It appears from the record that the geographical zones themselves were developed principally, if not exclusively, on the basis of diameter weighted miles of pipe. No other factors were apparently given serious consideration in developing the three proposed zones, and no evidence has been presented regarding accurate determination of embedded costs in determining the rates themselves.

Some controversy exists on the record as to the fairness of the rates themselves for each of the zones; however, the Commission need not deal with that issue as it is the intent of the Commission to reject the zoned rate proposal based on the geographical zones themselves. It is the finding of the Commission that the Staff's zoned rate proposal should be rejected in favor of the current system of averaged rates. While the Commission does not reject the concept out-of-hand, it is the opinion of the Commission that the matter needs significantly more study, particularly in regard to the possible economic impact of such a proposal on downstream customers and on the future potential development of gas utility service along the I-44 corridor and in mid-Missouri as a whole.

As a result, the Commission will adopt the alternative system of rates as contained in Attachment A of Exhibit #2, the Hearing Memorandum, and labeled as "non-zone" rates.

III. <u>City Gates</u>

In conducting its audit of the books and records of MPC in preparation for this case, the Staff removed from the MPC rate base the recorded cost of essential interconnection facilities to LDC customers UE, the City of St. James, and FNG. These are commonly referred to as city gates. The Staff testified that they removed these expenses from MPC's actual expenses for the test year update period through September, 1992. It was Staff's testimony that the standard accounting procedure has been to offset rate base for contributions made to the rate base. This is true in this case as MPC made contractual agreements with the three LDCs involved to be reimbursed for the cost of their respective city gates. The issue arises in this case as the result of MPC waiving reimbursement from an affiliated shipper, Vesta Energy, for the construction of six city gate facilities located in and around the metropolitan St. Louis area, and commonly referred to in this case as the "Laclede city gates". This arrangement was made by MPC in an effort to assist Vesta in fulfilling a large contract to ship gas to LGC. Testimony indicated clearly, and without contradiction, that MPC was not directly reimbursed for the construction of these facilities. The Staff has included these six facilities in the MPC rate base on the basis that these nonreimbursed costs incurred by MPC should be shared by all of MPC's customers as they are not directly assignable or attributable to any individual customer and are, therefore, accountable as any other form of investment in physical plant. FNG objects strenuously to the inclusion of these six city gate facilities in the rate base as they are therefore forced to pay for their own city gate in addition to facilities dedicated to the service of other customers.

Exhibit #43 establishes the cost to MPC of the six city gates as $2,450,591. Evidence of record indicates that MPC retains ownership of the city gates in question and allows both affiliated and nonaffiliated shippers the use of the facilities. Evidence also indicates that FNG has used the gates in the past to ship gas purchased from various sources. The weight of evidence shows that the economic impact of allowing the gate facilities to remain in MPC's rate base on FNG (and any other downstream customer) is de minimis.

FNG makes three main arguments in opposing the inclusion of the gate facilities in MPC's rate base. It argues that (1) allowing the gate facilities in rate base causes cross-subsidization by downstream customers, (2) allowing the gate facilities in rate base causes discriminatory treatment in favor of market affiliates, and (3) absorbing the cost of the gate facilities for its affiliated shipper and not for gates of downstream customers is violative of MPC's tariff.

MPC, LGC, and Staff all argue that the appropriate treatment of the six gates is to leave them in MPC's rate base. In regard to FNG's first argument, MPC responded both on the record and in briefs that MPC's measure of risk for the cost recovery of the city gates expense was determined by the firm demand levels to which each LDC was willing to commit for the first year of operation. MPC made a quantitative judgment based on anticipated volumes as to how much should be invested in the construction of a certain gate or gates. Because of the extremely large firm volume commitment from LGC, MPC made the decision to absorb the costs of the six gates in question. It was also pointed out on the record that, as a result of the large volume of gas taken by LGC, the entire downstream system was able to operate in an economically efficient fashion, indicating that

LGC subsidizes the existence of the remainder of the system. Additionally, both MPC and Staff agree that the cost passed on to FNG as the result of the six city gates being in the rate base is minimal.

In regard to the second argument, it may be pointed out that the six city gates in question are owned by MPC, not LGC or Vesta, and may be and are used by various LDCs for the transshipment of gas from various sources, including FNG. The Commission, therefore, rejects FNG's first two arguments in regard to the removal of the city gates from the rate base.

The most problematic of FNG's arguments is the third in which it is maintained that MPC has violated its Tariff Sheet No. 35, paragraph 6E, which states: "Shippers will reimburse transporter or cause transporter to be reimbursed for any and all costs and expenses incurred in constructing, establishing or modifying the facilities required for the receipt and/or redelivery of gas hereunder." FNG argues that the above tariff does not contain any analytical formula for waiver of the tariff and, in fact, contains no waiver provision. FNG maintains that MPC required all non-affiliated shippers to pay the cost of their respective city gate facilities while excepting affiliated shippers, specifically Vesta.

Staff argues that the difference in volume of gas between that shipped ultimately to LGC and that shipped to the various non-affiliated LDCs justify the different application of the instant tariff, as the customers are not similarly situated. Additionally, MPC argues that, consistent with prior Commission practice in leaving the instant city gate costs in the rate base in Case Nos. GA-89-126 and GA-90-280, the Commission has no reason now to change its prior practice in this regard. MPC emphasizes that the decision to absorb the cost of the six city gates in question was based on sound economic principles as set out above. MPC argues that the above quoted tariff was applied in a nondiscriminatory fashion due to the language stating "...or cause transporter to be reimbursed...". MPC regards the large volume firm commitment of LGC for gas shipped by Vesta as justification for the outlay of funds by MPC to satisfy the contract. MPC also maintains that not only is the economic impact on downstream LDCs minimal but that they actually benefit from the existence of the six LGC gates, as downstream LDCs have access to and use the gates themselves and have the benefit of lower transportation rates as the result of the large upstream firm volume.

The Commission finds, after review of the record on this issue, that the evidence supports the current Commission practice of allowing the cost of the six city gates in question to remain in the MPC rate base. The record indicates that, in fact, no real tariff violation has occurred as MPC, of necessity, constructed these gates to facilitate the large LGC contract with its affiliated shipper, Vesta Energy. No evidence was adduced that MPC was directly reimbursed by anyone, however sufficient evidence exists on the record to indicate that this large firm volume causes economic efficiency throughout the system, and allows the economic existence of the remainder of the downstream pipeline. Clearly, it was economically prudent, in this unique instance, for MPC to negotiate this arrangement with both the affiliates and nonaffiliates. Additionally, the Staff position is correct in that the great difference in volumes between LGC and the downstream customers allows MPC to differentiate between LGC and the much smaller LDCs due to the great dissimilarity between the customers. In making this decision the Commission would emphasize that this situation is unique in regard to the application of the instant tariff.

Therefore, for the above reasons the Commission finds that the $2,450,591 cost of the six "Laclede city gates" properly remains in MPC's rate base.

CONCLUSIONS OF LAW

Company is a public utility subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, RSMo 1986, as amended. Company's tariffs herein were suspended pursuant to authority vested in the Commission by Section 393.150, RSMo 1986, which places upon Company the burden of proof to show that the proposed increase in rates is just and reasonable.

Pursuant to Section 536.060, RSMo 1986, the Commission may approve a stipulation and agreement concluded between parties as to any issues in a contested case. The Commission has determined that the agreements among the parties as to the issues of vehicle expense, depreciation, rate base, capital structure other than return on equity, and rate design are reasonable, and, therefore, the Commission concludes that these stipulations should be approved.

Jurisdiction in this proceeding is conferred upon the Commission pursuant to Chapters 386 and 393, RSMo. Section 386.250, RSMo 1986 - Jurisdiction of commission, provides in pertinent part:

> The jurisdiction, supervision, powers and duties of the public service commission herein created and established shall extend under this chapter:
>
> 1. To the manufacture, sale or distribution of gas, natural and artificial, and electricity for light, heat and power, within the state, and to persons or corporations owning, leasing, operating or controlling the same; and to gas and electric plants, and to persons or corporations owning, leasing, operating or controlling the same.

"Gas plant" is defined in Section 386.020(16), RSMo Cum. Supp. 1992, as:

> All real estate, fixtures and personal property owned, operated, controlled, used or to be used for or in connection with or to facilitate ... the distribution, sale or furnishing of gas, natural or manufactured, for light, heat or power.

Section 393.130.1, RSMo 1986, states, in pertinent part, that:

> All charges made or demanded by any such gas corporation ... for gas ... service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission.

Section 393.150, RSMo 1986, states:

> Whenever there shall be filed with the commission by any gas corporation any schedule stating a new rate or charge, ... the commission shall have, and it is hereby given, authority, ... to enter upon a hearing concerning the propriety of such rate.

Section 393.150.1, RSMo 1986, states:

> The Commission's authority to establish just and reasonable rates for MPC after a hearing on the merits concerning such rates is governed by these Missouri Statutes.

The Commission finds that the revenue requirement agreed to by the parties of $8,032,599 is just and reasonable and finds that MPC may recover this amount of revenue.

The Commission also finds that the proposed zoned rate system is rejected and the proposed alternative system of rates as set out in the Hearing Memorandum and labeled as "non-zone" rates, are reasonable and will be adopted by MPC.

The Commission finds that the funds expended by MPC in construction of the six essential interconnection facilities (city gates) located upstream from the Laclede Lateral were reasonably incurred and should remain in the MPC rate base.

IT IS THEREFORE ORDERED:

1. That the tariffs submitted by Missouri Pipeline Company on June 30, 1992, are hereby rejected and Company is hereby instructed to file in lieu thereof tariffs designed to increase gross revenues, exclusive of gross receipts tax and sales tax, by the amount of $2,289,159 for gas operations.

2. That rate tariffs filed in accordance with Ordered 1 above will be in accordance with this decision and order.

3. That the tariffs filed pursuant to this Report and Order shall become effective for service on or after May 30, 1993.

4. That Late-Filed Exhibit #43, no objection having been made thereto, is admitted into evidence.

5. That this Report and Order shall become effective on the 30th day of May, 1993.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Chm., McClure, and Perkins, CC.,
Concur and certify compliance with the
provisions of Section 536.080, RSMo 1986.
Kincheloe, C., Dissents with separate opinion.
Crumpton, C., Not participating.

Dated at Jefferson City, Missouri,
on this 19th day of May, 1993.

DISSENTING OPINION OF COMMISSIONER DUNCAN E. KINCHELOE
Missouri Pipeline Company
Case No. GR-92-314

I respectfully disagree with the Commission's decision concerning the city gate issue. The majority decision, in effect, ratifies a violation by Missouri Pipeline Company (MPC) of its tariff by accepting the argument that the tariff's reimbursement requirement can be, and was, satisfied through the profits and system efficiencies resulting from the construction of the city gates. To accept this interpretation of the tariff reduces it to no more than a mandate for the company to exercise its business judgment on a transaction-by-transaction basis. Before waiving reimbursement, MPC should have modified its tariff. In this case, compliance by MPC with its tariff would remove the $2,450,591 cost of the six "Laclede" city gates from contract demand rate.

Respectfully submitted,

Duncan E. Kincheloe, Commissioner

Dated at Jefferson City, Missouri,
on this 19th day of May, 1993.