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August 15, 2000

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Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
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Jefferson City, MO 65102

RE: Case No. GE-2000-826

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Lera L. Shemwell
Associate General Counsel
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LLS:sw
Enclosure
cc: Counsel of Record

FILED²
AUG 15 2000
Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
AUG 15 2000

In the Matter of Fidelity Natural Gas,)
Inc.'s, Filing Pursuant to 4 CSR 240-)
40.017(8).)

Case No. GE 2000-826

Missouri Public
Service Commission

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for the recommendation in this case states as follows:

1. On June 16, 2000, Fidelity Natural Gas, Inc. (Fidelity or Company) of Sullivan, Missouri, filed a pleading entitled "Exemption Filing of Fidelity Natural Gas, Inc." (Pleading). The pleading sought recognition by the Missouri Public Service Commission (Commission) that Fidelity qualifies for an exemption from certain requirements of the Heating, Ventilation and Air Conditioning (HVAC) Act, §§386.754 through 386.764, RSMo Supp. 1999¹ ("the Act"). Fidelity filed its pleading pursuant to 4 CSR 240-40.017(8) (the Rule) which requires that regulated gas corporations claiming the statutory exemptions apply to the Commission for approval.

2. The Act prohibits Missouri utilities from providing certain defined HVAC services, except through an affiliated entity. §386.756.1. The Act provides an exemption from the separate affiliate requirement for utilities that have been providing such services for more than five years prior to August 28, 1998. §386.756.7. By its pleading, Fidelity claims the statutory exemption.

3. Fidelity's pleading did not specify the type of HVAC services for which they are requesting an exemption. The Commission's Gas Department - Tariffs/Rate Design Staff

¹ All statutory references are to RSMo Supp. 1999, unless otherwise indicated.

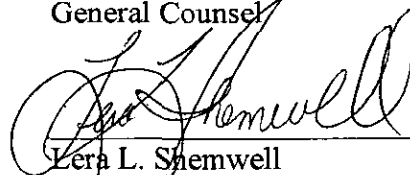
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(Staff) submitted a detailed data request to Fidelity requesting that Fidelity identify what types of HVAC services were being performed by the Company to determine whether the HVAC services would qualify under the Act and under the Rule. Staff's investigation included determining the types of HVAC services identified in Fidelity's Data Request response and determining whether the five-year requirement had been satisfied.

4. Staff has reviewed Fidelity's pleading and responses to data requests regarding HVAC services provided by the Company for five years prior to August 28 1998. Staff's review indicates that Fidelity has been in the business of performing the HVAC services identified in the attached Appendix A to this recommendation. Staff's review also indicates that Fidelity has been performing these services since before August 28, 1998. In Staff's opinion, therefore, Fidelity qualifies for the exemption for those specific HVAC services listed on Attachment A and need not offer them through an affiliate pursuant to Commission Rule 4 CSR 240-40.017(8) and §386.756.1 of the Act.

Respectfully submitted,

DANA K. JOYCE
General Counsel




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Missouri Bar No. 43792

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 15th day of August 2000.



**Service List for
Case No. GE-2000-826
August 15, 2000**

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