

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of Fidelity Natural Gas, Inc., for a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain gas facilities and to render gas service in and to residents of certain unincorporated areas of Crawford County. )

CASE NO. GA-92-298

APPEARANCES: James M. Fischer, Attorney at Law, 102 East High Street, Suite 200, Jefferson City, Missouri 65101, for Fidelity Natural Gas, Inc.

James F. Mauze', Attorney at Law, Moline, Ottsen, Mauze', Leggat and Shostak, 11 South Meramec, Suite 1010, St. Louis, Missouri 63105, for Missouri Pipeline Company and Missouri Gas Company.

Douglas Micheel, Assistant Public Counsel, P. O. Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the Public.

Eric Witte, Assistant General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

Hearing  
Examiner: Mark A. Grothoff

REPORT AND ORDER

On June 5, 1992, Fidelity Natural Gas, Inc. (Fidelity) filed an application seeking a certificate of public convenience and necessity to provide natural gas service in certain unincorporated areas of Crawford County, Missouri. On June 12, 1992, the Commission issued an Order and Notice directing that applications to intervene be filed on or before July 13, 1992. On July 31, 1992, the Commission granted intervention to Missouri Pipeline Company (MPC) and Missouri Gas Company (MoGas).

On August 14, 1992, a prehearing conference was convened. Fidelity, the Staff of the Commission (Staff), the Office of the Public Counsel (Public Counsel), MPC and MoGas appeared and participated at the prehearing conference.

On October 9, 1992, a Stipulation and Agreement (Stipulation) was filed by the parties for Commission consideration.

#### Findings of Fact

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

Fidelity is a regulated public utility in Missouri primarily engaged in providing natural gas to customers in its Missouri service area. On June 5, 1992, Fidelity filed an application with the Commission seeking a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain natural gas facilities and to render natural gas service in certain areas of Crawford County.

On July 31, 1992, MPC and MoGas were granted intervention in this case. MoGas and MPC each provide natural gas transportation services in portions of the proposed service area.

In Case No. GA-91-82, Laclede Gas Company (Laclede) was granted a certificate of convenience and necessity to serve a portion of Crawford County. A portion of the area covered by Laclede's certificate overlaps a portion of Fidelity's proposed service area.

On September 18, 1992, Laclede filed a letter informing the Commission that in the event that Fidelity's application is granted, Laclede agreed to request appropriate action to relinquish its certificate which covers the area overlapping Fidelity's proposed service area.

On October 9, 1992, Fidelity, Staff, Public Counsel, MPC and MoGas filed a Stipulation (Attachment A to this Report and Order and incorporated herein by reference) which proposed to settle all issues in this case. Fidelity's proposed service area is described in Appendix A to the Stipulation.

A metes and bounds description of Laclede's service area in Crawford County is included as Appendix B to the Stipulation.

Within the Stipulation, the parties requested that the Commission approve Fidelity's application. Also, Fidelity agreed to file for Commission approval proposed tariffs modifying Fidelity's current tariffs to implement the provisions of the Stipulation. Fidelity further agreed that any conversion costs associated with the provision of piping or equipment on the customer side of the meter would be treated as a below-the-line expense for ratemaking purposes.

In addition, pursuant to the Stipulation, Fidelity is to serve the proposed service area in the following manner:

All areas of a line formed by the western boundary of Sections 18, 19, 30 and 31 of Boone Township, Crawford County, then east along the southern boundary of Section 31 to the intersection with the northwest boundary of Section 6, then south to the southern boundary of Section 6 then east along the southern boundary of Sections 6, 5 and 4 (all in Boone Township, Crawford County) will be served by using transportation services of MoGas; and

All areas east of a line formed by the western boundary of Sections 18, 19, 30 and 31 of Boone Township, Crawford County, then east along the southern boundary of Section 31 to the intersection with the northwest boundary of Section 6, then south to the southern boundary of Section 6 then east along the southern boundary of Sections 6, 5 and 4 (all in Boone Township, Crawford County) will be served by using the transportation services of MPC.

The parties, within the Stipulation, recommended that the Commission grant Fidelity a certificate of convenience and necessity to serve the unincorporated areas of Crawford County, to become effective on the effective date of Fidelity's tariffs to be filed pursuant to the Stipulation, and on the effective date of Laclede's relinquishment of authority to serve that portion of Crawford County which Fidelity seeks to serve. Additionally, the parties recommended that the Commission request Laclede to take the appropriate action to relinquish its service authority for the area which Fidelity seeks to serve within 14 days from the effective date of this Report and Order.

The Commission has reviewed Fidelity's application and the Stipulation in this matter. The Commission finds that providing a reliable source of natural gas to the proposed service area is in the public interest, and that Fidelity's proposal is reasonable. In addition, the provisions of the Stipulation are fair and equitable. Thus, the Commission finds that approval of the Stipulation is just and reasonable.

#### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law:

The Commission has jurisdiction over this matter pursuant to Sections 386 and 393, RSMo 1986, as amended. The standard for Commission approval of the Stipulation is whether it is just and reasonable.

The Commission may approve a stipulation of the issues in this case if it finds that the stipulation is just and reasonable. The Commission has so found and therefore concludes that the Stipulation should be approved.

#### IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement filed in this case (Attachment A) is hereby approved and adopted.

2. That Fidelity Natural Gas, Inc. is hereby granted a certificate of convenience and necessity to construct, install, own, operate, control, manage and maintain a natural gas system for the public within the service area contemplated by its application, except for the area currently certificated to Laclede Gas Company as described in Appendix B to the Stipulation and Agreement approved in Ordered Paragraph 1.

3. That Fidelity Natural Gas, Inc. shall file tariffs within twenty (20) days of the effective date of this Report and Order containing a revised map and legal description consistent with the service area approved in Ordered Paragraph 2 and otherwise in compliance with this Report and Order.

4. That the certificate of convenience and necessity granted in Ordered Paragraph 2 shall become effective on the effective date of the tariffs directed in Ordered Paragraph 3.

5. That, on the effective date of Laclede Gas Company's relinquishment of its authority to serve the area described in Appendix B to the Stipulation and Agreement approved in Ordered Paragraph 1, Fidelity Natural Gas, Inc. shall be granted a certificate of convenience and necessity to serve that particular area.

6. That Fidelity Natural Gas, Inc. shall update its tariff within ten (10) days of the grant of the certificate as directed in Ordered Paragraph 5 by filing a revised map and legal description consistent with the service area approved in Ordered Paragraph 5.

7. That the certificate of convenience and necessity directed in Ordered Paragraph 5 shall become effective on the effective date of the tariffs directed in Ordered Paragraph 6.

8. That nothing in this Report and Order shall be considered as a finding by the Commission of the reasonableness of the expenditures herein involved, nor of the value for ratemaking purposes of the properties herein included, nor as an acquiescence in the value placed upon said properties by Fidelity Natural Gas, Inc.

9. That, other than such treatment as has been agreed to by the parties within the Stipulation and Agreement approved in Ordered Paragraph 1, the Commission reserves the right to consider the ratemaking treatment to be afforded the facilities constructed pursuant to this Report and Order and its resulting cost of capital in any later proceeding.

10. That this Report and Order shall become effective on November 20,  
1992.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

McClure, Chm., Rauch, Perkins  
and Kincheloe, CC., Concur.  
Mueller, C., Absent.

Dated at Jefferson City, Missouri,  
on this 10th day of November, 1992.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of the application of	)	
Fidelity Natural Gas, Inc., for a	)	
Certificate of convenience and	)	
necessity authorizing it to construct,	)	Case No. GA-92-298
install, own, operate, control, manage	)	
and maintain gas facilities and to	)	
render gas service in and to residents	)	
of certain unincorporated areas of	)	
Crawford County.	)	

STIPULATION AND AGREEMENT

On June 5, 1992, Fidelity Natural Gas, Inc. ("Applicant"), filed an application seeking a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain gas facilities and to render gas service as a local distribution company ("LDC") in certain unincorporated areas of Crawford County.

On July 9, 1992, a Joint Application to Intervene was filed by Missouri Pipeline Company ("MPC") and Missouri Gas Company ("MOGAS").

On July 31, 1992, the Commission granted the Joint Application to Intervene of MPC and MOGAS and scheduled a prehearing conference for August 14, 1992.

The prehearing conference was held on August 14, 1992 with the following parties present: James M. Fischer appearing for Fidelity Natural Gas, Inc.; William M. Shansey appearing for the Commission

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PUBLIC SERVICE COMMISSION

Staff; Douglas Micheel appearing for the Office of the Public Counsel; and James F. Mauze' appearing for MPC/MOGAS.

As a result of this prehearing conference and subsequent discussions, the parties to this Stipulation and Agreement have reached the following agreements and recommendations.

1. The Application of Fidelity Natural Gas, Inc., for a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage and maintain gas facilities and to render gas service in certain areas of Crawford County should be granted, subject to the conditions of this Stipulation and Agreement. This area is described in attached Appendix A.

2. The Applicant agrees to submit, for Commission approval, proposed tariffs substantively identical to those currently in effect, with the exception of modifications necessary to implement the provisions of this Stipulation and Agreement.

3. The Applicant agrees that any conversion costs associated with the provision of piping or equipment on the customer side of the meter in the Crawford County service area which is the subject of this proceeding will be treated as a below the line expense for ratemaking purposes. These conversion costs will be absorbed by the stockholders of Fidelity Natural Gas, Inc. and no attempt will be made to include them in present or future rates by Fidelity Natural Gas, Inc., its successors or assigns.



4. The Applicant also agrees to serve the new service area in Crawford County in the following manner:

- a. All areas of a line formed by the western boundary of Sections 18, 19, 30 and 31 of Boone Township, Crawford County, then east along the southern boundary of Section 31 to the intersection with the northwest boundary of Section 6, then south to the southern boundary of Section 6 then east along the southern boundary of Sections 6, 5 and 4 (all in Boone Township, Crawford County) will be served by using transportation services of MOGAS; and
- b. All areas east of a line formed by the western boundary of Sections 18, 19, 30 and 31 of Boone Township, Crawford County, then east along the southern boundary of Section 31 to the intersection with the northwest boundary of Section 6, then south to the southern boundary of Section 6 then east along the southern boundary of Sections 6, 5 and 4 (all in Boone Township, Crawford County) will be served using the transportation services of Missouri Pipeline Company.

5. Laclede Gas Company ("Laclede") was granted a Certificate of Convenience and Necessity to serve a portion of Crawford County in Case No. GA-91-82. A metes and bounds description of Laclede's Crawford County is attached as Appendix B. A portion of the Crawford County area covered by Laclede's Certificate overlaps with the unincorporated area of Crawford County sought to be served by Fidelity in this proceeding.

On September 18, 1992, Laclede informed the Commission by letter filed in these proceedings that "in the event that the Commission grants Fidelity's Application, Laclede agrees to request appropriate action to relinquish Laclede's Certificate to the extent that Laclede's Certificate grants Laclede authority to serve that portion of Crawford County covered by the Certificate granted

to Fidelity by the Commission." (Letter dated September 17, 1992 to Mr. C. Brent Stewart from Richard W. French).

The parties to this Stipulation and Agreement recommend that the Commission grant the Application for a certificate of convenience and necessity to serve the unincorporated areas of Crawford County, to become effective a) on the effective date of the Applicant's tariffs filed in accordance with the Commission's Order Approving Stipulation and Agreement, and b) on or after the effective date of Laclede's relinquishment of authority to serve that portion of Crawford County which the Applicant seeks to serve. Additionally, the parties recommend that the Commission ask Laclede to take the appropriate action to relinquish, within 14 days from the effective date of the Commission's Order Approving Stipulation and Agreement, its authority to serve that portion of Crawford County which the Applicant seeks to serve.

6. That in the event the Commission accepts the specific terms of this Stipulation and Agreement, the parties waive their respective rights to file testimony, cross-examine witnesses, present oral arguments or written briefs, pursuant to Section 536.080(1), RSMo 1986, as amended.

7. This Stipulation and Agreement represents a negotiated settlement for the sole purpose of disposing of all issues in this case. Signatories to this Stipulation and Agreement shall not be prejudiced or bound in any manner by the terms of this Stipulation

and Agreement in any other proceeding for any purpose, except as otherwise specified herein. None of the parties to this Stipulation and Agreement shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost determination or cost allocation underlying this Stipulation and Agreement.

8. The approval of this Stipulation and Agreement in its entirety by the Commission shall constitute the regulatory approval required by Chapter 393, RSMo 1986, for Applicant to construct, install, own, operate, control, manage and maintain gas facilities and to render gas service in and to residents of the unincorporated area of Crawford County described in Appendix A.

9. That the agreements in this Stipulation and Agreement have resulted from extensive negotiations among the signatory parties and are interdependent. In the event the Commission does not approve or adopt this Stipulation and Agreement in total, or in the event the revised tariffs agreed to herein do not become effective in accordance with the provisions contained herein, this Stipulation and Agreement shall be void and no party shall be bound by any of the agreements or provisions hereof.

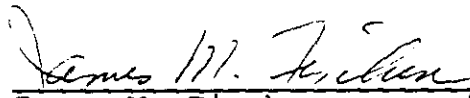
10. The Staff shall have the right to submit to the Commission, in memorandum form, an explanation of its rationale for entering into this Stipulation and Agreement, and to provide to the Commission whatever further explanation the Commission requests.

Such memorandum shall not become a part of the record of this proceeding and shall not bind or prejudice the Staff in any further proceeding or in this proceeding in the event the Commission does not approve the Stipulation and Agreement. It is understood by the signatories hereto that any rationales advanced by the Staff in such a memorandum are its own and are not acquiesced in or otherwise adopted by the Applicant, MPC/MOGAS or Public Counsel.

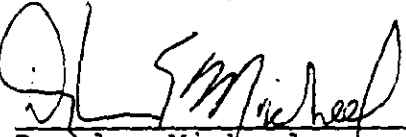
WHEREFORE, the parties respectfully request from the Commission the following: (1) that the Commission approve the Stipulation and Agreement in its entirety; (2) that the Commission grant the Application for a certificate of convenience and necessity to serve the unincorporated areas of Crawford County, to become effective a) on the effective date of the Applicant's tariffs filed in accordance with the Commission's Order Approving Stipulation and Agreement, and b) on or after the effective date of Laclede's relinquishment of authority to serve that portion of Crawford County which the Applicant seeks to serve; (3) that the Commission ask Laclede to take the appropriate actions to relinquish authority to serve that portion of Crawford County which the Applicant seeks to serve within 14 days from the effective date of the Commission's Order Approving Stipulation and Agreement, and

(4) that the Commission require the Applicant, within ten (10) days of Laclede's action relinquishing the certificated area, to file tariffs designed to reflect the modifications necessary to implement the provisions of the Stipulation and Agreement.

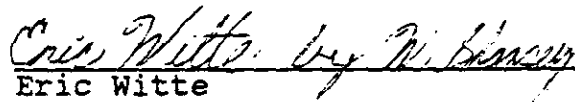
Respectfully submitted,

  
James M. Fischer #27543  
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(314) 636-6758

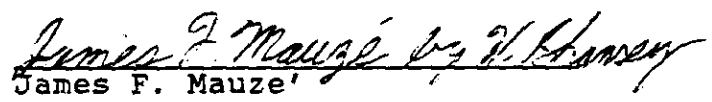
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St. Louis, MO 63105

ATTORNEYS FOR  
MISSOURI PIPELINE COMPANY  
MISSOURI GAS COMPANY

**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 9th day of October, 1992

William M. Sperry

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ATTORNEYS FOR  
MISSOURI PIPELINE COMPANY  
MISSOURI GAS COMPANY

APPENDIX A

FIDELITY NATURAL GAS, INC.

Description of Proposed Service Area

Crawford County Extensions

East Part Boone Township  
T.39-40N.-R.2W.

Sections: 1, 2, 3, 4, 5, 6, 15,  
16, 17, 18, 19, 20,  
21, 22, 25, 26, 27,  
28, 29, 30, 31, 32,  
33, 34, 35, 36

West Part Boone Township  
T.39-40N.-R.3W.

Sections: 1, 2, 3, 4, 5, 6,  
13, 21, 24, 25, 26,  
27, 28, 32, 33, 34,  
35, 36

Benton Township  
T.38-39N.-R.5-4W.

Sections: 12, 13

West Part Liberty Township  
T.38-39N.-R.3W.

Sections: 7, 8, 9, 10, 18

East Part Oak Hill Township  
T.39-40N.-R.4W.

Sections: 1



**APPENDIX B**

**METES AND BOUNDS DESCRIPTION  
of  
LACLEDE GAS COMPANY  
SERVICE TERRITORY IN CRAWFORD COUNTY**

The following parts of Crawford County:

All that part of Township 40 North, Range 2 West, within Crawford County, and all that part of Sections 13, 24, and 26, Township 40 North, Range 3 West, within Crawford County; excepting therefrom, however, the now existing incorporated limits of the City of Sullivan, Missouri.