

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
v.)	Case No. GC-2011-0098
)	
Laclede Gas Company, Laclede Energy Resources, and The Laclede Group,)	
)	
)	
Respondents.)	

**PUBLIC COUNSEL’S RESPONSE TO LACLEDE’S
LIMITED CONCURRENCE IN THE LIST OF ISSUES**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Response to the May 20, 2011 Laclede Gas Company’s Limited Concurrence in List of Issues, Order of Witnesses, Order of Cross-Examination, and Order of Opening Statements (“Concurrence Filing”), states as follows:

1. On May 20, 2011, the Commission’s Staff filed an Issues List that asks the following question as Issue 1: *Does Laclede’s CAM violate the pricing standards of the Affiliate Transaction Rules?*

2. Laclede Gas Company’s Concurrence Filing argues that Issue 1 “should be limited to whether Laclede’s CAM violates the pricing standards of the Affiliate Transactions Rules by not including a reference to fully distributed cost (FDC) in the pricing provisions for certain energy-related transactions.” Laclede’s argument essentially seeks to silence all arguments that Laclede’s CAM violates the asymmetrical pricing provision for any other reason, including OPC’s claim that Laclede’s CAM

violates the affiliate transaction rules in how it defines fair market price (FMP). OPC opposes Laclede's efforts to limit the scope of Issue 1.

3. The Complaint that forms the basis for this case is the Staff's Second Amended Complaint ("Complaint") filed on November 22, 2010. Count II of the Staff's Complaint alleges that Laclede's "CAM does not require Laclede to use asymmetrical pricing for transactions with its gas marketing affiliate." Count II is not limited to any one part of the asymmetrical pricing standards in the rules, and makes no reference to either fair market price (FMP) or fully distributed costs (FDC). It simply alleges that the asymmetrical pricing standard, which requires both an FMP and an FDC analysis, has not been followed.

4. Laclede's witness Mr. Michael Cline provides Laclede's testimony regarding the asymmetrical pricing standard. Mr. Cline states in his Direct Testimony that Laclede's "CAM dictates that Laclede use fair market price (FMP) for gas supply purchases and sales with its affiliate."¹ OPC disputes Mr. Cline's assertion that Laclede's CAM uses FMP for gas supply purchases because the FMP definition used by Laclede is unlawful and unreasonable. OPC properly raised this issue in the Rebuttal Testimony of OPC witness Ms. Barbara Meisenheimer filed on April 19, 2011, rebutting the Direct Testimony of Mr. Cline. Laclede has been put on notice that OPC contests Laclede's claim that its CAM considers FMP in its price calculation, and Laclede has had a sufficient opportunity to provide Surrebuttal Testimony rebutting OPC's testimony. Likewise, Laclede also has had ample opportunity in the nearly two months between Rebuttal Testimony and the evidentiary hearing to prepare to address this aspect of the asymmetrical pricing standard.

¹ Direct Testimony of Michael T. Cline, Filed March 22, 2011, pp. 2-3.

5. Section 386.710 RSMo authorizes OPC to “represent and protect the interests of the public in any proceeding before or appeal from the public service commission.” This provides OPC with the specific authority to represent the interests of Laclede’s customers in this case. If OPC were not allowed to respond to issues raised and claims made in the direct testimony of a regulated utility, the consumer protections provided in § 386.710 RSMo would be rendered meaningless and consumers would not receive the protections provided for in the statutes.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to Laclede’s Concurrence Filing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 31st day of May 2011:

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