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OPC & Staff Complaints

Meisenheimer/Direct

Public Counsel

GC-2006-0318

DIRECT TESTIMONY

OF

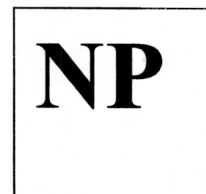
BARBARA A. MEISENHEIMER

Submitted on Behalf of the Office of the Public Counsel

LACLEDE GAS COMPANY

CASE NO. GC-2006-0318

July 28, 2006



****Denotes highly confidential****

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

Staff of the Public Service Commission
of Missouri

Case No. GC-2006-0318

v.)
)
Laclede Gas Company)

AFFIDAVIT OF BARBARA A. MEISENHEIMER

STATE OF MISSOURI)
) ss
COUNTY OF COLE

Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:


1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony consisting of pages 1 thru 4 0and Schedule BAM 1-8.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Barbara A. Meisenheimer

Subscribed and sworn to me this 30th day of June 2006.



JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036


Jerene A. Buckman
Notary Public

My Commission expires August 10, 2009.

GC-2006-0318

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DIRECT TESTIMONY
OF
BARBARA A. MEISENHEIMER
LACLEDE GAS COMPANY

CASE NO. GC-2006-0318

Summary

Q. PLEASE STATE YOUR NAME, TITLE AND BUSINESS ADDRESS.

A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel, P. O.
2230, Jefferson City, Missouri 65102.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.

A. I hold a Bachelor of Science degree in Mathematics from the University of Missouri-Columbia (UMC) and have completed the comprehensive exams for a Ph.D. in Economics from the same institution. My two fields of study are Quantitative Economics and Industrial Organization. My outside field of study is Statistics.

I have been with the Office of the Public Counsel since January 1996. I have testified on economic issues and policy issues in the areas of telecommunications, gas, electric, water and sewer.

1 Over the past 10 years have also taught courses for the following institutions: University of
2 Missouri-Columbia, William Woods University, and Lincoln University. I currently teach
3 undergraduate and graduate level economics courses and undergraduate statistics for
4 William Woods University.

5 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

6 A. Yes, I have testified regularly before the Missouri Public Service Commission. (PSC or
7 Commission).

8 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

9 A. Public Counsel's independent investigation supports the Missouri Public Service
10 Commission Staff (Staff) Complaint. Public Counsel reviewed Company records related to
11 customer complaints registered with the Company, the PSC Staff, the Better Business
12 Bureau, and the Missouri Attorney General. Public Counsel finds substantial and credible
13 evidence that Laclede has excessively relied on estimated billing as a substitute for billing
14 based on actual meter readings. Also, the evidence shows that the habitual use of estimated
15 meter reads has resulted in gross over and under estimates of the actual amounts customers
16 owe. Based on a sample obtained from the Company of billing adjustments for customers
17 with at least 7 months of previously estimated bills, the bill adjustment varied from * *
18 to more than * * on a single monthly bill.

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1 Customers have repeatedly complained of Laclede's failure to schedule customers for
2 regular manual reads, to failure to use actual reads if these readings are acquired, and its
3 failure to notify the customer of the opportunity to self-read the meter and report usage.
4 These actions violate 4 CSR 240-13.020 and result in Laclede regularly billing customer's
5 amounts different than would be produced by the application of tariffed rates to the
6 customer's actual usage.

7 The evidence also demonstrates that Laclede violated Commission rule 4 CSR 240-
8 13.025(1)(B) that prohibits recovery of under charges outside the limited time period
9 (limited to the 12 months preceeding discovery, inquiry or notice, whichever is first) or in
10 excess of the maximum 12 months prescribed by the Commission's rule 4 CSR 240-
11 13.025(1)(B) and not allowed by the exceptions in 4 CSR 240-13.025(1)(C)-(E). In
12 addition to the records of customer complaints lodged at various agencies, in response to a
13 Public Counsel data request, the Company affirmed that it bills customers for undercharge
14 periods greater than 12 months. In recent pleadings, Laclede proposed an alternative
15 interpretation of the 12-month Rule. But there are examples where when challenged by
16 customer complaints to the Better Business Bureau and the MO PSC Staff, the Company
17 applied an interpretation of the rule consistent with Public Counsel's and limited
18 adjustments or "catch-up" bills to only 12-months even though the estimated periods
19 exceeded 12-months.

1 Laclede's reliance on estimated bills is excessive. In December 2005, Laclede's data
2 indicates that the company estimated over * * of residential bills, followed by
3 approximately * * in January 2006 and almost * * in February 2006. Over the
4 same months, Laclede estimated from about * * to almost * * of commercial
5 customer bills. These percentages are substantial in and of themselves. When coupled with
6 the rise in natural gas prices experienced over the past few years, the potential detriment to
7 customers unable to pay unanticipated excessive catch-up bills may have been even more
8 devastating and more extensive than is suggested in the complaints received to date. The
9 customer complaints that have been received demonstrate that Laclede's excessive use of
10 estimated bills jeopardized some consumers' ability to retain service and likely undermined
11 the ability to meet other financial obligations such as for shelter, food and medicine. The
12 Commission, Public Counsel, the Attorney General and the Better Business Bureau have
13 received numerous consumer complaints. My experience indicates that these complaints
14 may likely represent only the tip of the iceberg of customer detriment and discontent.
15 Laclede's own records reflect that it is not uncommon for Laclede to estimate between *
16 * residential bills each winter month, and in some cases to estimate a
17 customer's bill for years at a time.

18 In response to Public Counsel Data Requests Laclede has not produced any information that
19 quantifies the extent of erroneous billing over the past several years. Except under certain
20 conditions, Commission rule 4 CSR 240-13.020(2)(B) disallows issuing bills for more than

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1 3 consecutive months based on estimates. Commission rule 4 CSR 240-13.025 (1)(B)
2 defines the time window and maximum number of months for which adjustments can be
3 made for bills already issued. The limited information provided by the Company to
4 estimate per customer adjustments is insufficient to enable Public Counsel to gauge the
5 extent of Laclede's Rule and tariff violations. Therefore, it would be imprudent to seek
6 penalties prior to accurately quantifying the extent of the violations.

7 Public Counsel requests that the Commission direct an audit of the Company's records to
8 determine the number of occurrences of more than three consecutive estimated bills as
9 described in 4 CSR 240-13.020(2)(B) where the company can not document the exceptions
10 set forth in 4 CSR 240-13.020(2)(A) or that violate the 12-month Rule 4 CSR 240-13.025
11 and to quantify the billing errors associated with the violations. Further, Public Counsel
12 requests that in conjunction with the investigation, the Commission hold public hearings in
13 Laclede's service area to allow customers to comment on the extent and customer impact of
14 Laclede's policy of estimated bills identified by Staff and Public Counsel. Public hearings
15 may also help identify additional customers that were unlawfully billed by Laclede.

16 Like the Staff, Public Counsel believes that immediate corrective action is needed to reduce
17 the frequency of estimated billings. Public Counsel supports the recommendations listed on
18 page 3 of Staff's Complaint. Public Counsel also suggests that the Company should be
19 directed to immediately cease issuing bills that violate Commission rule 4 CSR 240-13.025
20 (1)(B) and within 3 months cease issuing bills that violate Commission rule 4 CSR 240-

1 13.020(2)(B). The Company should issue bill credits to each customer account that was
2 previously adjusted for an undercharge period greater than twelve months. If the customer
3 has since relocated but is still served by Laclede, the bill credit should transfer to the
4 customer's existing account or the account of the residence where the relocated customer
5 now resides. Any unclaimed credits remaining after a reasonable period of time should be
6 donated to the low-income weatherization program in effect in Laclede's service area.

7 Given the extent of violations of Commission's rules and the long period of time over
8 which the violations continued to occur, Public Counsel believes penalties are wholly
9 appropriate. The Commission should authorize its General Counsel to seek maximum
10 penalties for each violation as authorized by § 386.570 and 386.600 and provide such other
11 relief as the Commission deems appropriate. Customers that suffered from huge catch-up
12 bills as a result of Laclede's policy of estimated billing were harmed on a daily basis.
13 Customers did not have notice or any forewarning that the catch-up bill may create
14 significantly above normal bills by dumping more than twelve months of underestimated
15 usage onto a single bill. These customers were denied a reasonable opportunity to take
16 action to reduce usage to mitigate the future billing impact or to budget household incomes
17 accordingly in order to pay a large catch-up bill once the catch-up bill was rendered. For
18 these reasons, Public Counsel recommends that the Commission provide real and effective
19 relief to customers who received estimated bills followed by catch-up bills that unfairly
20 imposed an excessive hardship to the customer without reasonable notice or waivers. At a

1 minimum. the Commission should first conclude that Laclede has been operating in
2 violation of its own tariff and Commission Rule 4 CSR 240-13.020 and 4 CSR 240-13.025.
3 Second, the Commission should order Laclede to immediately cease its practice of
4 violating 4 CSR 240-13.020 and 4 CSR 240-13.025. Third, the Commission should also
5 make it clear to Laclede and all other natural gas distribution companies in Missouri that 4
6 CSR 240-13.025(1)(B) allows a utility to adjust a bill for no more than twelve months total,
7 calculated from the *first* triggering event discovery, inquiry or actual notice. Lastly, Public
8 Counsel asks the PSC to direct the General Counsel to seek penalties on a daily basis for
9 violations of the Commission's rules.

10 **Introduction**

11 **Q. WHAT MATERIAL HAVE YOU REVIEWED THAT IS RELEVANT TO THE STAFF AND PUBLIC**
12 **COUNSEL COMPLAINTS?**

13 A. I reviewed Commission rules 4 CSR 240-13.015, 4 CSR 240-13.020, 4 CSR 240-13.025, 4
14 CSR 240-13.030, 4 CSR 240-13.035, 4 CSR 240-13.040, 4 CSR 240-13.045, 4 CSR 240-
15 13.050, 4 CSR 240-13.055, 4 CSR 240-13.070, portions of past Commission case files,
16 consumer complaints filed with the Commission, and data request responses that Laclede
17 submitted to the Staff and Public Counsel. In addition, I have participated in meetings with
18 the Company regarding the Staff and Public Counsel complaints. During those meetings,
19 the Company discussed measures taken to address the concerns raised by Staff and provided
20 customer complaint information and sample data related to estimated billing.

1 **Q. WHAT INFORMATION HAVE YOU REQUESTED FROM THE COMPANY?**

2 A. In order to gauge the extent and customer impacts of any rule violations, Public Counsel
3 submitted data requests to the Company in order to obtain specific customer complaints
4 related to estimated billing as well as information intended to quantify the customer impact
5 of excessive estimated billing by the Company and erroneous application of the 12-month
6 Rule.

7 **Q. DID THE COMPANY PROVIDE THE REQUESTED INFORMATION?**

8 A. Only in part. The Company did provide records of specific customer complaints. However,
9 the Company claimed that much of the information Public Counsel requested in order to
10 gauge the scope and customer impacts of estimated billing and inappropriate application of
11 the 12-month Rule was not available in the form requested and would be burdensome to
12 produce. The Company did provide sample data from which I have derived some estimates
13 of the customer impacts. I will discuss those impacts later in this testimony.

14 **Applicable Commission Rules**

15 **Q. WHICH COMMISSION RULES DOES YOUR TESTIMONY ADDRESS?**

16 A. Primarily, I will address violations of Commission rules 4 CSR 240-13.020 and 4 CSR 240-
17 13.025. The Staff Complaint also references violations of 4 CSR 240-40.030 that affect
18 health and safety. Because I am not an engineer, my testimony is limited regarding this rule.

19 **Q. PLEASE PROVIDE COMMISSION RULE 4 CSR 240-13.020.**

1 A. Commission rule 4 CSR 240-13.020 is as follows;

2 **4 CSR 240-13.020 Billing and Payment Standards**

3 PURPOSE: This rule establishes reasonable and uniform billing and payment standards to
4 be observed by utilities and customers.

5 (1) A utility shall normally render a bill for each billing period to every residential customer
6 in accordance with its tariff.

7 (2) Each billing statement rendered by a utility shall be computed on the actual usage during
8 the billing period except as follows:

9 (A) A utility may render a bill based on estimated usage-

10 1. To seasonally billed customers, provided an appropriate tariff is on file with the
11 commission and an actual reading is obtained before each change in the seasonal cycle;

12 2. When extreme weather conditions, emergencies, labor agreements or work stoppages
13 prevent actual meter readings; and

14 3. When the utility is unable to obtain access to the customer's premises for the purpose of
15 reading the meter or when the customer makes reading the meter unnecessarily difficult. If
16 the utility is unable to obtain an actual meter reading for these reasons, where practicable it
17 shall undertake reasonable alternatives to obtain a customer reading of the meter, such as
18 mailing or leaving postpaid, preaddressed postcards upon which the customer may note the
19 reading unless the customer requests otherwise;

20 (B) A utility shall not render a bill based on estimated usage for more than three (3)
21 consecutive billing periods or one (1) year, whichever is less, except under conditions
22 described in subsection (2)(A) of this rule;

23 (C) Under no circumstances shall a utility render a bill based on estimated usage-

24 1. Unless the estimating procedures employed by the utility and any substantive changes to
25 those procedures have been approved by the commission;

26 2. As a customer's initial or final bill for service unless conditions beyond the control of the
27 utility prevent an actual meter reading;

(D) When a utility renders an estimated bill in accordance with these rules, it shall-

1. Maintain accurate records of the reasons for the estimate and the effort made to secure an actual reading;

2. Clearly and conspicuously note on the bill that it is based on estimated usage; and

3. Use customer-supplied readings, whenever possible, to determine usage; and

(E) When a utility underestimates a customer's usage, the customer shall be given the opportunity, if requested, to make payment in installments.

(3) If a utility is unable to obtain an actual meter reading for three (3) consecutive billing periods, the utility shall advise the customer by first class mail or personal delivery that the bills being rendered are estimated, that estimation may not reflect the actual usage and that the customer may read and report electric, gas or water usage to the utility on a regular basis. The procedure by which this reading and reporting may be initiated shall be explained. A utility shall attempt to secure an actual meter reading from customers reporting their own usage at least annually, except for quarterly-billing utilities in which case it shall be every two (2) years. These attempts shall include personal contact with the customer to advise the customer of the regular meter reading day. The utility shall offer appointments for meter readings on Saturday or prior to 9:00 p.m. on weekdays. The utility's obligation to make appointments shall begin only after a tariff, for the appointments, has been filed with and approved by the commission. Discontinuance of the service of a customer who is reading and reporting usage on a regular basis because of inability to secure an actual meter reading shall not be required.

(4) If a customer fails to report usage to the utility, the company shall obtain a meter reading at least annually. The utility shall notify the customer that if usage is not reported regularly by the customer and if the customer fails, after written request, to grant access to the meter, then service may be discontinued pursuant to 4 CSR 240-13.050.

Q. PLEASE PROVIDE COMMISSION RULE 4 CSR 240-13.025.

A. Commission rule 4 CSR 240-13.025 is as follows;

4 CSR 240-13.025 Billing Adjustments

PURPOSE: This rule establishes billing adjustments in the event of an overcharge or an undercharge.

1 (1) For all billing errors, the utility will determine from all related and available information
2 the probable period during which this condition existed and shall make billing adjustments
3 for the estimated period involved as follows:

4 (A) In the event of an overcharge, an adjustment shall be made for the entire period that the
5 overcharge can be shown to have existed not to exceed sixty (60) consecutive monthly
6 billing periods, or twenty (20) consecutive quarterly billing periods, calculated from the date
7 of discovery, inquiry or actual notification of the utility, whichever comes first;

8 (B) In the event of an undercharge, an adjustment shall be made for the entire period that the
9 undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods
10 or four (4) quarterly billing periods, calculated from the date of discovery, inquiry or actual
11 notification of the utility, whichever was first;

12 (C) No billing adjustment will be made where the full amount of the adjustment is less than
13 one dollar (\$1);

14 (D) Where, upon test, an error in measurement is found to be within the limits prescribed by
15 commission rules, no billing adjustment will be made; and

16 (E) When evidence of tampering is found, or there are misrepresentations of the use of
17 service by the customer, the utility will calculate the billing adjustment period in accordance
18 with the applicable statute of limitations for the prosecution of such claim after determining
19 the probable period during which such condition existed from all related and available
20 information.

21 **The Staff Complaint**

22 **Q. WHAT IS THE BASIS OF THE FIRST COUNT IN THE STAFF COMPLAINT?**

23 A. In Count I, the Staff reports that for many years Laclede has utilized trace devices attached
24 to a meter inside a customer's premises that permit Laclede to read the meter from a
25 vehicle, outside the customer's premises. The Staff contends that Laclede estimated
26 customer usage when the trace device attached to the customer's meter malfunctioned.
27 Further, the Staff states that Laclede has failed to schedule such customers for regular

1 manual reads, failed to use actual reads if acquired or has failed to notify the customer of the
2 opportunity to self-read the meter and report usage. The Staff's Complaint provides support
3 for these charges by providing summaries of customer complaints received by the Staff.

4 **Q. IN RESPONSE TO DATA REQUESTS REGARDING CUSTOMER COMPLAINTS HAVE YOU**
5 **OBTAINED ADDITIONAL DETAILED MATERIAL THAT SUPPORT THESE ELEMENTS OF**
6 **STAFF'S COMPLAINT?**

7 A. Yes. Public Counsel Data Request Number 702, requested a copy of each customer
8 complaint Laclede has received in the past 5 years related to reconciling billings based on
9 estimates and actual meter reads. A copy of the Company response is included in this
10 testimony as Schedule BAM-1HC. The DR response included only those customer
11 complaints where Laclede maintained the records, and is not a comprehensive record of all
12 billing complaints.

13 There are numerous customer complaints that reference malfunctioning trace devices and
14 Laclede's failure to schedule such customers for regular manual reads, failure to use actual
15 reads if acquired and failure to notify the customer of the opportunity to self-read the meter
16 and report usage. Some examples are as follows;

17 **Malfunctioning trace devices - and failure to repair or replace malfunctioning trace**
18 **devices in a timely manner-**

1 * Schedule BAM-1HC, page 2 –Customer reported a wait of over 1 ½ years to have trace
2 device repaired.

3 *Schedule BAM-1HC, page 8 – Device malfunctioning after September 2002 read through
4 at least 12 /04.

5 *Schedule BAM-1HC, page 11-12 – Meter malfunctioned due to dead battery from
6 December 2001 through at least February 25, 2004.

7 *Schedule BAM-1HC, page 24 –Trace device malfunctioned sometime after 5/03.
8 Subsequent bills were estimated. An initial AMR device was mailed to the customer on
9 10/24/05.

10 *Schedule BAM-1HC, page 31 –Trace device malfunctioned sometime after 9/11/03. The
11 customer was notified of estimated billing due to the malfunction by mail, asked to call to
12 schedule an actual read and sent self read card on 9/22/05. On 12/27/05 a new AMR device
13 was installed.

14 The written responses to many of the complaints included in the DR response indicate that
15 the Company was aware, in some cases for years, of faulty devices. It appears that many of
16 the trace devices installed in the late 1980s and early 1990s may have failed due to dead
17 batteries which originally had an expected life of only about 10 years.

18 **Laclede's failure to schedule such customers for regular manual reads –**

1 *Schedule BAM-IHC, page 2 – Customer waited 8 months, 3 months and 5 months
2 between actual reads despite a problem with the trace device.

3 *Schedule BAM-IHC, page 8 – Device malfunctioning after September 2002 read. It
4 appears that no actual reads were taken through at least 12 /04 despite the customer
5 reporting that he had told the Company he wanted actual reads taken.

6 *Schedule BAM-IHC, page 31 –Trace device malfunctioned sometime after 9/11/03. The
7 customer was notified of estimated billing due to the malfunction by mail, asked to call to
8 schedule an actual read and sent self read card on 9/22/05. On 12/27/05 a new AMR device
9 was installed.

10 *Schedule BAM-IHC, page 35 –Trace device malfunctioned sometime after the July 04
11 read. Self read cards were mailed to the customer on 11/03/05.

12 **Laclede's failure to use actual reads if acquired –**

13 *Schedule BAM-IHC, page 17 – Customer reports that although she submits a self read
14 card every month, she still receives an estimated bill. The Company reports receiving cards
15 for 01/05, 02/05, 07/05 and 08/05.and;

16 **e) Laclede's failure to notify the customer of the opportunity to self-read the meter**
17 **and report usage-**

1 *Schedule BAM-1HC, page 19 – Customer reports never receiving a visit from a meter
2 reader or a card left at her door.

3 *Schedule BAM-1HC, page 31 –Trace device malfunctioned sometime after 9/11/03. The
4 customer was notified of estimated billing due to the malfunction by mail and sent self read
5 card on 9/22/05.

6 Many of the complaints I reviewed related to failure to take actual reads and to notify
7 customers of the need for an actual read or self read indicated that estimated bills where
8 issued for many months if not years at a time but did not sufficiently clarify whether the
9 long period over which estimated bill were issued qualify as exceptions to Commission rule
10 4 CSR 240-13.020(2)(B) which disallows issuing bills for more than 3 consecutive months
11 based on estimates.

12 **Q. HAVE YOU REVEALED ANY CONCERNS REGARDING LACLEDE'S ESTIMATED BILLING**
13 **PRACTICES UNDER 4 CSR 240-13.020?**

14 A. Yes. My review of customer complaints leads me to believe that numerous violations of
15 Commission rule 4 CSR 240-13.020 have occurred that likely contributed substantially to
16 an increased level of estimated billing. Commission rule 4 CSR 240-13.020 allows a
17 company to estimate billing in very limited circumstances. Laclede, however, appears to
18 make estimated billing a routine practice. Unless Laclede's records have documented

1 compliance with these provisions beyond what the complaints supplied by Laclede suggest,

2 Laclede has repeatedly violated 4 CSR 240-13.020 as follows:

3 Laclede failed to obtain actual reads each billing period. (4 CSR 240-13.020(2).

4 Where Laclede does not have access to the meter, Laclede failed to "undertake
5 reasonable alternatives" to obtain a reading. (4 CSR 240-13.020(2)(A)(3)).

6 Laclede's estimating procedures were not approved by the Commission. (4 CSR 240-
7 13.020(2)(C)(1)).

8 Laclede failed to "maintain accurate records of the reasons for estimating and efforts to
9 secure an actual read." (4 CSR 240-13.020(2)(D)(1)).

10 Laclede failed to use the self read cards "whenever possible." (4 CSR 240-13.020(2)(D)(3)).

11 After three (3) unsuccessful attempts to read a meter, Laclede failed to advise the customer
12 that they may read and report usage on a regular basis. (4 CSR 240-13.020(3)).

13 Laclede failed to obtain a meter reading annually when the customer failed to report usage.
14 (4 CSR 240-13.020(4)).

15 Laclede failed to notify the customer that service may be disconnected if the customer does
16 not self-report usage. (4 CSR 240-13.020(4)).

1 These required procedures were adopted by the Commission to allow estimated billing only
2 in very limited circumstances. However, the complaints from Laclede's customers suggests
3 that Laclede could have avoided most of these had Laclede followed the Commission's
4 rules and Laclede's tariff regarding estimated billing.

5 **Q. IS THERE EVIDENCE THAT THE COMMISSION SHOULD BE CONCERNED ABOUT THE**
6 **EXTENT OF LACLEDE'S ESTIMATED BILLING AND BILLING ADJUSTMENTS?**

7 A. Yes. There is evidence that Laclede has excessively relied on estimated billing as a substitute
8 for billing based on actual meter readings. The Company response to Staff Data Request
9 No. 0001, included as Schedule 6 to this testimony, indicates that over the monthly periods
10 November 2004 to February 2006, Laclede served between about * *
11 residential customers. Over the same monthly periods, the Company response to Staff Data
12 Request No. 0002, included as Schedule 7 to this testimony, indicates that Laclede issued
13 between approximately * * estimated residential bills monthly with the
14 exception of August when the Company estimates all residential bills. The number of
15 residential billing adjustments over the same monthly periods, shown in the Company
16 response to Staff Data Request No. 0004, included as Schedule 8 to this testimony, ranged
17 from about * *.

18 The number of estimated residential bills was high even during the winter months when it is
19 most critical for customer's usage to be accurately measured. For example, in December

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1 2005, Laclede's data indicates that the company estimated over * * of residential bills,
2 followed by approximately * * in January 2006 and almost * * in February 2006.
3 The proportion of estimated bills has also been high for commercial customers. Over the
4 period December 2005 through February, Laclede estimated from about * * to almost
5 * * of commercial customer bills.

6 Habitual use of estimated meter reads has resulted in gross over and under estimates of the
7 actual amounts customers owe. Further, the adjustments, which customers may or may not
8 anticipate are issued on a single bill, initially appearing to be due on the normal due date for
9 the month. For customers with limited household incomes, the undercharge may appear
10 insurmountable. For example, based on a sample I obtained from the Company of billing
11 adjustments during a single month for customers with at least 7 months of previously
12 estimated bills, the bill adjustment issued to customers in a single month varied from a catch
13 up amount of * * to a credit of more than * *. For this sample, the adjustment
14 appeared on the customer account in February 2006. In the case of an undercharge, the
15 adjustment would have exacerbated a bill already large due to normally higher winter use
16 and unusually high gas prices. Obviously, during that billing month, the effect of the
17 adjustment would produce a total bill for the month substantially different than would be
18 produced by the application of the actual month's tariff rates to the customer's actual usage
19 for the month.

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1 **Q. HAVE YOU PERFORMED SIMILAR ANALYSES TO DETERMINE THE BILLING ADJUSTMENTS**
2 **DURING MONTHS OTHER THAN THE SINGLE MONTH PROVIDED TO YOU IN THE SAMPLE OR**
3 **FOR ADJUSTMENTS FOR PERIODS LESS THAN 7 MONTHS?**

4 A. No. The Company objected to providing the full set of data that I requested stating that it
5 would be burdensome to produce. In fact, to date, in response to Public Counsel data
6 requests Laclede has not produced any information that quantifies the extent of erroneous
7 billing over the past several years.

8 **Q. WHAT REMEDIES HAS THE STAFF PROPOSED TO ADDRESS DEFICIENCIES ASSOCIATED WITH**
9 **COUNT I OF THE STAFF COMPLAINT?**

10 A. The Staff requests that the Commission order Laclede to:

- 11 • provide any customer, whose bill is based on estimated usage more than twice in any
- 12 twelve month period, a separate written notice that the bills have been estimated;
- 13 • investigate and correct within 45 days the problems causing the need to estimate the bill;
- 14 • immediately read meters and render bills for any customer it has not billed in 35 days;
- 15 • report to Staff's Auditing Department all bills rendered in 2005 that were based on actual
- 16 reads where prior estimated readings have resulted in adjustments greater than five percent
- 17 (5%);

1 • at the time of rebilling, and even without contact from the customer, automatically provide
2 any customer whose "catch-up" amount exceeds 60 dollars at least six months or the same
3 number of months that were involved in the "catch-up", whichever one is greatest period of
4 time, to pay the catch-up bill;

5 • begin the "catch-up" period only when a letter to the customer clearly and unequivocally
6 advises the customer that their bill has been estimated, and that a recalculation will follow;

7 • report within 90 days to Staff and the Office of the Public Counsel the steps taken to
8 comply with this order, and the procedures put in place to assure continued compliance.

9 **Q. DO YOU SUPPORT THESE RECOMMENDATIONS?**

10 A. Yes, with three modifications. The first modification I propose is that the Company report
11 **and provide billing and notification records** to Staff's Auditing Department for all bills
12 rendered **since January 1998** that were based on actual reads where the prior bill was
13 based on one or more estimated readings. The second modification I propose is that the
14 records be submitted **even if** the prior estimated readings have **resulted in adjustments less**
15 **than or equal to** five percent (5%). Finally, I suggest that **the Company should be**
16 **directed to within 3 months cease issuing bills that violate Commission rule 4 CSR**
17 **240-13.020(2)(B).**

1 **Q. WHY DO YOU BELIEVE IT IS APPROPRIATE TO REQUIRE LACLEDE TO SUBMIT BILLING**
2 **RECORDS OF ALL BILLS RENDERED SINCE JANUARY 1998 THAT WERE BASED ON ACTUAL**
3 **READS WHERE THE PRIOR BILL WAS BASED ON ONE OR MORE ESTIMATED READINGS?**

4 A. Based on the customer complaints, it is obvious that the problems associated with
5 malfunctioning trace devices and excessive reliance on estimated bills is long standing. The
6 copies of customer complaints report problems dating back to 1998 and frequently mention
7 these problems occurring from 2000 to 2004.

8 Second, based on my experience with the calculation of catch-up bills, I am aware that
9 certain assumptions are made in performing the calculations. When a catch-up bill is
10 calculated it is based on applying applicable rates to a comparison of the actual use to the
11 estimated use over a period of time. Since applicable rates may change from one month to
12 the next but the actual use for each month is unknown, assumptions regarding the pattern of
13 monthly use can substantially affect the catch-up bill calculation. I understand that Laclede
14 generally relies on historic patterns of use at a premise in calculating catch-up bills which
15 theoretically may be the best estimate available. However, it is appropriate that Staff and
16 Public Counsel have access to the records to review the calculations and the reasonableness
17 of the results. This is especially true in cases where there are substantial gaps in time
18 between actual reads.

19 Finally, access to complete billing and notification records for all bills rendered since
20 January 1998 that were based on actual reads where the prior bill was based on one or more

1 estimated readings will be needed to determine the number of occurrences of violations of
2 Commission rule 4 CSR 240-13.020(2)(B) that do not qualify as exceptions under 4 CSR
3 240-13.020(2)(A).

4 **Q. WITH RESPECT TO COUNT I, THE STAFF RECOMMENDS THAT THE COMMISSION**
5 **AUTHORIZE ITS GENERAL COUNSEL TO SEEK PENALTIES FOR EACH VIOLATION AS**
6 **AUTHORIZED BY § 386.570 AND 386.600 AND PROVIDE SUCH OTHER RELIEF AS THE**
7 **COMMISSION DEEMS APPROPRIATE. DO YOU SUPPORT THIS RECOMMENDATION?**

8 A. Yes. The ongoing and widespread violations suggested by the customer complaints justify
9 the Commission's pursuit of appropriate penalties.

10 **Q. WHAT IS THE BASIS OF THE SECOND COUNT IN THE STAFF COMPLAINT?**

11 A. In Count II, the Staff reports that there are instances where Laclede has locked a meter shut
12 or has locked the service line at the curb, but gas usage continued to register on the meter.
13 The Staff contends that Laclede did not act quickly to investigate these conditions and take
14 corrective action. The Staff explains that these conditions poses a potential safety hazard by
15 permitting gas to flow under unknown conditions and result in unrecovered gas costs that
16 must be borne by Laclede's remaining customers. The Staff's Complaint provides support
17 for these charges by providing summaries of customer complaints received by the Staff.

18 **Q. WHAT REMEDIES HAS THE STAFF PROPOSED TO ADDRESS THESE DEFICIENCIES?**

19 A. The Staff requests that the Commission order Laclede to:

1 • to report to Staff and Public Counsel all instances where LGC has discontinued service but
2 the meters continue to show usage; when it first learned of each instance, and what action it
3 has taken and when;

4 • in the future, to investigate and correct within 48 hours all instances of gas flowing to
5 premises where service has been discontinued; and,

6 to authorize its General Counsel to seek penalties for each violation as authorized by
7 §386.570 and 386.600

8 **Q. DO YOU SUPPORT THESE RECOMMENDATIONS?**

9 A. Yes.

10 **Public Counsel Complaint**

11 **Q. PLEASE DESCRIBE PUBLIC COUNSEL'S COMPLAINT.**

12 A. Public Counsel's Complaint is directed at Laclede's practice of adjusting customer bills
13 when undercharges existed and catch up bills were issued for months outside the limited
14 time period or in excess of the maximum 12 months without qualifying as an exception
15 prescribed by the Commission's rule. Laclede's practice violates Commission rule 4 CSR
16 240-13.025(1)(B), which states:

17 In the event of an undercharge, an adjustment shall be made for the entire period that the
18 undercharge can be shown to have existed **not to exceed twelve (12) monthly billing**

1 **periods or four (4) quarterly billing periods, calculated from the date of discovery,**
2 **inquiry or actual notification of the utility, whichever was first.**

3 According to this rule, if Laclede undercharges a residential customer for gas service,
4 Laclede may only make an adjustment on the customer's bill for a limited time period and
5 not to exceed 12 months.

6 **Q. ARE THERE ANY EXCEPTIONS TO THE RULE?**

7 A. There are three set forth in 4 CSR 240-13.025(1), parts (C)-(E). The first two of these
8 exceptions allow no adjustment to be made in cases where the billing adjustment would be
9 less than \$1 or where measurement errors are within Commission approved limits. The
10 final exception applies in cases where evidence of tampering exists or a customer has
11 misrepresented the use of the service in which case adjustments can be made consistent
12 with the statute of limitations.

13 **Q. HAS LACLEDE ISSUED CATCH-UP BILLS TO CUSTOMERS THAT REFLECT PERIODS IN EXCESS**
14 **OF 12 MONTHS IN CASES THAT DO NOT QUALIFY AS EXCEPTIONS.**

15 A. Yes. There is substantial evidence that Laclede has not only issued such catch-up bills to
16 customers but also has adopted a general policy to do so.

17 **Q. WHAT EVIDENCE LEADS YOU TO BELIEVE THAT LACLEDE HAS ADOPTED A GENERAL**
18 **POLICY TO ISSUE CATCH-UP BILLS THAT REFLECT PERIODS IN EXCESS OF 12 MONTHS?**

1 A. In response to a Public Counsel data request Laclede provided the following explanation of
2 its billing practices in cases where a customer has been undercharged for more than twelve
3 consecutive months:

4 Laclede will only seek to bill customers for "catch-up" amounts for a period greater than 12
5 months from the date of the discovery if it has a remark on the customer's account or other
6 data showing that the customer was specifically advised at the appropriate time of the
7 Company's need to obtain an actual meter reading, but no such reading could be obtained.
8 Laclede is admittedly seeking bill adjustments for periods that exceed the 12-month limit. In
9 a separate response to an Public Counsel data request 8, Laclede explained its practice of
10 adjusting bills for periods greater than twelve months is to stack one twelve month period
11 of upon another without limitation, provided each period is preserved by a remark in
12 Laclede's computer system indicating notice was sent at the end of each period.

13 **Q. IS LACLEDE'S POLICY CONSISTENT WITH THE LIMITED EXCEPTIONS ALLOWED BY THE**
14 **RULE?**

15 A. No. The rule does not make an exception for instances where Laclede has advised the
16 customer of Laclede's need to obtain an actual meter reading, but no such reading could be
17 obtained. The only exceptions are those associated with 4 CSR 240-13.025(1), parts (C)-
18 (E) which are described above.

1 **Q. COULD LACLEDE'S BILLING PRACTICE THAT SEEKS BILLING ADJUSTMENTS IN EXCESS OF**
2 **12 MONTHS RESULT IN CUSTOMERS FACING CATCH-UP BILLS THAT HAVE ACCUMULATED**
3 **FOR YEARS AT A TIME?**

4 A. Yes. In fact, my reading of this practice under certain circumstances could apply
5 indefinitely. This is especially true given Laclede's loose interpretation of what qualifies as
6 "other data showing that the customer was specifically advised at the appropriate time of the
7 Company's need to obtain an actual meter reading."

8 **Q. PLEASE EXPLAIN.**

9 A. In discussions with the Company, I learned that meter readers do not regularly note in log
10 books whether they have left "hang tags" notifying customers that the Company needs
11 access to take an actual read. Instead, Laclede may rely on training as its only proof in some
12 instances that customers have been notified of the need for an actual read.

13 **Q. IS IT REASONABLE THAT CUSTOMERS MIGHT FACE CATCH-UP BILLS COVERING YEARS AT**
14 **A TIME BASED SOLELY ON AN ASSUMPTION THAT A HANG TAG WAS LEFT BY THE METER**
15 **READER?**

16 A. No. Setting aside for a moment the Company's erroneous policy that seeks recovery
17 outside the appropriate time window or in excess of 12 months, potentially back billing
18 customers for years at a time poses a substantial detriment to customers and should not be

1 allowed based solely on an assumption that a hang tag was left by the meter reader. A
2 number of customer complaints state that hang tags were not left.

3 **Q. IN THE SUMMARY SECTION OF YOUR TESTIMONY YOU INDICATED THAT LACLEDE HAS**
4 **DEVELOPED AN ALTERNATIVE INTERPRETATION OF THE COMMISSION'S 12-MONTH RULE.**
5 **PLEASE EXPLAIN.**

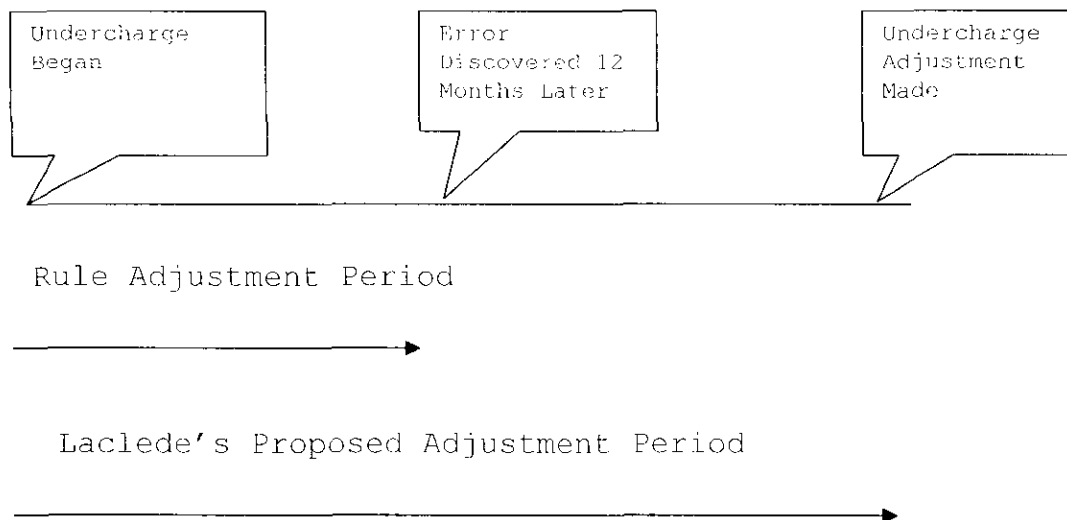
6 A. In Part 2. of Laclede's Motion to Dismiss or in the Alternative to Answer Public Counsel's
7 complaint filed in this case on June 12, 2006, the Company argues that;

8 "2. The Complaint is based upon a response to a data request regarding when Laclede might
9 adjust a customer's bill for an undercharge of longer than 12 months. In effect, Laclede's
10 answer to this data request, as set forth on page two of the Complaint, was that Laclede will
11 only seek to adjust a customer's undercharge for a period greater than 12 months *from the*
12 *date of discovery* when it has first made *inquiry* seeking the customer's cooperation in
13 obtaining an actual meter reading. In other words, Laclede's billing practice is that it will
14 adjust an undercharge for up to 12 months from the date of discovery (or actual notification
15 of the Company), or inquiry, *whichever was first.*"

16 **Q. HOW DOES THIS POLICY DIFFER FROM THE ACTUAL RULE?**

17 A. Laclede's billing practice contains no language limiting the total period of adjustments as
18 does the Commissions rule. The Company's interpretation would allow Laclede to issue
19 catch-up bills for **up to** 12 months prior to the first date of discovery, notification or inquiry
20 **plus for all the additional time** that has expired since that initial date. The Commission's
21 rule on the other hand prescribes a time window and a 12-month **maximum** catch-up
22 adjustment no matter what length of time has expired. A graphical representation of the
23 difference for various cases is shown below.

1 Case 1 – Billing Error Discovered



2

3 Laclede's interpretation would allow the Company recovery despite a potentially extensive
4 delay in obtaining an actual read and correcting a billing error. The Commission rule
5 provides an incentive for the Company to minimize delays between discovery of an error
6 and obtaining an actual read.

7

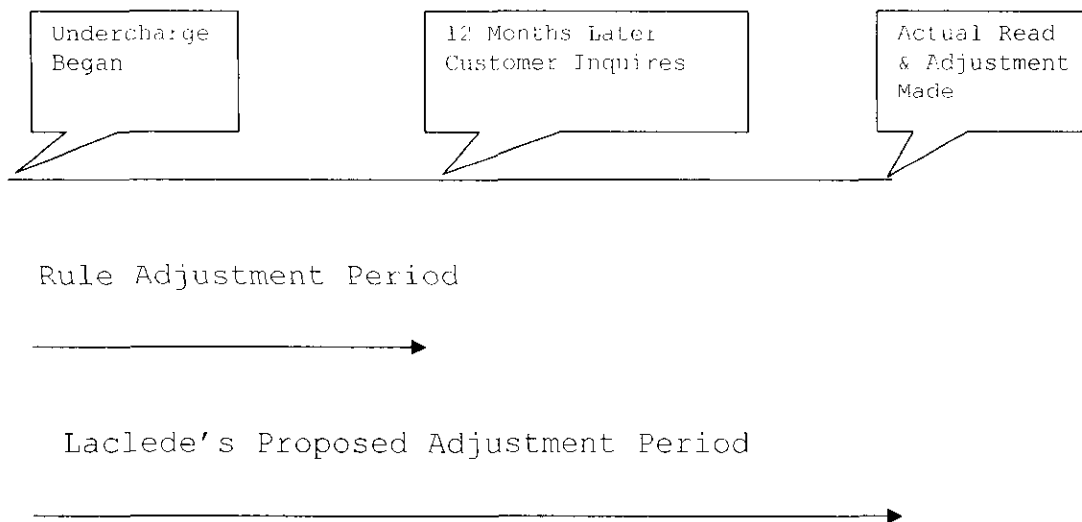
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1 Case 2 – Customer Inquires About the Accuracy of Estimated Billing



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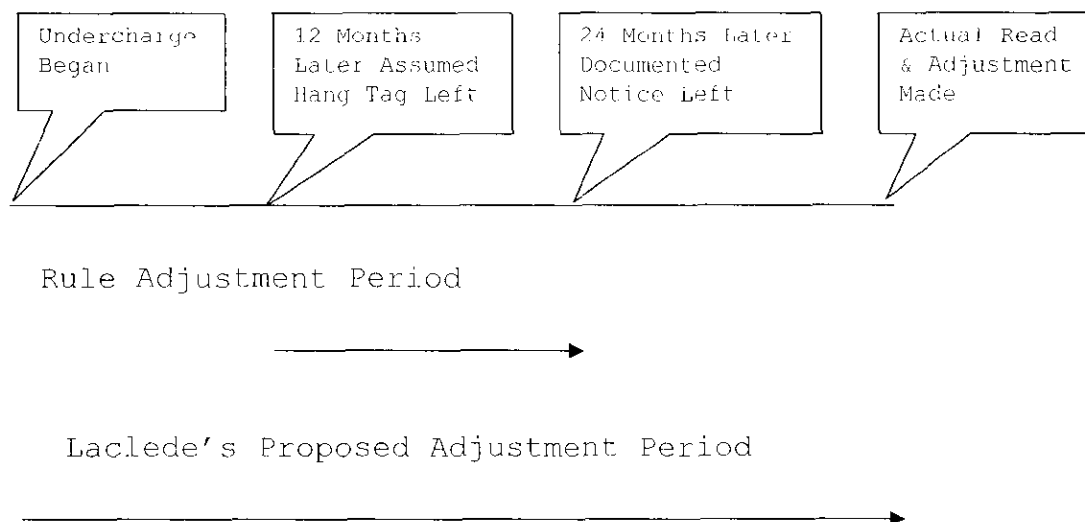
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Laclede's interpretation would allow the Company recovery despite a potentially extensive delay in obtaining an actual read after a customer inquiry about the accuracy of estimated billing. The Commission rule provides an incentive for the Company to minimize delays in responding to customer inquiries.

1 Case 3 – Reliance on Undocumented Notice



2

3 Laclede's interpretation would allow the Company recovery despite a potentially extensive

4 delay in a customer receiving notice of the need for the Company to obtain an actual meter

5 read. The Commission rule provides an incentive for the Company to actually provide

6 notice to customer and to obtain an actual read.

7 **Q. WHAT IS YOUR CONCLUSION REGARDING LACLEDE'S PRACTICE OF BACK BILLING**

8 **CUSTOMERS FOR USAGE OUTSIDE THE APPROPRIATE TIME WINDOW OR IN EXCESS OF 12**

9 **MONTHS?**

10 **A.** Laclede's practice shifts the burden to customer by mitigating the Company's incentive to

11 avoid excessive undercharges.

1 **Q. DO THE COMMISSION'S RULES PROVIDE REASONABLE PROTECTIONS AND INCENTIVES FOR**
2 **BOTH THE COMPANY AND ITS CUSTOMERS?**

3 A. Yes. The Commission's rules 4 CSR 240-13.020(2)(A) and (B) prohibit a gas utility from
4 estimating usage for a period greater than three consecutive billing periods (typically one-
5 month billing periods for residential customers) or one year, whichever is less, unless the
6 estimation is: 1) to seasonally billed customers; 2) when extreme weather conditions,
7 emergencies, labor agreements or work stoppages prevent actual meter readings; or 3)
8 when the utility is unable to obtain access to the customer's premises for the purpose of
9 reading the meter or when the customer makes reading the meter unnecessarily difficult.
10 Under this third condition, the utility is allowed to render a bill based on estimated usage
11 when access to the meter cannot be obtained. Commission rule 4 CSR 240-13.025 allows
12 the Company a reasonable opportunity to make billing adjustments and provides incentive
13 for adjustments to be made in a timely manner. This rule also protects consumers from
14 excessive or unreasonable billing adjustments in cases where the customer has not tampered
15 with service or mischaracterized the service use. Commission rule 4 CSR 240-13.050
16 authorizes Laclede to discontinue service to any customer that refuses "after reasonable
17 notice to permit inspection, maintenance, replacement or meter reading of utility
18 equipment." These provisions strike a reasonable balance and provide incentives to the
19 Company to obtain actual reads and for customers to facilitate the Company ability to
20 obtain actual reads.

1 **Q. HAVE YOU REVIEWED THE HISTORY OF THE COMMISSION'S 12-MONTH RULE?**

2 A. Yes. I have reviewed past case files related to the 12-month Rule and how it has been
3 applied in the past.

4 **Q. IS LACLEDE'S ALTERNATIVE INTERPRETATION IS CONSISTENT WITH HISTORIC CASE**
5 **MATERIAL?**

6 A. No. It is not.

7 **Q. PLEASE EXPLAIN.**

8 A. David Sommerer, of the Commission Staff, appears to have first proposed the language that
9 underlies the Commission's 12-month Rule in the early 1990's. The first contested case in
10 which the Commission judged the merit of arguments for and against a 12-month maximum
11 recovery period was in the United Cities Gas Cases No. GR-93-47. Specifically, Mr.
12 Sommerer rejected a 24-month maximum adjustment period proposed by United Cities
13 arguing that;

14 1) Customers would be unlikely to have the wherewithal to attempt to recover overcharges
15 assessed by the utility in Court;

16 2) It is unreasonable to for the Company to expect for residential customers to pay for under
17 bills for an extended period of time, pointing out that some billing errors are within the
18 control or responsibility of the Company and it would be improper to extensively rebill a

1 customer for underpayment since the utility should have an incentive to keep underbills to a
2 minimum which is accomplished by limiting the amount of time the Company may rebill
3 for undercharges.

4 3) Allowing extended rebilling disadvantages other customers to pick-up the tab.

5 I have attached the relevant portion of Mr. Sommerer's Rebuttal testimony from Case No.
6 GR-93-47 as Schedule 3 to this testimony.

7 During opening statements in Case No. GR-93-47 the Staff attorney, Mr. Keevil, further
8 explained Staff's reasoning for establishing a maximum 12-month period for rebilling
9 customers instead of the 60 months proposed by United Cities Gas;

10 "In regard to billing adjustment proposal where the – real conflict now is whether the
11 residential rebillings should go back 12 months in cases where the company has underbilled
12 them. Staff does not believe that the company should be allowed to do that for, I guess, the
13 two main reasons. And there may be some others in the testimony of Mr. Sommerer.

14 No. 1, if as the company is now requesting that it be the same as the overbilling or, in other
15 words, the company could go back 60 months to rebill a customer, we believe that that
16 could impose a substantial hardship on a residential customer if they were suddenly alerted
17 to the fact that they had been paying – not paying enough for the past 60 months and got a
18 large rebill suddenly dropped upon them.

19 And, secondly, between the customer and the company, you have to ask yourself who's
20 responsible for seeing that those bills are correct. And we believe that it is the company and
21 believe that 12 months should give the company adequate opportunity to discover an error
22 of the nature that we're talking about here. And, in that event, if they caught the error in
23 time, they would be able to go back 12 months and recoup whatever they lost to that point."

1 I have attached the relevant portion of Mr. Keevil's opening statement from Case No. GR-
2 93-47 as Schedule 2 to this testimony.

3 **Q. DID THE COMMISSION AGREE WITH STAFF'S REASONING FOR ALLOWING A MAXIMUM 12-**
4 **MONTH RECOVERY?**

5 A. Yes. The Commission held in favor of the Staff, a finding which would lead directly to the
6 adoption of the 12-month Rule. The Commission stated:

7 The Commission determines that Staff's position, which limits the billing adjustment period
8 for an undercharge to one year prior to the date of discovery of the error, inquiry or actual
9 notification of the Company, whichever occurs first, is correct. This instance creates a
10 unique situation that should be the subject matter of regulation. A customer who is
11 incorrectly billed loses the opportunity to curtail the usage of gas should such action become
12 necessary in order to control the total amount of the monthly bill. The regulated relationship
13 between the company and customer is such that accurate information about the price and
14 total cost is a necessary contractual component. The Commission, therefore, determines that
15 the Staff's billing adjustment proposal addresses this relationship and is an integral
16 provision to the contract between the customer and the company. The regulated company
17 receives a monopoly right: as a result, it may be appropriate for the Commission to require
18 the company to enter into special contractual provisions that delineate and restrict its causes
19 of action. Therefore, the Commission finds that limiting the right of a company to collect on
20 or accrue a cause of action for an undercharge for residential customers is a proper

1 regulatory limitation. This regulation obviously puts a responsibility on the company to
2 eliminate undercharges. In so finding for the Staff, the Commission is not restricting
3 Company from its right to collect for correctly billed charges, or in the case where the
4 undercharge is caused by an act of the customer.¹

5 I have attached the relevant portion of the Commissions Report and Order from Case No.
6 GR-93-47 as Schedule 4 to this testimony.

7 **Q. DID THE COMMISSION OFFER ANY GUIDANCE IN THE COMMISSION'S SUBSEQUENT ORDER**
8 **OF RULEMAKING FOR 4 CSR 240-13.025?**

9 A. Yes. The Missouri Register, Volume 19, Number 8, April 15, 1994, pp. 886-887, includes
10 the Commission's original Order of Rulemaking. The Commission responded to a
11 comment against including 4 CSR 240-13.025(1)(A) and (1)(B) in the rule, and responded:

12 "[T]here exists good cause to limit the utilities' time period to collect undercharges.
13 Customers have come to expect utilities to bill correctly and feel that it is unfair to them to
14 pay for the utilities' errors. Customers may have changed their usage patterns had they been
15 correctly billed by the utility and would have been denied that opportunity."

16 Here the Commission explains the intention of the rule is to limit the time period for
17 recovery of undercharges. If the Commission followed Laclede's interpretation of the rule,

¹ In the matter of United Cities Gas Company's proposed tariffs to increase rates for gas service provided to customers in the Missouri service area of the company. GR-93-47, Report and Order, July 2, 1993; 2 Mo. P.S.C. 3d 280

1 the rule's purpose would be nullified by a company's ability to adjust for undercharges for
2 an indefinite period of time. Laclede's interpretation actually contributes to the problem the
3 rule is meant to avoid because errors in estimation are magnified by the passing of time.

4 **Q. HAS LACLEDE INAPPROPRIATELY BACK BILLED CUSTOMERS IN EXCESS OF THE 12 MONTH**
5 **MAXIMUM?**

6 A. Yes. The evidence demonstrates that Laclede violated Commission rule 4 CSR 240-
7 13.025(1)(B) that limits recovery of under charges to a maximum of 12 months. Records of
8 customer complaints lodged at various agencies, demonstrate that Laclede has billed
9 customers for periods greater than 12 months.

10 **Q. PLEASE PROVIDE EXAMPLES OF CATCH-UP BILLS RENDERED FOR PERIODS IN EXCESS OF A**
11 **MAXIMUM OF 12 MONTHS.**

12 A. Some examples are as follows:

13 **a) Catch-up bills exceeding a maximum of 12 months –**

14 *Schedule BAM-1HC, page13 –On about 12/31/02 the customers account was adjusted for
15 the period 05/01 through 12/02.

16 *Schedule BAM-1HC, page 21 –On 6/9/04 the customer was issued a catch-up bill for the
17 period 12/17/03 through 5/19/04.Customer complained to Mo PSC Staff but no adjustment
18 was made.

1 *Schedule BAM-IHC, page 35 –Trace device malfunctioned sometime after 07/04.
2 Subsequent bills were estimated. On 9/22/05 estimated device notice was mailed to the
3 customer. On 11/03/05 self read cards were mailed. On 1/23/06 a catch-up bill was issued
4 for 9/29/04 through 12/30/05.

5 **Q. WHEN CHALLENGED, HAS THE COMPANY ADJUSTED BILLS CONSISTENT WITH A MAXIMUM**
6 **OF 12-MONTHS?**

7 A. Yes. When challenged by customer complaints to the Better Business Bureau and the MO PSC
8 Staff, the Company applied an interpretation of the 12 month maximum aspect of the rule,
9 consistent with Public Counsel's and limited adjustments or "catch-up" bills to 12 months even
10 though the estimated periods exceeded 12 months. Some examples are as follows:

11 *Schedule BAM-IHC, page 10-11 – Estimated Bills from November 7, 2002 to December 2003. In
12 February 2004 a catch-up bill was issued for the limited period January 2003 through January 2004.

13 *Schedule BAM-IHC, page 12 – Date of discovery was 04/07/04 of undercharge dating back to
14 service turn on in January 2002. Estimated Bills from November 7, 2002 to December 2003. In
15 February 2004 a catch-up bill was issued for the limited period January 2003 through January 2004.

16 *Schedule BAM-IHC, page 27 -- Customer received estimated Bills from 10/03 to 12/21/04. On
17 3/1/05 a catch-up bill was issued for the limited period 1/26/04 through 2/23/05.

18 *Schedule BAM-IHC, page 29 – Customer received bills based on estimated usage from 1/03 to
19 11/04. On 2/8/05 a catch-up bill was issued for a limited period of 12 months.

1 In some cases, the Commission's 12-month rule was referenced as the limiting factor that caused
2 undercharge adjustments to be limited to only a 12-month period even though undercharges
3 occurred beyond 12 months. For example;

4 *Schedule BAM-IHC, page 10-11 – Estimated Bills from November 7, 2002 to December 2003. In
5 February 2004 a catch-up bill was issued for the limited period January 2003 through January 2004
6 with the 12-month rule cited.

7 * Schedule BAM-IHC, page 27 – Customer received estimated Bills from 10/03 to 12/21/04. On
8 3/1/05 a catch-up bill was issued for the limited period 1/26/04 through 2/23/05 with the 12-month
9 rule cited.

10 *Schedule BAM-IHC, page 29 – Customer received bills based on estimated usage from 1/03 to
11 11/04. On 2/8/05 a catch-up bill was issued for a limited period of 12 months with the 12-month
12 rule cited.

13 *Schedule BAM-IHC, page 31 –Trace device malfunctioned sometime after 9/11/03. On 2/6/06 a
14 catch-up bill was issued. The Commissions rule was noted although no enough information was
15 supplied to determine if it was applied correctly. A total of 327 CCF's was not billed to the customer
16 as part of the catch-up bill.

17 **Q. HAS LACLEDE INAPPROPRIATELY BACK BILLED CUSTOMERS IN EXCESS OF THE OUTSIDE**
18 **THE LIMITED TIME PERIOD ALLOWED BY 4 CSR 240-13.025?**

19 A. It appears so. For example, Schedule BAM-IHC, page 35 illustrates a customer complaint
20 for which the trace device malfunctioned sometime after 07/04 and subsequent bills were

1 estimated. On 9/22/05 estimated device notice was mailed to the customer but the notice
2 did not offer the customer an option to have an actual read. Instead, on 11/03/05 self read
3 cards were mailed and on 1/23/06 a catch-up bill was issued for the period 9/29/04 through
4 12/30/05. Assuming that the notice sent on 9/22/05 was the first of the three triggers
5 specified by the rule (discovery, inquiry or notice) ², the window for which billing
6 adjustments would be allowed according to the rule was approximately 9/22/04 through
7 9/22/05. The Company exceeded this period by adjusting the bill through 12/30/05.

8 **Q. WHY IS IT IMPORTANT FOR THE COMMISSION TO ENFORCE THE TIME WINDOW ASPECT OF THE**
9 **RULE AS WELL AS THE MAXIMUM 12 MONTH ASPECT?**

10 A. If the Company is allowed to collect undercharges indefinitely after the first trigger occurs
11 (discovery, inquiry or notice), it diminishes the incentive for the Company to quickly obtain an
12 actual read and correct any undercharges. This in turn provides protection for customers by
13 promoting billing based on more frequent actual reads and avoiding excessive unanticipated billing
14 adjustments

15 **Q. WHAT CORRECTIVE ACTION IS PUBLIC COUNSEL ASKING THE COMMISSION TO ORDER TO**
16 **ENSURE LACLEDE COMPLIES WITH THE ESTIMATED BILLING RULES?**

17 A. Public Counsel asks the Commission to find that Laclede's estimated bill practice is
18 contrary to the Commission's rule. Public Counsel asks the Commission to monitor

² Arguably, discovery of the problem should have occurred before the 9/22/05 notice was finally sent.

1 Laclede's compliance with this order and to issue an order to Laclede requiring that Laclede
2 strictly comply with the rule. This rule should also provide periodic reports to the PSC &
3 OPC identifying and detailing all deviations from the estimated billing rule, the reasons for
4 such deviations and corrective action taken to make an actual meter reading, make the
5 proper adjustment to the estimated bill, and issue a bill based upon an actual reading. In
6 addition, Public Counsel asks the Commission for an order compelling Laclede to provide
7 from the effective date of the order all Laclede's records relating to its estimated billing
8 requested by Public Counsel, including but not limited to, customer names and addresses,
9 estimated bills and adjustments to these bills and actual meter readings and attempts at
10 actual meter readings.

11 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

12 **A.** Yes.

SCHEDULE 1
IS DEEMED
HIGHLY CONFIDENTIAL
IN ITS ENTIRETY
(DOCUMENT BOUND
SEPARTELY)

Missouri Public Service Commission

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Hearing of the Public Service
Commission, held at Jefferson City,
Missouri, on the 6th day of
April, 1993.

CASE NO. GR-93-47

In the matter of United Cities Gas
Company's proposed tariffs to increase
rates for gas service provided to
customers in the Missouri service area
of the company.

BEFORE:

EDWARD C. GRAHAM, Presiding,
DEPUTY CHIEF HEARING EXAMINER.
KENNETH MCCLURE, Chairman,
ALLAN G. MUELLER,
DAVID L. RAUCH,
PATRICIA D. PERKINS,
DUNCAN E. KIRCHELOS,
COMMISSIONERS.

REPORTED BY:

BARBARA A. SKALLA, CCR
GINGER R. SOMMERER, RPR, CSR

Missouri Public Service Commission

1 it hasn't been used to this point doesn't mean that it's
2 unreasonable and should be removed from the tariffs.

3 Finally, the Staff and the company supports
4 the Staff's proposal to increase the reconnection charge to
5 \$50. It's my understanding that this issue is in the
6 Hearing Memo because the Public Counsel opposes it being
7 raised to \$50. So we are in agreement with the Staff on
8 that issue.

9 That's a brief, very brief, overview of the
10 issues that you'll hear today.

11 EXAMINER GRAHAM: Mr. Keevil.

12 MR. KEEVIL: I would say Mr. Duffy did a
13 fairly good job of describing the issues. If I could just
14 very briefly, I suppose, set forth Staff's position in
15 regard to those issues.

16 In regard to the billing adjustment proposal
17 where the -- the real conflict now is whether the
18 residential rebillings should go back 12 months in cases
19 where the company has underbilled them. Staff does not
20 believe that the company should be allowed to do that for, I
21 guess, two main reasons. And there may be some others in
22 the testimony of Mr. Sommerer.

23 No. 1, if as the company is now requesting
24 that it be the same as the overbilling or, in other words,
25 the company could go back 60 months to rebill a customer, we

Missouri Public Service Commission

1 believe that that could impose a substantial hardship on a
2 residential customer if they were suddenly alerted to the
3 fact that they had been paying -- not paying enough for the
4 past 60 months and got a large rebill suddenly dropped upon
5 them.

6 And, secondly, between the customer and the
7 company, you have to ask yourself who's responsible for
8 seeing that those bills are correct. And we believe that it
9 is the company and believe that 12 months should give the
10 company adequate opportunity to discover an error of the
11 nature that we're talking about here. And, in that event,
12 if they caught the error in time, they would be able to go
13 back 12 months and recoup whatever they lost to that point.

14 In regard to the interest on ACA balances,
15 staff is proposing that interest be applied to the ACA
16 balances beyond a threshold amount primarily to be an
17 incentive for the company to keep the estimates as close as
18 possible to the actual cost of the gas and thereby to avoid
19 large overcollections.

20 There is testimony by Mr. Sommerer that
21 there have been some problems in the past with some of the
22 overcollection balances in United Cities' ACA account. And
23 we're trying to avoid that continuing on into the future.

24 And, in regard to United Cities' -- I guess
25 you'd call it a counterproposal that they don't mind paying

Exhibit No.:
Issue: Billing Adjustments
Witness: David M. Sommerer
Type of Exhibit: Rebuttal
Sponsoring Party: MoPSC Staff
Company: United Cities Gas
Company
Case No.: GR-93-47

MISSOURI PUBLIC SERVICE COMMISSION
UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY
OF
David M. Sommerer

Jefferson City, Missouri
March, 1993

Exhibit No. 23
Date 4-6-93 Case No. GR-93-47
Reporter lao

REBUTTAL TESTIMONY

OF

DAVID M. SOMMERER

UNITED CITIES GAS COMPANY

CASE NO. GR-93-47

Q. Please state your name and business address.

A. David M. Sommerer, P.O. Box 360, Jefferson City, Missouri 65102.

Q. By whom are you employed and in what capacity?

A. I am employed by the Missouri Public Service Commission (Commission) as a Regulatory Auditor.

Q. Are you the same David M. Sommerer that filed direct testimony in this case?

A. Yes, I am.

Q. What is the purpose of your rebuttal testimony in this case?

A. The purpose of my testimony is to comment on United Cities Gas Company's (UCG's or Company's) billing adjustment proposal. Generally, the Company's proposal is meant to address limited circumstances when it is necessary to refund for overcharges or rebill for undercharges. This proposal is sponsored by Company witness John L. Baugh.

Q. Please describe the Company's proposal.

A. The Company's proposal is contained on proposed tariff sheet nos. 74 and 74.1. Since Mr. Baugh's direct testimony on the proposal is extremely brief, I will focus on the proposed tariffs in order to evaluate the proposal.

The company's billing adjustment proposal addresses the following three situations:

- (1) When a non-registering meter is found;
- (2) When an incorrect meter reading is recorded; and,
- (3) When a customer has been billed on the wrong rate schedule.

The company would adjust bills for up to twenty-four (24) months except when a customer is inappropriately billed on a "residence" rate schedule for which the customer does not qualify, in which case no billing adjustments are made. For ease of reference, I have included the proposed tariff sheets as Schedule 1 of my rebuttal testimony.

Q. Why do you object to the company's proposal?

A. The company's proposal does not reflect many billing adjustment situations and contains inappropriate maximum billing adjustment time periods.

Q. Briefly state some of the billing adjustment situations that are not addressed in the company's proposal.

A. Some of the adjustment situations not addressed include billing errors caused by computer malfunctions, applications of wrong meter constants, clerical mistakes, faulty meter installations, faulty meter operations, and improper application of company tariffs. Since the company's proposal does not address these circumstances, it is unclear how these billing adjustments would be addressed, or if they would be addressed at all.

1 Q. Did you attempt to establish the Company's
2 rationale for its billing adjustment proposal?

3 A. Yes. Staff Data Request 3515 (attached hereto
4 as Schedule 2) provides the Company's brief response on the
5 basis for its proposal. It refers to a recommendation of
6 their outside counsel based on a Kansas City Power and Light
7 (KCPL) Case and to current KCPL's tariffs.

8 Q. In your opinion, does the Company's proposal
9 reflect KCPL billing adjustment tariffs?

10 A. No. KCPL's tariff (See Schedule 3 attached
11 hereto) is designed to address all billing errors.
12 Furthermore, the Company's proposal generally uses twenty-four
13 (24) months as the maximum adjustment period, while KCPL's
14 tariff uses various maximum adjustment periods ranging from no
15 adjustment at all, to sixty (60) consecutive billing periods.
16 The Company borrowed part of KCPL's language (and even
17 mistakenly used KCPL rate classifications) for parts b, c, and
18 d, of its proposal. I am not trying to suggest by this
19 discussion that KCPL tariffs are the standard by which billing
20 adjustment proposals should be judged. I am merely stating
21 that the Company's proposal must stand on its own merit, and
22 it does not. The Staff's proposal however, contained on
23 Schedule 4 attached to my direct testimony, is a standard
24 which Staff would like to implement in all energy utility
25 tariffs, including KCPL's.

26 Q. Do you agree with the Company's proposal of

Rebuttal Testimony of
David M. Sommerer

1 using twenty-four (24) months as the maximum billing
2 adjustment period?

3 A. No, I do not. Customers have an expectation
4 that refunds will be provided in cases where the utility
5 company has overcharged the customer. In addition, it is
6 better to make the customer whole for these types of errors.
7 It is unlikely that the customers would have the "where with
8 all" to attempt to recover overcharges assessed by the utility
9 in court.

10 Next, it is unreasonable for the company to expect
11 the residential ratepayer to pay underbills for an
12 extended period of time. Some billing errors are within the
13 control or responsibility of the Company. It would be
14 improper to extensively rebill a customer for an underpayment
15 since the utility should have an incentive to keep underbills
16 to a minimum. This is accomplished by limiting the amount of
17 time the Company may rebill for an undercharge

18 Finally, there are situations where a large customer
19 is undercharged by a utility company. If UCC limits its
20 recovery of undercharges to large customers at two (2) years
21 as it proposes, UCC's other customers could be at a severe
22 disadvantage as they "pick up the tab" for the lost revenue.
23 Q. Do you have any comments on the Company's
24 current tariffs?

25 A. The Company's current tariff sheet numbers 68
26 and 78 provide some limited guidance on bill adjustments.

Rebuttal Testimony of
David M. Sommerer

1 Regardless of which billing adjustment proposal the Commission
2 adopts, the Staff's or the Company's, the language on these
3 tariff sheets should be made consistent with the Commission's
4 final decision in Case No. GR-93-47.

5 Q. Please summarize your rebuttal testimony.

6 A. The Company's billing adjustment proposal does
7 not address all billing errors. The proposal contains
8 arbitrary, unique, and improper maximum billing adjustment
9 periods.

10 Q. Does this conclude your rebuttal testimony?

11 A. Yes, it does.
12
13

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

In the matter of United Cities Gas Company's proposed tariffs to increase rates for gas service provided to customers in the Missouri service area of the company.

Case No. GS-93-47

APPEARANCES

Gary W. Diffy, Brydon, Swearingen & England, P.C., Post Office Box 456, Jefferson City, Missouri 65102, for United Cities Gas Company.

Douglas E. Michael, Senior Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of Public Counsel and the public.

Jeffrey A. Ennill, Senior Counsel, Thomas E. Lockenbill, Assistant General Counsel, and Eric B. Witte, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

HEARING EXAMINER: Edward C. Graham.

REPORT AND ORDER

Procedural History

On August 20, 1992, United Cities Gas Company (Company) filed proposed tariffs with the Missouri Public Service Commission (Commission) bearing a requested effective date of September 12, 1992. These proposed tariffs were designed to produce an overall Company increase of \$1,200,000 in charges for gas service, exclusive of gross receipts and sales tax.

On September 16, 1992 the Commission issued a Suspension Order And Notice Of Proceedings, which suspended the Company's proposed tariffs until July 17, 1993. On October 16, 1992 Company filed its direct testimony and minimum filing requirements. An intervention date was set for October 16, 1992 and there were no intervenors. On November 6, 1992 the Commission issued a Protective Order in this case. On November 20, 1992 the Commission issued an Order establishing a test year of the twelve (12) months ending May 31, 1992 as updated

In restating the Stipulation And Agreement with revised Attachment 1, the Commission in no way is changing the language and terms of the Stipulation And Agreement with revised Attachment 1, but adopts it in full as resolving those contested issues therein set out.

III. Time Period for Billing Adjustments

Company has proposed tariff language to set out an appropriate time period in which corrections to billing errors could be acted upon. Company claims this period acts in the same fashion as a "statute of limitations" because any action or correction of the error past the cutoff period would be barred. Staff and Company are in agreement on all but one aspect. Both agree that corrections to billing errors will be made for a maximum period of five years on nonresidential customers. Both agree that the maximum period on overcharges to residential customers will also be five years. The disagreement concerns the period of time for billing residential customers if there is an undercharge. Staff wants to limit that period to one year prior to the date of discovery of the error, inquiry, or actual notification of the Company, whichever occurs first. Company argues for uniformity and wants a five-year limit from the discovery of the error. Company states that Section §16.120(1), R.S.Mo. 1986, grants a five-year period on a contract claim for a party to file an action in Missouri courts:

§16.120. What actions within five years.--
Within five years:

(1) All actions upon contracts, obligations or liabilities, express or implied, except those mentioned in section §16.110, except upon judgments or decrees of a court of record, and except where a different time is herein limited;

The Company states that any attempt by the Commission to arbitrarily limit Company's period of recourse against customers who have been undercharged to

twelve billing cycles or one year would violate the statute of limitation period as set out by Missouri statute. The Company also states that to do so would ignore the "open courts" provision of Article I, Section 14 of the Missouri Constitution and as a result would be an act by the Commission in excess of the Commission's administrative powers. Article I, Section 14 of the Missouri Constitution states:

"[t]hat the courts of justice shall be open to every person, and certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale or delay."

The Company states that to adopt Staff's position would deny Company access to Missouri courts to enforce its contractual rights that the substantive law of this state recognizes. For the Commission to adopt a billing adjustment period as suggested by Staff, Company says, would encroach upon the Missouri General Assembly's exclusive right to impose statutes of limitation upon the right to pursue causes of action in Missouri courts.

Staff states that it is unreasonable for the Company to expect the residential customer to pay for underbills for an extended period of time and that a limitation on the period for rebilling an underpayment will be an incentive to the Company to keep underbills to a minimum. Staff believes that twelve consecutive months prior to the discovery, inquiry or actual notification of the Company, whichever was first, is reasonable. Staff wishes to draw a distinction between a billing adjustment tariff provision and a statute of limitations. Staff states that a billing adjustment tariff provision operates backward in time "from the date of discovery, inquiry or actual notification of the Company, whereas a statute of limitation runs forward in time from the accrual of the cause of action." Staff continues, saying that this raises the question of when the cause of action accrues so as to trigger the running of the statute of limitations. In support of its claim Staff refers to DePaul Hospital

v. Southwestern Bell Telephone Company, 539 S.W.2d 542 (Mo. App. 1976). That case involved an action by a nursing school against a telephone company to recover damages with interest for rate overcharges. The Court in that case stated that the key issue is the time of accrual of the cause of action. The Court found that the cause of action was not barred by any statute of limitations because no overcharges could be brought until the Public Service Commission acted on the complaint filed with it and made a determination as to which of two rates applied. Staff states its position, based on its understanding of the case, that the billing adjustment tariff provision at issue herein runs back in time from the date of discovery by the Company, while a statute of limitations runs forward in time from the date the Commission makes a determination that an incorrect charge had in fact been made. Staff's position, simply stated, is that a billing adjustment tariff is not synonymous with a statute of limitations.

The Commission determines that Staff's position, which limits the billing adjustment period for an undercharge to one year prior to the date of discovery of the error, inquiry or actual notification of the Company, whichever occurs first, is correct. The business relationship between a public utility and its customers is rooted in contract. *National Food Stores, Inc. v. Union Electric Co.*, 494 S.W.2d 379, 381 (Mo. App. 1973). The Court stated that an electric power company has "an obligation to provide a patron with adequate and continuous service, arising either from express contract, a regulatory enactment, or implied contract." The Commission in finding for Staff determines that the customer's right to a correctly billed charge is contractual pursuant to tariffs and collections on such charges would be covered by the five-year statute of limitation period as set by the General Assembly. However, an undercharge is an incorrectly billed charge. This instance creates a unique situation that should be the subject matter of regulation. A customer who is incorrectly billed loses the opportunity to curtail the usage of gas should such action become necessary

in order to control the total amount of the monthly bill. The regulated relationship between the company and customer is such that accurate information about the price and total cost is a necessary contractual component. The Commission, therefore, determines that the Staff's billing adjustment proposal addresses this relationship and is an integral provision to the contract between the customer and the company. The regulated company receives a monopoly right; as a result, it may be appropriate for the Commission to require the company to enter into special contractual provisions that delineate and restrict its causes of action. Therefore, the Commission finds that limiting the right of a company to collect on or accrue a cause of action for an undercharge for residential customers is a proper regulatory limitation. This regulation obviously puts a responsibility on the company to eliminate undercharges. In so finding for the Staff, the Commission is not restricting Company from its right to collect for ~~correctly~~ billed charges, or in the case where the undercharge is caused by an act of the customer.

The Commission in so finding herein is not limiting the Company's cause of action in violation of the statute of limitations as set by the General Assembly. The Staff's proposal defines and establishes the Company's cause of action. The Commission determines this to be a proper regulatory function. The Commission differs with Staff, however, as to the date of accrual of the cause of action. The *DePaul Hospital* case referred to by Staff involves an ~~overcharge~~. This case involves the date of accrual of the cause of action of an undercharge to a residential customer. Staff's proposed tariff language sets the date of accrual of the cause of action to be one year prior to the date of discovery of the error, inquiry, or actual notification of the Company, whichever occurs first. From the date of accrual of the cause of action the statute of limitations as set by the General Assembly operates to allow the Company five years forward in which to bring a cause of action in a court to collect. The

(1) All actions upon contracts, obligations or liabilities, express or implied, except those mentioned in section 516.110, except upon judgments or decrees of a court of record, and except where a different time is herein limited;

The Commission has determined that the date when the cause of action shall have accrued for a residential undercharge by a public utility company is the date set out in the Company's billing adjustment period tariff. *DePaul Hospital v. Southwestern Bell Telephone Company*, 539 S.W.2d 542 (Mo. App. 1976), and *Follmer's Market v. Comp. Accounting Service*, 608 S.W.2d 457 (Mo. App. 1980), refer to an action concerning a public utility company's overcharge and is not controlling as to undercharges.

The Commission refers to the following language in *DePaul Hospital School of Nursing*:

It is the clear intent of the public service commission law that utilities shall, without the supervision of their customers, provide adequate service at only the correct rate, and no more. This is a duty imposed by law. It was, we believe, the purpose of the legislature, not that customers be required to employ experts to verify the correctness of rates charged, but rather that they might rely on the telephone company for proper adherence to its approved rate tariffs. Further, the policies behind statutes of limitations, to encourage repose and stability,⁵ would not be frustrated by permitting a consumer who has been overcharged for utility service to recover the full amount of the overcharge.

5. "As numerous cases point out, statutes of limitations promote repose by giving security and stability to human affairs; they stimulate promptness and punish negligence; their object is to suppress fraudulent and stale claims from being asserted after long lapses of time when perhaps the necessary vouchers and evidence are lost, or when the facts have become obscure, or the memory of witnesses defective, or when witnesses may no longer be available either by reason of death or because their whereabouts have become unknown." *Bisesi v. Farm & Home Savings & Loan Ass'n of Missouri*, 231 Mo.App. 897, 78 S.W.2d 871, 873[2]

The Commission determines that Public Counsel's proposal to not increase the disconnect/reconnect fee at all should be disallowed.

Conclusions of Law

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

Company is a public utility company subject to the jurisdiction of the Commission pursuant to Chapters 386 and 393, R.S.Mo. 1986, as amended.

Pursuant to Section 536.060, R.S.Mo. 1986, the Commission may approve a stipulation and agreement concluded between the parties to any issue in a contested case. The Commission has determined that the Stipulation And Agreement with revised Attachment 1 as to issues concerning revenue requirement, rate design, nonrevenue issues and nonrevenue tariff changes is just and reasonable and appropriate and therefore should be approved.

In the case of *National Food Stores, Inc. v. Union Electric Co.*, 494 S.W.2d 379, 381 (Mo. App. 1973), the Court set out the basis of the relationship between a public utility and its customers when it said:

"Generally speaking, an electric power company which undertakes to supply current, although not an insurer of service, has an obligation to provide a patron with adequate and continuous service, arising either from express contract, a regulatory enactment, or implied contract and the supplier is, ordinarily at least, subject to a duty to exercise reasonable care to fulfill such obligation."

The Commission has determined that Section 516.120(1), R.S.Mo. 1986, is the general statute of limitations provision that should be applied to undercharges in residential bills by the Company as established by the Company's tariffs including the tariff setting the billing adjustment period. This statute is as follows:

516.120. What actions within five years.--
Within five years:

Commission in so finding rejects Company's reasoning that a statute of limitation and billing adjustment period are synonymous. The billing adjustment period is found to act as a part of the regulatory contract that establishes and allows for the cause of action. Viewed in this way the billing adjustment period is deemed to have a legal purpose separate and apart from the statute of limitation period as set by the General Assembly.

The Commission, therefore, determines that the Staff's proposal to require a billing adjustment tariff to limit the Company from collecting for an undercharge to a residential customer to a period of one year prior to the date of discovery of the error, inquiry, or actual notification of the Company, whichever occurs first, should be allowed.

Company's position that there be a five-year period for collection on undercharges to residential customers equivalent to the statute of limitation period as set out by Section 516.120(1), R.S.Mo. 1986, is disallowed.

IV. Interest on the Overrecovery of Gas Costs (PGA)

Staff is proposing to add tariff language to the Company's PGA clause which provides that "[i]f there is an over-recovery in the ending balance of the Deferred Gas Cost account that exceeded 5% of total gas costs, the Company shall apply interest at the annual rate of 6% on the over-recovery of gas costs...." Staff states that the reason for this proposal is to provide an incentive for the Company to keep PGA rates as close as possible to the actual cost of gas and not overcollect.

The Company believes that either the present situation, in which there is no interest provision in the PGA, should apply, or that the provision should, in addition to allowing customers interest on overcollections, allow the Company to receive interest on undercollections so that the shareholders are compensated for the use of their funds. Company also believes that the interest rates

Missouri Public Service Commission**Data Request**

Data Request No.	0001
Company Name	Laclede Gas Company-Investor(Gas)
Case/Tracking No.	GC-2006-0318
Date Requested	3/21/2006
Issue	General Information and Miscellaneous - Other General Info & Misc.
Requested From	Mike Pendergast
Requested By	Gay (Carol) Fred
Brief Description	Number of customers billed.
Description	Please provide the number of customers, segmented by residential, small commercial and industrial, billed each month for the years of 2003, 2004, 2005 and January and February of 2006
Due Date	4/10/2006

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GC-2006-0318 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the Laclede Gas Company-Investor(Gas) office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person (s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to Laclede Gas Company-Investor(Gas) and its employees, contractors, agents or others employed by or acting in its behalf.

Security	Public
Rationale	NA

With Proprietary and Highly Confidential Data Requests a Protective Order must be on file.

SCHEDULE 6

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Missouri Public Service Commission**Data Request**

Data Request No.	0002
Company Name	Laclede Gas Company-Investor(Gas)
Case/Tracking No.	GC-2006-0318
Date Requested	3/21/2006
Issue	General Information and Miscellaneous - Other General Info & Misc
Requested From	Mike Pendergast
Requested By	Gay (Carol) Fred
Brief Description	Number of estimated bills.

Description	For each month by residential, small commercial and industrial customers for the years of 2003, 2004, 2005 and January and February of 2006, please provide the number of estimated bills rendered.
Due Date	4/10/2006

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GC-2006-0318 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

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Security	Public
Rationale	NA

With Proprietary and Highly Confidential Data Requests a Protective Order must be on file.

SCHEDULE 7

PAGE 2

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Missouri Public Service Commission**Data Request**

Data Request No.	0004
Company Name	Laclede Gas Company-Investor(Gas)
Case/Tracking No.	GC-2006-0318
Date Requested	3/21/2006
Issue	General Information and Miscellaneous - Other General Info & Misc.
Requested From	Mike Pendergast
Requested By	Gay (Carol) Fred
Brief Description	NA

Description	Please provide the number of billing adjustments by cause for billing adjustment (e.g. catch up bill, PGA adjustment, special meter read, etc.), that were rendered for each month for each customer class for the years of 2003, 2004, 2005 and January and February of 2006.
Due Date	4/10/2006

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GC-2006-0318 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

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Security	Public
Rationale	NA

With Proprietary and Highly Confidential Data Requests a Protective Order must be on file.

SCHEDULE 8

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