

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

In the Matter of Laclede Gas Company's) Purchased Gas Adjustment for 2004-2005)	Case No. GR-2005-0203
)	
In the Matter of Laclede Gas Company's) Purchased Gas Adjustment for 2005-2006)	Case No. GR-2006-0288

PUBLIC COUNSEL'S PROPOSED ORDER

COMES NOW the Office of the Public Counsel and hereby submits the attached Proposed Order Directing Laclede to Produce the Records Requested by Staff. Public Counsel urges the Commission to enforce its prior orders and adopt the attached proposal.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston

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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 14th day of April 2009:

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**PROPOSED ORDER DIRECTING LACLEDE
TO PRODUCE THE RECORDS REQUESTED BY STAFF**

Issue Date:

Effective Date:

On September 28, 2008, the Commission's Staff filed a motion to compel Laclede Gas Company to produce information sought by the Staff in its investigation and prudence review of Laclede's gas purchasing and operating decisions. The Commission's October 20, 2008 *Order Granting Motion to Compel* ordered Laclede to produce the information set out in the Staff's motion. The Commission concluded that the information sought by the Staff appear reasonably calculated to lead to the discovery of admissible evidence and that Staff must have the information it seeks:

Staff seeks information concerning LER, Laclede's affiliate. Many of the concerns set out in Staff's memorandum have to do with LER and how LER acquires natural gas. In its memorandum in Case No. GR-2005-0203, after discussing discretion in sourcing supply, Staff specifically states: "This discretion in sourcing supply could result in gains for LER that should be allocated to Laclede's ACA." Additionally, in Case No. GR-2006-0288, Staff describes in its memorandum a transaction wherein Laclede may have shared the benefit of a sale with LER, thus receiving less than fair market value. Staff has demonstrated that in order to answer these questions, it must have access to the information it seeks. The Commission therefore concludes that the information Staff seeks appears reasonably calculated to lead to the discovery of admissible evidence. The Commission will therefore grant Staff's motion.

On December 17, 2008 the Commission denied Laclede's request for reconsideration of the *Order Granting Motion to Compel*. The *Order Denying Motion for Reconsideration* stated:

Laclede has presented the same arguments available to the Commission when the Commission issued its order of October 20. More particularly, Laclede has expressed concerns about its right to a hearing. Although the Commission will deny Laclede's motion for reconsideration, the Commission assures Laclede that no decision will be made with regard to the above-captioned matters without the benefit of an evidentiary hearing.

On December 29, 2008 Laclede filed a Request for Clarification. The Commission's January 21, 2009 *Order Regarding Request for Clarification* made it clear that if Laclede possessed the information sought by Staff, Laclede was required to produce it:

The Commission has ordered Laclede to produce information about its affiliate according to the rules of discovery not under the Commission's Affiliate Transaction Rule. Although it is true that by granting Staff's motion, Staff is permitted to investigate Laclede's affiliate transactions, such investigation is limited to information that may lead to evidence that is relevant to these ACA cases. To the extent that Laclede is in possession of the information, the Commission clarifies its order compelling Laclede to produce the information requested by Staff.

...

The Commission has directed Laclede to produce the information requested by Staff. Laclede is reminded that under Section 386.570, RSMo 2000, the Commission is allowed to seek penalties against Laclede for failure to comply with a Commission order. To this end, the Commission will again direct Laclede to produce information set out in the *Order Granting Motion to Compel* issued on October 20, 2008.

On March 26, 2009, the parties appeared before the Commission for oral argument regarding the discovery dispute. Laclede's objections raised the same arguments that Laclede made when the Commission issued its original *Order Granting Motion to Compel*. The Commission finds no reason to reverse the three prior orders

directing Laclede to provide the Commission's Staff with the requested information. The information appears reasonably calculated to lead to the discovery of evidence that is relevant to Laclede's gas purchasing and operating decisions. The Commission directs Laclede to provide the requested information no later than April 30, 2009. The Commission further warns Laclede that if it fails to produce the information by April 30, 2009, the Commission will direct its General Counsel to seek penalties in Circuit Court under Sections 386.360 and 386.570, RSMo 2000.

THE COMMISSION ORDERS THAT:

1. Laclede Gas Company's objections to producing the information set out in the Staff's Motion to Compel are denied.
2. Laclede Gas Company shall produce the information set out in the Staff of the Commission's Motion to Compel no later than April 30, 2009.
3. This order shall become effective upon issuance.

BY THE COMMISSION

Colleen M. Dale
Secretary

(SEAL)

Clayton, Chm., Murray, Davis,
Jarrett, and Gunn, CC., concur.

Jones, Senior Regulatory Law Judge