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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
  
TRANSCRIPT OF PROCEEDINGS  
  
Post-Hearing Conference  
  
July 17, 2003  
Jefferson City, Missouri  
Volume 4

In the Matter of the Tariff Filing     ) Case No. GT-2003-0032  
of Laclede Gas Company.                 )

LEWIS MILLS, Presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE.

REPORTED BY:  
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1 P R O C E E D I N G S

2 JUDGE MILLS: We're on the record this  
3 afternoon for a second post-hearing conference in Case  
4 No. GT-2003-0032, which is styled in the matter of the  
5 tariff filing of Laclede Gas Company.

6 Let's begin by taking entries of appearance,  
7 starting on my left with Mr. Franson.

8 MR. FRANSON: Robert Franson, Senior Counsel,  
9 P.O. Box 360, Jefferson City, Missouri, representing the  
10 Staff of the Public Service Commission.

11 JUDGE MILLS: Mr. Zucker.

12 MR. ZUCKER: Rick Zucker, Z-u-c-k-e-r, Laclede  
13 Gas Company, 720 Olive Street, St. Louis, Missouri 63101.  
14 I'm also appearing along with Michael C. Pendergast.

15 JUDGE MILLS: Thank you.

16 MR. WENZEL: Keith Wenzel of the law firm  
17 Hendren & Andrae, 221 Bolivar Street, Jefferson City,  
18 Missouri, representing the Missouri School Boards  
19 Association. And I also have with me Jim Cherrington of the  
20 association.

21 JUDGE MILLS: Thank you. Since there are --  
22 since the first post-hearing conference when we talked about  
23 the possibility of changes from either Senate Bill 636 or  
24 House Bill 208 going into law, the Governor has signed both  
25 of those bills, and the potential changes in the landscape

1 we talked about then are about to in the next month come to  
2 fruition.

3                   So I'm just going to go in the same order of  
4 opening statements and have each of the parties tell me  
5 where they think we are now in terms of what to do next in  
6 this case, starting with you, Mr. Franson.

7                   MR. FRANSON: Thank you, Judge.

8                   Well, there's two bills, Senate Bill No. 686  
9 and House Bill No. 208. My understanding is both have been  
10 signed by Governor Holden. These appear to be identical  
11 provisions, which, of course, was the first question that  
12 occurred to me. Neither one has an emergency clause.  
13 Though both of these bills have emergency clauses for  
14 certain sections, neither one has an emergency clause  
15 applying to the changes in 393.310.

16                  Judge, the way this has changed is everyone  
17 went to hearing in this case under the old law, and it was  
18 all hypothetical what would happen. Well, now it's no  
19 longer hypothetical. Nobody went to hearing advocating the  
20 exact things that we have here in Senate Bill No. 686 and  
21 House Bill 208.

22                  I guess there would -- Staff would suggest  
23 there would be two options. One, would either one of the  
24 tariffs put forth either by the School Board or by Laclede  
25 comply with the new statute? We don't have any evidence to

1 suggest that. The only thing we would have to answer that  
2 would be the questions that you put forward to the parties  
3 during the hearing regarding what was Exhibit No. 9, Senate  
4 Amendment No. 4, which is actually very similar to what was  
5 passed, but it is not identical.

6                   Specifically in one section, that being  
7 Section 5, there were -- there was one provision at the end  
8 there that's certainly not identical. And I believe it was  
9 Mr. Cline's testimony that talked about the difference  
10 between basic transportation and firm transportation.

11                   Judge, Laclede can only have a tariff put into  
12 place by two means. One, they voluntarily file it and get  
13 Commission approval; or two, there's some kind of proceeding  
14 and the Commission orders them to file it.

15                   It may be appropriate to continue this  
16 proceeding and, if necessary, bring in the parties and  
17 possibly reopen the record for proceedings so there's  
18 something to support a tariff that complies fully with the  
19 statute.

20                   Staff certainly has not had the opportunity to  
21 evaluate the current tariffs in light of the new statute,  
22 and certainly Laclede's does not comply, and it's very  
23 doubtful that the School Board's would because they were  
24 both geared toward a different law.

25                   So what we need is a tariff that complies with

1 the new law or some kind of settlement that would lead to  
2 the filing of a tariff that complies with the new law.  
3 Right now we don't have that. And that would conclude my  
4 comments at this point, Judge.

5 JUDGE MILLS: Okay.

6 MR. FRANSON: Unless you have questions.

7 JUDGE MILLS: I do, but I'll go around the  
8 room first. Mr. Zucker.

9 MR. ZUCKER: Judge, the law did change in a  
10 material manner when the Governor signed either of those  
11 bills, and it changed the very issue that we argued this  
12 spring, which is the treatment of pipeline capacity used to  
13 bring the gas into the schools.

14 What that calls for in our view is a new  
15 tariff filing to comply with that changed law. Laclede has  
16 been preparing that tariff filing, and we anticipate --  
17 well, at the last conference we said we would file that  
18 tariff by the end of July such that it was effective by the  
19 operation of law date, August 28th, of the new law. We're  
20 prepared to file it during the first half of next week.

21 The issue that's being raised here previously  
22 the way -- under the old case, the way things were working  
23 is we said that there was a certain amount of capacity we  
24 would make available that we'd reserve for the schools and  
25 the schools must take that capacity.

1                   The new law requires that we treat the schools  
2 like our basic transportation customers. The way they're  
3 treated is they do not have to take -- they do not have to  
4 take our capacity or pay for it, and we don't make it  
5 available to them. So they're on their own to go out and  
6 buy their own pipeline capacity to bring it to our citygate.

7                   That's the way we see this happening now. The  
8 only exception being is that the statute provided for a  
9 possibility of a mutual agreement. So we have been in talks  
10 recently with the schools' representative to try to see if  
11 we can reach a mutual agreement on the amount of pipeline  
12 capacity that we've reserved for them that they're willing  
13 to take.

14                   We had hoped to continue that discussion here.  
15 We had not reached an agreement yet. We hope to continue  
16 that discussion here. I understand that Mr. Ervin is not  
17 going to be on the phone here, but we can reach him  
18 personally after the hearing's concluded.

19                   I think that's all that I prepared to say at  
20 this point.

21                   JUDGE MILLS: Okay. Mr. Wenzel.

22                   MR. WENZEL: Yes, your Honor.

23                   I guess where we find ourselves is we've got a  
24 lot of logistical concerns to get the program under way and  
25 we need to have something in place posthaste.

1 I think at the hearing, to follow up on  
2 Mr. Franson's comments, you did pose questions to all of the  
3 witnesses as to whether or not one or two of the tariffs  
4 would be in compliance with the new law. I think Mr. Ervin  
5 testified that, yes, the one filed by the Missouri School  
6 Boards Association would be in compliance.

7 So we think there is evidence in the record on  
8 which the Commission could approve that rating or that  
9 tariff. I think the evidence is also clear that, and I  
10 think Mr. Zucker's admitted, that Laclede's would not be in  
11 compliance. And I also want to reaffirm with Mr. Zucker,  
12 it's my understanding the parties have been negotiating  
13 trying to arrive at a settlement.

14 But for logistical reasons we have to have  
15 this by July 31st, have something in place so that the  
16 school boards can meet and do all the things that they need  
17 to do to get with the program.

18 MR. ZUCKER: Judge, if I may clarify one  
19 point, just for the record. That is that we don't believe  
20 either of the previous -- either of the tariffs that have  
21 been submitted under the old case comply with the new law.

22 MR. FRANSON: And Judge, if I may. Staff has  
23 not reviewed the school board tariff, or the Laclede tariff  
24 for that matter, with the idea of whether they comply with  
25 the new law. That simply wasn't a possibility and certainly



1 was not an issue.

2                   And Mr. Ervin's comments and testimony at the  
3 hearing were his opinion that it complies with -- all he was  
4 asked about was Exhibit No. 9, which is not absolutely  
5 identical to the laws that have, in fact, been passed.

6                   JUDGE MILLS: Mr. Zucker, have you shared  
7 drafts of the tariff you propose to file next week with the  
8 school boards?

9                   MR. ZUCKER: I think we gave one to them about  
10 ten minutes ago. I brought some with me that are in draft  
11 form. And basically they provide for an agreement to be  
12 made on the capacity, but leave blanks in the spots where  
13 the numbers are to be filled in.

14                   What it comes down to is how much pipeline  
15 capacity they would buy from us in the winter and in the  
16 summer, and so there are two blanks, one for the winter and  
17 one for the summer. And we're trying to reach an agreement  
18 on the numbers to put in those two blanks.

19                   JUDGE MILLS: And those quantities would be  
20 for just the next winter and next summer or --

21                   MR. ZUCKER: I think that, from our  
22 discussions, they would cover the remainder of the program,  
23 which would start November 2003 and go all the way through  
24 the winter and summer of 2004 and then continue through the  
25 winter of 2004, and the program ends June 30th, 2005.

1 JUDGE MILLS: And in the event that you-all  
2 are not able to reach an agreement on those numbers, what  
3 will the tariff look like that you intend to file, or will  
4 you still be filing a tariff next week?

5 MR. ZUCKER: We will file a tariff one way or  
6 the other. If we cannot reach an agreement, our tariff will  
7 effectively say that the schools have no obligation to buy  
8 any of our capacity, we have no obligation to make it  
9 available to them, and so we will then try to do whatever we  
10 can to get value for it, and the schools can then buy  
11 capacity in whatever way they choose.

12 JUDGE MILLS: Refresh my recollection. What  
13 are the two types of transportation that Laclede offers or  
14 that were at issue at the evidentiary hearing?

15 MR. ZUCKER: Well, there's basic  
16 transportation in which -- which we've been talking about.  
17 They don't -- the basic transportation customer does not buy  
18 any of our transportation or does not pay for what we -- our  
19 transportation, and we don't provide any. We don't plan for  
20 that customer's transportation.

21 Then there's something called firm  
22 transportation, which as the name involves they do pay us  
23 approximately 80 percent of our cost, and we hold it for  
24 them in case they want it.

25 JUDGE MILLS: Okay. And both of those terms,

1 basic transportation and firm transportation, are defined in  
2 your tariffs?

3 MR. ZUCKER: Yes.

4 JUDGE MILLS: Does either -- well, I think the  
5 language is the same as I review them. Did either of the  
6 bills passed this session use the phrase basic  
7 transportation or firm transportation?

8 MR. FRANSON: Both use the term basic.

9 MR. ZUCKER: After the hearing we had, that  
10 term was inserted in the later drafts of the legislation.  
11 Originally it was not in. You remember correctly.

12 JUDGE MILLS: Mr. Wenzel, is Mr. Ervin  
13 available this afternoon?

14 MR. WENZEL: I tried to reach him, your Honor,  
15 by cellphone. I have his cellphone number. I could not  
16 reach him. I tried to call his office as well. We could  
17 maybe take a brief recess and I can try his cellphone.

18 JUDGE MILLS: I don't need him for the  
19 on-the-record portion of the hearing. I thought it might be  
20 helpful for him to be present either by phone or --  
21 obviously by phone since he's not here in person, when  
22 you-all go off the record to talk about some of these  
23 issues. If he's not, he's not.

24 Okay. Really, that's -- the main question I  
25 wanted to address is what's going to happen next, and

1 Laclede says they're going to file new tariffs. I assume  
2 that in your filing you'll explicitly withdraw the tariffs  
3 that you have pending. They're illustrative tariffs, but I  
4 assume that you will withdraw those when you make a new  
5 filing?

6 MR. ZUCKER: One way or another, we'll make it  
7 clear that this replaces.

8 JUDGE MILLS: That the new filing replaces the  
9 old filing?

10 MR. ZUCKER: Right. It will replace -- there  
11 is a tariff in effect now. So it will replace the tariff  
12 that was approved last October.

13 JUDGE MILLS: Right. Okay. I think that  
14 answers all the questions that I wanted to get answered on  
15 the record. Does anybody else have anything they want to  
16 bring up while we're still on the record? No?

17 Okay. We're off the record.

18 WHEREUPON, the recorded portion of the  
19 prehearing conference was concluded.

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