

The Staff of the  
Missouri Public Service Commission,  
  
Complainant,  
  
v.  
  
Missouri Gas Energy, an operating unit of  
Laclede Gas Company  
  
Respondent.

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its First Amended Complaint pursuant to Section 386.390 RSMo 2000<sup>1</sup> hereby states:

1. This Complaint concerns the failure to provide affected customers adequate notice of a change in meter reading routes or schedules resulting in a change of a billing cycle of 9 or more days in violation of Commission Rule 4 CSR 240-13.020(6), and/or the proration of certain fixed charges on customer bills covering a billing period in excess of 35 days in violation of Missouri Gas Energy's tariff.

2. The Complainant in this matter is the Staff of the Missouri Public Service Commission, acting through staff counsel pursuant to Commission Rule 4 CSR 240-2.070(1).

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### **Respondent**

3. Respondent Missouri Gas Energy (“MGE”) is an operating unit of Laclede Gas Company (“Laclede”). Laclede is a Missouri general business corporation in good standing, incorporated on March 2, 1857, as Laclede Gas Light Company; its principal office is at 700 Market Street, St. Louis, Missouri 63101, and its registered agent is Ellen Theroff, 700 Market Street, 6<sup>th</sup> Floor, St. Louis, Missouri, 63101. Laclede Gas Company is a wholly-owned subsidiary of Spire, Inc., a publicly-traded Missouri general business corporation in good standing and a public utility holding company. Spire’s principal place of business is also located at 700 Market Street, 6<sup>th</sup> Floor, St. Louis, Missouri 63101.

4. Operating under the fictitious name “Missouri Gas Energy” or “MGE” and using gas plants it owns or controls, Laclede presently provides natural gas to approximately 500,000 customers in northwest, western, and southwestern Missouri.

### **Jurisdiction**

5. By virtue of the activities described in Paragraph 3 and 4 above, Respondent MGE is a “gas corporation” as defined in Section 386.020(18) and a “public utility” as defined in Section 386.020(43). Thus, it is subject to the jurisdiction of the Missouri Public Service Commission and to the provisions of the Public Service Commission Law at Chapters 386 and 393, RSMo.

### **Powers of the Commission**

6. Pursuant to §§ 386.250.1 and 393.140.1, the Commission is charged with the supervision and regulation of public utilities engaged in the retail sale of natural gas service, and the Commission is authorized to promulgate rules for this purpose.

Pursuant to this authority, the Commission has duly promulgated rules governing utility service and billing practices at 4 CSR 240 Chapter 13.

7. Section 386.390.1, authorizes the Commission to hear and determine complaints:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission . . . .

8. Section 386.570.1, provides for a penalty between \$100.00 to \$2,000.00, per offense, for “[a]ny corporation, person or public utility which violates or fails to comply with any provision of the constitution of this state or of this or any other law, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement, or any part or provision thereof, of the commission . . . .”

9. Section 393.140.2 authorizes this Commission to investigate the methods employed in distributing gas and to order “such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas... and those employed in the manufacture and distribution thereof[.]”

#### **Facts Common to All Counts**

10. On July 21, 2015, Laclede filed revised tariffs sheets for its Laclede Gas and MGE operating units with a proposed effective date of September 8, 2015. One

purpose of the revised tariff sheets was to modify certain provisions relating to MGE's billing practices to accommodate the conversion of MGE's customer service and billing system with Laclede's Customer Care & Billing system, which would result in the reduction of the number of MGE's billing cycles from 21 to 18.

11. After becoming aware of the planned change in billing cycles through discussions with MGE, Staff brought to MGE's attention that a change from the Commission rule and tariff language on billing periods would require a variance request by Laclede.

12. MGE submitted to Staff a draft variance on July 24, 2015, which requested specifically a variance to 4 CSR 240-13.015(1)(C), 4 CSR 240-13.020(1), and from section 7.02 of its Sixth Revised Tariff Sheet R-47, a true and accurate copy of which is attached hereto as *Exhibit A* and incorporated herein by reference. To date, MGE has not filed the variance.

13. Because of the reduction of billing cycles, Laclede anticipated that "during this conversion process, a significant number of MGE's customers would receive a bill covering a billing period in excess of 35 days."<sup>2</sup>

14. MGE notified its customers of a potential impact to their bills using a billing insert included in the August 2015 bill, which is attached hereto as *Exhibit B* and incorporated herein by reference. The notice stated:

If your next bill seems a little higher than normal, it may cover a slightly longer period of time than normal. This information is shown on the front of your statement under "MGE Delivery."

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<sup>2</sup> Laclede's Draft Variance, pg. 5

15. On September 25, 2015, in a *Status Report* relating to another matter before the Commission,<sup>3</sup> Laclede indicated that MGE's billing system was successfully converted to Laclede's system, stating:

3. Since that date, the press of other business, along with the preparation required to convert the MGE customer information system onto Laclede's CC&B system has delayed completion of this project.

4. Laclede is pleased to report that *the MGE system was successfully converted over the Labor Day weekend...*

### **Count I**

**MGE changed meter reading routes or schedules that resulted in a change of nine days or more of a billing cycle, without providing adequate notice to the affected customers.**

16. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through fifteen (15), above.

17. September 2015, MGE converted their billing system to the same system utilized by Laclede, reducing the number MGE's billing cycles from 21 to 18, necessarily resulting in a change in meter reading routes or schedules.

18. MGE provided notice to their customers in August 2015, alerting them of the possibility that their next bill might be higher than usual, because it might cover a longer than normal period of time.

19. Commission Rule 4 CSR 240-13.020(6) states:

... If a utility changes a meter reading route or schedule which results in a change of nine (9) days or more of a billing cycle, notice shall be given to the affected customer at least fifteen (15) days prior to the date the customer receives a bill based on the new cycle.

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<sup>3</sup> Case No. GC-2015-0147

20. However, after the initial conversion in September 2015, MGE discovered that numerous customers were missed in the initial conversion. While MGE is unable to calculate the number of accounts not routed to their final routes during the initial conversion, the majority of the reroutes took place after September 2015.<sup>4</sup>

21. MGE provided its customers with notice of possible long bills as a result of its billing system conversion in August 2015. However, because this notice specifically limited the change in billing period to the customers' "next bill," the notice provided in August 2015 was inadequate for any customer that received a "long bill" after the customer's "next bill" issued as a result of a change in meter reading route or schedule resulting in a change of 9 days or more of a billing period. Because MGE did not provide customers that were missed in the initial rerouting with additional notice, MGE failed to provide all of their customers with sufficient notice, as required by Commission Rule 4 CSR 240-13.020(6).

**WHEREFORE**, Staff prays that the Commission will provide statutory notice to Respondent, convene a hearing on Staff's *First Amended Complaint*, and, after hearing, determine that Laclede d/b/a MGE has violated Commission Rules as alleged herein by Staff, and will then authorize its General Counsel to seek appropriate penalties for those violations in Circuit Court; and grant such other and further relief as is just in the circumstances.

### **Count II**

**MGE prorated certain fixed costs on customer bills that covered a billing period in excess of 35 days, in violation of their tariff**

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<sup>4</sup> MGE's Response to Staff DR 0006.1

22. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs one (1) through fifteen (15), above.

23. MGE renders bills to its customers at intervals of approximately one month, in accordance with its cycle billing procedure.

24. MGE's tariff provides for a "Fixed Monthly Charge," also referred to as a "Customer Charge," for each customer class. Those charges as listed in MGE's tariff are:

Residential Gas Service:	\$23.00 <sup>5</sup>
Small General Gas Service:	\$40.74 <sup>6</sup>
Large General Gas Service:	\$115.40 <sup>7</sup>
Large Volume Service	\$904.56 <sup>8</sup>

25. Each customer class has a "Minimum" charge that consists of:

The higher of the above rate for zero consumption plus applicable adjustments and surcharges, *but subject to the Company's proration rule contained in Section 7.02 of the Company's General Terms and Conditions.*<sup>9</sup>

(Emphasis added)

26. The Company's "Proration Rule" referred to in the Minimum Payment provisions states:

For billing periods less than twenty-six days (26), the Customer Charge shall be calculated by dividing the number of days in the customer billing period by thirty (30), multiplied by the applicable Customer Charge.<sup>10</sup>

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<sup>5</sup> MGE's Original Tariff Sheet No. 25

<sup>6</sup> MGE's Original Tariff Sheet No. 28

<sup>7</sup> MGE's Original Tariff Sheet No. 31

<sup>8</sup> MGE's Original Tariff Sheet No. 42

<sup>9</sup> The minimum charge is identical for each listed customer class in MGE's tariff.

<sup>10</sup> MGE's Original Tariff Sheet No. R-47

27. While the Proration Rule provides for the proration of the monthly Customer Charge for billing periods under 26 days, there is no provision within MGE's tariff allowing for proration of the monthly Customer Charge for bills in excess of 35 days.

28. From September 2015 to January 2016<sup>11</sup> MGE issued 67,154 long bills, and each one contained a prorated Customer Charge.<sup>12</sup>

29. Further, by MGE's own account, the Company collected \$626,808.23 more than it would have collected had the Company assessed its Customer Charge as stated in their tariff, during the same period.<sup>13</sup>

30. As of March 21, 2016, MGE had issued 26,273 Customer Charge bill credits, totaling \$132,220.93, for accounts read late in January 2016 due to a meter reading error.<sup>14</sup> However, MGE had not issued any Customer Charge bill credits relating to the \$494,587.30 in prorated Customer Charges issued from September 2015 to January 2016 that were not due to the January meter reading error.

31. In addition to the prorated customer charge, MGE has prorated the Infrastructure System Replacement Surcharge (ISRS) on customer bills covering a billing period in excess of 35 days.

32. Each of the 67,154 long bills issued by MGE from September 2015 to January 2016 containing a prorated monthly Customer Charge also contained a prorated ISRS.<sup>15</sup>

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<sup>11</sup> All information pertaining to the issuance of 'long bills' in this complaint is related to the time period of September 2015 to January 2016. Staff has requested updated information; however, MGE's responses to Staff DRs Nos. 0017-0020 are overdue.

<sup>12</sup> MGE's response to Staff DR 0010

<sup>13</sup> MGE's response to Staff DR 0010

<sup>14</sup> MGE's response to Staff DR 0011

<sup>15</sup> MGE's response to Staff DR 0014



33. From September 2015 to January 2016, MGE collected \$20,602.52 more in ISRS than they would have had the Company assessed their standard ISRS. As of April 19, 2016, MGE had refunded approximately \$5,600 in improperly assessed ISRS charges billed in January 2016.<sup>16</sup>

34. Because MGE inappropriately prorated both the Customer Charge and ISRS on customer bills covering billing periods in excess of 35 days, from September 2015 to January 2016, MGE customers were charged \$509,589.82 in excess of MGE's standard Customer Charge and ISRS. As a result of this overbilling, MGE customers also overpaid some taxes associated with each "long bill."

35. MGE's Second Revised Tariff Sheet No. 13 describes the Company's Tax Adjustment. Under "Method of Billing" it states:

A. Where such charge is levied on the basis of a percentage of gross receipts, a uniform percentage designed to produce that percentage on a net basis to the taxing body will be applied to each customer's bill so affected, and the amount so computed will be added as a separate item to such customer's bill.

36. Because MGE applies a Tax Adjustment to customer bills using a uniform percentage, by improperly prorating the monthly Customer Charge and ISRS on customer bills covering a billing period in excess of 35 days, MGE charged excess taxes to customer bills.

**WHEREFORE**, Staff prays that the Commission will provide statutory notice to Respondent, convene a hearing on Staff's *First Amended Complaint*, and, after hearing, determine that Laclede d/b/a MGE has violated their tariff as alleged herein by Staff, and will then authorize its General Counsel to seek appropriate penalties for those

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<sup>16</sup> MGE's response to Staff DR 0014

violations in Circuit Court; and grant such other and further relief as is just in the circumstances.

Respectfully Submitted,

**/s/ Mark Johnson**

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Senior Counsel  
Missouri Bar No. 64940  
Attorney for the Staff of the  
Missouri Public Service Commission  
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(573) 526-6969  
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**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing were served electronically to all counsel of record this 15<sup>th</sup> day of July, 2016.

**/s/ Mark Johnson**

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

In the Matter of the Verified Application of       )  
Missouri Gas Energy, an operating unit of       )  
Laclede Gas Company, for a Temporary       ) Case No. GO-2015-\_\_\_\_\_  
Variance from Commission Rules 4 CSR       )  
240-13.015 (C) and 13.020 (1) and from       )  
Section 7.02 of its Sixth Revised Tariff       )  
Sheet No. R-47       )

**VERIFIED APPLICATION OF MISSOURI GAS ENERGY,  
AN OPERATING UNIT OF LACLEDE GAS COMPANY, FOR A  
VARIANCE FROM COMMISSION RULES 4 CSR 240-13.015 (1) (C) AND 13.020  
(1) AND FROM SECTION 7.02 OF ITS SIXTH REVISED TARIFF SHEET  
NO. R-47 AND MOTION FOR EXPEDITED TREATMENT**

**COMES NOW** Missouri Gas Energy (“MGE”), an operating unit of Laclede Gas Company (“Company”), and, pursuant to 4 CSR 240-2.060, 2.080, and 3.265 of the Rules of the Missouri Public Service Commission (“Commission”), submits its Verified Application for a Variance from Commission Rules 4 CSR 240-13.015(1) (C) and 13.020 (1) and from Section 7.02 of its Sixth Revised Tariff Sheet No. R-47 and Motion for Expedited Treatment. In support thereof, MGE states as follows:

**I. THE APPLICANT**

1. MGE is an operating unit of Laclede Gas Company, which is duly incorporated under the laws of the State of Missouri and conducts business in its MGE service territory under the fictitious name of Missouri Gas Energy. Laclede’s principal office is located at 700 Market Street, St. Louis, Missouri 63101. MGE’s principal office is located at 3420 Broadway, Kansas City, Missouri 64111. A Certificate of Good Standing evidencing Laclede's standing to do business in Missouri was submitted in Case

No. GF-2013-0085 and is incorporated by reference herein for all purposes. The information in such Certificate is current and correct.

2. In its Missouri Gas Energy service territory, MGE is engaged in the business of distributing and transporting natural gas to approximately 500,000 customers in the western Missouri counties of Andrew, Barry, Barton, Bates, Buchanan, Carroll, Cass, Cedar, Christian, Clay, Clinton, Dade, Dekalb, Greene, Henry, Howard, Jackson, Jasper, Johnson, Lafayette, Lawrence, McDonald, Moniteau, Pettis, Platte, Ray, Saline, Stone, and Vernon.

3. Communications in regard to this Application should be addressed to the persons below:

Rick Zucker  
Associate General Counsel  
Laclede Gas Company  
700 Market Street, 6<sup>th</sup> Floor  
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(314) 342-0533  
rick.zucker@thelacledegroupp.com

Michael R. Noack  
Director, Pricing and Regulatory Affairs  
Missouri Gas Energy  
3420 Broadway  
Kansas City, Missouri 64111  
(816) 360-5560  
Michael.noack@thelacledegroupp.com

4. Other than cases that have been docketed at the Commission, neither MGE nor Laclede has a pending action or final unsatisfied judgment or decision against it from any state or federal agency or court which involve customer service or rates within the past three years of the date of this application.

5. Laclede is current on its annual report and assessment fee obligations to the Commission; no such report or assessment fee is overdue.

## **II. BACKGROUND**

6. On July 21, 2015, the Company filed revised tariff sheets (the “Revised Tariffs”) for its Laclede Gas (“Laclede Gas”) and Missouri Gas Energy (“MGE”) operating units with a proposed effective date of September 8, 2015. One of the purposes of the Revised Tariffs is to modify certain tariff provisions relating to MGE’s billing practices so as to accommodate the replacement of MGE’s much older customer service and billing system with the Company’s relatively new Customer Care & Billing (“CC&B”). The conversion to the Company CC&B system is currently scheduled to be completed on September 8, 2015.

7. As part of the conversion process, MGE’s billing cycles are being reduced from 21 per month to 18 per month to be consistent with the number of billing cycles currently embedded in CC&B and used by Laclede Gas. This modest consolidation of billing cycles will necessarily result in a change in billing periods for some customers, as it did when Laclede Gas switched over to CC&B during the summer of 2013. That, in turn, means that customers would need to receive either: (1) two bills in fairly rapid succession that reflect what was owed from the billing period previously in effect and what is owed by the customer for the new billing period or (1) just one bill that covers both billing periods.

8. Based on its experience with the Laclede Gas conversion, the Company believes that having MGE customers receiving just one bill that covers both billing periods will be far less disruptive to customers, especially those that are living on fixed

incomes, have their utility payments automatically debited from their banking accounts, and/or are on a budget billing plan. As a result, it is anticipated that during this conversion process, a significant number of MGE's customers would receive a bill covering a billing period in excess of 35 days. This conversion process and these exceptions should be completed before the heating season.

### **III. REQUEST FOR VARIANCE**

9. Commission Rule 4 CSR 240-13.020 (1) provides that "A utility shall normally render a bill for each *billing period* to every residential customer in accordance with commission rules and its approved tariff." Commission Rule 4 CSR 240-240-13.015 (1) (C) further defines "billing period" to mean "... a normal usage period of not less than twenty-six (26) nor more than thirty-five (35) days for a monthly billed customer . . . ." Similarly, Section 7.02 of MGE's Sixth Revised Tariff Sheet No R-47 references the normal billing period of 26 to 35 days in the context of prorating customer charges. (See Exhibit 1, which is attached hereto and incorporated herein for all purposes).

10. Because these Rules and tariff provisions are intended to require that a utility "normally" render bills for billing periods of between 26 and 35 days, the Company believes that exceptions to that normal requirement are contemplated and permitted, including instances where a significant number of bills with shortened or extended billing periods have to be issued on a one-time basis to accommodate a system conversion like the one described herein. After discussions with the Commission Staff, however, and out of an abundance of caution, the Company is requesting that the

Commission grant a temporary variance from the rule and tariff provisions identified above to further confirm that this approach for dealing with the issue is acceptable.

11. The Company further proposes that the variance be granted subject to certain conditions. Specifically, the Company proposes that the variance be granted by the Commission on the conditions: (1) that the Company will issue two bills in the event the billing period for any customer exceeds 51 days as a result of the conversion; and (2) that the variance will expire no later than November 1, 2015. Throughout the conversion process and thereafter, the Company will continue to prorate customer charges only where the billing period is less than 26 days or more than 35 days.

12. The Company has discussed this application for a variance with the Commission Staff and the Office of the Public Counsel and has been advised by counsel for both parties that they do not oppose the relief requested or the Company's request to have that relief granted on an expedited basis as set forth below.

13. No other public utility will be affected by the granting of the variance requested herein.

#### **IV. MOTION FOR EXPEDITED TREATMENT**

14. Under the circumstances described above, MGE requests that the Commission approve the variance as soon as reasonably practical but in no event later than August 19, 2015. The Company suggests that there is good cause for granting the variance by that date since it is not opposed by either Staff or OPC; will provide the Company's information technology personnel with sufficient notice of whether their current programming is on track or needs to be revised, and will not be detrimental to any customer or any other party, including any other public utility. The Company submitted

this Application and Motion as soon as reasonably practical after concluding that seeking a variance was an appropriate approach based on its discussions with the Commission Staff.

**WHEREFORE**, for the foregoing reasons, Missouri Gas Energy respectfully requests that the Commission grant a variance from Commission Rules 4 CSR 240-13.015(C) and 13.020 (1) and from Section 7.02 of its Sixth Revised Tariff Sheet No. R-47 consistent with the recommendations and conditions set forth herein and that the Commission grant such variance as soon as reasonably practical but in no event later than August 19, 2015.

Respectfully submitted,

**/s/ Rick E. Zucker**

Rick E. Zucker #49211  
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ATTORNEY FOR LACLEDE GAS COMPANY

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Application and Petition was served on the General Counsel of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel on this \_\_\_\_th day of July, 2015 by hand-delivery, fax, electronic mail or United States mail, postage prepaid.

**/s/ Marcia Spangler**

Marcia Spangler



# Coming Next Month: Your New MGE Energy Statement And How It Impacts You

We're in the process of upgrading technology behind the scenes to better serve you. As a part of this upgrade, you'll notice changes to your MGE energy statement, including easy to read information to help you manage energy use. **Some of these changes could impact your bill payments so please take a few moments to review these important updates:**

- 1 All MGE customers will have a new 10-digit account number. This new account number will appear on bill statements after September 8, 2015. If you pay through your bank or other service, you will want to update this account number with them as soon as possible.
- 2 If your next bill seems a little higher than normal, it may cover a slightly longer period of time than normal. This information is shown on the front of your statement under "MGE Delivery."
- 3 Your due date may change. All due dates are located in the upper right-hand corner of the bill.
- 4 Payments are due by the "Due Date" listed on your bill. Late fees will apply if your bill is not paid on time.

To prepare for the transition to the new customer billing system, **the customer service department will be closed from Thursday, September 3 through Monday, September 7.** As always, we will remain open for natural gas emergencies. If you smell a natural gas odor, leave the building immediately and call 800-582-0000 from another location.



MISSOURI GAS ENERGY



We're here to answer your questions.  
Feel free to call us, 816-756-5252.

Outside the Kansas City area, call 800-582-1234.