

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 12<sup>th</sup> day of July, 2016.

Office of the Public Counsel, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 Laclede Gas Company and )  
 Missouri Gas Energy )  
 )  
 Respondents. )

**File No. GC-2016-0297**

**ORDER REGARDING MOTION TO DISMISS**

Issue Date: July 12, 2016

Effective Date: July 22, 2016

On April 26, 2016<sup>1</sup>, the Office of the Public Counsel filed a complaint against Laclede Gas Company (“Laclede”) and Missouri Gas Energy (“MGE”) (collectively, “Respondents”). The complaint alleges that Respondents are overearning, and asks the Commission to lower Respondents’ rates. Respondents deny the complaint and have filed a motion to dismiss.

Respondents move to dismiss the complaint because the complaint is conclusory. In other words, Respondents argue the complaint alleges an excessive return on equity (“ROE”) but does not plead facts that show how OPC arrived at its conclusion that ROE is excessive.

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<sup>1</sup> Calendar references are to 2016.

Staff concurs with Respondents, stating that OPC has failed to provide adequate support for its complaint. Staff further states that OPC has the burden to prove its complaint and that the Commission should not require Staff to make OPC's case for OPC.

The Commission is to construe complaints liberally, and the technical rules of pleading do not apply here.<sup>2</sup> As long as the complaint presents an issue which falls within the Commission's jurisdiction, the complaint is sufficient.<sup>3</sup> OPC alleges Respondents are overearning, which is an issue that falls within the Commission's jurisdiction.<sup>4</sup> Thus, the Commission will deny the motion to dismiss.

Further, OPC requested the Commission order Staff to investigate Respondents' earnings.<sup>5</sup> Staff objected, stating that OPC should have to make its own case, and that Staff did not have the time or resources to investigate.<sup>6</sup> OPC stated it can alone prosecute its case.<sup>7</sup> While Staff is by no means excused from participating in this case, the Commission will deny OPC's request for Staff to investigate Respondents' earnings.

**THE COMMISSION ORDERS THAT:**

1. The motion to dismiss filed by Laclede Gas Company and Missouri Gas Energy is denied.
2. The Office of Public Counsel's request for the Staff of the Commission to investigate the earnings of Laclede Gas Company and Missouri Gas Energy is denied.

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<sup>2</sup> *State ex. rel. Friendship Village v. PSC*, 907 S.W.2d 339, 345-46 (Mo. App. 1995).

<sup>3</sup> *Id.*

<sup>4</sup> Section 386.390.1 RSMo (2015).

<sup>5</sup> Complaint, p. 10 (filed April 26, 2016).

<sup>6</sup> Staff Response to Complaint, pp. 2-4 (filed May 20, 2016).

<sup>7</sup> OPC Reply to Staff's Response to Respondents' May 31 Pleadings, p. 3 (filed June 17, 2016).

3. This order shall become effective on July 22, 2016.



**BY THE COMMISSION**

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, Kenney,  
Rupp, and Coleman, CC., concur.

Pridgin, Deputy Chief Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS** my hand and seal of the Public Service Commission,  
at Jefferson City, Missouri, this 12<sup>th</sup> day of July 2016.



  
Morris L. Woodruff  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**July 12, 2016**

**File/Case No. GC-2016-0297**

**Missouri Public Service  
Commission**

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**Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).**

*Sincerely,*



**Morris L. Woodruff  
Secretary**

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Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.