BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the PGA Filing for Laclede Gas Company.	)))	Case No. GR-2004-0273

DISSENTING OPINION OF COMMISSIONERS
STEVE GAW AND ROBERT M. CLAYTON III

These Commissioners dissent from the majority opinion which rejects Staff's efforts at holding Laclede to an appropriate standard in gas purchasing practices. The majority opinion endorses Laclede's past decision-making as prudent and fails to penalize the company in its Purchased Gas Adjustment filing, resulting in customers paying higher rates for the utility's imprudent decisions. The Commission should have heeded Staff's recommendations and disallowed a significant pass-through amount to protect consumers.

In recent years, parties have gone before the Legislature and before the Commission confidently proclaiming the PSC Staff's ability to evaluate decisions for prudence. Rather than encouraging that level of Staff review and analysis, the majority, once again, discourages the Staff from pursuing prudence complaints. The facts of this case suggest a need for a thorough investigation into whether a company's gas purchasing prices are prudent. The majority has rejected Staff's efforts on multiple occasions. This rejection will result in less confidence in the PGA process and higher natural gas commodity prices.

Laclede's natural gas needs and supplies can be characterized into base load, swing and combination supplies. The gas purchases involved in this PGA filing were based in part on a study from 1996, which suggested a certain method of gas purchasing for swing supplies of natural gas. The conclusion of that study led Laclede to issue Requests For Proposals (RFPs) for a single method of swing supply gas purchasing. The RFPs returned with proposals for First Of the Month (FOM) gas purchases where prices would be set during a bid week in the month and the price would stay the same until the following month. In fulfilling the contracts, Laclede would pay for both the commodity price of the gas plus demand charges. There are several alternatives to FOM pricing including daily pricing.

Laclede's study was conducted in 1996. Further, apparently Staff was not made aware of the study until later PGA filings. The Staff suggested in its filings and at hearing that as a result of FOM pricing, consumers would be expected to pay over $2 million more in rates than if Laclede had used daily pricing for its swing supply natural gas needs.

First of all, Laclede should be held to a higher standard when using past research to support current decisions. Laclede relied on a flawed procurement study and made its swing supply purchasing decisions based on tradition and the status quo rather than aggressively reviewing market conditions and adjusting accordingly. The case involves the PGA filings from 2003-4 in which demand charges in FOM pricing exceeded what demand charges would have been under daily pricing. For earlier years, Laclede failed to notice that FOM pricing for swing supplies caused higher rates in 1999, 2000 and 2002. If Laclede would have considered issuing RFPs for daily pricing as well as FOM pricing, savings would have resulted from the broad request for proposals offering more purchasing options. Laclede's mistake was not asking the right questions in the planning process, which left no options in making the purchases.

The majority further argues the planning process was prudent because this method of pricing (FOM) had been used for a decade and that Staff took no action contrary to the practice during this time. Further, Staff does not have the burden to prove that rates are "just and reasonable;" Laclede carries that burden. The Commission has, again, sent a message to Staff that it will have to carry the burden when arguing for such a disallowance despite not having access to the necessary information or only receiving it late in the process. If Laclede had acted prudently, it would have made prompt changes in light of market conditions in its plans to protect consumers.

The majority also suggests that FOM pricing allegedly protects against future volatility in prices and that protection may by itself make Laclede's decision prudent. As stated earlier, the best course of action would have been for Laclede to issue multiple RFPs for comparisons of various purchasing methods. However, FOM pricing is not a guaranteed method of purchasing to protect against spikes. If prices during the bid week spike at a high level, the company ends up paying the higher prices for a whole month. In addition, even if daily pricing proves more volatile or expensive than FOM pricing, that calculation disregards a company's ability to use stored gas or other financial instruments to cushion daily gas spikes.

Lastly, the majority relies upon a general assertion of what a reasonable and experienced company would do under the circumstances. According to the majority, Laclede adequately reviewed market conditions like the presence of volatile prices, the presence of storage shortfalls and the relationship between gas costs to cold weather and price volatility. The majority argues that this review process makes the results prudent. However, Laclede failed to be aware of a number of facts and failed to ask a number of questions that should be considered by a reasonable or experienced gas utility. During the hearing, Laclede admitted being unaware of certain percentages involving gas supplies in their use for native load versus off-system sales. Laclede didn't consider the difference in swing supply demand charges when comparing FOM and daily pricing. Laclede wasn't aware of the significance of demand charges within the total price of natural gas supplies. Most importantly, Laclede failed to identify the trends in increasing natural gas prices, including increased demand charges and commodity prices, between 1996 and 2003.

The Commission stands between the consumer and the company; it has been assured in various cases and venues that the Commission will actively protect rate payers when utilities make imprudent decisions. Whether one is discussing prudence in PGA filings or fuel adjustment clauses, parties in the past have confidently asserted Staff's expertise in evaluating prudence and taking responsive action. Once again, the majority dismisses Staff's attempts to highlight imprudent behavior. The result is that Staff will ignore imprudence in PGA cases and utilities will be held to a lower standard leading to higher prices for consumers. The Commission's decision will only discourage Staff from closely scrutinizing the prudence of the companies' gas purchasing decisions at a time of record-high gas prices.

For the foregoing reasons, these Commissioners dissent.

Respectfully Submitted,

Robert M. Clayton III
Commissioner

Steve Gaw
Commissioner

Dated at Jefferson City, Missouri,
On this 18th day of September 2007.