

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

In the Matter of the Application of)	
Laclede Gas Company to Change its)	Case No. GO-2016-0196
Infrastructure System Replacement)	Tariff Filing No. YO-2016-0193
Surcharge in its Laclede Gas Service)	
Territory.)	

In the Matter of the Application of)	
Laclede Gas Company to Change its)	Case No. GO-2016-0197
Infrastructure System Replacement)	Tariff Filing No. YO-2016-0194
Surcharge in its Missouri Gas Energy)	
Service Territory.)	

**REPLY TO LACEDE’S SUGGESTIONS IN SUPPORT
OF OFFER TO ADMIT EXHIBIT 14 INTO EVIDENCE**

COMES NOW the Office of the Public Counsel (“OPC”) and for its Reply to Laclede Gas Company’s Suggestions in Support of Objection to Exhibit 14, states:

1. On April 29, 2016, Laclede Gas Company (“Laclede”) filed its Suggestions in Support of Offer to Admit Exhibit 14 into Evidence (“Suggestions”). Laclede’s Suggestions attempt to cure Laclede’s inability to verify the authenticity of Exhibit 14 with any live witness. Laclede’s Suggestions do not provide any basis to conclude Exhibit 14 has been properly authenticated. OPC’s objection to Exhibit 14 should be sustained.

2. Laclede’s Suggestions demonstrates it is confusing three separate OPC objections. First, OPC objected when Laclede offered for the admission of Exhibit 13 into evidence. At that time OPC also committed to submit a follow-up to the

Commission should OPC wish to pursue the objection.¹ OPC followed-up and withdrew the objection to Exhibit 13 because it was authenticated by Staff witness Mr. Brian Wells and not due to any independent review of whether Exhibit 13 is a document previously sent to OPC. Exhibit 13 is a document containing thousands of data points. Any attempt to independently verify it was previously sent to OPC would be time-consuming and a poor use of resources given Mr. Well's testimony subsequently authenticating Exhibit 13.

3. OPC's second objection relevant to this issue occurred when OPC noted Laclede's counsel was asserting facts not in evidence when counsel handed OPC's witness Exhibit 14 and stated, "I'm going to show you the same document that was sent to you on March 9."² The question presupposes the document was sent to OPC, a fact not in evidence. This dispute was resolved when Laclede's counsel rephrased his questioning without presupposing a fact not in evidence.

4. Laclede's confusion with regard to OPC's commitments came about when it first presented the document that would later be marked as Exhibit 14 to OPC's witness during the hearing. Many, including the regulatory law judge and OPC, did not know what the document was³ as it was not identified or marked. Accordingly, OPC counsel's statement "we have committed to follow up" was in reference to OPC's prior commitment to follow-up regarding Exhibit 13. OPC's commitment to follow up regarding Exhibit 13 was satisfied when OPC withdrew its objection to said exhibit.

5. The basis of OPC's objection to Exhibit 14 is that it lacks proper foundation because it was not properly authenticated. Laclede attempted to authenticate

¹ Transcript (Tr.), p. 109.

² Tr. pp. 175-176.

³ Tr. p. 176.

Exhibit 14 but failed to elicit any testimony from any witness in order to do so. Laclede's Suggestions do not cure that defect. OPC witness Mr. Charles Hyneman's testimony indicates he was not at all familiar with Exhibit 14 regardless of any e-mail to OPC.⁴

6 OPC's understanding of the exhibits, objections, and its own commitments is consistent with that of the regulatory law judge who, at the end of the hearing, clearly differentiated the objections and necessary follow-up for Exhibits 13 and 14.⁵

7. Laclede's last-minute attempt to have Exhibit 14 admitted into the record highlights a major flaw in Laclede's petition and its lack of supporting documentation to substantiate the January and February update costs. Laclede had no intention of ever providing the Commission with supporting documentation for these costs. The January and February supporting documentation were not filed with the petition as required by law, and Laclede's *first* attempt to submit the supporting documentation to the Commission did not occur until the evidentiary hearing almost *three months* after Laclede filed the petitions. Allowing Laclede to supplement its case at this late hour with documents required to be filed with the petition is unlawful and prejudicial.⁶

8. Barring the legal matter, Exhibit 14 would only show the absurdity of the Laclede/Staff practice of dumping tens of millions of costs into the ISRS thirty-seven days into a sixty-day audit and only a few weeks before the audit results are due. It became very clear during the hearing these costs receive practically no audit from the Staff.⁷ Even if OPC had received Exhibit 14 in a timely fashion, that would not have left OPC with sufficient time to study the exhibit and issue data requests for work orders or

⁴ Tr. pp. 167-168.

⁵ Tr. pp. 215-216.

⁶ Section 393.1015.1(1) RSMo and 4 CSR 240-3.265(20)(K) and (L).

other source documents as well as to receive those document in time to analyze the documents and issue any follow-up data requests before the Staff's audit report was due. OPC could not have provided a meaningful review in the time provided by Laclede.⁸ There is too much data involved to do a proper audit of the January and February updates. The Commission recognized this concern when it promulgated the ISRS rules and concluded the sixty-day audit afforded by the ISRS statutes is not sufficient if the supporting documentation is not filed with the ISRS petition.⁹ Laclede's March 9 submission is precisely the type of problem the Commission identified when determining what documents are required to be filed with the petitions. The Laclede/Staff agreement on updates should be deemed unlawful and unreasonable and OPC's objection to Exhibit 14 sustained.

⁷ Tr. pp. 83-100.

⁸ It should be noted that OPC's counsel and witness were heavily involved with settlement discussion and hearing preparation in the Missouri American Water Company rate case from March 10-18, 2016, and the evidentiary hearing from March 21-25, 2016. Review of the tens of millions of dollars in additional ISRS updates could not have occurred in the timeframe afforded by Laclede's late submission.

⁹ The Commission stated, "The rule does ask for a significant amount of information, all of this information is either directly required for the ISRS petition review itself or for the prudence reviews that are specifically authorized by the statutes. The statutory timeframes for Staff and OPC analysis of the petitions and developing recommendations and the Commission's issuance of an Order require the level of detail outlined in this rule. The statute does not permit sufficient time to allow for a thorough review of the petition, development of data requests, a twenty (20) day turn around on responses, analysis of these initial data requests responses, a potential second round of data requests, another twenty (20) day turn around on responses, a staff recommendation, testimony rounds, hearings and a Commission decision. The data requirements outlined in the rule will significantly simplify this process by notifying the natural gas utility what information will be required in the petition when it is filed." *Final Order of Rulemaking*, Case No. GX-2004-0090, February 24, 2004, p. 11 (emphasis added).

WHEREFORE, the Office of the Public Counsel offers this reply to Laclede's Suggestions and urges the Commission to sustain OPC's objection because Exhibit 14 has not been authenticated and proper foundation has not been laid for admission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all counsel of record this 2nd day of May 2016:

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