



FILED

JUN 30 2016

Missouri Public Service Commission
(Date File Stamp)

3:10pm MA

Missouri Public Service Commission

Judge or Division:	Appellate Number:	
Appellant: The Office of the Public Counsel		Missouri Public Service Commission File Number: GO-2016-0196 and GO-2016-0197
vs.		
Respondent: The Missouri Public Service Commission		

Notice of Appeal

Notice is given that The Office of the Public Counsel appeals to the Missouri Court of Appeals Western Eastern Southern District.

June 30, 2016
Date Notice of Appeal
(to be filled in by Secretary of Commission)

Filed Signature of Attorney or Appellant

The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. The appellant(s) must file the original and (2) two copies and pay the docket fee required by court rule to the Secretary of the Commission within the time specified by law. Please make checks or money orders payable to the Missouri Court of Appeals. At the same time, Appellant must serve a copy of the Notice of Appeal on attorneys of record of all parties other than appellant(s), and on all parties not represented by an attorney.

CASE INFORMATION

Appellant Attorney / Bar Number: Marc Poston Mo Bar #45722	Respondent's Attorney / Bar Number: Shelley Brueggemann, MO Bar #52173	
Address: 200 Madison Street, Suite 650 PO Box 2230 Jefferson City, MO 65102	Address: 200 Madison Street, Suite 800 PO Box 360 Jefferson City, MO 65102	
Telephone: 573-751-4857 Fax: 573-751-5562	Telephone: 573-751-7393 Fax: 573-522-4016	
Date of Commission Decision: Issued: May 19, 2016 Effective: May 31, 2016	Date of Application for Rehearing Filed: 05/26/16	Date Application for Rehearing Ruled On: June 1, 2016

DIRECTIONS TO COMMISSION

A copy of the notice of appeal and the docket fee shall be mailed to the clerk of the appellate court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.

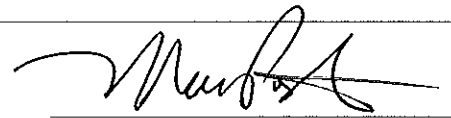
Certificate of Service

I certify that on June 30, 2016, I served a copy of the notice of appeal on the following parties, at the following address(es), by the method of service indicated.

Rick Zucker -- U.S. Mail Service
Laclede Gas Company
700 Market Street, 6th Floor
St. Louis MO 63101

Jeffrey A. Keevil -- Hand delivered
Missouri Public Service Commission Staff
P.O. Box 360
Jefferson City, MO 65102

Shelly Brueggemann - Hand delivered
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102



Appellant or Attorney for Appellant

FORM 1. CIVIL CASE INFORMATION FORM SUPPLEMENT

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

No. WD _____

Office of the Public Counsel,
Petitioner/Appellant

Marc Poston, Bar Number 45722
P.O. Box 2230
Jefferson City, MO 65102

vs.

Missouri Public Service Commission
Defendant/Respondent

Shelly Brueggemann, Bar Number 52173
P.O. Box 360
Jefferson City, MO 65102

Date Notice filed with the Public Service Commission June 30, 2016

The Record on Appeal will consist of a Legal File Only. (This will include records filed pursuant to Rules 81.13 and 81.16)

FACTUAL BACKGROUND: (Events Giving Rise to Cause of Action)

Judicial Review of the Missouri Public Service Commission's May 19, 2016 Report and Order issued in Case No. GO-2016-0196, *In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Laclede Gas Service Territory*, and Case No. GO-2016-0197, *In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory*.

ISSUE:

The Office of the Public Counsel (OPC) challenges the lawfulness and reasonableness of the Public Service Commission's findings and conclusions issued in its May 19, 2016 Report and Order.

STATEMENT OF THE ISSUES

(As required by § 386.510 RSMo)

Appellant Public Counsel will raise the following issues on appeal:

1. The Office of the Public Counsel (OPC) challenges the lawfulness and reasonableness of the Public Service Commission's May 19, 2016 Report and Order. Specifically, OPC raises the following issues:
 - The Order unlawfully and unreasonably authorized Laclede Gas Company and Missouri Gas Energy (MGE) to increase their respective Infrastructure System Replacement Surcharges (ISRS) in violation of Mo. Rev. Stat. §§ 393.1009, 393.1012, and 393.1015(Cum. Supp. 2013).
 - The Order unlawfully and unreasonably authorized Laclede and MGE to increase their respective ISRS without the supporting documentation required by Mo. Rev. Stat. § 393.1015 and Mo. Code Regs. Ann. tit. 4, § 240-3.265(20) (2011).
 - The Order unlawfully and unreasonably authorized Laclede and MGE to increase their respective ISRS without competent and substantial evidence.
 - The Order unlawfully and unreasonably violated Mo. Rev. Stat. § 386.710 (Cum. Supp. 2013), which establishes the OPC's statutory right and obligation to represent ratepayers.
 - The Order unlawfully and unreasonably violates Article 1, Section 10, of the Missouri Constitution because the order violates OPC's right to due process.
 - The Report and Order is unreasonable when it concludes without any citation to the record or any other source that the purpose of the ISRS statutes is "to incentivize capital investments in safety upgrades."
 - The Report and Order is unreasonable because it incorrectly states, "No evidence was presented that any project included in either Laclede's Petition or MGE's Petition was not ISRS eligible." This conclusion also unlawfully applies an improper burden of proof under Mo. Rev. Stat. § 393.150.2 in that Laclede has the burden of proving its costs are eligible.

LIST OF PARTIES TO THE COMMISSION PROCEEDING

(As required by § 386.510 RSMo)

The following parties participated in Public Service Commission Case Numbers GO-2016-0196 and GO-2016-0197:

<p>Laclede Gas Company:</p> <p>Rick Zucker, MBN 49211 700 Market Street, 6th Floor St. Louis MO 63101 Telephone: (314) 342-0533 Facsimile: (314) 421-1979 rick.zucker@thelacledegroupp.com</p> <p>Attorney for Laclede Gas Company and Missouri Gas Energy</p>	<p>Office of the Public Counsel:</p> <p>Marc D. Poston, MBN 45722 Chief Deputy Public Counsel P. O. Box 2230 Jefferson City MO 65102 Telephone: (573) 751-5558 Fax: (573) 751-5562 marc.poston@ded.mo.gov</p> <p>Attorney for the Office of the Public Counsel</p>
<p>Public Service Commission Staff:</p> <p>Jeffrey A. Keevil, MBN 33825 Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102 Telephone: (573) 526-4887 Fax: (573) 751-9285 jeff.keevil@psc.mo.gov</p> <p>Attorney for the Staff of the Missouri Public Service Commission.</p>	

**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.)	

APPLICATION FOR REHEARING

COMES NOW the Office of the Public Counsel ("OPC") and for its Application for Rehearing of the Public Service Commission's ("Commission") May 19, 2016 Report and Order states as follows:

1. On May 19, 2016, the Commission issued its Report and Order in Case Nos. GO-2016-0196 and GO-2016-0197 to resolve a contested issue regarding Laclede Gas Company's ("Laclede") requests to increase its Infrastructure System Replacement Surcharges ("ISRS") under Sections 393.1009, 393.1012 and 393.1015 RSMo for its Laclede Gas and Missouri Gas Energy operating divisions.

2. The Commission's Report and Order authorizes Laclede to increase its ISRS rates by amounts that include infrastructure costs incurred before and after Laclede filed its petitions. For the reasons explained below, the Commission's Report and Order is unlawful and unreasonable and should be reheard under the authority granted the Commission by Section 386.500 RSMo.

3. The Report and Order is unlawful under Sections 393.1009, 393.1012 and 393.1015 RSMo, and Commission rule 4 CSR 240-3.265 because it authorizes Laclede to include costs in its ISRS not incurred and/or not properly supported with documentation when Laclede filed its ISRS petitions.

4. The Report and Order is also unlawful under Section 386.710 RSMo, Section 393.1015 RSMo, and Article 1, Section 10, of the Missouri Constitution because the order violates OPC's right and obligation to represent the public and violates OPC's and the public's right to due process.

5. The Report and Order is unreasonable because certain fact findings are not based on competent and substantial evidence and the findings are arbitrary, capricious, and constitute an abuse of the Commission's discretion: (1) The evidence does not support the finding that Laclede provided Staff with sample work orders for costs sought to be included in the ISRS petitions. The evidence shows Laclede provided only work authorization "face sheets" and not the actual work orders - a very important distinction. (2) The evidence also does not support the finding that prudence reviews "typically" occur during a general rate case. The evidence shows the Staff and the Commission do not review for ISRS-eligibility in rate cases. (3) The evidence does not support the Commission's finding that Staff had sufficient time to perform an effective ISRS audit. Instead, the evidence shows Staff testifying repeatedly that it did not have sufficient time to perform an effective ISRS audit. (4) Lastly, there is insufficient evidence in the record to support the costs that were not documented until after the petition was filed.

6. The Report and Order is also unlawful and unreasonable when it concludes without any citation to the record or any other source that the purpose of the ISRS statutes is “to incentivize capital investments in safety upgrades.”

7. The Report and Order is unlawful and unreasonable because it incorrectly states, “No evidence was presented that any project included in either Laclede’s Petition or MGE’s Petition was not ISRS eligible.” The evidence before the Commission shows Work Order No. 900446 is not ISRS-eligible because the work order authorization sheet does not provide any evidence showing the project is ISRS-eligible other than the fact that a pipe was replaced. This conclusion also unlawfully applies an improper burden of proof under Section 393.150.2 RSMo in that Laclede has the burden of proving its costs are eligible and Laclede did not provide sufficient evidence to support this project as eligible.

WHEREFORE the OPC respectfully requests rehearing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston
Marc D. Poston (#45722)
Chief Deputy Counsel
PO Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 26th day of May 2016.

Kevin Thompson
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Kevin.Thompson@psc.mo.gov

Department Staff Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Laclede Gas Company
Rick E Zucker
700 Market Street, 6th Floor
St. Louis, MO 63101
rick.zucker@thelacledegroup.com

/s/ Marc Poston

**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 Nos. YG-2016-0193
Surcharge in its Laclede Gas Service)	YG-2016-0328
Territory)	

RECONCILIATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through undersigned counsel, and respectfully states as follows:

1. In the Commission's June 27, 2016, Order issued in this case, the Commission directed Staff to file a reconciliation no later than June 28, 2016, that contains the dollar value and rate or charge impact for the January and February 2016 projects approved by the Commission in the Infrastructure System Replacement Surcharge.

2. Staff is therefore filing the attached reconciliation, which has been prepared in compliance with the order issued on June 27, 2016. Staff's auditors prepared **Attachment A**, which states the revenue requirement. Staff's procurement analysis unit prepared **Attachment B**, which shows the rate design impact for the pro forma Infrastructure System Replacements included for January and February 2016.

WHEREFORE, Staff respectfully requests the Commission accept the attached reconciliation.

Respectfully submitted,

/s/ Marcella L. Mueth

Marcella L. Mueth
Assistant Staff Counsel
Missouri Bar No. 66098
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9265 (Fax)
Marcella.Mueth@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 28th day of June, 2016.

/s/ Marcella L. Mueth

Laclede Gas Company
 ISRS Case No. GO-2016-0196
 Reconciliation of Contested Issues

	<u>Staff</u>	<u>Laclede</u>	<u>OPC</u>
Total Revenue Requirement	5,389,900	5,389,900	5,389,900 ¹
<i>Value of Contested Issues:</i>			
True-Up (January and February Data)	-	-	(1,472,634)
Revenue Requirement less Contested Issues	<u>5,389,900</u>	<u>5,389,900</u>	<u>3,917,266</u>

¹ OPC has not indicated opposition to Staff's recommended revenue requirement other than the listed contested issue.

LACLEDE GAS COMPANY
ISRS RATE DESIGN

CASE NO. GO-2016-0196

TARIFF NO. YG-2016-0193

Staff's Total ISRS Rev Req **\$1,472,634**

Customer Rate	Number of Customers	Customer Charge	Ratio To Residential Customer Charge	Weighted Customer Nos.	Customer Percentage	Proposed ISRS Charge	Proposed ISRS Revenues
Residential	606,244	\$19.50	1.0000	606,244	87.92%	\$0.18	\$1,294,784
Com & Ind. Class 1	30,943	\$25.50	1.3077	40,464	5.87%	\$0.23	\$86,421
Com & Ind. Class 2	8,961	\$44.29	2.2713	20,353	2.95%	\$0.40	\$43,469
Com & Ind. Class 3	600	\$88.57	4.5421	2,725	0.40%	\$0.81	\$5,820
Large Volume	72	\$874.78	44.8605	3,230	0.47%	\$7.98	\$6,898
Interruptible	18	\$776.36	39.8133	717	0.10%	\$7.09	\$1,531
Transportation	148	\$2,069.94	106.1508	15,710	2.28%	\$18.89	\$33,553
Transportation - Other	0	\$1,707.94	87.5867	0	0.00%	\$0.00	\$0
Gas Light	87	\$5.69	0.2918	25	0.00%	\$0.05	\$54
Vehicular Fuel	9	\$22.09	1.1328	10	0.00%	\$0.20	\$22
Liquid Propane	44	\$17.00	0.8718	38	0.01%	\$0.16	\$82
	647,126			689,517	100.00%		\$1,472,634

THESE ARE NOT RATES / RATHER THEY ARE ADJUSTMENTS TO RATES
Impact from January 2016 and February 2016

Attachment B

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF BRIAN WELLS

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

COMES NOW BRIAN WELLS and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Reconciliation, Attachment A*; and that the same is true and correct according to his best knowledge and belief.

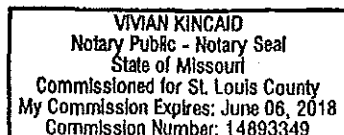
Further the Affiant sayeth not.

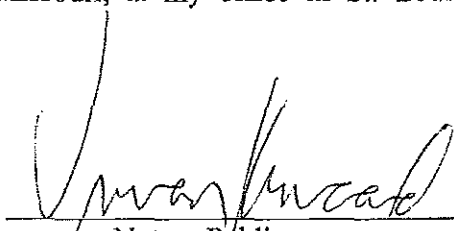


BRIAN WELLS

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the City of St. Louis, State of Missouri, at my office in St. Louis, on this 28th day of June, 2016.





Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

AFFIDAVIT OF MICHAEL J. ENSRUD

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

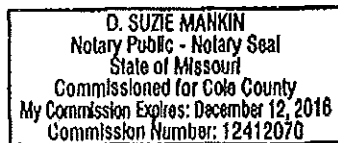
COMES NOW MICHAEL J. ENSRUD and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Reconciliation, Attachment B*; and that the same is true and correct according to his best knowledge and belief.

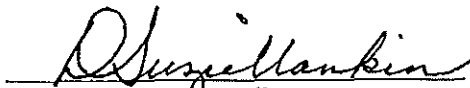
Further the Affiant sayeth not.


MICHAEL J. ENSRUD

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28th day of June, 2016.




Notary Public

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

In the Matter of the Application of)	
Laclede Gas Company to Change its)	<u>Case No. GO-2016-0197</u>
Infrastructure System Replacement)	Tariff Filing Nos. YG-2016-0194
Surcharge in its Missouri Gas Energy)	YG-2016-0327
Service Territory.)	

RECONCILIATION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through undersigned counsel, and respectfully states as follows:

1. In the Commission's June 27, 2016, Order issued in this case, the Commission directed Staff to file a reconciliation no later than June 28, 2016, that contains the dollar value and rate or charge impact for the January and February 2016 projects approved by the Commission in the Infrastructure System Replacement Surcharge.

2. Staff is therefore filing the attached reconciliation, which has been prepared in compliance with the order issued on June 27, 2016. Staff's auditors prepared **Attachment A**, which states the revenue requirement. Staff's procurement analysis unit prepared **Attachment B**, which shows the rate design impact for the pro forma Infrastructure System Replacements included for January and February 2016.

WHEREFORE, Staff respectfully requests the Commission accept the attached reconciliation.

Respectfully submitted,

/s/ Marcella L. Mueth

Marcella L. Mueth
Assistant Staff Counsel
Missouri Bar No. 66098
Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-4140 (Telephone)
(573) 751-9265 (Fax)
Marcella.Mueth@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing were mailed, electronically mailed, or hand-delivered to all counsel of record this 28th day of June, 2016.

/s/ Marcella L. Mueth

Missouri Gas Energy
 ISRS Case No. GO-2016-0197
 Reconciliation of Contested Issues

	Staff	MGE	OPC
Total Revenue Requirement	3,570,050	3,570,050	3,570,050 ¹
<i>Value of Contested Issues:</i>			
True-Up (January and February Data)	-	-	(1,237,278)
Revenue Requirement less Contested Issues	<u>3,570,050</u>	<u>3,570,050</u>	<u>2,332,772</u>

¹ OPC has not indicated opposition to Staff's recommended revenue requirement other than the listed contested issue.

Missouri Gas Energy (MGE)
 ISRS Rate Design
 Total ISRS Revenues

CASE NO. GO-2016-0197 REVISED

TARIFF NO. YG-2016-0194

Total Revenue Requirement \$ 1,237,278

Customer Rate Class	Number of Customers	Customer Charge	Ratio to Residential Customer Charge	Weighted Customer Nos.	Customer Percentage	Proposed ISRS Charge	Proposed ISRS Revenues
Residential	441101	\$ 23.00	1	441101	78.1045%	\$ 0.18	\$ 966,370
Small General Service	60339	\$ 34.00	1.478261	89196.78261	15.7938%	\$ 0.27	\$ 195,414
Large General Service	3082	\$ 115.40	5.017391	15463.6	2.7381%	\$ 0.92	\$ 33,878
Large Volume	483	\$ 904.56	39.328696	18995.76	3.3635%	\$ 7.18	\$ 41,616
	<u>505,005</u>			<u>564757.1426</u>			<u>\$ 1,237,278</u>

THESE ARE NOT RATES / RATHER THEY ARE ADJUSTMENTS TO RATES
 Impact from January 2016 and February 2016

Attachment B

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

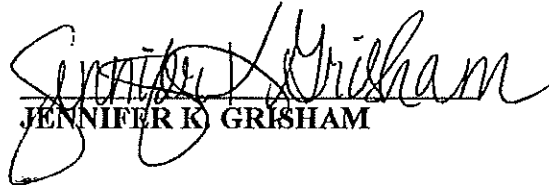
In the Matter of the Application of Laclede)
Gas Company to Change its Infrastructure) Case No. GO-2016-0197
System Replacement Surcharge in its)
Missouri Gas Energy Service Territory)

AFFIDAVIT OF JENNIFER K. GRISHAM

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

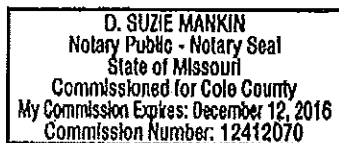
COMES NOW JENNIFER K. GRISHAM and on her oath declares that she is of sound mind and lawful age; that she contributed to the foregoing *Staff Reconciliation, Attachment A*; and that the same is true and correct according to her best knowledge and belief.

Further the Affiant sayeth not.


JENNIFER K. GRISHAM

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28th day of June, 2016.




Notary Public

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

AFFIDAVIT OF MICHAEL J. ENSRUD

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

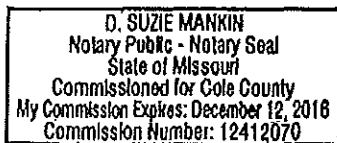
COMES NOW MICHAEL J. ENSRUD and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Staff Reconciliation, Attachment B*; and that the same is true and correct according to his best knowledge and belief.

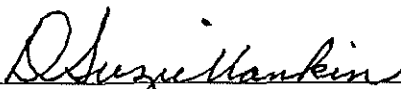
Further the Affiant sayeth not.


MICHAEL J. ENSRUD

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28th day of June, 2016.




Notary Public