

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 26<sup>th</sup> day of April, 2017.

In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory	)	
	)	<b><u>File No. GO-2017-0201</u></b>
	)	Tariff No. YG-2017-0157
	)	

In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Laclede Gas Service Territory.	)	
	)	<b><u>File No. GO-2017-0202</u></b>
	)	Tariff No. YG-2017-0156
	)	

**ORDER APPROVING UNANIMOUS STIPULATION AND AGREEMENT**

Issue Date: April 26, 2017

Effective Date: May 6, 2017

On April 18, 2017, Laclede Gas Company, on behalf of its operating units Laclede Gas and Missouri Gas Energy, the Staff of the Commission (Staff), and the Office of the Public Counsel (Public Counsel) filed a unanimous stipulation and agreement resolving all issues regarding Laclede Gas Company's requests to change its infrastructure system replacement surcharges (ISRS).

The stipulation and agreement states that Laclede Gas Company's most recent ISRS proceedings, GO-2016-0332 and GO-2016-0333, concluded with a Report and Order denying Public Counsel's issue regarding ISRS eligibility of the plastic portion of certain main and service line replacements. The parties also state that those cases, and specifically the plastic pipe issues, are now under appeal at the Missouri Court of Appeals for the Western District, Case No. WD80544. The parties also state that the court will conclusively resolve this plastic pipe issue. Therefore, the parties have

unanimously agreed to recommend that the Commission approve the ISRS changes pending the outcome of the appeal and to apply a final court ruling, as needed, to the current case.

The parties agree that if the courts do not reverse the Commission's earlier Report and Order in Case Nos. GO-2016-0332 and GO-2016-0333, on the grounds that the Commission's decision on the plastic pipe issue is unlawful or unreasonable, then no adjustment will be made to the plant amounts included in the ISRS change in this case. However, if the courts make a final decision reversing the Commission's Report and Order on the grounds that the decision on the plastic issue was unlawful or unreasonable, then the court decision will be applied to the current case in the same manner as it is applied in Case Nos. GO-2016-0332 and GO-2016-0333. Thus, if reversed due to the plastic pipe issue determination being unlawful or unreasonable, any of the parties may request that the Commission determine the amount of a refund and none of the other parties will object. If the case is reversed for some other reason, Public Counsel may request a refund, but the other parties maintain their right to contest the methodology or amount of the refund. The parties additionally note that the ISRS investments remain subject to a review for prudence in the pending Laclede and Missouri Gas Energy rate cases, Case Nos. GR-2017-0215 and GR-2017-0216. Further, if the court reverses the Commission's decision, Laclede Gas Company and Missouri Gas Energy agree to make available work order or other information in their possession necessary to make a determination of the amount of plastic pipe that was replaced.

After reviewing the stipulation and agreement, the Commission independently finds and concludes that the stipulation and agreement is a reasonable resolution of the issues in this case and allow for the best use of Commission and party resources. Thus, the Commission determines that the Unanimous Stipulation and Agreement should be approved and the rates that the Staff recommended in its April 4 Recommendations in the current cases should be approved.

**THE COMMISSION ORDERS THAT:**

1. The Unanimous Stipulation and Agreement filed on April 18, 2017, is approved as a resolution of all issues in the current cases. The signatory parties are ordered to comply with the terms of the stipulation and agreement. A copy of the stipulation and agreement is attached to this order and incorporated by reference.

2. The tariff sheet filed by Missouri Gas Energy on February 3, 2017 (Tariff No. YG-2017-0157), P.S.C. MO No. 6, Eighth Revised Sheet No. 10 cancelling P.S.C. MO. No. 6, Seventh Revised Sheet No. 10 is rejected.

3. The tariff sheet filed by Laclede Gas Company on February 3, 2017 (Tariff No. YG-2017-0156), P.S.C. MO No. 5 Consolidated, Twenty-Eighth Revised Sheet No. 12 cancelling P.S.C. MO. No. 5 Consolidated, Twenty-Seventh Revised Sheet No. 12 is rejected.

4. Missouri Gas Energy is authorized to file tariff sheets in compliance with this order which include ISRS surcharge revenues in the incremental pre-tax revenue amount of \$3,000,749, with a total current and cumulative ISRS surcharge of \$16,440,470.

5. Missouri Gas Energy is authorized to file tariff sheets with an ISRS rate for each customer class as reflected in Appendix B of the Staff Recommendation filed on April 4, 2017, in Case No. GO-2017-0201, which generates \$16,440,470 annually.

6. Laclede Gas Company is authorized to file tariff sheets in compliance with this order which include ISRS surcharge revenues in the incremental pre-tax revenue amount of \$3,044,481, with a total current and cumulative ISRS surcharge of \$32,571,375.

7. Laclede Gas Company is authorized to file tariff sheets with an ISRS rate for each customer class as reflected in Appendix B of the Staff Recommendation filed on April 4, 2017, in Case No. GO-2017-0202, which generates \$32,571,375 annually.

8. The authorized tariff filings shall bear an effective date no earlier than June 1, 2017.

9. The procedural schedule previously ordered is canceled.

10. This order shall become effective on May 6, 2017.

**BY THE COMMISSION**



*Morris L. Woodruff*

Morris L. Woodruff  
Secretary

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

Dippell, Senior Regulatory Law Judge

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

In the Matter of the Application of Laclede Gas )  
Company to Change its Infrastructure System ) File No. GO-2017-0202  
Replacement Surcharge in its Laclede Gas )  
Service Territory )

In the Matter of the Application of Laclede Gas )  
Company to Change its Infrastructure System ) File No. GO-2017-0201  
Replacement Surcharge in its Missouri Gas )  
Energy Service Territory )

**UNANIMOUS STIPULATION AND AGREEMENT**

This Unanimous Stipulation and Agreement (this “Agreement”) is entered into by and among Laclede Gas Company (“Laclede”), on behalf of its operating units Laclede Gas (“LAC”) and Missouri Gas Energy (“MGE”), the Commission Staff (“Staff”) and the Office of the Public Counsel (“OPC”). The parties are sometimes referred to collectively as the “Signatories.” The Agreement is effective as of the effective date of a Commission Order approving this Agreement.

1. In the ISRS proceedings filed by LAC and MGE immediately prior to these current ISRS proceedings (the “Prior Cases”),<sup>1</sup> OPC raised an issue regarding the ISRS eligibility of the plastic portion of certain main and service line replacements (the “Plastics Issue”). The gist of OPC’s allegation is that part of the plastic being replaced is not worn out or in deteriorated condition, and therefore some portion of the costs of the plastic being installed is not ISRS eligible. Laclede Gas, MGE and Staff opposed OPC’s position and argued, among other things, that the interspersed plastic main and the plastic

---

<sup>1</sup> For LAC, the Prior Case was Case No. GO-2016-0333; for MGE, the Prior Case was Case No. GO-2016-0332.

services being replaced are all part of the program to remove (or abandon) cast iron main in the most efficient and cost-effective manner possible.

2. The Commission issued its Report and Order in the Prior Cases on January 18, 2017 (the “January 18 Order”), finding that all of the costs of installation were ISRS eligible.

3. OPC has filed a notice of appeal for judicial review of the January 18 Order. The Western District Court of Appeals has docketed that appeal as Case No. WD80544.

4. In connection with the January 18 Order, the Commission requested information on the value of the Plastics Issue for purposes of quantifying the amount at stake in the appeal. The Signatories were unable to agree on an amount and each submitted its view of how such quantification should be done. The Commission made no finding on the quantification, but simply recited the Parties’ positions. The Signatories have continued to discuss the quantification issue, but they continue to disagree on the value of the Plastics Issue, if any.

5. Given the pending nature of its appeal, OPC has again raised the Plastics Issue in its April 4 Objection and Request for a Hearing in the above referenced cases (the “Current Cases”). The Signatories believe that the appellate process that has begun in Case No. WD80544 will conclusively resolve the Plastics Issue. Accordingly, the Signatories do not believe it would be a productive use of the Commission’s or the Signatories’ resources to litigate the Plastics Issue before the Commission again in the Current Cases. Instead, the Signatories recommend that the Commission approve the following protocol for addressing the Plastics Issue, and for specifying how the outcome

of any judicial determination in the appeal of the Prior Cases will be applied to the Current Cases.

(a) If the courts do not reverse the Commission's January 18 Order on the grounds that the Commission's decision on the Plastics Issue is unlawful or unreasonable, then no adjustment shall be made to the plant amounts included in the ISRS charges approved in the Prior Cases or in the Current Cases. However, as provided in Section 393.1015.8 RSMo, such ISRS investments remain subject to review for prudence in the pending LAC and MGE rate cases (Case Nos. GR-2017-0215 and 0216).

(b) If the courts make a final, non-appealable decision reversing the Commission's January 18 Order on the grounds that the Commission's decision on the Plastics Issue is unlawful or unreasonable, then the court's final decision shall be applied to the Current Cases in the same manner as it is applied to the Prior Cases, as applicable. In such event, upon remand, any one or more Signatories may request that the Commission determine the amount of refund, if any, that shall be made in both the Prior Cases and the Current Cases as a result of such reversal. LAC, MGE and Staff agree not to challenge OPC's right to make such request, and LAC and MGE further agree to produce work order or other information in their possession necessary to determine the amount of plastic that was replaced in the Prior Cases and the Current Cases. All Signatories reserve their rights to make any argument they wish regarding the methodology, propriety, and quantification of such refund, if any. Until and unless the courts reverse the January 18 Order on the grounds that the Commission's decision on the Plastics Issue is unlawful or unreasonable, neither LAC nor MGE shall be required to produce further information on the Plastics Issue in the Prior Cases or the Current Cases.

(c) If the courts make a final, non-appealable decision reversing the Commission's January 18 Order on grounds other than the grounds that the Commission's decision on the Plastics Issue is unlawful or unreasonable, and a Signatory requests that the Commission determine the amount of refund, if any, that shall be made as a result of such reversal, LAC, MGE and Staff reserve the right to challenge OPC's right to make such request, and all Signatories reserve the right to advocate any position they deem appropriate in challenging the methodology or amount of such refund, if any.

6. The Signatories request that the Commission approve the rates that Staff recommended in its April 4 Recommendations in the Current Cases, and that the Commission order LAC and MGE to file ISRS rate tariffs as Staff recommended in its April 4 Recommendations in the Current Cases to become effective June 1, 2017.

7. Unless otherwise explicitly provided herein, none of the Signatories to this Agreement shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation, depreciation or revenue related method or any service or payment standard, and none of the Signatories shall be prejudiced or bound in any manner by the terms of this Agreement in any other proceeding, except as otherwise provided herein. Nothing in this Agreement shall preclude the Staff or OPC in future proceedings from providing recommendations as requested by the Commission, or limit Staff's or OPC's access to information in any other proceedings except as provided herein. Nothing in this Agreement shall waive any applicable statute or Commission regulation or Company tariff.

8. This Agreement has resulted from negotiations among the Signatories and the terms hereof are interdependent. In the event the Commission approves this



Agreement with modifications or conditions that a Party to this proceeding objects to, then this Agreement shall be void and no Signatory shall be bound by any of the agreements or provisions hereof.

9. In the event the Commission accepts the specific terms of this Agreement without modification, and subject to the terms of paragraph 5 herein, the Signatories waive, with respect to the issues resolved herein: any respective rights they may have in this action, pursuant to Section 536.070(2) (RSMo. 2000) to call, examine and cross-examine witnesses; any respective rights they may have in this action, pursuant to Section 536.080.1 (RSMo. 2000) to present oral argument and written briefs; any respective rights they may have in this action to the reading of the transcript by the Commission pursuant to Section 536.080.2 (RSMo. 2000); any respective rights they may have in this action to seek rehearing pursuant to Section 386.500 (RSMo. 2000); and any respective rights they may have in this action to judicial review of the Commission's Report and Order in this case pursuant to Section 386.510 (RSMo. 2000).

10. The Staff shall also have the right to provide, at any agenda meeting at which this Agreement is noticed to be considered by the Commission, whatever oral explanation the Commission requests, provided that Staff shall, to the extent reasonably practicable, provide the other Signatories with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to the Commission's rules on confidential information.

WHEREFORE, for the foregoing reasons, the undersigned Signatories respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Unanimous Stipulation and Agreement.

Respectfully submitted,

<p><b><u>/s/ Marc D. Poston</u></b> Marc D. Poston Chief Deputy Public Counsel Missouri Bar No. 45722 Office of the Public Counsel</p> <p>P.O. Box 2230 Jefferson City, MO 65102 (573) 751-5558 (573) 751-5562 (Fax) <a href="mailto:marc.poston@ded.mo.gov">marc.poston@ded.mo.gov</a></p> <p>ATTORNEY FOR THE MISSOURI OFFICE OF THE PUBLIC COUNSEL</p>	<p><b><u>/s/ Rick Zucker</u></b> Rick Zucker Missouri Bar No. 49211 Associate General Counsel Laclede Gas Company</p> <p>700 Market Street, 6<sup>th</sup> Floor St. Louis, MO 63101 (314) 342-0533 (314) 421-1979 (Fax) <a href="mailto:rick.zucker@spireenergy.com">rick.zucker@spireenergy.com</a></p> <p>ATTORNEY FOR LACLEDE GAS COMPANY AND MGE</p>
<p><b><u>/s/ Jeff Keevil</u></b> Jeff Keevil Deputy Counsel Missouri Bar No. 33825 P. O. Box 360 Jefferson City, MO 65102 (573) 526-4887 (Telephone) (573) 751-9285 (Fax) <a href="mailto:jeff.keevil@psc.mo.gov">jeff.keevil@psc.mo.gov</a></p> <p>ATTORNEY FOR THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION</p>	

**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 26<sup>th</sup> day of April 2017.



  
Morris L. Woodruff  
Secretary

**MISSOURI PUBLIC SERVICE COMMISSION**

**April 26, 2017**

**File/Case No. GO-2017-0201 and GO-2017-0202**

**Missouri Public Service  
Commission**

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

**Office of the Public Counsel**

Hampton Williams  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
opc@psc.mo.gov

**Laclede Gas Company**

Michael C Pendergast  
700 Market Street, 5th Floor  
St. Louis, MO 63101  
mcp2015law@icloud.com

**Laclede Gas Company**

Rick E Zucker  
700 Market Street, 6th Floor  
St. Louis, MO 63101  
rick.zucker@spireenergy.com

**Missouri Gas Energy (Laclede)**

Michael C Pendergast  
700 Market Street, 5th Floor  
St. Louis, MO 63101  
mcp2015law@icloud.com

**Missouri Gas Energy (Laclede)**

Rick E Zucker  
700 Market Street, 6th Floor  
St. Louis, MO 63101  
rick.zucker@spireenergy.com

**Missouri Public Service  
Commission**

Jeff Keevil  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
jeff.keevil@psc.mo.gov

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

**Sincerely,**



**Morris L. Woodruff  
Secretary**

---

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