

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

In the Matter of Laclede Gas Company's Filing)
of Revised Tariffs to Increase its Annual) File No. GR-2013-0171
Revenues for Natural Gas)

STAFF'S STATEMENT DESCRIBING DISCOVERY CONCERNS

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

1. On March 13, 2013, the Commission issued its *Order Adopting Recommended Procedural Schedule, Establishing Test Year, and Delegating Authority* ("Order") which set a Discovery Conference for March 19, 2013.

2. Paragraph 5 subsections (A) and (B) of the Order provided as follows:

(A) Discovery conferences will be held in Room 305 at the Commission's office at the Governor's Office Building, 200 Madison Street, Jefferson City, Missouri or in the Commission's offices in St. Louis, Missouri. Each discovery conference will begin at 10:00 a.m.

(B) Not less than 2 business days before each discovery conference, any party that has a discovery disagreement or concern involving another party shall file a brief statement describing that disagreement or concern and identifying any other parties involved. Such statement need not be a formal motion to compel. Any party may attend a discovery conference, but only those parties involved in an identified discovery disagreement must attend. If the parties do not identify any discovery disagreements or concerns as described herein, the presiding office may cancel the conference.

3. Staff is submitting this Statement pursuant to paragraph 5(B) of the Order quoted above, and will attempt to keep this Statement as brief as possible per paragraph 5(B). Staff's discovery concerns involve Laclede Gas Company ("Laclede") responses to data requests ("DRs") submitted to Laclede by Staff. Also, in recognition

of paragraph 5(A) of the Order quoted above, Staff respectfully requests that the March 19th discovery conference be held in Jefferson City, Missouri.

4. Attached hereto is a DR Log covering Staff Data Requests to Laclede numbered 67 – 80, 99 – 112, and 119. This DR Log is designated as Highly Confidential. Staff's concerns regarding Laclede's responses are shown in red on the attached DR Log.

DRs 67 - 80

5. In regard to DRs 67 – 80, as shown on the attached DR Log, Staff has received no response whatsoever to DRs 67, 74, 75 and 80. Each of these DRs was sent to Laclede on January 15, 2013. As also shown on the attached, Staff has received only partial or incomplete responses to DRs 68 -70 which were also sent to Laclede on January 15, 2013. Laclede has previously indicated that it would provide answers to all of the foregoing DRs to Staff, but has not indicated when. Furthermore, not all information which Staff was told would be made available for review on-site was available on-site (see attached regarding DRs 71 – 73).

6. By letter dated January 25, 2013 (see attached), Laclede objected to DRs 67 – 80, on the basis that they were “onerous / broad / unduly burdensome.” This letter led to a phone call between Staff and Laclede on January 31, 2013, which in turn led to a letter dated February 7, 2013 (see attached) from Laclede to Staff, in which Laclede clarified its letter dated January 25. In the February 7th letter, Laclede stated that it would send answers to certain DRs to Staff and make information responsive to other DRs available on-site for Staff to review. However, as for those DRs which Laclede

indicated it would send answers to Staff, Laclede indicated it would need additional time to respond but did not state the date by which it would be able to provide responses.

7. The Commission's rule governing data requests, 4 CSR 240-2.090, provides in subsection (2) that "If the recipient [of a data request] asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer." To date, despite Staff's repeated requests, Laclede has yet to provide a date by which it will provide the missing answers¹.

DRs 99 – 112

8. In regard to DRs 99 – 112, as shown on the attached DR Log, Staff has received no response whatsoever to DR 108, and only partial or incomplete responses to DRs 99 – 102, 109 and 112. All of these DRs were sent to Laclede on January 28, 2013. Furthermore, Staff has not received Privilege Logs in response to DRs 101, 107 and 108 concerning documents which Laclede has objected to providing on the basis of attorney-client privilege or work product doctrine, despite the fact that Laclede has agreed to provide Privilege Logs.

9. By letter dated February 7, 2013 (see attached) Laclede objected to DR 100(a) on the ground that it was unduly burdensome, and to DRs 101(a-b), 107 and 108 on the ground that some of the responsive material might be subject to attorney-client privilege or the work product doctrine. Staff responded by letter dated February 15,

¹ See attached letter dated February 15, 2013 from Jeff Keevil to Rick Zucker; email dated February 25, 2013 from Jeff Keevil to Rick Zucker; letter dated February 27, 2013 from Rick Zucker to Jeff Keevil; email dated February 28, 2013 from Jeff Keevil to Rick Zucker; email dated March 8, 2013 at 1:21 PM from Jeff Keevil to Rick Zucker and Mike Pendergast; email dated March 8, 2013 at 2:44 PM from Jeff Keevil to Rick Zucker and Mike Pendergast; and email dated March 12, 2013 from Jeff Keevil to Mike Pendergast and Rick Zucker.

2013 (see attached), which in turn led to a letter dated February 27, 2013 (see attached) in which Laclede clarified its letter dated February 7th and agreed that with respect to DRs 101(a-b), 107 and 108 Laclede would provide responsive material which Laclede did not consider to be subject to attorney-client privilege or the work product doctrine. Laclede also agreed that with respect to responsive material which Laclede considered to be subject to attorney-client privilege or the work product doctrine, Laclede would provide a Privilege Log.

10. As shown on the attached DR Log, many of the DRs from 99 – 112 to which Staff has received only partial or incomplete responses were not even objected to by Laclede. Furthermore, to date, despite Staff's repeated requests Laclede has yet to provide the missing Privilege Log(s) or a date by which they will be provided².

11. All of the attachments to this Statement Describing Discovery Concerns are currently designated Highly Confidential because Staff does not know whether or to what extent Laclede may consider the attached to contain Highly Confidential information.

WHEREFORE, Staff submits this Statement Describing Discovery Concerns, with attachments, in advance of the discovery conference set for March 19, 2013, and respectfully requests that said discovery conference be held in the Commission's offices in Jefferson City, Missouri.

² See attached email dated February 28, 2013 from Jeff Keevil to Rick Zucker; email dated March 8, 2013 at 2:44 PM from Jeff Keevil to Rick Zucker and Mike Pendergast; and email dated March 12, 2013 from Jeff Keevil to Mike Pendergast and Rick Zucker.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 14th day of March 2013.

/s/ Jeffrey A. Keevil