

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

The Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
v.	)	Case No. GC-2011-0098
	)	
Laclede Gas Company,	)	
	)	
	)	
Respondent.	)	
	)	

**PUBLIC COUNSEL’S RESPONSE TO LACLEDE’S  
MOTION TO ADOPT LACLEDE’S ISSUE NUMBER ONE**

**COMES NOW** the Missouri Office of the Public Counsel (OPC) and for its Response to Laclede Gas Company’s Motion to Adopt Issue Number One states:

1. The disagreement over how Laclede is required to define fair market price (FMP) when Laclede engages in natural gas purchases from an affiliate or sales to an affiliate under the affiliate transaction rules is an issue that needs to be resolved by the Commission in this case or in another case. The question now before the Commission is whether the issue is properly before the Commission in this complaint case, or if it must wait to be addressed in another case such as a case to review Laclede’s cost allocation manual (CAM) in its entirety.

2. The issue regarding the unlawful FMP definition Laclede uses in its CAM was raised in this case by the Staff in its initial complaint filing on October 6, 2010, wherein the Staff’s complaint stated that “[c]ontrary to the Rules, the CAM defines fair market price as the average price of other similar sales.” When the Staff filed its

Amended Complaint on November 22, 2010, the Staff addressed the asymmetrical pricing standard issue more broadly in alleging that Laclede's "CAM does not require Laclede to use asymmetrical pricing for transactions with its gas marketing affiliate."

3. OPC properly raised the issue of fair market price in the Rebuttal Testimony of Ms. Barbara Meisenheimer, which responds specifically to Laclede's Direct Testimony claim that it uses the asymmetrical pricing standard prescribed by the Commission's rules. In making that claim, Laclede opened itself to challenges to that claim, including OPC's challenge that the fair market price definition used in the CAM is evidence of the CAM's unlawful asymmetrical pricing provisions.

4. Section 386.420 RSMo establishes OPC's statutory right to "be heard and to introduce evidence" in this case. This right is furthered by Section 386.710(2) RSMo which states that OPC "may represent and protect the interests of the public in any proceeding before or appeal from the public service commission." Laclede's efforts to narrowly define the first issue, if allowed, would unlawfully restrict OPC's statutory right to represent and protect the public by being heard and by introducing evidence to contest Laclede's claim that its asymmetrical pricing provision in its CAM is lawful.

5. This disagreement demonstrates how essential it is for the Commission to order Laclede to file its CAM for review. The disagreement over how Laclede has singlehandedly chosen (through the unapproved CAM written and approved by Laclede only) to conduct its affiliate transactions will continue until every line of Laclede's CAM is reviewed by the Commission.

WHEREFORE, the Office of the Public Counsel respectfully offers this response to Laclede's Motion to Adopt Laclede's Issue Number One.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 29<sup>th</sup> day of June 2011:

**/s/ Marc Poston**

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