

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

In the Matter of Laclede Gas Company's) Purchased Gas Adjustment for 2004-2005)	Case No. GR-2005-0203
)	
In the Matter of Laclede Gas Company's) Purchased Gas Adjustment for 2005-2006)	Case No. GR-2006-0288

**PUBLIC COUNSEL'S RESPONSE AND MOTION TO
REJECT LACLEDE'S MOTION FOR EXPEDITED TREATMENT**

COMES NOW the Office of the Public Counsel and for its response to Laclede Gas Company's Motion for Expedited Treatment states as follows:

1. On May 20, 2009 Laclede Gas Company filed a Motion for Expedited Treatment urging the Commission to expedite the Commission's Agenda discussion and to expedite the Commission's decision on the pending motions for reconsideration and clarification of the Commission's April 22, 2009 *Order Denying Motion to Compel*. Public Counsel offers this response to Laclede's motion and respectfully requests that the Commission reject Laclede's motion because it is not in compliance with the Commission's rules regarding motions for expedited treatment, or deny Laclede's motion because Laclede has not identified any legitimate harm that will be avoided or benefit that will accrue from a rushed Commission decision.

2. Commission rule 4 CSR 240-2.080(16) requires:

(16) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

(A) The date by which the party desires the commission to act;

- (B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party's customers or the general public, if the commission acts by the date desired by the party; and
- (C) That the pleading was filed as soon as it could have been or an explanation why it was not.

Laclede was required to identify what harm will be avoided or what benefit will accrue from expedited treatment. The legitimacy of Laclede's alleged harm is discussed below. The rule also required Laclede to include "a statement of the negative effect, or that there will be no negative effect, on [Laclede's] customers or the general public." Laclede's Motion for Expedited Treatment failed to include any statement regarding the effect on customers or the general public, and for this reason, the motion should be rejected because it is not in compliance with Commission rule 4 CSR 240-2.080(16).

3. The only alleged harm identified by Laclede in its motion to expedite, as required by 4 CSR 240-2.080(16), is that the reconsideration and clarification motions could potentially be considered by a new Commissioner. Public Counsel asserts that this is not a reasonable basis for a finding that Laclede would be harmed if the Commission does not expedite consideration of the motions. Although the arguments on this discovery issue include numerous pleadings, this case is still in the early discovery stages and any new Commissioner could undoubtedly consider all discovery arguments before the Commission renders a decision. Laclede has not shown that a new Commissioner would be unable to review and understand these discovery arguments as well as the current Commissioners. Accordingly, Laclede has not identified any legitimate harm or benefit that could come from expediting the Commission's decision.

4. It is common Commission practice for a new Commissioner to become quickly familiarized with ongoing cases. After Commissioner Jarrett was appointed to the Commission in September 2007, Commissioner Jarrett was able to participate in a Missouri American Water Company general rate case order after only three weeks on the Commission.¹ The record in that case included 332 docket entries at the time the Report and Order was issued, whereas the current case has only 76 docket entries that a new Commissioner would need to become familiar with before rendering a decision. There is no merit to Laclede's argument that a new Commissioner would not be as capable as the current Commissioners of understanding the arguments before participating in a decision.

5. Public Counsel believes this discovery issue is one of the most important issues regarding Laclede Gas Company that the Commission has considered in years. Public Counsel asks that the Commission take up this matter for discussion purposes only after the Commission has been given an ample opportunity to carefully consider the pending motions for reconsideration and clarification.

6. Public Counsel also asserts that it would be beneficial to allow the same Commissioners that will ultimately preside over the evidentiary hearing and render the final decision in this case, to be the Commissioners that determine what information they want their Staff to review. If it appears likely that a new Commissioner will be joining the Commission soon, Public Counsel believes it would be best to allow the new Commissioner to participate in determining whether the information sought by Staff appears reasonably likely to lead to the discovery of relevant information.

¹ *In the Matter of Missouri-American Water Company's request for Authority to Implement a General Rate Increase for Water Service provided in Missouri Service Areas Case Number WR-2007-0216, Report and Order, October 4, 2007.*

WHEREFORE, the Office of the Public Counsel respectfully requests that the Commission reject Laclede's Motion for Expedited Treatment because it fails to comply with 4 CSR 240-2.080(16), or in the alternative, deny Laclede's Motion for the additional reasons stated above.

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 the following this 22nd day of May 2009:

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