

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

In the Matter of the Verified Application)	
and Petition of Laclede Gas Company to)	
Change its Infrastructure System)	Case No. GO-2015-0341
Replacement Surcharge in its Laclede Gas)	
Service Territory.)	

**PUBLIC COUNSEL’S MOTION TO REJECT TARIFF FILING OR
ALTERNATIVE MOTION FOR AN EVIDENTIARY HEARING,
AND MOTION REGARDING A PROCEDURAL SCHEDULE**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Motion to Reject Tariff Filing or Alternative Motion for an Evidentiary Hearing, and Motion Regarding a Procedural Schedule, states:

1. On August 3, 2015, Laclede Gas Company filed an application and petition to change its Infrastructure System Replacement Surcharge (“ISRS” or “surcharge”) pursuant to §§ 393.1009-393.1015, RSMo.

2. Section 393.1015.2(3), RSMo, states, “The commission may hold a hearing on the petition and any associated rate schedules and shall issue an order to become effective not later than one hundred twenty days after the petition is filed.” Accordingly, the Commission must issue an order in this case with an effective date of no later than December 1, 2015.

Motion to Reject Tariff and Motion for an Evidentiary Hearing

3. Laclede’s application states that the expenses it seeks to recover through the surcharge include costs that have been challenged in the past, including challenges to the lawfulness of including certain telemetric and regulator facility replacement costs, and costs incurred after the company made its ISRS filing. Public Counsel moves the

Commission to reject the tariffs because approval would unlawfully allow costs not authorized for surcharge recovery in that Laclede seeks to include costs for replacements of facilities that are not worn out or in deteriorated condition as required by §393.1009(5)(a) RSMo, and because the law requires all schedules and supporting documentation to be filed with the application, not weeks or months later. § 393.1015.1(1). In the alternative, Public Counsel moves the Commission to schedule this matter for an evidentiary hearing.

Motion Regarding a Procedural Schedule

4. The parties have been unable to agree upon a procedural schedule to resolve this matter. Laclede has suggested that testimony and discovery conducted in the previous ISRS application is sufficient to be introduced here in this case. While it is appropriate for Laclede to determine what evidence it intends to present to the Commission, including whether Laclede wishes to re-file previously filed testimony, it is not appropriate for any party other than Public Counsel to determine what evidence Public Counsel presents to the Commission in this case. Public Counsel will not know what evidence it will present to the Commission until it has had a full opportunity to review Laclede's application and conduct discovery.

5. The Staff's recommendation in this case is due on October 2, 2015. The Staff may not oppose the costs that Public Counsel opposes in this case, and for this reason, any procedural schedule should include sufficient time for Public Counsel to seek discovery from the Staff regarding the Staff's recommendation and Staff's testimony.

6. Laclede filed a proposed procedural schedule on August 7, 2015, to which the Staff concurs. While Public Counsel would much prefer a hearing during the last

week of October, Public Counsel recognizes that the Commission will likely want the case briefed before the end of October. Accordingly, Public Counsel proposes a procedural schedule that adopts most of Laclede’s schedule and simply adds three (3) business days to the Staff/OPC rebuttal testimony filing date proposed by Laclede, but maintains the remaining intervals between dates. This additional time is necessary to enable Public Counsel to have sufficient time to seek discovery and present evidence that is responsive to the Staff’s recommendation and testimony filed on October 2. Accordingly, Public Counsel proposes the following procedural schedule that adds three (3) business days before rebuttal/surrebuttal as follows:¹

Laclede Proposal		Public Counsel Proposal	
August 28	Laclede Direct Testimony	August 28	Laclede Direct Testimony
October 2	Staff Recommendation and Staff/OPC Direct (new issues) and Rebuttal (issues addressed in Laclede’s Direct)	October 2	Staff Recommendation and Staff/OPC Direct (new issues) and Rebuttal (issues addressed in Laclede’s Direct)
October 9	Rebuttal/Surrebuttal all parties	October 15	Rebuttal/Surrebuttal all parties
October 15	Hearing	October 22	Hearing
October 23	Briefs	October 30	Briefs

7. Public Counsel also proposes that the procedural schedule adopted by the Commission include Laclede’s recommendation for discovery issued after October 2, 2015 to be answered within (5) business days and objected to within three (3) business

¹ Monday, October 12, 2015 is a state holiday and is not counted here as a business day.

days. However, after the October 15, 2015 rebuttal/surrebuttal round of testimony, Public Counsel requests that data requests issued by October 16, 2015 be objected to by October 19 and answered by October 21, the day before the hearing. Without this condition there would be no opportunity to seek discovery on the October 15 testimony.

8. Public Counsel has significant concerns with the unnecessarily expedited procedural schedule proposed by Laclede. Giving Public Counsel only a handful of days between testimony filing dates severely limits Public Counsel's ability to present its case to the Commission. A fully-litigated case necessarily involves most of the following:

- Reading and analyzing testimony;
- Conducting research on the facts presented in testimony;
- Drafting and submitting written interrogatories;
- Analyzing responses to interrogatories;
- Preparing evidence and writing testimony;
- Preparing for the evidentiary hearing;
- Conducting the evidentiary hearing; and
- Writing a well-researched legal brief that applies the law to the facts presented at hearing.

Each step of the litigation process is equally as important as any other step, and compromising Public Counsel's ability to meaningfully perform any one step of this process threatens the due process rights of Laclede's customers. In addition, the Commission's ability to best understand the facts and the law will be greatly improved if all relevant facts and arguments are fully developed before the Commission, rather than half-developed due to a procedural schedule with unnecessary limitations.

9. Public Counsel also has a conflict with the October 9, 2015 date for filing testimony because counsel for Public Counsel will be out-of-state on October 8 and 9. The other parties were aware of this conflict before filing their proposed schedule.

10. Public Counsel's proposed procedural schedule is an expedited schedule in that it allows for *only eight* (8) business days to file testimony that is responsive to the October 2 testimony filings; it allows *only four* (4) business days after rebuttal/surrebuttal to prepare for the hearing; and it allows *only six* (6) business days to write a brief.

WHEREFORE, the Office of the Public Counsel respectfully moves the Commission to reject Laclede's proposed tariff changes, or in the alternative, hold an evidentiary hearing; and Public Counsel further moves for the adoption of Public Counsel's proposed procedural schedule.

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 7th day of August 2015.

/s/ Marc Poston
