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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Conference

January 26 2010
Jefferson City, Missouri
Volume 1

In the Matter of Laclede Gas)
Company's Verified Application for)
Authority to Issue and Sell First)
Mortgage Bonds, Unsecured Debt and)
Preferred Stock, in Connection with)
a Universal Shelf Registration)
Statement, to Issue Common Stock) File No. GF-2009-0450
and Receive Capital Contributions,)
to Issue or Accept Private)
Placement Securities, and to Enter)
Into Capital Leases, all in a)
Total Amount Not to Exceed)
\$600 Million)

DANIEL JORDAN, Presiding,
REGULATORY LAW JUDGE

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR

MIDWEST LITIGATION SERVICES

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17

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25 Service Commission.

1 P R O C E E D I N G S

2 JUDGE JORDAN: The Commission will call the
3 Case No. GF-2009-0450. It is styled in the matter of
4 Laclede Gas Company's verified application for authority
5 to issue and sell first mortgage bonds, unsecured debt and
6 preferred stock, in connection with a universal shelf
7 registration statement, to issue common stock and receive
8 capital contributions, to issue or accept private
9 placement securities, and to enter into capital leases,
10 all in a total amount not to exceed \$600 million.

11 Today we're going to discuss a pending
12 request to extend financing authority. I don't have in
13 mind taking evidence. I don't have in mind anything
14 except clarifying what's been pled so far and maybe
15 fleshing out the arguments if the parties think that is
16 helpful.

17 So I'd like to start by clarifying the
18 current status of Laclede's financing authority. I
19 understand, as it is today, the amount authorized is
20 \$500 million. Oh, let me take entries of appearance
21 before I go any further, starting with Laclede.

22 MR. PENDERGAST: Michael C. Pendergast
23 appearing on behalf of Laclede Gas Company. My business
24 address is 720 Olive Street, St. Louis, Missouri 63101.

25 MR. THOMPSON: Kevin A. Thompson for the

1 Staff of the Missouri Public Service Commission, Post
2 Office Box 360, Jefferson City, Missouri 65102.

3 JUDGE JORDAN: Thank you. And for the
4 Office of the Public Counsel.

5 MR. POSTON: Marc Poston appearing for the
6 Office of the Public Counsel and the public, P.O. Box
7 2230, Jefferson City, Missouri 65102.

8 JUDGE JORDAN: Thank you. Now, I was
9 inquiring of Laclede as to whether I properly understand
10 the current finance authority. That's at the amount of
11 \$500 million?

12 MR. PENDERGAST: That's correct, your
13 Honor.

14 JUDGE JORDAN: And I have a couple of
15 questions about how that works. Can you tell me how much
16 under the current authority has been issued?

17 MR. PENDERGAST: Under the current
18 authority, we've done about \$80 million worth of bonds and
19 approximately 50 million in equity. So if my math is
20 correct, that would be 130 million, and subtract that from
21 the 500 million and you have the remaining authority.

22 JUDGE JORDAN: Okay. Which would be
23 \$370 million.

24 MR. PENDERGAST: I think that's correct.

25 JUDGE JORDAN: Okay. And that is the

1 authority that expires on the 15th of February; is that
2 correct?

3 MR. PENDERGAST: Yes. Right.

4 JUDGE JORDAN: And if you don't use that
5 remaining authority, it just -- you use it or you lose it;
6 is that correct?

7 MR. PENDERGAST: Exactly. Once the time
8 frame's over, you lose it.

9 JUDGE JORDAN: Let me ask this question of
10 all the parties, too. Does that date, that February 15th
11 date, does that come from any provision of statute or
12 regulation or is that just something that the Commission
13 orders?

14 MR. PENDERGAST: I think it's just been the
15 custom and practice to, when we grant these more general
16 kinds of authority, to have a specific time limit on it.
17 And I know that that's varied over time, but I think ours
18 has generally been, at least in the recent past, three
19 years. So that was simply three years from the time we
20 got the last authorization.

21 JUDGE JORDAN: Okay. So it's based on the
22 Commission's experience and may vary from case to case?

23 MR. PENDERGAST: Right. Yeah. I don't
24 think there's anything specific in the statute that would
25 address that.

1 JUDGE JORDAN: Let's talk about the pending
2 application. The authority requested is in the amount of
3 \$600 million; is that correct?

4 MR. PENDERGAST: That's correct.

5 JUDGE JORDAN: And would that be in
6 addition to the 130 million already issued or does that
7 include the 130 million?

8 MR. PENDERGAST: No. That would start the
9 clock all over again. You'd basically do a reset and
10 start from zero.

11 JUDGE JORDAN: All right. I've reviewed
12 Staff's recommendation, and there are -- Staff endorses
13 the application subject to certain restrictions.

14 MR. THOMPSON: That is correct.

15 JUDGE JORDAN: I counted 12 such
16 restrictions as numbered in the Staff's -- the memorandum
17 attached to the recommendation?

18 MR. THOMPSON: That is correct, Judge.

19 JUDGE JORDAN: And of those, I understand
20 that the utility, Laclede, disputes four in response to
21 the recommendation. It looked like you had red lined four
22 of those paragraphs.

23 MR. PENDERGAST: I think four or five if we
24 go back and look. Obviously we had a concern about
25 Staff's \$100 million limitation on the amount of debt we

1 could go ahead and issue before the authorization period.
2 We also agreed with their recommendation that the
3 Commission's -- or the company's authority to enter in
4 capital leases and, quite frankly, we weren't quite sure
5 what the Staff had in mind here, but it seemed to us that
6 they were limiting that only to those capital leases that
7 we were required to convert -- or to those operating
8 leases that we were required to convert to capital leases
9 as a result of accounting changes at the federal level,
10 and we thought the authority should be more general than
11 that.

12 We also objected to Staff's recommendation
13 that we not be allowed to go ahead and issue any preferred
14 stock unless we receive subsequent Commission approval for
15 that preferred stock.

16 And then there were two relatively minor
17 things, I think. One was that we go ahead and provide
18 copies of published rating agency reports that we might
19 receive, and you know, it's more of a technical issue than
20 anything else. Those all have copyright restrictions on
21 them. And, you know, while we don't really have any
22 problem providing them, that is a hurdle we need to go
23 ahead and overcome. We've also raised that in the rate
24 case in response to a data request. Perhaps there's some
25 way to go ahead and just work that out so that's not a

1 barrier anymore. But we thought we needed to go ahead and
2 raise it for that reason and pursue alternatives to it.

3 And then finally Staff wanted us to go
4 ahead and show exactly how long-term capital investment
5 proceeds were used, I think to fund specific projects.
6 And, you know, in a world where money is kind of fungible,
7 I mean, as a utility we take in short-term debt. We
8 obviously issue long-term debt. We have equity
9 investments, you know. It can be a rather daunting task
10 to try and draw from, you know, one source of funds and
11 attach it or allocate it to a specific project that you're
12 doing.

13 I mean, I think there are ways you can
14 determine, and the Commission's approved safeguards in the
15 past on that, that those funds are being spent properly
16 and they're only being spent for utility purposes, and,
17 for example, that your long-term borrowings aren't in
18 excess of what your regulated rate base investments are.
19 Those things you can do, but as far as being able to draw
20 a specific line between a particular issuance and a
21 particular capital project that you're doing, that's a
22 difficult thing to do. And, you know, we'd certainly be
23 willing to discuss that further with Staff.

24 But I think those were the five areas that
25 we had a concern with.

1 JUDGE JORDAN: Okay. Does anyone want to
2 add anything about the application itself just now?

3 MR. POSTON: Not at this point.

4 JUDGE JORDAN: Okay. Thank you. Well,
5 let's move on to what's before us right now immediately,
6 and that is the February 15th expiration of financing
7 authority.

8 My sense is that, considering the amounts
9 at issue and the number of restrictions that are in
10 dispute, I think the Commission will want to decide the
11 application itself probably on some kind of presentation
12 rather than just a paper and document review, what's been
13 filed so far. I would -- I cannot see such a decision
14 being ready for the Commission's February 10th agenda,
15 which is the one immediately before your expiration, and
16 that, I think, is why Laclede has made its request for
17 this temporary financing authority. Is that accurate?

18 MR. PENDERGAST: Yeah. That's exactly
19 right. We certainly don't want a gap in that authority.
20 And just because of the way things have played out and
21 where we are at this point in time, we didn't want to put
22 the Commission in a position of having to do something in
23 a really rushed way. We think there's some important
24 policy issues that the Commission's going to want to
25 consider associated with our differences here, and we

1 thought, and I think Staff is saying that they think an
2 extension is appropriate as well, thinks that having a
3 more considered time frame to go ahead and do this is
4 appropriate.

5 JUDGE JORDAN: That's my sense of it as
6 well. So let's talk about that authority and its
7 parameters. I saw that Laclede has referred to this as an
8 extension of its current authority basically. It refers
9 to Case GF-2007-0220, which is the action in which the
10 Commission established the current authority.

11 MR. PENDERGAST: Yes.

12 JUDGE JORDAN: And that was, I see an Order
13 dated February 27th, 2007.

14 MR. PENDERGAST: That's right.

15 JUDGE JORDAN: And that in turn refers to
16 an Order that established Laclede's current structure,
17 which Laclede cites as GM-2001-342, which is an old style
18 number.

19 MR. PENDERGAST: Yeah, and that was
20 actually a holding company proceeding where Laclede was
21 restructuring, and what we were trying to do was point out
22 that we really have two very general limitations already
23 on the amount of long-term debt that we can issue. One of
24 them came about in the holding company structure because
25 we were reorganizing, I think Staff had a concern, perhaps

1 Public Counsel did as well, about what the impact of the
2 restructured company might be on our overall capital
3 structure, and so they wanted certain protections in
4 place, and one of those protections was we had to maintain
5 a gas company capital structure that had no more than
6 65 percent debt.

7 Flash forward a number of years and we had
8 our authorization for our current authority, and one of
9 the safeguards that the Staff proposed in that, which we
10 agreed, was that while we would give you an overall, you
11 know, \$500 million authority to go ahead and issue equity
12 debt, you needed to go ahead and make sure your long-term
13 borrowings, your long-term debt did not exceed your
14 regulated rate base, so that there would continue to go
15 ahead and be a tie between issuing that debt and the hard
16 assets you had in the ground for the good of providing
17 utility service.

18 And what we were saying here is that we
19 think those two safeguards were adequate then, they remain
20 adequate now, and what we're trying to do is just go ahead
21 and until we do have this policy discussion and we have an
22 opportunity to go ahead and discuss Staff's various
23 conditions in greater detail, that we maintain the status
24 quo. And we think the status quo at least in our view
25 already has sufficient enough protections. The Commission

1 has found those to be reasonable. On the other hand, they
2 haven't had a chance yet to determine whether Staff's new
3 conditions are reasonable, and that before we implement
4 those conditions, even on an interim basis, we ought to
5 just go ahead and give the Commission an opportunity to
6 see whether it agrees with them or not and, in the
7 meantime, maintain the safeguards that everybody
8 apparently thought, including the Commission, were
9 adequate as little as three years ago.

10 JUDGE JORDAN: Okay. Now, as to the
11 pending request, I understand from Staff's response that
12 it pretty much agrees that that's a good idea, but it
13 emphasizes one of its restrictions over the others
14 proposed as to the application, that the \$100 million cap.
15 Is that accurate?

16 MR. THOMPSON: That is accurate, sir.

17 JUDGE JORDAN: Okay. I just need -- I need
18 a clarification just to make sure that I understand it.
19 On the third paragraph of Staff's response, it refers to
20 that cap as the -- as a cap on long-term debt. In
21 paragraphs 1 and 2 it refers to a cap on debt. Is Staff
22 simply asking for the same restriction on this temporary
23 authority in terms of debt, the issuance of debt as it is
24 for the application itself?

25 MR. THOMPSON: I think it's the same as it

1 is for the application.

2 JUDGE JORDAN: I just wanted to nail that
3 down because I wanted to be sure about that. That's the
4 most important thing that I had for Staff as far as
5 clarification. Does the Office of Public Counsel have
6 anything to say about this request?

7 MR. POSTON: No, we don't. At this time we
8 haven't taken a position.

9 JUDGE JORDAN: Then if I understand where
10 we are, the parties would be satisfied and comfortable
11 with a Commission Order that -- well, first it would be an
12 interlocutory order. There would be no prejudice to the
13 application on the merits. If it is in the terms that
14 we've discussed, no party would be opposing it. Am I
15 correct with that?

16 MR. THOMPSON: That is correct.

17 JUDGE JORDAN: And so what I could do is
18 recommend to the Commission an Order that granted a sort
19 of temporary financing authority to Laclede.

20 MR. PENDERGAST: Your Honor, I just need to
21 make a clarification. When you say it was in the terms
22 that we've been discussing, certainly if it's in the terms
23 of the existing authority, we're fine with that.

24 JUDGE JORDAN: That's where I'm headed
25 right now. If we describe the -- such authority as that

1 which is set forth, if we refer to GF-2001-0220, that
2 decision that creates the current financing authority,
3 that pretty much refers to all the parameters.

4 MR. PENDERGAST: I would say it would be --
5 you'd have to reference the 2007 financing authority and
6 then also have to go ahead and reference the safeguard
7 that's included in the GM-2001-342 holding company one.

8 JUDGE JORDAN: So the description of the
9 authority should not only refer to the 2001 case -- I'm
10 sorry. That's a 2007 case.

11 MR. PENDERGAST: Right.

12 JUDGE JORDAN: The GF case is the 2007.
13 But you're suggesting that I -- that such an Order should
14 refer to the 2001 GM case?

15 MR. PENDERGAST: If the Commission wants to
16 do a belt and suspenders and go ahead and make it clear
17 that that's still applicable, I don't see any reason why
18 it isn't still applicable and I don't think the Commission
19 necessarily needs to do that, but out of an abundance of
20 caution, that's a safeguard we've been willing to live
21 with and we wouldn't have any problem if the Commission
22 also referenced that.

23 MR. PENDERGAST: Another thing in that
24 prior case in 2001 was that we agreed to maintain an
25 investment grade rating or come to the Commission and tell

1 them what steps need to be taken should we fall below
2 that, and we'd be willing to live with that language as
3 well.

4 JUDGE JORDAN: My recollection from looking
5 at the decision in the 2007 GF case was that it did refer
6 to the 2001 GM case, and it also refers to a
7 stipulation --

8 MR. PENDERGAST: Right, and that's what
9 we've talked about.

10 JUDGE JORDAN: -- and agreement which is
11 incorporated?

12 MR. PENDERGAST: Exactly. So if it's
13 already in the 2007 and the 2007 already applies to the
14 2001 or incorporates it, then probably just referencing
15 the 2007's good enough.

16 JUDGE JORDAN: Right. And you've asked for
17 such authority from February 15th, 2010 through May 15th
18 of 2010?

19 MR. PENDERGAST: Yeah. That assumes that
20 the Commission would have some time during that period to
21 go ahead and have a brief proceeding to go ahead and
22 discuss these particular issues.

23 JUDGE JORDAN: And Staff would agree to
24 such an Order as long as it's restricted to \$100 million
25 in long-term debt; is that correct?

1 MR. THOMPSON: That is correct, Judge.

2 JUDGE JORDAN: And Office of Public
3 Counsel, anything to add?

4 MR. POSTON: No. If the Staff's okay with
5 that, we're okay with that.

6 JUDGE JORDAN: Does anybody have anything
7 else to add?

8 MR. PENDERGAST: No. I don't think we have
9 anything else to add, other than to, you know, once again
10 just be very clear that we do not believe it's appropriate
11 to impose that \$100 million limitation in between now and
12 when the Commission finally decides this issue.

13 JUDGE JORDAN: Right. You disagree with
14 that restriction.

15 MR. PENDERGAST: Yeah, we disagree with
16 that restriction.

17 JUDGE JORDAN: Understood.

18 MR. PENDERGAST: At the same time I want to
19 represent that we don't have any current plans to issue
20 debt during this period, let alone \$100 million worth of
21 debt, but from a principle standpoint you never know what
22 might be on the horizon, what might happen to the credit
23 markets, and we think that maintaining the status quo
24 limitations that are already in the 2007 case is what the
25 Commission ought to approve so that we continue the status

1 quo until the Commission has a chance to determine if a
2 change in the status quo is appropriate.

3 JUDGE JORDAN: Anything else from Staff?

4 MR. THOMPSON: Nothing else from Staff,
5 sir.

6 JUDGE JORDAN: Anything else from Office of
7 the Public Counsel?

8 MR. POSTON: No, sir. Thank you.

9 JUDGE JORDAN: I will ask the court
10 reporter to expedite this transcript so that the
11 Commission may review it before it makes its decision on
12 the Order that I intend to recommend.

13 The room is open as far as I know for the
14 rest of the day for the parties to discuss issues, and I
15 am available for discussing procedural issues. And with
16 that, we will go off the record.

17 WHEREUPON, the recorded portion of the
18 conference was concluded.

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified
Shorthand Reporter with the firm of Midwest Litigation
Services, do hereby certify that I was personally present
at the proceedings had in the above-entitled cause at the
time and place set forth in the caption sheet thereof;
that I then and there took down in Stenotype the
proceedings had; and that the foregoing is a full, true
and correct transcript of such Stenotype notes so made at
such time and place.

Given at my office in the City of
Jefferson, County of Cole, State of Missouri.

Kellene K. Feddersen, RPR, CSR, CCR