

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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,) **File No. GF-2009-0450**
to Issue Common Stock 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)

NOTICE OF CONTESTED CASE AND ORDER DIRECTING FILING

Issue Date: January 26, 2010

Effective Date: January 26, 2010

The Missouri Public Service Commission is:

- Granting Laclede's request to convene an evidentiary hearing;
- Issuing notice of a contested case; and
- Ordering the parties to file proposed procedural schedules.

A. Procedural Background

Laclede filed the application for financing authority on June 30, 2009. On December 29, 2009,¹ the Commission's staff ("Staff") filed its recommendation. On January 15, 2010, Laclede filed a response to the recommendation.

B. Evidentiary Hearing

Staff's recommendation supports the application, but only subject to certain restrictions not conceded in the application. Laclede's response objects to such restrictions, and asks the Commission to grant the application without the restrictions. In the alternative, Laclede asks that the Commission grant the application after an

¹ The six-month interval included discussions between Laclede and the Commission's staff as set forth in the status reports that the Commission's staff filed monthly.

on-the-record proceeding or evidentiary hearing, if the Commission concludes that such procedure is necessary to such decision.²

The Commission concludes that such procedure is necessary to its decision for several reasons. Primary in the Commission's reasoning is its duty to determine whether Laclede's application is detrimental to the public interest,³ as Staff charges in support of its recommended restrictions. Such charges merit an evidentiary hearing to fully consider Staff's recommended restrictions.

Such full consideration also protects Laclede because Staff's recommended restrictions—if ordered—constitute a partial denial of the application. The application is subject to statutes providing that Laclede has authority to issue stocks, bonds, notes or other evidences of indebtedness on certain conditions.⁴ Such authority thus constitutes a property right subject to the due process of law's protection. The protection consists of an opportunity for hearing in a meaningful manner and time.⁵ Therefore, the Commission will grant Laclede's request for an evidentiary hearing.

C. Contested Case

Laclede also asks that such a hearing occur before, and constitute the basis of, the Commission's decision,⁶ and the Commission concludes that the manner and time of the hearing is not meaningful otherwise. The necessity of a pre-decision, evidentiary hearing makes this action a "contested case."⁷ A contested case is a formal hearing

² Pending such proceedings, Laclede also asks for temporary financing authority, on which the Commission will rule by separate order.

³ ***State ex rel. City of St. Louis v. Public Service Com'n of Missouri***, 73 S.W.2d 393, 400 (Mo.1934).

⁴ Sections 393.190 and 393.200, RSMo 2000.

⁵ ***Mathews v. Eldridge***, 424 U.S. 319, 332 (1976).

⁶ ***Jamison v. Dept. of Soc. Servs.***, 218 S.W.3d 399, 408-09 (Mo. banc 2007).

⁷ Section 536.010(4), RSMo Supp. 2008.

procedure, but it allows for waiver of procedural formalities⁸ and a decision without a hearing,⁹ including by stipulation and agreement.¹⁰

Therefore, the Commission will decide the application by contested case. The Commission's discovery regulations are at 4 CSR 240-2.090. This notice and order requires no written answer from any party.

The Commission will require the filing of a proposed procedural schedule as set forth below.

THE COMMISSION ORDERS THAT:

1. Laclede's request for an evidentiary hearing is granted and the Commission is conducting a contested case.
2. No later than February 5, 2010, each party shall, separately or jointly, file a proposed procedural schedule.
3. This order is effective immediately on issuance.

(S E A L)

BY THE COMMISSION



**Steven C. Reed
Secretary**

Daniel Jordan, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 26th day of January, 2010.

⁸ Sections 536.060(3) and 536.063(3), RSMo 2000.

⁹ Sections 536.060, RSMo 2000.

¹⁰ 4 CSR 240-2.115.