

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

In the Matter of Laclede Gas Company's) Case No. GR-2011-0055
2009-2010 Actual Cost Adjustment Filing)

**REQUEST TO CANCEL PREHEARING CONFERENCE AND
PROCEDURAL SCHEDULE FILING DATE**

COME NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), Laclede Gas Company ("Laclede"), and the Office of the Public Counsel ("OPC") (collectively the "Parties"), through the undersigned counsel, and for their Request to Cancel Prehearing Conference and Procedural Schedule Filing Date ("Request") respectfully state as follows:

1. On February 6, 2013, the Commission issued an *Order Scheduling Prehearing Conference* ("Order") in this case, which set a prehearing conference for February 19, 2013, and ordered the parties to file a proposed procedural schedule no later than February 26, 2013. However, footnote 1 of the Order provided that "If the parties believe such a conference is unnecessary, they may file a pleading stating as much." Although it may become necessary in the future to set a prehearing conference and date for filing a proposed procedural schedule, at the present time it is premature to do so and both of these dates should be cancelled for the reasons set forth below.

2. This case covers Laclede's 2009-2010 ACA period. Resolution of Laclede's 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 ACA periods is still pending and the cases for these periods remain open. The Commission should be aware that the Parties are not sitting by idly allowing these prior cases to remain open without reason. Several, if not all, of these prior cases are likely to be affected by the resolution of external litigation. Furthermore, the Parties have been actively involved in discussions which could lead to settlement, or at least partial settlement, of some or all of these prior cases in the

near future. However, until the final ACA balances are established for these prior periods, it is premature to set a procedural schedule for this case.

3. From an accounting standpoint, the ACA balance for this period should not be finalized until final ACA balances are established for the prior periods, because the prior period ending balances become the beginning balances for subsequent periods. From a purely legal standpoint, without arguing on the merits, finalizing the ACA balance for this period (or any subsequent ACA period) before the balances for prior periods become finalized could raise issues regarding retroactive ratemaking and/or the filed rate doctrine, thereby arguably precluding the Commission from ordering adjustments in any prior ACA period(s). Therefore, it is premature to set a schedule for this case.

4. The Parties would note that in the pleadings already filed in this case, Laclede has agreed to some of Staff's recommendations. Specifically, Laclede agreed with Staff's recommendations under the heading Natural Gas Supply Request for Proposal (RFP) Process, Items 1, 2 and 3 (See Sections II.A.1, II.A.2, and II.A.3 of Staff's Recommendation and Laclede's Response), without stating when it would implement such recommendations. This led Staff, in its Response to Laclede on each of these items, to state that "Staff recommends Laclede's evaluation process be revised in response to Staff's recommendation *prior to Laclede's RFP process in 2013 for gas supply for the 2013/2014 period.*" (Emphasis added) Subject to any changes that may be agreed upon by the parties as part of the ongoing settlement discussions previously referenced, Laclede has since agreed, and hereby commits, to implement these three Staff recommendations prior to its RFP process in 2013 for gas supply for the 2013-2014 period.

WHEREFORE, the Parties respectfully request that the Commission issue an order: (1) cancelling the prehearing conference currently set for February 19, 2013 and the obligation of the parties to file a proposed procedural schedule, (2) keeping this case open,

(3) acknowledging Laclede's commitment to implement the Staff recommendations referenced in paragraph 4 above prior to Laclede's RFP process in 2013 for gas supply for the 2013-2014 period, and (4) making such further orders as the Commission deems proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 14th day of February, 2013.

/s/ Jeffrey A. Keevil