

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

In the Matter of Laclede Gas Company's) Case No. GR-2012-0133
2010-2011 Actual Cost Adjustment Filing)

STAFF RECOMMENDATION

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission") and files its Staff Recommendation in this case.

Background

1. The Commission has held open several of Laclede Gas Company's ("Laclede") ACA cases pending resolution of the Laclede Energy Resources ("LER") discovery dispute and the lawsuit Laclede filed against MoGas Pipeline, LLC ("MoGas," f/k/a Missouri Pipeline Company) for a refund of overcharge payments, both of which are discussed in the attached Staff Recommendation Memorandum.

2. Specifically in regard to the lawsuit mentioned above, in Case No. GC-2006-0491, Staff filed a complaint which generally alleged MoGas was charging non-affiliated companies more for service than it was charging its affiliates and in doing so, violated its tariffs.

3. In its October 11, 2007 Revised Report and Order, the Commission found that, by operation of its tariff, in giving an affiliate lower rates, MoGas had lowered the maximum firm reservation tariffed rates it could charge non-affiliates beginning May 1, 2005. Despite the Revised Report and Order, MoGas continued to bill Laclede higher rates and Laclede paid such bills under protest.

4. The Commission's Order was affirmed on appeal to the Western District Court of Appeals.

5. Laclede filed a petition before the Circuit Court of St. Charles, Case No. 1111-CV02060, to recover overcharges from MoGas.

6. On September 6, 2012, Circuit Court Judge Nancy Schneider entered a Judgment and Order in favor of Laclede, in which the Court ordered, adjudged and decreed that Laclede recover \$6,638,361, plus interest, from MoGas.

Recommendations

7. The Staff recommends the Commission hold this ACA case open pending resolution of the Laclede Energy Resources (“LER”) discovery dispute and so that Staff can monitor Laclede’s pursuit of overcharge refunds from MoGas and make further recommendations regarding either or both of these matters as necessary.

8. In this case Staff proposes an adjustment to Laclede’s ACA account balances in the total amount of \$932,635.71 related to an accounting treatment first proposed by Laclede in its last ACA case related to estimates of non-recoverable storage gas.

9. Staff’s proposed adjustment to Laclede’s filed ACA account balances for the 2010-2011 ACA period are shown in the table below. In addition, Staff proposes to reserve its final recommendation on the ACA account balances pending resolution of the LER discovery dispute and the Laclede lawsuit against MoGas. The table shows adjustments from prior years because resolution of these cases is pending. An over-recovery is an amount owed to the customers by Laclede and is shown in the table as a negative number; an under-recovery is an amount owed to Laclede by the customers and is shown in the table as a positive number:

	Firm Sales Non-LVTSS	Firm Sales LVTSS	Interruptible Sales	LP Sales	Firm Transportation	Vehicular Fuel
ACA Balance per Filing	\$ 22,818,995	\$ 84,483	\$ 223,930	\$ 11,267	\$ 13,029	\$ 28,943
2004/05 Adjustment	\$ (1,677,493)	\$ (4,265)	\$ (13,455)			
2005/06 Adjustment	\$ (2,810,399)	\$ (9,216)	\$ (25,783)			
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2009/10 Adjustment	\$ (1,071,505)	\$ (5,137)	\$ (8,264)			
2010/11 Adjustment	\$ (924,780)	\$ (2,934)	\$ (4,922)			
Staff Recommended ACA Balance	\$ 14,887,432	\$ 56,594	\$ 161,470	\$ 11,267	\$ 13,029	\$ 28,943

10. Staff also recommends the Commission order Laclede to respond to Staff's concerns/comments/recommendations in the Reliability and Gas Supply Analysis section ** _____

_____, **, the Lange Underground Storage Non-Recoverable Gas section, the Affiliate Transactions and Fair Market Value section, the Discovery Issues section, the Off-System Sales Error section, and the Hedging section of the attached Staff Recommendation Memorandum.

11. Staff suggests the Commission order Laclede to respond to the Staff's concerns/comments/recommendations within 45 days.

WHEREFORE, Staff recommends the Commission order Laclede Gas Company to: (1) adjust its ACA balances as reflected in the table above, (2) respond to the Staff's concerns/comments/recommendations in the attached Staff Recommendation Memorandum within 45 days, and (3) keep the Commission informed as to the resolution of the lawsuit against MoGas.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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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 December, 2012.

/s/ Jeffrey A. Keevil

MEMORANDUM

TO: Missouri Public Service Commission Official Case File,
Case No. GR-2012-0133, Laclede Gas Company

FROM: David Sommerer, Manager - Procurement Analysis
Anne Crowe, Regulatory Auditor - Procurement Analysis
Lesia Jenkins, P.E., Regulatory Engineer - Procurement Analysis
Kwang Choe, Ph.D., Regulatory Economist - Procurement Analysis

/s/ David M. Sommerer 12/14/12 /s Jeffrey A. Keevil 12/14/12
Project Coordinator / Date Staff Counsel / Date

SUBJECT: Staff's Recommendation in Case No. GR-2012-0133, Laclede Gas Company's
2010-2011 Actual Cost Adjustment Filing

DATE: December 14, 2012

I. EXECUTIVE SUMMARY

Procurement Analysis (Staff) has reviewed Laclede Gas Company's (Company or Laclede or LGC) 2010-2011 Actual Cost Adjustment (ACA) filing. This filing was made on October 31, 2011, and is Case No. GR-2012-0133. The filing contains the Company's calculations of the ACA balances.

Laclede Gas Company serves approximately 625,000 residential, commercial and industrial customers in the St. Louis metropolitan area and surrounding southeastern counties.

The Staff's review included an analysis of billed revenues and actual gas costs for the period October 1, 2010 through September 30, 2011. Staff conducted a reliability analysis for Laclede, including a review of its estimate of customers' needs on a peak day (peak day requirements) and the capacity levels to meet those requirements, peak day reserve margin and its rationale, and a review of gas supply plans for various weather conditions. The Staff also reviewed Laclede's gas purchasing practices to determine the prudence of the Company's purchasing and operating decisions. (Laclede Gas Company is referred to as "LGC" and the marketing affiliate Laclede Energy Resources is "LER").

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** Denotes Highly Confidential Information **

Staff has proposed one adjustment to the Company's ACA account balances filed October 31, 2011. The adjustment in the amount of \$932,635.71 relates to an accounting treatment first proposed by Laclede in its last ACA case related to estimates of non-recoverable storage gas. In addition to the adjustment, Staff provides comments and recommendations to each of the topics in this memorandum. Resolution of still-pending contested discovery issues in prior ACA cases concerning Laclede's marketing affiliate, LER, may have an impact on this ACA period ** –

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The following Table of Contents provides a guide to Staff's recommendations contained in sections I through X of this Memorandum:

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STAFF'S TECHNICAL DISCUSSION AND ANALYSIS

II. RELIABILITY AND GAS SUPPLY ANALYSIS

As a regulated gas corporation providing natural gas service to Missouri customers, the Local Distribution Company (LDC) is responsible for: 1) conducting reasonable long-range supply planning and 2) the decisions resulting from that planning. One purpose of the ACA process is for Staff to review the Company's planning for gas supply, transportation, and storage to meet its customers' needs. For this analysis, Staff reviewed Laclede's plans and decisions regarding its estimated peak day requirements, its capacity levels to meet those requirements, its peak day reserve margin, Laclede's rationale for this reserve margin, and its natural gas supply plans for various weather conditions.

Although Staff has proposed no financial adjustments related to Laclede's reliability analysis and gas supply planning, Staff has comments and concerns. The following is a list of those comments and concerns regarding reliability analysis and gas supply planning:

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A. Laclede's Capacity Planning - MRT

Laclede has transportation capacity contracts with MRT, one for delivery on MRT MainLine and MRT-Eastline, and another MRT contract for Southbound MRT Mainline capacity. These contracts expire 4/30/2013, but have evergreen provisions.

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The Company must provide its analysis for extending the MRT contracts beyond 4/30/2013 at the same or different maximum daily quantity (MDQ). Such analysis must also consider the transportation costs of the other contracts it uses to inject or withdraw MRT storage volumes. Laclede's decisions related to the MRT contracts will first impact the transportation reservation costs in the 2012/2013 ACA period.

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1. Baseload Supplies

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2. Combination Supplies

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6. Gas Supply Reservation (Supply Demand) Charges

There are gas supply reservation (supply demand) charges which are fixed costs associated with Laclede's combination and swing supplies, even when the weather is mild and not as much natural gas is needed.

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IV. LANGE UNDERGROUND STORAGE NON-RECOVERABLE GAS

Laclede operates an underground aquifer natural gas storage field (Lange UGS or UGS) in the St. Louis area. Laclede books or records the gas in the aquifer in three accounts:

Lange Underground Storage. Laclede Accounts	
Account	Description
352.30	non-recoverable
117.10	non-current (cushion or base gas); not cycled
164.10	current gas (working gas)

In the 2010/2011 ACA, Laclede attempts to recover costs for estimates of non-recoverable gas in its aquifer as a gas cost. Staff disagrees with Laclede's accounting treatment for estimated non-recoverable UGS gas, as explained below, and Staff proposes a total ACA adjustment of \$932,635.71. Staff allocated the adjustment to customers' ACA balances as follows: \$924,779.57 reduction to firm sales, \$2,934.39 decrease to LVTSS firm sales, and \$4,921.75 reduction to interruptible sales. Although the dollars are not identical, the issue is similar to that in the 2009/2010 ACA.

Staff disagrees with the Laclede adjustment for the following reasons.

1. Laclede is seeking to recover estimates of non-recoverable costs in the ACA. The ACA is a true-up process for actual gas costs, not for passing through estimated costs.
2. The accounting treatment that Laclede has indirectly requested in this ACA filing is inconsistent with Laclede's traditional accounting for non-recoverable gas. The 2010/2011 ACA is the second ACA that Laclede has attempted to recover non-recoverable gas associated with Laclede's operation of its UGS as a gas cost.

Laclede's past regulatory practice has been to record non-recoverable gas in account 352.30. Account 352.30 is included in rate base as property, plant and equipment and is depreciated in a general rate case. Laclede modifies this account from time to time and it did so in its last general rate case, GR-2010-0171. Staff accepted the changes to the UGS accounts in GR-2010-0171 and Laclede made the change to Accounts 352.30, 117.10 and 164.10 in June 2009 (GR-2010-0171, DR4), as summarized in the following table.

UGS Accounts ¹						
Account	Description	Actual Balances @ 12/31/2008	Adjustment	Adjusted Balances @ 12/31/2008	MMBtu	Mcf
		Therms		Therms		
352.30	non-recoverable	96,012,597	136,863,603	232,876,200	23,287,620	22,831,000
117.10	non-current (cushion or base gas); not cycled	158,500,828	(82,955,974)	75,544,854	7,554,485	7,406,358
164.10	current gas (working gas)	86,664,745	(53,907,629)	32,757,116	3,275,712	3,211,482
	Total	341,178,170		341,178,170	34,117,817	33,448,840
GR-2011-0055, DR19; and rate case GR-2010-0171, DR158.1						

As the volume of UGS gas that is non-recoverable changes, Staff recommends, consistent with past regulatory practice, Laclede provide supporting evidence to support the changes in accounts and seek to modify the UGS Account 352.30 in future general rate cases, not in the ACA.

- In the last general rate case, GR-2010-0171, Laclede did not seek tariff approval to modify its accounting treatment for future estimated changes to non-recoverable UGS as a gas cost in the PGA/ACA.

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_____ ** Staff recommends Laclede provide copies of the analyses, studies, reports, and any other documentation that explains changes to the
 ** _____ ** Underground Storage and the impacts on Laclede's capacity and supply planning

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for its design peak day and its design cold winter (design winter using 1935/1936 weather pattern). This should include any material deviations from historical injection or withdrawal schedules. Staff recommends these be provided within 30-days of completion.

V. AFFILIATE TRANSACTIONS AND FAIR MARKET VALUE

In the past ACA periods, Staff has made adjustments to the Company's gas costs for affiliate transactions between LER and LGC. At this time, Staff is not proposing a dollar adjustment for affiliate transactions in this ACA period. However Staff recommends holding this ACA case open pending resolution of the LER discovery dispute in Cases GR-2005-0203 and GR-2006-0288 which may impact this ACA period ** _____

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Although Staff has not proposed a dollar adjustment related to affiliate transactions in the ACA period under review, Staff continues to have concerns with LGC's affiliate transactions.

Assessing Fair Market Value for Affiliated Transactions

The Staff has reviewed Commission decisions in Atmos Energy Corporation (Atmos) Case Nos. GR-2008-0364 and GR-2009-0417. Some of Laclede's historical affiliate transactions with LER are distinguishable from the Atmos cases because LER was not chosen to provide services through an RFP process in all instances. (For example, ** _____
_____ ** is the heart of the dispute in earlier ACA periods.) ** _____

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Other distinguishing characteristics from the Atmos cases include the extent and nature of Laclede's off-system sales and capacity release transactions and Laclede's un-bid short-term purchases.

Finally, common management responsibility over the marketing affiliate and the regulated utility is of greater concern in Laclede's situation.

It is further noted that the Company has changed its method of calculating or reporting certain Natural Gas Supply and Transportation Services received from LER. Specifically, it appears that the Company has changed from a longstanding practice of identifying a specific subset of LER's gas costs related to a transaction to using the entire portfolio of LER's gas supply to develop the cost. This change in methodology was found under the section of Laclede's CAM that reported "THE TOTAL COST RELATED TO EACH SERVICE AND GOOD LISTED". The Staff does

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not agree with this new change from Laclede's historical reporting practice in that the entire LER gas supply portfolio is not specifically related to the service provided by LER to Laclede.

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VI. REFUND OF MISSOURI PIPELINE COMPANY OVERCHARGES

Laclede uses MoGas Pipeline (MoGas), formerly known as Missouri Pipeline Company (MPC), to transport gas to its customers. This issue involves pipeline transportation overcharges by MPC, which Laclede paid and passed through to its customers. It remains an issue in prior cases and in this case due to ongoing litigation.

During this ACA period, Laclede filed in St. Charles County Circuit Court, Case No. 1111-CV02060, to recover overcharges from MPC. Subsequent to this ACA period, on September 6, 2012, the Circuit Court found Laclede was entitled to recover from MPC \$6,638,361 plus interest. Laclede has been filing status reports in its prior ACA cases informing the Commission and Staff of the status of its MoGas litigation. Although gas costs for this ACA period do not include overcharges from MPC, due to the cumulative nature of the ACA balance, past overcharges impact this period's ACA balance. *Therefore Staff recommends the Commission hold this ACA case open so that Staff can monitor Laclede's pursuit of refunds from MPC and make further recommendations as necessary.*

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History of the Issue

On June 21, 2006, in Case No. GC-2006-0491, the Staff filed a complaint against MPC and one of its affiliates, Missouri Gas Company (MGC). (Laclede does not buy service from MGC so only MPC charges are involved in Laclede's ACA case.) Staff alleged that MPC gave an affiliate lower rates for transportation service and, by doing so, MPC lowered the maximum tariffed transportation rates it could charge non-affiliated customers by operation of its tariff. Laclede is a non-affiliate customer of MPC.

The Commission issued its initial Order in Case No. GC-2006-0491 on August 28, 2007, with an effective date of September 7, 2007, and a Revised Report and Order on October 11, 2007, with an effective date of October 21, 2007. Although the Commission's Revised Order was effective October 21, 2007, the Order found that, by operation of their tariffs, in giving an affiliate lower rates, MPC had lowered the maximum firm reservation tariffed rates beginning May 1, 2005. Despite the Commission's October 11, 2007 Revised Report and Order setting maximum rates MPC could charge its customers, MPC continued to bill Laclede higher rates. Laclede paid MPC's bill under protest, but passed the overcharges through to its customers.

The overcharges continued until MPC, (n/k/a MoGas Pipeline) became regulated by the Federal Energy Regulatory Commission (FERC) and implemented FERC regulated transportation rates, which became effective June 1, 2008, when FERC approved MoGas' filed tariff rates.

The Commission's order in Case No. GC-2006-0491 was affirmed by the Western District Court of Appeals in Case No. WD 70325. The Commission's Revised Report and Order became final and unappealable after the Western District Court of Appeals issued its mandate on April 22, 2010.

VII. DISCOVERY ISSUES

During this ACA review, Laclede limited Staff's review of The Laclede Group Board of Director's minutes. Initially, Laclede provided only the specific pages of The Laclede Group Board of Directors' minutes that Laclede deemed related to gas supply and only the presentations related to Laclede Gas risk management/hedging. After Staff expressed concern with being unable to review of the entirety of the board minutes, the Company made available for Staff's review redacted copies of The Laclede Group board minutes it deemed related to Laclede Gas and presentations deemed related to gas supply. In Staff's opinion it should have access to all the board minutes and presentations rather than the Company determining the information relevant to Staff's review. Laclede has filed notice it will be filing a general rate case prior to the end of the year, therefore Staff plans to review all board minutes in Laclede's rate case.

Staff recommends for future ACA reviews, the Company provide complete board minutes including all presentations and handouts for The Laclede Group.

VIII. OFF-SYSTEM SALES (OSS) ERROR

The Company's off-system sales tariff requires it to assign the highest priced supply to its off-system customers for the pipeline on which the sale is made so that the on-system customers pay the lowest price for gas supply. An off-system sale is the Company sale of gas supply to a customer at locations off of Laclede's distribution system. During this ACA period, Staff identified an off-system sales transaction that increased the gas costs for on-system customers. An additional concern is this particular transaction occurred with Laclede's affiliate, LER.

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_____ ** Laclede assigned a lower cost of gas supply to the OSS and the higher cost gas supply to the on-system customers. Although Laclede followed its OSS tariff because the sale occurred on a different pipeline, under these circumstances Laclede should have assigned the lowest priced supply to the on-system customers. This transaction increased the on-system customers' cost of gas in two ways. First, they paid a higher price for gas supply than they would have absent the OSS. Secondly, the OSS margin was overstated so the Company's share of OSS margin was greater than it should have been for this transaction. In this instance, the increase in gas costs to the on-system customers as a result of this OSS was immaterial. However, Staff is concerned that under other circumstances the impact could be material. Therefore the **Staff recommends Laclede evaluate its OSS process to address Staff's findings.**

IX. HEDGING

One of the purposes of hedging is to reduce upward gas price volatility. The Staff reviewed the Company's Risk Management Strategy and its hedging transactions for the 2010-2011 ACA period. The Staff also reviewed monthly hedged coverage for the winter period of November 2010 through March 2011. Laclede uses financial instruments and storage withdrawals for its hedge coverage.

Staff has the following comments and concerns about Laclede's hedging practice and documentation:

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C. Performance Evaluation of Hedge Program

While Staff is concerned with the negative financial impacts Laclede’s hedging had in this ACA period, Staff reviews the prudence of a Company’s decision-making based on, among other factors, what the Company knew at the time it made its decisions. **Staff recommends the Company develop and provide an evaluation of the financial hedging performance in addition to the reporting of the hedging outcome.** An analysis of what factor(s) may have been attributable to the gains/losses from the financial instruments could provide Laclede effective hedging guidance on a going forward basis. Although Staff is not suggesting that the Company should or could design its hedging strategy in order to beat the market, the Company’s hedging plan should be flexible enough to incorporate changing market circumstances. The Company should continually evaluate its hedging strategy in response to changing market dynamics to balance the cost of hedging against the goal of price stabilization. Additionally the Company should assess and evaluate the outcome of its hedges for the 2011-2012 ACA and beyond. The analysis should include but not be limited to whether the hedging implementation was consistent with the hedging plan, identifying the benefits/costs based on the results from the hedging strategy, and thus evaluating any potential improvements on the future hedging plan and its implementation. ** _____

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Additionally Staff recommends the Company evaluate whether the hedging plan has operational implications for warm and cold weather conditions. This recommendation relates to how the

Company's hedging coverage would be impacted by mild, normal, and cold winters. Finally, it would be beneficial if the Company would provide an annual presentation to Staff regarding its hedging/supply practices. The Staff will continue to monitor the operation of the program for the 2011-2012 ACA periods.

X. RECOMMENDATIONS

A. Based on the analysis discussed above, Staff recommends the following:

1. For the 2010/2011 ACA period, Staff has proposed an adjustment to the September 30, 2011 Company-filed ACA account balances shown in the table below. In addition, Staff proposes to reserve its recommendation on the ACA balances pending the LER discovery dispute and the Laclede and MPC overcharge litigation.

The table shows adjustments from prior years because resolution of these cases is pending. An over-recovery is the amount owed to the customers by the Company and is shown in the table as a negative number. An under-recovery is an amount owed to the Company by the customers and is shown in the table as a positive number.

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Staff Recommended ACA Balance	\$ 14,887,432	\$ 56,594	\$ 161,470	\$ 11,267	\$ 13,029	\$ 28,943

2. There are no dollar adjustments related to Reliability and Gas Supply Analysis. However, Staff has documented concerns and recommends Laclede respond within forty-five days to the comments made by Staff in the Reliability and Gas Supply Analysis section regarding Laclede's Capacity Planning and Gas Supply Planning

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3. Respond within forty-five days to the recommendations made by Staff in the Affiliate Transactions and Fair Market Value section.
4. Respond within forty-five days to the comments made by Staff in the Hedging section.
5. Respond to the recommendations herein within forty-five days.

B. Staff recommends this case remain open for the following reasons:

1. Because the LER discovery dispute remains pending in previous ACA periods, the conclusion of such discovery disputes may impact this ACA period ** _____
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2. To monitor the Laclede and Missouri Pipeline Company litigation related to overcharges for the 2007/2008 ACA and prior periods.

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Laclede Gas Company's)
Purchased Gas Adjustment Tariff Filing)

Case No. GR-2012-0133

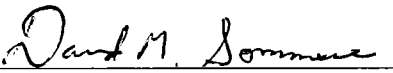
AFFIDAVIT OF DAVID M. SOMMERER

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

David M. Sommerer, being of lawful age, on his oath states: that as a utility Regulatory Manager in the Procurement Analysis Unit, of the Regulatory Review Division, Utility Services Department, he has participated in the preparation of the foregoing report, consisting of 20 pages to be presented in the above case; that he has verified that the following Staff Memorandum was prepared by himself and Staff of the Commission that have knowledge of the matters set forth as described below; that he has verified with each of the Staff members listed below that the matters set forth in the Staff Memorandum are true and correct to the best of his knowledge and belief,

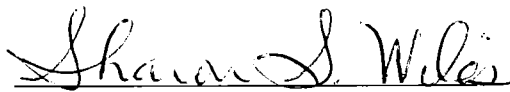
- | | |
|--|---|
| David Sommerer, Manager: | Affiliate Transactions |
| Lesa Jenkins, P.E., Regulatory Engineer: | Reliability and Gas Supply Analysis;
and Lange Underground Storage |
| Anne Crowe, Regulatory Auditor: | Billed Revenues; Actual Gas Costs; Discovery Issues;
Lange Underground Storage; Refund of MO Pipeline
Company Overcharges; and Off-System Sales |
| Kwang Choe, Ph.D., Regulatory Economist: | Hedging |

that he has knowledge of the matters set forth in such report and that such matters are true to the best of his knowledge and belief.



David M. Sommerer

Subscribed and sworn to before me this 14th day of December, 2012.



Notary Public

