

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

Staff of the Public Service Commission)
of the State of Missouri,)
)
 Complainant,)
v.)
)
Laclede Gas Company,)
)
 Respondent.)

Case No. GC-2006-0318

Office of the Public Counsel)
)
 Complainant,)
v.)
)
Laclede Gas Company)
)
 Respondent.)

Case No. GC-2006-0431

CONCURRING OPINION OF COMMISSIONERS
ROBERT M. CLAYTON III AND STEVE GAW

These Commissioners concur in the result of the Report and Order because Laclede will now be directed to compensate its customers who were harmed by the company's improper billing practices. The Commission found that the Stipulation and Agreement signed by the Office of Public Counsel (OPC) and Laclede fully resolved the issues in OPC's complaint case (GC-2006-0431) and resolved Count 2 of Staff's complaint case (GC-2006-0318). These Commissioners support the approval of the Stipulation and Agreement because it requires Laclede to provide a minimum of \$500,000 in bill credits to residential customers who received a catch-up bill on or after November 1, 2004, or for a billing period exceeding 12 consecutive months of estimated usage. Laclede must make these credits within 60 days of the approval of

the Stipulation and Agreement. These credits will help compensate the customers who received unexpectedly large catch-up bills after Laclede obtained an actual meter reading by reimbursing them for gas they used during this period. However, approval of the Stipulation and Agreement is not the only way to provide reparation for the hardship these customers may have experienced.

These Commissioners would have preferred to approve the Stipulation and Agreement as it related to OPC's complaint and Count 2 of Staff's complaint and severed Count 1 of Staff's complaint. This scenario would have put money back in the pockets of Laclede's customers and allowed Staff to prosecute its complaint and potentially seek penalties. It is significant to note that Staff sought penalties of at least \$50 million and stated that they may actually reach \$5 billion. Never in the history of the Public Service Commission has a case resulted in penalties of this extreme amount. These Commissioners are concerned that the opportunity to punish a company for systematically and persistently violating Commission rules may have been missed.

The Signatories to the Stipulation and Agreement specifically included language that would have allowed the process these Commissioners prefer to occur.

These agreements are being entered into for the sole purpose of disposing of all of the issues raised by the signatories in the case. Nothing herein, however, shall preclude Laclede from arguing that the measures agreed upon herein are also sufficient to resolve in an appropriate way any other issues that may have been raised in these consolidated cases. *Stipulation and Agreement at p.6*

However, the majority of the Commission did not support this process. Instead of standing in the way of Laclede customers receiving compensation, these Commissioners agreed to support the Stipulation and Agreement with Staff's suggested conditions.

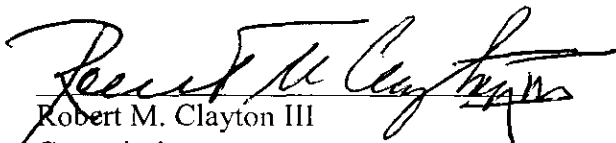
The Stipulation and Agreement includes a directive to Staff to not pursue penalties against Laclede for the violations alleged in Count 1 of Staff's complaint unless Laclede disobeys the conditions established in the Stipulation and Agreement in the next three years. Laclede will report information related to customer billing issues as specified in the Stipulation

and Agreement to Staff who will thoroughly review this information. Staff is specifically authorized to pursue penalties for the alleged violations in the original complaint case (GC-2006-0318) if Laclede violates any of the conditions in the Stipulation and Agreement. This enables Staff to seek punishment for the alleged past violations; closely monitor Laclede's customer billing practices; and one may argue that it will allow Staff to pursue a new complaint case based on any new violations found during this three year time period if appropriate.

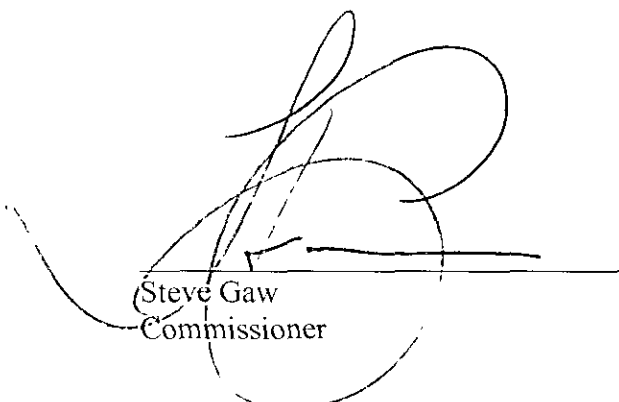
It is important to note that Laclede does not object to the conditions in the Stipulation and Agreement. The Stipulation, contrary to inference in the majority opinion, does not prevent the Commission from continuing to consider the practice of statutory penalties.

These Commissioners support the Stipulation and Agreement because of the payment of bill credits directly to the customers who were harmed by Laclede's improper billing practices. However, we believe Staff should continue to pursue its case regarding the appropriateness of penalties.

Respectfully Submitted,



Robert M. Clayton III
Commissioner



Steve Gaw
Commissioner

Dated at Jefferson City, Missouri,
on this 14th day of May, 2007.