

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

In the Matter of the Verified Application)	
and Petition of Laclede Gas Company to)	
Change its Infrastructure System)	Case No. GO-2015-0341
Replacement Surcharge in its Laclede Gas)	
Service Territory.)	

In the Matter of the Application of)	
Laclede Gas Company to Change its)	
Infrastructure System Replacement)	Case No. GO-2015-0343
Surcharge in its Missouri Gas Energy)	
Service Territory.)	

**PUBLIC COUNSEL RESPONSE IN
OPPOSITION TO MOTION TO EXPEDITE**

COMES NOW the Missouri Office of the Public Counsel and for its Response in Opposition to Motion to Expedite, states:

1. On November 9, 2015, Laclede Gas Company and Missouri Gas Energy (“Laclede”) requested that the Commission expedite the effective date of the ISRS rate increases and order the new rates to be effective on November 22, 2015. Public Counsel respectfully requests that Laclede’s motion be denied.

2. Commission orders approving or denying petitions for Infrastructure System Replacement Surcharges (ISRS) must become effective no later than 120 days after the petition is filed. In this case, the Commission’s order must be effective no later than December 1, 2015. The Commission will likely issue its report and order in this case on November 12, 2015. Applications for rehearing of a Commission order must be filed *before* the effective date of the order. Mo. Rev. Stat. § 386.500.2 (2000).

Accordingly, applications for rehearing in this case would need to be filed by next Friday, November 20, to be received before a Sunday, November 22 effective date.

3. Public Counsel urges the Commission to issue its order with an effective date of December 1, 2015, which given the holiday, will give the parties ten (10) business days to prepare applications for rehearing, rather than the six (6) business days as requested by Laclede.

4. The Commission should deny Laclede's motion because the Commission has already stated in this case that the parties should be afforded a "reasonable time to potentially request rehearing before the December 1 deadline." In denying Public Counsel's earlier request for more time to conduct discovery before the hearing, the Commission stated:

OPC's proposed schedule does not allow the members of the Commission sufficient time to review the record, reach a consensus, and issue an order while also providing the parties with reasonable time to potentially request rehearing before the December 1 deadline. OPC's proposed procedural schedule would necessitate the Commission issuing a report and order less than thirty days before the operation of law date and would set a deadline for objections to any compliance tariffs at less than ten days.¹

Here the Commission raised its concerns with issuing an order with less than thirty days before the operation of law date, and its concerns with affording the parties less than ten days to object to compliance tariffs. Laclede's proposal would provide only six (6) business days to seek rehearing and object to Laclede's compliance tariffs, assuming Laclede files tariffs on November 12. To be consistent with the Commission's prior

¹ Order Suspending Tariff, Scheduling Evidentiary Hearing, and Setting Procedural Schedule, p. 2 (EFIS No. 7).

concerns in rejecting Public Counsel's proposed procedural schedule, the Commission should also deny Laclede's request.

5. Public Counsel also takes issue with Laclede's characterization of the Stipulation and Agreement entered into between Laclede, Public Counsel, and the Commission's Staff in Laclede's last rate case. There the parties agreed, "*The Parties agree to continue their resolution of the ISRS issue regarding income tax by reducing the Company's filed amount by one-half of the value of the Staff's tax adjustment and, in exchange for this reduction, implementation of the ISRS as soon as reasonably possible, contingent on the Company's timely provision of data and information, including response to discovery, and the availability of the Parties' resources to process the surcharge.*"² Laclede misinterprets this provision in several respects. First, the parties in that case agreed that the Staff would reduce its proposed ISRS tax adjustment by one-half. In other words, Laclede's claim that it conceded \$600,000 does not accurately explain the agreement, which could just as well be considered a \$600,000 gain for Laclede since the Staff conceded an equal amount of adjustment. Second, *contested* ISRS petitions should be treated differently than uncontested ISRS petitions because contested petitions require significantly more time to process. The last provision of the Agreement is that implementing the ISRS as soon as reasonably possible must take into consideration "the availability of the Parties' resources to process the surcharge." Laclede's assertion that six days will afford a sufficient amount of time to write an application for rehearing can only be considered in regards to how it impacts Laclede's resources, not Public Counsel's resources.

² Case No. GR-2013-0171, Stipulation and Agreement, p. 10.

6. Applications for rehearing are more than just a procedural necessity for parties that wish to preserve an issue for appeal. The primary purpose of an application for rehearing is to explain to the Commission why the order's legal conclusions and factual findings are unlawful or unreasonable, which gives the Commission an opportunity to correct any points of error. Granting more time for the drafting of applications for rehearing will increase the quality of the applications, which in turn, increases the quality of any necessary Commission responses to those applications. This creates a better process overall and is in the public interest.

WHEREFORE, the Office of the Public Counsel respectfully requests that Laclede's request for a November 22, 2015 effective date be denied, and that the Commission set an effective date of December 1, 2015.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all counsel of record this 10th day of November 2015.

/s/ Marc Poston
