

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

In the Matter of Laclede Gas Company's ) Purchased Gas Adjustment for 2004-2005 )	Case No. GR-2005-0203
) In the Matter of Laclede Gas Company's ) Purchased Gas Adjustment for 2005-2006 )	Case No. GR-2006-0288

**PUBLIC COUNSEL'S RESPONSE AND MOTION TO REJECT  
LACLEDE'S REQUEST FOR A SPECIAL AGENDA MEETING**

**COMES NOW** the Office of the Public Counsel and for its response to Laclede Gas Company's May 27, 2009 Request for Special Agenda Meeting states as follows:

1. Public Counsel urges the Commission to take the additional time necessary to allow the Commission to carefully consider the language of the Stipulation and Agreement wherein Laclede agreed to provide access to the records of Laclede and its affiliates. Laclede agreed to make available to Staff and Public Counsel:

...all books, records and employees of The Laclede Group, Inc., Laclede Gas Company and its affiliates as may be reasonably required to verify compliance with the CAM and the conditions set forth in this Stipulation and Agreement.<sup>1</sup>

The requested information is necessary to verify compliance with the "conditions set forth in [the] Stipulation and Agreement." The information sought by the discovery request would verify compliance with multiple Stipulation conditions, including the following:

- The Laclede Group, Inc. represents that it does not intend to take any action that has a material possibility of having a detrimental effect on Laclede Gas Company's utility customers. (page 5)

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<sup>1</sup> Unanimous Stipulation and Agreement, p.8, Case No. GM-2001-342, July 9, 2001.

- The Laclede Group, Inc, and Laclede Gas Company also agree that the Commission has the authority, through the lawful exercise of its ratemaking powers, to ensure that the rates charged by Laclede Gas Company for regulated utility service are not increased as a result of the unregulated activity of Laclede's affiliates and Laclede agrees, consistent with such standard, that rates should not be increased due to such activities. (page 7)
- The Laclede Group, Inc. and Laclede Gas Company agree that the Commission has, and will continue to have, the authority after the lawful exercise of its current statutory powers, any direct or indirect transfer or disbursement of earnings from Laclede Gas Company to an affiliate that would jeopardize the Company's ability to meet its utility obligations. (page 7)
- Laclede Gas Company and The Laclede Group, Inc. shall also provide Staff and Public Counsel any other such information (including access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over Laclede Gas Company. (page 9)

The Staff alleged that Laclede's actions have had a detrimental effect on Laclede's customers through the rates paid for natural gas. Laclede clearly agreed to provide this information, and in return, Staff and Public Counsel agreed not to oppose Laclede's restructuring.

2. Laclede levels unfounded allegations of artificial delay against the Regulatory Law Judge and the Commission, alleging delay for the purpose of having a particular Commission consider the issue, yet at the same time, Laclede hypocritically seeks to create an artificial urgency for the very same purpose of having a particular Commission consider the issue. The only reason the Commission would grant Laclede's Request and schedule a Special Agenda would be to ensure the issue is decided by the current Commission rather than face the potential that a different Commission would consider the issue. This is not a reasonable basis for scheduling a Special Agenda or for rushing a Commission decision without carefully considering the pending motions.

3. During the Commission's May 27, 2009 Agenda Meeting, a Commissioner asked the Regulatory Law Judge to explain Public Counsel's May 4, 2009 Motion for Clarification. The Regulatory Law Judge's response did not mention the following issues that Public Counsel asked to be clarified:

- Clarify why the information sought by the Staff is not reasonably calculated to lead to the discovery of relevant information.
- Clarify how the Commission intends to address Laclede's unlawful refusal to comply with orders directing Laclede to produce information, or in the alternative, clarify why the Commission will allow Laclede to violate Commission orders.

The Commission's Agenda discussion did not address all matters that Public Counsel asked to be clarified, and for this reason, an additional Agenda discussion may be necessary to allow the Commissioners voting for the *Order Denying Motion to Compel* to discuss and clarify these unanswered questions.

4. As of today, May 28, 2009, Public Counsel's Motions for Reconsideration and Clarification have been pending before the Commission for 24 days. When Laclede filed its Motion for Reconsideration of the Commission's *Order Granting Motion to Compel* in this case, it took the Commission twice as long (48 days) to consider and deny Laclede's Motion. It took the Commission an additional 23 days to consider Laclede's Motion for Clarification. Laclede's claim that consideration of the pending Motions is being artificially delayed has absolutely no merit considering that the Commission took 71 days to resolve Laclede's Motions for Reconsideration and Clarification on the very same issue.

5. Public Counsel asserts that Laclede's Request for a Special Agenda is nothing more than a repeat of Laclede's Motion for Expedited Consideration. Laclede's Request should be rejected because it fails to follow these basic requirement of a motion for expedited treatment: 1) It fails to title its pleading as a "Motion for Expedited Treatment"; 2) It fails to identify the harm that will be avoided or the benefit that will accrue; and 3) It fails to include a statement of the effect on Laclede's customers or the general public. For these reasons, Laclede's request should be rejected because it does not comply with 4 CSR 240-2.080(16).

6. The affiliate information is not being sought to hold Laclede's unregulated affiliate Laclede Energy Resources (LER) to any regulated standard. The purpose of this case is not to regulate LER in any way. The information is sought because it is relevant to actions taken by Laclede Gas Company during the Actual Cost Adjustment (ACA) periods. The data requests are reasonably calculated to obtain information that is needed to determine whether Laclede's gas transactions were imprudent or unlawful. No evidence discovered by the Staff will have any bearing on this case unless the Commission allows that evidence to be entered into the record during an evidentiary hearing. The Commission's willingness to allow these serious allegations to transpire without a proper and thorough investigation is inconsistent with the Commission's duty to protect the public from abuse by a monopoly utility.

WHEREFORE, Public Counsel respectfully offers this response to Laclede Gas Company's Request for a Special Agenda.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 28th day of May 2009:

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