

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

In the Matter of Laclede Gas Company's)	
Verified Application for Authority to Issue and)	
Sell First Mortgage Bonds, Unsecured Debt and)	
Preferred Stock, in Connection with a Universal)	
Shelf Registration Statement, to Issue Common)	Case No. GF-2009-0450
Stock and Receive Capital Contributions, to Issue)	
and Accept Private Placement Securities, and to)	
Enter Into Capital Leases, all in a Total Amount)	
Not to Exceed \$600 Million.)	

**INITIAL BRIEF OF THE
OFFICE OF THE PUBLIC COUNSEL**

COMES NOW the Office of the Public Counsel (OPC) and offers this brief in support of the Staff's recommendation to make the \$600 million financing authority approval subject to twelve (12) specific conditions. Public Counsel concurs in the Findings of Fact and Conclusions of Law proposed in the Staff's Initial Brief. The following five disputed conditions should be ordered by the Commission as follows:

Condition 1: That the Company be authorized to issue and sell debt securities, solicit and accept private placements and issue common stock and receive paid-in capital in an aggregate amount not to exceed \$600 million at any time, or from time to time, for three years from the effective date of the Commission's Order, provided that the total amount of long-term debt issued and outstanding under such authority shall not, at any time during the period covered by this authorization exceed \$100 million, and, provided further that the Company shall not be authorized to use any portion of the \$600 million for any purpose other than for the exclusive benefit of Laclede Gas Company's regulated operations, as such purposes are specified in Section 393.200.

This condition protects ratepayers by recognizing that Laclede's Application supports no more than \$100 million of long-term debt, and by requiring that the \$600 million of financing be used only for regulated operations. (Ex.8, pp.6-8 and Sch.1) The

Staff explained that ratepayers should be protected from paying the higher financing costs that would result from Laclede issuing long-term debt in order to finance short-term operating needs. (Ex. 8, p.4). Staff further explained that “it is not prudent for a company to use long-term debt to finance working-capital operations that do not provide growth or increase productivity.” (*Id.*) Condition 1 is necessary to provide these protections for ratepayers. Furthermore, Condition 1 also protects Laclede by not precluding it from filing an additional application for additional financing authority should the need arise.

Condition 2: The Company must specify the type of preferred stock it plans to issue and whether the preferred stock is to be issued in lieu of debt.

Laclede has no plans to issue preferred stock. Should Laclede in the future wish to issue preferred stock, this condition is a simple reporting requirement that will keep the Commission apprised of the type of preferred stock to be issued, allowing the Commission to know whether the preferred stock issuance would apply to debt or equity. The Staff explained that the preferred stock and long-term capital investment conditions are necessary “to make sure that amounts of long-term capital investments financed under previous-authorities are not included in the current case.” (Ex. 10, p.4).

Condition 8: That the Company shall file with the Commission any credit rating agency reports issued on the Company, the Company’s debt issuances, or on the Laclede Group.

This simple reporting requirement has been used by the Commission in the recent past and will protect ratepayers by helping the Commission monitor Laclede’s financial health.

Condition 11: If the Company converts operating leases to capital leases in compliance with Generally Acceptable Accounting Principles (GAAP), the amount of capital leases shall not count against the \$100M debt limit. If the Company enters into new capital leases, those leases shall meet the stated criteria, and this amount will be counted toward the \$100M debt limit.

Condition 11 properly ensures that new capital leases, which are similar to debt financing, would be counted towards the \$100 million debt limit. Should Laclede have a future financing need that exceeds the \$100 million debt limit, nothing precludes Laclede from filing another application with the Commission.

Condition 12: That in future finance cases, the Company shall be required to provide detailed evidence to the Commission showing the amounts of long-term capital investments that have not been financed under the prior financing authority, the type of long-term securities they intend to issue and when the Company intends to issue such securities.

This is another simple reporting requirement that provides the Commission with a better understanding of how Laclede has used its financing authority in the past, and how Laclede intends to use its financing authority in the future. Requiring these disclosures will help the Commission fulfill its duty to protect ratepayers by monitoring the activities of a regulated monopoly and ensuring Laclede's financing practices and plans are just and reasonable.

In conclusion, the protections provided by the twelve proposed conditions are necessary to help protect ratepayers from increased financing costs, and do not pose a burden on Laclede's ability to maintain flexibility over its financing decisions. Most of the conditions are simply reporting requirements that will aid the Staff in monitoring Laclede's financing, including monitoring to ensure that Laclede is not collateralizing "its regulated utility properties for unforeseen circumstances which may include liquidity needs used by The Laclede Group's financing needs." (Ex.10, p.4). The need for these

protections is highlighted by Laclede's repeated refusal to allow access to Laclede's records in this case and in other proceedings. (Ex.10, p.3).¹ Laclede's regulated customers cannot lawfully or reasonably be required to pay increased financing costs caused by the needs of Laclede's unregulated operations. The Staff's conditions are lawful, reasonable, and should be approved.

WHEREFORE, the Office of the Public Counsel urges the Commission to only approve Laclede's financing application if the Commission also approves all twelve conditions recommended by the Staff.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston
Marc D. Poston (#45722)
Deputy Public Counsel
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

¹ See also Case Nos. GR-2005-0203 and GR-2006-0288.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 21st day of May 2010:

General Counsel Office
Missouri Public Service
Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Zucker E Rick
Laclede Gas Company
720 Olive Street
St. Louis, MO 63101
rzucker@lacledegas.com

Berlin Bob
Missouri Public Service
Commission
200 Madison Street, Suite
800
P.O. Box 360
Jefferson City, MO 65102
Bob.Berlin@psc.mo.gov

Pendergast C Michael
Laclede Gas Company
720 Olive Street, Suite 1520
St. Louis, MO 63101
mpendergast@lacledegas.com

/s/ Marc Poston
