

Exhibit No.:
Issues: *Appliance Service Work*
Witness: *ARLENE S. WESTERFIELD*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *GR-99-315*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

FILED

AUG 05 1999

REBUTTAL TESTIMONY

Missouri Public
Service Commission

OF

ARLENE S. WESTERFIELD

LACLEDE GAS COMPANY

CASE NO. GR-99-315

Jefferson City, Missouri
August, 1999

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1 Q. How does the Company record the revenues and expenses related to the
2 appliance service function?

3 A. The Company's expenses incurred to perform appliance service work are
4 primarily recorded on its books and records as distribution expenses in Account 879.
5 Revenues billed to customers for this work are recorded as an offset to the distribution
6 expense account. The Company does not record separately or maintain a breakdown of
7 expenses for appliance service work. The Company's response to Staff Data Request No.
8 20 (attached, as Schedule 1 to this testimony) states that with regard to appliance service
9 work "... expenses are not recorded separately...".

10 Q. How did the Company arrive at its adjustment in this case?

11 A. Since the actual costs of the specific revenue-producing jobs are not
12 recorded separately, the total expenses charged to Account 879.2 were allocated in an
13 attempt to estimate the costs associated with appliance service work. The Company
14 made its adjustment to the income statement by netting the estimated expenses against
15 the actual amount of revenues and removing the excess from the cost of service.

16 Q. Does the Staff believe that the Company's adjustment for appliance
17 service work is appropriate?

18 A. No, the Staff does not believe this adjustment is appropriate, due to the
19 lack of sufficient record keeping. Neither the Staff nor the Company knows whether the
20 revenue from the appliance service function is covering the associated cost or if the
21 ratepayers are subsidizing the repairs of appliances. Staff additionally believes that the
22 Company's allocations, used in their adjustment, do not represent a complete list of all
23 items of expenses incurred to support the appliance service function.

1 Q. What additional items do you believe should be included?

2 A. Some of the items included in the Company's non-utility allocation
3 adjustment would certainly be appropriate for appliance service work. Examples would
4 be Annual Report and 10K expenses, expenses related to board of directors meetings,
5 executive payroll and associated benefits expense, rent expense, and billing expenses.
6 Additionally, because the Company allocated administrative expenses at a cost of five
7 dollars per job, the Staff does not know what items are included as administrative
8 expense.

9 Q. Why do you believe the ratepayers may be subsidizing the repairs of
10 appliances?

11 A. The Staff believes that the standard of fully distributed cost should be used
12 to determine the expenses associated with appliance service work.

13 Q. Why does the Staff believe this standard is not being met?

14 A. First, since the expenses are not directly tracked, the fully distributed cost
15 of appliance service work has not been determined. Second, the Company does not
16 maintain its books in sufficient detail to permit verification of the costs specifically
17 associated with appliance service work. Additionally, the allocated costs are not a
18 comprehensive list of actual expenses.

19 Q. Has the Company acknowledged that they are using incremental rather
20 than fully distributed costs to determine the expenses associated with appliance service
21 work?

22 A. Yes, they have. Please see Schedule 3 attached, which is a letter (and
23 attached calculation) addressed to Tom Imhoff of the Public Service Commission Staff

1 from Michael C. Pendergast of Laclede Gas Company, dated October 5, 1998.
2 Mr. Pendergast estimated that a net profit of \$840,000 would be lost to Laclede if the
3 Company could no longer participate in HVAC activities. The net profit was calculated
4 as the difference between the HVAC revenue contribution and incremental costs.

5 Q. Is this the same method as the one used to calculate the net profit from
6 HVAC service work in this case?

7 A. Yes, it is.

8 Q. Are there rules in place which relate to merchandising practices of
9 utilities?

10 A. Yes there are. House Bill No. 1038 (attached as Schedule 2), amended
11 chapter 386, RSMo relating to certain merchandising practices of utilities by adding five
12 new sections. This statute states in section 386.756 (4) that "A utility may not engage in
13 or assist any affiliate or utility contractor in engaging in HVAC services in a manner
14 which subsidizes the activities of such utility, affiliate or utility contractor to the extent of
15 changing the rates or charges for the utility's regulated services above or below the rates
16 or charges that would be in effect if the utility were not engaged in or assisting any
17 affiliate or utility contractor in engaging in such activities."

18 Section 5 provides: "Any affiliates or utility contractors engaged in HVAC
19 services shall maintain accounts, books and records separate and distinct from the
20 utility."

21 Section 6 states: "The provisions of this section shall apply to any affiliate or
22 utility contractor engaged in HVAC services that is owned, controlled or under common
23 control with a utility providing regulated utility service in this state or any other state."

Arlene S. Westerfield
Rebuttal Testimony

1 Q. Isn't Laclede exempted from these provisions by the language in section 7
2 which states: "A utility engaging in HVAC services in this state five years prior to
3 August 28, 1998, may continue providing, to existing as well as new customers, the same
4 type of services as those provided by the utility five years prior to August 28, 1998?"

5 A. No. This section only provides Laclede an exemption from the language
6 of the bill that states: "Except by an affiliate, a utility may not engage in HVAC
7 services." Section 7 only allows Laclede to be exempt from the requirement of
8 establishing an affiliate to offer this service.

9 Q. Is it your interpretation of the bill that Laclede must comply with all other
10 revised sections of the bill?

11 A. Yes. It is. Even though the appliance service work at Laclede is not
12 performed by a separate affiliate, all criteria relating to the provisions of this bill should
13 still be met.

14 Q. Has the Staff communicated it's position regarding record keeping and
15 expense tracking to the Company?

16 A. Yes. The Staff has informed the Company in prior cases that they believe
17 the Company must start tracking appliance work expenses to determine the profits or
18 losses generated by the appliance repair work in future cases.

19 Q. Does this conclude your rebuttal testimony?

20 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of)
Laclede Gas Company's Tariff) Case No. GR-99-315
to Revise Natural Gas Rate Schedules.)

AFFIDAVIT OF ARLENE S. WESTERFIELD

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Arlene S. Westerfield, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 5 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.



Arlene S. Westerfield
Arlene S. Westerfield

Subscribed and sworn to before me this 4th day of August 1999.

Randall Z. Wright

Notary Public, State of Missouri
County of:
My Commission Expires

Randall Z. Wright
Notary Public, State of Missouri
County of **Cole**
My Commission Exp. 01/02/2001

DATA INFORMATION REQUEST

Laclede Gas Company

CASE NO. GR-99-315

Requested From: Susie Kopp

Date Requested: 02/26/99

Information Requested:

Please provide a breakdown of expenses and revenues charged for appliance repair in 1998 and the accounts charged.

Requested By: Steve Rackers

Information Provided:

The attached information provided to the Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. GR-99-315 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the Laclede Gas Company office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title, number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies of data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control within your knowledge. The pronoun "you" or "your" refers to Laclede Gas Company and its employees, contractors, agents or others employed by or acting in its behalf.

Signed By: _____

Date Response Received: 3-24-99 MDL-

Prepared By

Schedule 1-1

LACLEDE GAS COMPANY
Case No. GR-99-315

Response to Staff Data Request No. 20

Revenues charged for appliance repair are credited to accounts 879.42, 879.44, and 879.46. Associated expenses are not recorded separately, but are primarily debited to accounts 879.41, 879.43, and 879.45. See the workpapers submitted with Schedule C, Adjustment 6.I. for a schedule of appliance service revenues and an allocation of associated expenses.

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1038

89TH GENERAL ASSEMBLY

S2315.07T

1998

AN ACT

To amend chapter 386, RSMo, relating to certain merchandising practices of utilities by adding thereto five new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 386, RSMo, is amended by adding thereto five new sections, to be known as sections 386.754, 386.756, 386.760, 386.762 and 386.764, to read as follows:

386.754. 1. For the purposes of sections 386.754 to 386.764, the following terms mean:

(1) "Affiliate", any entity not regulated by the public service commission which is owned, controlled by or under common control with a utility and is engaged in HVAC services;

(2) "HVAC services", the warranty, sale, lease, rental, installation, construction, modernization, retrofit, maintenance or repair of heating, ventilating and air conditioning equipment;

(3) "Utility", an electrical corporation, gas corporation or heating company, as defined in section 386.020, RSMo;

(4) "Utility contractor", a person, including an individual, corporation, firm, incorporated or unincorporated association or other business or legal entity, that contracts, whether in writing or not in writing, with a utility to engage in or assist any entity in engaging in HVAC services, but does not include employees of a utility.

386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless otherwise provided in subsection 7 or subsection 8 of this section.

3 2. No affiliate or utility contractor may use any vehicles, service tools, instruments,
4 employees, or any other utility assets, the cost of which are recoverable in the regulated
5 rates for utility service, to engage in HVAC services unless the utility is compensated for
6 the use of such assets at cost to the utility.

7 3. A utility may not use or allow any affiliate or utility contractor to use the name
8 of such utility to engage in HVAC services unless the utility, affiliate or utility contractor
9 discloses, in plain view and in bold type on the same page as the name is used on all
10 advertisements or in plain audible language during all solicitations of such services, a
11 disclaimer that states the services provided are not regulated by the public service
12 commission.

13 4. A utility may not engage in or assist any affiliate or utility contractor in engaging
14 in HVAC services in a manner which subsidizes the activities of such utility, affiliate or
15 utility contractor to the extent of changing the rates or charges for the utility's regulated
16 services above or below the rates or charges that would be in effect if the utility were not
17 engaged in or assisting any affiliate or utility contractor in engaging in such activities.

18 5. Any affiliates or utility contractors engaged in HVAC services shall maintain
19 accounts, books and records separate and distinct from the utility.

20 6. The provisions of this section shall apply to any affiliate or utility contractor
21 engaged in HVAC services that is owned, controlled or under common control with a
22 utility providing regulated utility service in this state or any other state.

23 7. A utility engaging in HVAC services in this state five years prior to August 28,
24 1998, may continue providing, to existing as well as new customers, the same type of
25 services as those provided by the utility five years prior to August 28, 1998.

26 8. The provisions of this section shall not be construed to prohibit a utility from
27 providing emergency service, providing any service required by law or providing a
28 program pursuant to an existing tariff, rule or order of the public service commission.

29 9. A utility that violates any provision of this section is guilty of a civil offense and
30 may be subject to a civil penalty of up to twelve thousand five hundred dollars for each
31 violation.

386.760. 1. The public service commission shall have full authority to administer
2 and ensure compliance with sections 386.754 to 386.764, provided that the commission shall
3 not impose, by rule or otherwise, requirements regarding HVAC services that are
4 inconsistent with or in addition to those set forth in sections 386.754 to 386.764 or with
5 requirements set forth in section 386.315.

6 2. No rule or portion of a rule promulgated pursuant to the provisions of sections
7 386.754 to 386.764 shall become effective unless it has been promulgated pursuant to the

8 provisions of chapter 536, RSMo.

386.762. The public service commission shall have authority to:

2 (1) Review, inspect and audit books, accounts and other records kept by a utility
3 or affiliate for the sole purpose of ensuring compliance with sections 386.754 to 386.764
4 and make findings available to the commission; and

5 (2) Investigate the operations of a utility or affiliate and their relationship to each
6 other for the sole purpose of ensuring compliance with sections 386.754 to 386.764.

386.764. Nothing in sections 386.754 to 386.764 shall be construed as modifying
2 existing legal standards regarding which party has the burden of proof in commission
3 proceedings.

LACLEDE GAS COMPANY
720 OLIVE STREET
ST. LOUIS, MISSOURI 63101

AREA CODE 314
342-0332

MICHAEL C. PENDERGAST
ASSOCIATE GENERAL COUNSEL

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OCT 13 1998

MISSOURI

Public Service Commission
Public Service Commission

October 5, 1998

Tom Imhoff, CPA
Missouri Public Service Commission
P.O. Box 360
301 W. High Street, Room 530
Jefferson City, MO 65102

Dear Mr. Imhoff:

I am writing in response to the September 14, 1998 letter from Gordon Persinger relating to the fiscal impact on Laclede Gas Company ("Laclede") of the Staff's proposed HVAC Services Affiliate Transactions Rule ("Proposed Rule"). As you know, Laclede believes that a number of the requirements set forth in the Proposed Rule, including its use of fully distributed costs conflicts directly with the statutory provisions the Rule is supposed to implement. For that reason, Laclede believes it is likely that those provisions of the Proposed Rule which could have the greatest fiscal impact on the Company will ultimately be rejected by the Commission or will otherwise be found unlawful.

Nevertheless, should Laclede ultimately be required due to the implementation of the Proposed Rule to cease its current activities that are the subject of such rule, it estimates that the adverse fiscal impact of such an event on Laclede would be \$840,000. As shown on the attached calculation, this represents the difference between the incremental costs that Laclede would avoid if the use of such a methodology made it impracticable for the Company to continue to participate in these activities and the significantly greater level of revenue contribution that Laclede would lose under such circumstances.

Sincerely,


Michael C. Pendergast

MCP:jaa

Laclede Gas Company
HVAC
12 Months Ended February 1998
(Thousands of Dollars)

	<u>Manhours</u>	<u>Avg. Dist. Labor Rate</u>	<u>Dollars</u>
HVAC Revenues			\$2,704
Expenses:			
Service Work	47,655	\$21.29	1,015
Utility Portion of Work	(6,294)	\$21.29	(134)
	<u>41,361</u>		<u>881</u>
Materials			269
Advertising			232
Administrative Overhead			189
Benefits			86
Vehicle Costs			207
Total Expenses			<u>1,864</u>
Profit/(Loss)			<u><u>\$840</u></u>