

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

In the Matter of the Application of)	
Laclede Gas Company for an Accounting)	
Authority Order Authorizing the Company)	
to Defer for Future Recovery the Costs of)	Case No. GU-2007-0138
Complying with the Permanent)	
Amendment to the Commission's Cold)	
Weather Rule.)	

PUBLIC COUNSEL'S RESPONSE

COMES NOW the Missouri Office of the Public Counsel and states:

1. On April 10, 2008, the Office of the Public Counsel filed a motion requesting a limited waiver of Commission Rule 4 CSR 240-13.055(14)(G)2. Public Counsel cited to 4 CSR 240-2.015 as the authority for waiving this rule.

2. The Commission's Staff filed a response on April 10, 2008 and objected to giving the Commission more time to consider this case. Staff correctly points out that 4 CSR 240-2.015 is limited to waivers of the procedural rules contained in Chapter 2, and not to the rules in Chapter 13. The Staff also correctly states that 4 CSR 240-13.065 specifically allows a utility to request a variance from rules in Chapter 13 for good cause. Chapter 13 of the Commission's rules is silent as to the Public Counsel's authority to request a variance or waiver from a Chapter 13 rule and Public Counsel is not aware of any rule or statute that prohibits Public Counsel from seeking a waiver or variance from a Commission rule. Section 386.710 RSMo gives Public Counsel broad authority in carrying out its duties. Prohibiting Public Counsel from requesting a variance or a waiver from Chapter 13, while allowing the utility company to request such a waiver, would be discriminatory, arbitrary, capricious, and an abuse of the Commission's discretion.

3. Public Counsel did not intend to get into a dispute over whether it has or does not have the authority to request a waiver. Given the discussion during Agenda, it appeared 4 CSR 240-13.055(14)(G)(2) could prevent the Commission from adequately discussing this case before the deadline. The Commission discussed holding a separate Agenda, which would be held during the same time set aside for an evidentiary hearing in a separate matter. Public Counsel filed its motion to assist the Commission in avoiding a rushed decision.

4. Given the Staff's objection to giving the Commission more time to render a decision, Public Counsel will not spend any more time pursuing a waiver. If the Commission has fulfilled its statutory duty to consider the evidence and believes it can render a decision by April 18, 2007, Public Counsel does not believe the Commission should extend its timeframe for deciding the case. Public Counsel only suggests that if the Commission needs additional time, and has the authority to order a variance or waiver from its own rule, the Commission may want to consider extending its deadline.

WHEREFORE, the Office of the Public Counsel respectfully offers this response.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston

Marc D. Poston (#45722)

Senior Public Counsel

P. O. Box 2230

Jefferson City MO 65102

(573) 751-5558

(573) 751-5562 FAX

marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 11th day of April, 2008:

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

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

/s/ Marc Poston
