

1 STATE OF MISSOURI  
2 PUBLIC SERVICE COMMISSION  
3  
4 TRANSCRIPT OF PROCEEDINGS  
5 Hearing  
6 November 8, 2006  
7 Jefferson City, Missouri  
8 Volume 2  
9  
9 Staff of the Public Service )  
Commission of Missouri, )  
10 )  
Complainant, )  
11 )  
vs. ) Case No. GC-2006-0318  
12 )  
Laclede Gas Company, )  
13 )  
Respondent. )  
14  
Office of the Public Counsel, )  
15 )  
Complainant, )  
16 )  
vs. ) Case No. GC-2006-0431  
17 )  
Laclede Gas Company, )  
18 )  
Respondent. )  
19  
20 MORRIS L. WOODRUFF, Presiding,  
SENIOR REGULATORY LAW JUDGE.  
21  
22 LINWARD "LIN" APPLING,  
COMMISSIONERS.  
23  
24 REPORTED BY:  
25  
26 KELLENE K. FEDDERSEN, CSR, RPR, CCR  
MIDWEST LITIGATION SERVICES

1 APPEARANCES:

2 MICHAEL C. PENDERGAST, Attorney at Law  
3 RICK ZUCKER, Attorney at Law  
4 Laclede Gas Company  
5 720 Olive Street  
6 St. Louis, MO 63101  
7 (314) 342-0532

8 WILLIAM J. NIEHOFF, Attorney at Law  
9 Mathis, Marifian, Richter & Grandy  
10 23 Public Square, Suite 300  
11 Belleville, IL 62220  
12 (618) 234-9800

13 FOR: Laclede Gas Company.

14 MICHAEL A. EVANS, Attorney at Law  
15 HAMMOND, SHINNERS, TURCOTTE, LARREW & YOUNG, P.C.  
16 7730 Carondelet, Suite 200  
17 St. Louis, MO 63105  
18 (314) 727-1015

19 FOR: USW Local 11-6.

20 MARC D. POSTON, Senior Public Counsel  
21 P.O. Box 2230  
22 200 Madison Street, Suite 650  
23 Jefferson City, MO 65102-2230  
24 (573) 751-4857

25 FOR: Office of the Public Counsel  
and the Public.

KEVIN THOMPSON, General Counsel  
LERA L. SHEMWELL, Senior Counsel  
P.O. Box 360  
200 Madison Street  
Jefferson City, MO 65102  
(573) 751-3234

FOR: Staff of the Missouri Public  
Service Commission.

1 P R O C E E D I N G S

2 JUDGE WOODRUFF: Welcome everyone to the  
3 hearing today in Case No. GC-2006-318 and GC-2006-0431.  
4 We'll begin today by taking entries of appearance,  
5 beginning with the Staff.

6 MS. SHEMWELL: Good morning, your Honor,  
7 and thank you. Lera Shemwell representing the Staff of  
8 the Missouri Public Service Commission, Post Office  
9 Box 360, Jefferson City, Missouri 65101.

10 JUDGE WOODRUFF: And for the Office of  
11 Public Counsel?

12 MR. POSTON: Thank you. Marc Poston  
13 appearing today on behalf of the Office of the Public  
14 Counsel and the public.

15 JUDGE WOODRUFF: Thank you. And for  
16 Laclede Gas?

17 MR. PENDERGAST: Thank you, your Honor.  
18 Michael Pendergast and Rick Zucker appearing on behalf of  
19 Laclede Gas Company. I'd also like to take this  
20 opportunity to introduce Mr. William Niehoff. He has not  
21 filed a formal entry of appearance, and depending on how  
22 these proceedings go, he may not need to play a role in  
23 it, but should he need to, should he do that now?

24 JUDGE WOODRUFF: Certainly.

25 MR. NIEHOFF: This is William Niehoff. I'm

1 with the law firm of Mathis, Marifian, Richter & Grandy,  
2 on behalf of Laclede Gas Company.

3 JUDGE WOODRUFF: Thank you. And for USW  
4 Local 11-6?

5 MR. EVANS: Good morning. My name is  
6 Michael Evans. I'm representing USW 11-6.

7 JUDGE WOODRUFF: Thank you very much. And  
8 I believe you've all given your written entries to the  
9 court reporter.

10 All right. Well, there was a written  
11 Stipulation & Agreement filed in this case late yesterday,  
12 I believe, so we will need to present that, I guess. Who  
13 wants -- I'll ask one of the parties to formally announce  
14 that. Mr. Pendergast, if you wish to do that or --

15 MR. PENDERGAST: If no one else is eager to  
16 do the honors, I will. We have submitted a formal  
17 Stipulation & Agreement. It was filed shortly after  
18 five o'clock last night. It is an agreement that is being  
19 submitted by the Office of Public Counsel, by Laclede Gas  
20 Company, and by United Steel Workers Local 11-6.

21 There is also one provision in it which I  
22 think that the Staff has also agreed is reasonable, and as  
23 I understand it, on the other provisions the Staff is  
24 taking the position that they will neither support nor  
25 oppose it.

1 JUDGE WOODRUFF: Ms. Shemwell, is that  
2 correct?

3 MS. SHEMWELL: That is correct. And if the  
4 Commission would like an explanation of that, we're  
5 certainly willing to do so. However, we have agreed that  
6 the portion of the Stipulation that addresses the locked  
7 meter with consumption issue has been resolved in the best  
8 interest of consumers. Thank you, Judge.

9 JUDGE WOODRUFF: Thank you. Well, at this  
10 point, with the Stipulation & Agreement having been filed,  
11 and it's not opposed by any party, I am assuming that the  
12 parties do not wish to present testimony today; is that  
13 correct?

14 MS. SHEMWELL: I believe that that is  
15 correct.

16 JUDGE WOODRUFF: Okay. Does the  
17 Stipulation & Agreement provide that the prefiled evidence  
18 will be received into the record?

19 MS. SHEMWELL: I do not remember, but I  
20 think it would be a good idea.

21 MR. POSTON: It just doesn't speak to that.

22 JUDGE WOODRUFF: Okay. Do the parties want  
23 to put the prefiled evidence into the record?

24 MS. SHEMWELL: I think that we should.

25 JUDGE WOODRUFF: Any other views?

1                   MR. PENDERGAST: Well, your Honor, it all  
2 depends on how these proceedings go. If the Stipulation &  
3 Agreement ultimately becomes the final resolution of these  
4 proceedings, then I don't believe that we would have any  
5 problem with that whatsoever.

6                   In the event there is a need for further  
7 litigation up the line, we do have some evidentiary  
8 objections associated with various portions of it, and so  
9 under those circumstances I think for now we would not  
10 agree to admit everything into the record at this point.

11                  JUDGE WOODRUFF: All right. Well, what I'm  
12 going to do at this point is we'll adjourn in a little bit  
13 and I'll go upstairs and talk with the Commissioners. I  
14 know Commissioner Appling is here this morning. I don't  
15 know if any other Commissioners are here at the moment.

16                  And then we'll come back -- I'll come back  
17 down in about 15 minutes or so and I'll ask the parties to  
18 explain a little bit about the Stipulation, state their  
19 positions on it, of course give Staff a chance to explain  
20 why they're not joining fully in the Stipulation &  
21 Agreement, and be a chance for the Commissioners to ask  
22 questions about the Stipulation & Agreement as well, and  
23 then we'll proceed from there.

24                  So at this time we are adjourned, and we'll  
25 come back at ten minutes 'til nine.

1 (A BREAK WAS TAKEN.)

2 JUDGE WOODRUFF: All right. We're back on  
3 the record, and while we were on break, they managed to  
4 fix the technology, so we are webcasting again.

5 I was upstairs and talking with  
6 Commissioners and their DPAs. Right at the moment  
7 Commissioner Appling is the only one that's likely to come  
8 down. He may have some questions. But at this point I'm  
9 going to ask the attorneys to explain the Stipulation &  
10 Agreement and their position on it. At least we'll have  
11 that on the record. And if any Commissioners come down  
12 here before we're finished with that, then we'll give them  
13 a chance to ask questions if they have any.

14 Of course, this was just filed late  
15 yesterday evening. The Commissioners haven't had a chance  
16 to see this yet, so we're not really sure yet if they'll  
17 have questions.

18 So let's go ahead and begin with Office of  
19 Public Counsel, if you could explain what this Stipulation  
20 does and why you're supporting it.

21 MR. POSTON: Thank you, Judge. This case  
22 involves two separate complaints. Although the complaints  
23 were consolidated and both relate to Laclede estimated  
24 billing practices, the complaints do address separate  
25 issues. In Staff's complaint, Count 1 alleges that

1   Laclede failed to obtain actual meter readings and failed  
2   to provide proper customer notification when estimating  
3   usage. Staff asked the Commission to order Laclede to  
4   make changes to its practices, and Staff also seeks  
5   penalties.

6                   In Count 2, Staff alleges that Laclede has  
7   not investigated instances where usage registered on  
8   previously locked meters, which creates a potential safety  
9   hazard.

10                  Public Counsel's complaint alleges that  
11   Laclede unlawfully issued catchup bills to customers for  
12   periods of charges that exceeded 12 months. As we  
13   explained in our complaint, Public Counsel interprets the  
14   Commission's rule to limit such catchup bills to no more  
15   than 12 months.

16                  The safety issue aside, the main difference  
17   between the two complaints is that Staff's complaint  
18   focuses on customer notice and obtaining actual meter  
19   readings, whereas Public Counsel's complaint focuses more  
20   on bill adjustments.

21                  The Stipulation & Agreement that was filed  
22   last night, if approved by the Commission, will resolve  
23   Public Counsel's complaint in total, and appears to  
24   resolve the issues raised in Staff's Count 2, the safety  
25   issue. This agreement does not, however, address the



1 issues identified in Staff's Count 1, wherein the Staff  
2 requested penalties for certain rule violations.

3           Public Counsel signed and supports this  
4 agreement for several reasons. The main reason we support  
5 the agreement is that it gives money back to the very  
6 customers that we believe were harmed. Under the  
7 agreement, every customer that faced a greater than  
8 12-month catchup bill in the past two years will receive a  
9 credit for the amount of the adjustment that went beyond  
10 the 12-month period. This outcome compensates those  
11 customers that were directly harmed.

12           Second, if the Commission approves the  
13 agreement sooner rather than later, which we urge the  
14 Commission to do, it will provide customers with credits  
15 during the winter heating season, this winter heating  
16 season when bills are higher and credits are more needed.  
17 Credits will be applied to customer bills on or after the  
18 first bill issued 60 days after the Commission's order  
19 approving the agreement. So a Commission decision by  
20 December of this year will assure these customers an  
21 adjustment during this winter's heating season.

22           Third, we support the agreement because it  
23 contains assurances that all customers deserving credits  
24 will be identified. The first assurance is the hiring of  
25 an independent auditor to ensure that methods used to

1 identify customers is effective and appropriate. The  
2 second assurance is essentially a penalty should any  
3 customers deserving credits not be identified. In these  
4 instances, Laclede will not only provide the appropriate  
5 credit, but Laclede will also put an additional \$500 into  
6 its low-income weatherization program.

7 Fourth, we support this agreement because  
8 on a prospective basis Laclede will not adjust any  
9 customer bills for a period greater than 12 months.

10 Fifth, Laclede has provided estimates that  
11 suggest that the 500,000 is sufficient to cover all bill  
12 credits. Should the amount of bill credits exceed  
13 500,000, the 500,000 does not act as a cap. Laclede will  
14 still be responsible.

15 And lastly, while this agreement is limited  
16 to bills adjusted within the last two years, it does not  
17 preclude any customers from pursuing bill credits that had  
18 bills adjusted before November 2004, and does not preclude  
19 customers from filling complaints with the Commission if  
20 the customers believe the credits offered under this  
21 agreement are insufficient.

22 If the Commission approves this  
23 Stipulation, we ask the Commission not make any  
24 modifications. The agreement states that if the  
25 Commission does not approve the agreement or modifies the

1 agreement's terms, no party is bound. Overall, we think  
2 this is a good agreement for Laclede's customers. It  
3 targets the customers we believe were harmed, as  
4 identified in our complaint, and provides credits right  
5 away rather than face the uncertainty and delay if the  
6 case were to wind up in a lengthy appeal.

7                   For these reasons, we ask the Commission to  
8 approve the agreement as an appropriate resolution to the  
9 issues identified in Public Counsel's complaint. Thank  
10 you.

11                   JUDGE WOODRUFF: Thank you, Mr. Poston.  
12 Mr. Pendergast, what would you like to add for Laclede?

13                   MR. PENDERGAST: Thank you, your Honor.  
14 I'd like to first of all, before addressing the specific  
15 terms of the stipulation -- I think Mr. Poston did a  
16 pretty good job doing that -- I want to thank the Office  
17 of Public Counsel, I want to thank the Union for keeping  
18 the focus on what I think the focus should be on, and  
19 that's providing some sort of prompt, effective and  
20 meaningful assistance to those customers that have been  
21 particularly affected by our transition to a new AMR  
22 system.

23                   I also want to thank the Staff for allowing  
24 the Commission to go ahead and consider this Stipulation &  
25 Agreement and not opposing its terms, and I think that's

1 helpful to accomplishing that goal as well.

2 I do want to go ahead and say a few words  
3 about why we reached this particular resolution, and as  
4 we've said in our testimony and elsewhere, a lot of these  
5 complaints are the result of our transition to an AMR  
6 process that really shouldn't come as a surprise to  
7 anybody. Whenever a gas utility in Missouri has  
8 implemented a system-wide installation of AMR, there have  
9 been a significant number of customer complaints that have  
10 been filed.

11 Whenever you have a massive project that's  
12 designed to make physical modifications to every piece of  
13 equipment serving every customer, whenever you have a  
14 situation where in some instances bills are being  
15 reconciled because you're getting inside for the first  
16 time in a while in order to go ahead and install one of  
17 these devices, you're going to go ahead and have some  
18 customer complaints.

19 The main difference between when they  
20 arose, and this is addressed in the reports you provided  
21 to the Commission in the context of Ameren's installation  
22 of AMR, in the context of when MGE installed AMR a number  
23 of years ago, is that nobody has had nearly as ambitious  
24 an AMR project as Laclede has. We have 650,000 meters  
25 that we're putting them on. 250,000 of those meters are

1     inside. Neither of those utilities had any numbers that  
2     even approached that.

3                     In addition, we have had a very ambitious  
4     program of installing all these meters on an accelerated  
5     basis, all these devices. We have approximately 600,000  
6     installed after a year and a half. There are other  
7     utilities this country that have taken four, five years to  
8     go ahead and install these devices. And we've done all  
9     these things in the context of a higher price environment  
10    where obviously, if you're reconciling bills, you're going  
11    to be reconciling at higher levels than you would in a low  
12    price environment.

13                    So under those circumstances, it would have  
14    been unreasonable to expect that there wouldn't be a  
15    significant increase in customer complaints. Nonetheless,  
16    we forged ahead with installing this because we know it's  
17    the right thing to do for our customers. Often overlooked  
18    in the process is that as a result of these actions,  
19    customers today are saving millions of dollars a year in  
20    avoided service initiation charges that they no longer  
21    have to pay. That is a substantial net benefit to  
22    customers.

23                    In addition, they're saving hundreds of  
24    thousands of hours of productive time that they don't have  
25    to spend waiting for gas personnel to show up to initiate

1 service. That is a significant net benefit for customers  
2 today. And because we accelerated the process, something  
3 that has accelerated the number of customer complaints  
4 here, those benefits are coming to customers significantly  
5 sooner than they otherwise would have. We have  
6 accomplished these benefits for our customers at  
7 significant cost to the company. We have gone ahead and  
8 not only had to pay the cost of having people read the old  
9 meters during the transition period for a while, but also  
10 the cost of getting new meter readings as we test out the  
11 system.

12                   We have spent approximately \$1.3 million in  
13 additional call center personnel to handle the phone calls  
14 that have come in, to handle the accounting that we've had  
15 to do in order to reconcile bills. Those are all above  
16 the levels that were previously reflected in rates, and  
17 they all represent additional significant enhancements to  
18 service.

19                   So we think that by any measure this has  
20 been an outstanding innovation, an outstanding development  
21 for our customers. At the same time, we recognize that  
22 there are some customers that have been affected by this  
23 transition, and we are willing to do something to help  
24 those customers. In fact, we've said all along that what  
25 it makes sense to do is to focus on those customers, and

1 to the extent assistance is needed, go ahead and provide  
2 it.

3 And Public Counsel with their complaint  
4 provided us with, I think, a framework for doing that. I  
5 don't want there to be any misunderstanding. We do not  
6 agree with Public Counsel's interpretation of the rule.  
7 We think that -- and I think Staff agrees with our  
8 disagreement with Public Counsel's interpretation of the  
9 rule.

10 We think as long as we provided notice to  
11 customers, we've tried to go ahead and get into their  
12 homes, we've told them that they're getting estimated  
13 bills, that we are entitled to go back 12 months from the  
14 time that we made that determination and continue to do  
15 that as long as we continue to provide those notices.

16 Nonetheless, in the interest of getting  
17 this case resolved, in the interest of getting assistance  
18 to customers, we have agreed to provide each and every  
19 customer from November 1st, 2004 forward with a credit on  
20 their bill for any amounts that they were underbilled for  
21 prior to the most recent 12 months from when the meter is  
22 read. We think that is a tremendous concession. We think  
23 that's something we didn't need to do, but nevertheless,  
24 it's something we're willing to do to get this resolved.

25 So that is another element that you can add

1 to all the other costs that the company has incurred to  
2 provide these benefits to its customers that they are  
3 enjoying today. I think that we've gone the extra mile to  
4 try and accommodate this situation and to make this as  
5 smoothly -- smooth as we can, and I would strongly  
6 recommend that the Commission approve this Stipulation &  
7 Agreement and that we be allowed to move on and continue  
8 to do the work that's necessary to bring these substantial  
9 benefits to our customers. Thank you.

10 JUDGE WOODRUFF: Thank you, Mr. Pendergast.  
11 It was my understanding also that the \$500,000 refunds to  
12 customers will not come from ratepayers; is that correct?

13 MR. PENDERGAST: That's absolutely correct.  
14 We have agreed to go ahead and keep separate track of  
15 those so that not only will we pay them now, but we won't  
16 try and collect for them in a different manner in a future  
17 rate case.

18 And I also just would like to add that from  
19 our perspective, the relief that we have provided as a  
20 result of this Stipulation & Agreement fairly addresses  
21 and fairly accommodates and ought to fairly resolve all  
22 the issues that have been raised in this proceeding by any  
23 party, that the remedies, if you choose to call it a  
24 remedy, are sufficient to go ahead and provide not only  
25 justice but pretty fine justice for anybody that may have



1    been adversely affected by this transition to the AMR  
2    process.

3                   JUDGE WOODRUFF:  Thank you.  Mr. Levin  
4    (sic), do you have anything to add for the Union?

5                   MR. EVANS:  Mr. Evans.

6                   JUDGE WOODRUFF:  Evans.  I'm sorry.  I  
7    misunderstood you.

8                   MR. EVANS:  The Union agrees with the  
9    reasons expressed by the OPC for the settlement, of course  
10   with the caveat that a settlement of this case does not  
11   affect any other currently pending or future cases before  
12   the PSC.

13                  JUDGE WOODRUFF:  Ms. Shemwell, what do you  
14   have to add for the Staff?

15                  MS. SHEMWELL:  Thank you, and good morning.  
16   Before I start, I will note that Staff does support the  
17   lock meter consumption portion of the Stipulation as a  
18   reasonable resolution of that issue.  We felt that Laclede  
19   needed to address the situation where a meter was supposed  
20   to be turned off much more quickly than it had been in the  
21   past.  We're looking at five-day response that we hope  
22   will begin very quickly.

23                  Let me say that this was a very difficult  
24   decision for the Staff to decide not to support or oppose  
25   this Stipulation & Agreement.  The division directors met

1 yesterday and determined that the Commission would need to  
2 decide what was in the public interest. Is it better for  
3 the Commission to agree with the stip and get something  
4 even though it's a very paltry sum of money back to  
5 consumers or to litigate the issue of what Staff sees as  
6 significant violations of the Commission's rules and delay  
7 as resolution of that makes its way through the courts?

8                   Staff believes it would present evidence  
9 that would support a penalty of more than \$50 million.  
10 This would undoubtedly, however, be litigated for many  
11 years through the courts, and then any resolution of that,  
12 the penalty would go back to the school system. So the  
13 money does not go back to the customers who were actually  
14 harmed. In this case, we believe that the money only goes  
15 to those customers who were billed for greater than 12  
16 months.

17                   Staff has another issue with Laclede's  
18 violation of the rules. So we believe that this amount  
19 only compensates a few of the customers and does not  
20 address the total number of customers affected by  
21 Laclede's mismanagement of its customer billing.

22                   Mr. Pendergast spoke about the installation  
23 of AMR and the experience in this state of that. Staff  
24 believes that Laclede should have noted the problems  
25 associated with the installation of AMR and been prepared

1 to address those issues before it harmed customers.  
2 Laclede had the history of MGE, who by the way settled for  
3 a significant sum of money as well in an earlier case.

4 But again, staff is on the horns of a  
5 dilemma. Is it better to get the money back to some  
6 consumers right now quickly and sign a stipulation that  
7 Staff believes will be used against it in any further  
8 proceedings? Staff does feel that it's a good thing for  
9 this Commission to enforce its own rules, and when  
10 companies violate those rules in a systematic and even  
11 arrogant manner, that the Commission needs to hold them  
12 accountable.

13 However, the Public Counsel, who represents  
14 the public in this state, has agreed to settle its issue  
15 to get money back to consumers right away. The division  
16 directors decided that this was a decision that needed to  
17 be left to the Commissioners, whether or not the  
18 Commission should get money back to consumers or delay and  
19 then the penalty would go to the school board. It's an  
20 issue facing every litigant today. Do you take the known  
21 amount early or do you litigate for what you think might  
22 be a better result but wait for that decision?

23 Staff believes that its evidence would show  
24 that Laclede purposefully and willfully violated the  
25 Commission's rules month after month after month and that

1     there was significant harm to customers. I would like  
2     to -- this number is highly confidential, so I'm going to  
3     bring it up to Judge Woodruff. Let me show it to  
4     Mr. Pendergast first.

5                     Laclede provides a quarterly report to the  
6     Staff showing how many customers have been billed for more  
7     than -- have received estimated bills for more than three  
8     months. That is a number that Staff was looking at to  
9     indicate a potential penalty for violation of the billing  
10    standards at 4 CSR 240-13.020.

11                    However, Staff is not opposing this because  
12    it doesn't want to delay getting money back to at least  
13    some consumers. So we feel this is a policy decision that  
14    the Commission needs to make in terms of what it wants to  
15    do, where it wants the money to go, and the potential  
16    impact that approval of this Stipulation may have on the  
17    Staff's ability to litigate its issue in perhaps another  
18    case or further in this case. So we leave that policy  
19    decision to the Commission.

20                    We'll be happy to answer any questions you  
21    may have. Ms. Fred is here with me today.

22                    JUDGE WOODRUFF: Ms. Shemwell, I have a  
23    question. Your last statement was about further  
24    litigation. Is Staff contemplating further litigation  
25    against Laclede in this situation?

1                   MS. SHEMWELL: I think that the Staff --  
2 the Staff is concerned again with the impact that this  
3 agreement of this Stipulation may have on the Staff's  
4 ability to do that. Certainly Staff does not consider  
5 that its issue in this case is resolved by this  
6 Stipulation. I understand there's an investigative case  
7 that the Commission is pursuing on estimated bills, but I  
8 think Staff is certainly wanting to hold its options open.

9                   JUDGE WOODRUFF: Are you suggesting, then,  
10 that if the Commission approves the Stipulation &  
11 Agreement, Staff's complaint would go forward?

12                  MS. SHEMWELL: Probably not in this case.

13                  JUDGE WOODRUFF: But you're suggesting you  
14 would file a new complaint to bring the same issues?

15                  MS. SHEMWELL: Judge, I'm indicating that  
16 Staff has not made that decision yet.

17                  JUDGE WOODRUFF: Does anyone wish to  
18 respond to that? Mr. Pendergast.

19                  MR. PENDERGAST: Well, as I said before,  
20 your Honor, I believe that the measures that we have  
21 adopted in this case and, you know, a lot of it had to do  
22 with negotiations between us and Public Counsel, but I  
23 also appreciate the input that Staff had into various  
24 elements of it, and we tried to be responsive to both  
25 Staff and Public Counsel.

1                   But we think the measures certainly fairly  
2 address any remedy that might be sought or appropriate for  
3 any estimated bill issues that have been raised by any  
4 party. We're certainly aware that the Staff is free at  
5 any time to raise issues. If they think someone's not  
6 being complying with the Stipulation & Agreement, you do  
7 have that generic docket out there where I think the  
8 Commission's established to do spot checks on meters and  
9 that sort of thing, and we're certainly willing to go  
10 ahead and have our compliance with this agreement tested  
11 and evaluated and probed to make sure that we're doing  
12 what we're supposed to be doing.

13                   One thing I would like to add, the number  
14 that Ms. Shemwell provided and I, you know, just have to  
15 say that that represents a certain number of customers  
16 that have gone more than seven months without getting an  
17 actual meter read. You know, it says nothing about what  
18 efforts were made by the company to provide notice to  
19 those customers.

20                   And sometimes I think there's a  
21 misperception that it's an easy thing to go ahead and get  
22 inside a customer's home and get a meter reading, and I  
23 think one of the things that demonstrates that that's not  
24 always that easy is the fact that as we get to the end of  
25 this AMR installation process, right now we have 19,000

1 customers that we have made at least eight to nine  
2 separate efforts, including cold call visits, telephone  
3 calls, letters, in an effort to say please let us in.  
4 We've got a new device here that's going to go ahead and  
5 do away with the need to ever estimate your usage before,  
6 and we have not yet been able to go ahead and get into  
7 those homes.

8                   People are very busy. Some people just  
9 don't want you in their home, period, for whatever reason.  
10 There are other utilities that, you know, limped along for  
11 five years without getting into all the homes that they  
12 needed to get into to put these AMR devices in. We don't  
13 expect to do that. We want to cooperate with the Staff  
14 and Public Counsel in coming up with a way of trying to  
15 get into all these homes.

16                   And, you know, I guess the basic truism  
17 here, at least from our perspective, is that nobody likes  
18 estimated bills. We have taken the single most decisive  
19 action that we can take in order to eliminate those  
20 estimated bills over the long-term. Ironically, that  
21 effort has generated a lot of complaints about estimated  
22 bills, but so it goes.

23                   The other thing I think I ought to say is  
24 that there is a provision in the Stipulation & Agreement  
25 that talks about perspective, we're only going to bill

1 for 12 months or such longer period as the Commission  
2 determines may be appropriate, and that we're free to file  
3 a tariff that will address potentially longer periods.  
4 And the one thing that we will need to go ahead and I  
5 think address is, when that 12 months ends during the Cold  
6 Weather Rule period, when that 10, 12 months ends for a  
7 customer that's in a multi-tenant situation, you know,  
8 what can we do under those circumstances?

9 I think people would hopefully reasonably  
10 agree it's not fair to hold the company to account for not  
11 getting an actual meter reading within 12 months if it's  
12 prohibited by another rule from being able to do that. So  
13 I think we still need to work that sort of thing out, and  
14 we'll be coming forward with tariffs to go ahead and do  
15 that.

16 JUDGE WOODRUFF: And these would be tariffs  
17 filed just as regular tariffs and be a new case then?

18 MR. PENDERGAST: Right. Exactly.

19 JUDGE WOODRUFF: Commissioner Appling, do  
20 you have any questions?

21 COMMISSIONER APPLING: Just a couple. Good  
22 morning. Ms. Shemwell --

23 MS. SHEMWELL: Yes, sir.

24 COMMISSIONER APPLING: -- this support not  
25 oppose, sounds like you want to have one foot in the boat



1 and one on land. I ask you again, is it your idea or  
2 thought in the future that you're going to launch a new  
3 complaint against Laclede? Maybe your boss back there  
4 want to answer that question.

5 MS. SHEMWELL: Well, he certainly can.

6 COMMISSIONER APPLING: Okay. I thought you  
7 would be happy to --

8 MR. THOMPSON: Kevin Thompson for the Staff  
9 of the Missouri Public Service Commission.

10 Commissioner, when Mr. Poston described the  
11 Stipulation & Agreement --

12 COMMISSIONER APPLING: And I apologize for  
13 not being here to hear Mr. Poston's description. I would  
14 like for you to --

15 MR. THOMPSON: The important things that he  
16 said were that the agreement resolves OPC's complaint  
17 completely and resolves one of Staff's two counts, Staff's  
18 Count 2. Staff's Count 1, however, has to do with  
19 violations by Laclede of Commission regulations and  
20 Staff's request that the Commission find that Laclede  
21 committed those violations and authorize Staff to seek  
22 penalties.

23 This Stipulation & Agreement, while it  
24 provides some welcome relief to consumers, does not take  
25 care of the regulation violations and Staff's request for

1 authorization to seek penalties. So it's our belief that  
2 if the Commission accepts this Stipulation & Agreement, it  
3 may leave that aspect of this case still live. That's why  
4 Staff did not join in this Stipulation & Agreement,  
5 because frankly, it's not clear to me from the language  
6 whether Laclede believes they were settling the whole case  
7 with it or not.

8 I can tell you that Staff does not consider  
9 its Count No. 2 to be resolved by this Stipulation &  
10 Agreement, but we wanted to give the Commission the  
11 opportunity to accept it and approve it and even resolve  
12 the whole case with it, if that's what the Commission  
13 wants to do. This is, I will tell you, the only way to  
14 flow any money back to the consumers.

15 I hope that answers your question, sir, but  
16 I'm ready to tell you more if you want to hear.

17 COMMISSIONER APPLING: So what you're  
18 really telling me, you oppose this Stipulation?

19 MR. THOMPSON: No. We like it as far as it  
20 goes. We just don't think it goes far enough.

21 COMMISSIONER APPLING: Then fine,  
22 Mr. Thompson. I would just like to hear a little bit from  
23 OPC, and then I'll probably get out of you-all hair and  
24 let you do what you came here to do this morning. Gaye,  
25 I'm not going to let you get away, too. I want to hear

1 from you this morning, so get your thoughts together.

2 Okay?

3 Mr. Poston, give me the five cent worth,  
4 okay, not the 25 cent worth this morning, but give me kind  
5 of a thumbnail sketch of what you said earlier.

6 MR. POSTON: Basically what I said was the  
7 reasons we support this agreement, the foremost reason  
8 being that it will flow money, credits back to customers  
9 we believe were harmed, and it will do that right away.  
10 And if the Commission were to issue -- were to approve  
11 this sooner, like say by December, it could flow back  
12 money to customers this winter heating season when we  
13 think it's -- that would be the most important time to  
14 send it back.

15 We also signed this agreement because there  
16 are assurances built into it that these customers who we  
17 believe were harmed, who were -- whose bills were adjusted  
18 for more than a 12-month period, they will be identified,  
19 they will be found and they will be credited.

20 And we think rather than, as was suggested  
21 by Staff, have this case tied up in a lengthy appeal and  
22 have money potentially flow back to the school fund, we  
23 think this is a meaningful resolution because the money is  
24 going back to consumers.

25 COMMISSIONER APPLING: I'm always concerned

1 about what your colleague think there, so are you on board  
2 with this?

3 MS. MEISENHEIMER: Me?

4 COMMISSIONER APPLING: Yes.

5 MS. MEISENHEIMER: Yes, in -- we do not  
6 view this as an either/or proposition. You can have this  
7 refund go to the affected customers. It's not capped in  
8 the event that there are more than \$500,000 that needs to  
9 go to customers in refunds, so it's not capped. You can  
10 have that, and the Staff's complaint is a separate  
11 issue.

12 The document specifically, you know,  
13 indicates that Laclede feels it resolves not -- perhaps  
14 more issues in the combined case. We did not go along  
15 with that because we certainly, you know, do want the  
16 Staff to have their day if they want it, and so we did --  
17 it was purposefully written not to block the Staff's  
18 complaint. And so if they wish to pursue that, then we  
19 have testimony that supported it, and we're prepared to  
20 present that to you.

21 But I think this is -- I think this is a  
22 good -- a good outcome that gets immediate relief this  
23 winter to the people who paid too much.

24 COMMISSIONER APPLING: Okay. Thank you.  
25 Mr. Pendergast. I'll be right back to you, Staff.

1                   MR. PENDERGAST: Thank you, Commissioner.  
2 All I'd like to do is, the Stipulation clearly  
3 contemplates that we can argue to the Commission that the  
4 remedies and measures provided in here are sufficient to  
5 address any issues that have been raised and provide a --  
6 or provide a reasonable remedy for any issues that have  
7 been raised, and I think that's absolutely true, and I  
8 think it's something that the Commission should go ahead  
9 and determine.

10                   I'd also say that, you know, it's very  
11 difficult to go ahead and make a clear demarcation between  
12 where the issues Public Counsel raised begin and end and  
13 where the issues that Staff raised begin and end. I think  
14 when Public Counsel filed its complaint and asked for it  
15 to be consolidated in this case, it did so on the grounds  
16 that there is a relationship between the issues that Staff  
17 has raised and the adjustment issue that it had focused on  
18 in its particular complaint.

19                   If you look at the terms of the  
20 Stipulation & Agreement, they are designed to go ahead and  
21 provide measures that address the very notice issues that  
22 were raised by Staff and to provide some sort of  
23 agreed-upon practice for the future. So I suppose it will  
24 always depend on what specific issue Staff still believes  
25 remains live and so forth and so on, but from our

1 perspective, this is something that the Commission ought  
2 to conclude provides a just and reasonable result for all  
3 of the issues that were raised in this case by providing a  
4 just and reasonable remedy, if you will, for all customers  
5 that have been affected.

6 COMMISSIONER APPLING: Thank you, sir.  
7 Mrs. Shemwell, did you have something else you wanted to  
8 say? I would just like to hear Gaye's comments on this  
9 Stipulation, if you don't mind.

10 MS. SHEMWELL: She's prepared to make  
11 comments. Thank you.

12 COMMISSIONER APPLING: Thank you.

13 MS. FRED: Good morning, Commissioner.

14 COMMISSIONER APPLING: Good morning to you.

15 MS. FRED: I would like to make a few  
16 comments, if you would allow me to do so, regarding the  
17 stip--

18 JUDGE WOODRUFF: Before you go, do we want  
19 to have her sworn as a witness?

20 MS. SHEMWELL: I would see this as a stip  
21 presentation, so it's fine.

22 JUDGE WOODRUFF: Go ahead. I'm sorry to  
23 interrupt.

24 MS. FRED: That's fine. Regarding the  
25 Stipulation & Agreement proposed here this morning, as

1 Staff has stated we neither oppose nor object, I mean  
2 support nor object the Stipulation & Agreement. Staff  
3 does not object to the method of providing refunds back to  
4 the customers harmed. However, Staff does not believe the  
5 settlement amount is proportionate to the violations of  
6 the Commission rules of the company's tariffs.

7                   Staff believes the settlement number is too  
8 low, and Staff is not sure how OPC or the company arrived  
9 at their number. In fact, Staff believes the  
10 Stipulation & Agreement of 500,000 is nowhere close to the  
11 possible penalty amount if the Commission were to consider  
12 the statute provisions of the 2,000 per day penalty per  
13 offense. For example, on my simple computation, Staff  
14 simply looked at the number of estimated bills over seven  
15 months reported to the Commission by the company, taking  
16 that number, multiplying that by 120 days and the penalty  
17 amount allowed, and it would equate to as much as  
18 \$5 billion, a substantially more amount than the 500,000  
19 being proposed.

20                   Staff believes the chronic behavior of the  
21 company to estimate bills and the lack of notice to  
22 customers by first class mail or personal delivery as  
23 outlined in Commission rule 4 CSR 240-13.030 in itself  
24 warrants a larger amount. In fact, Staff would ask the  
25 Commission take note that the company's own admission

1 through consumer complaint resolutions as shown in this  
2 stack right here from the company, that there's no notice  
3 sent to those customers. Therefore, customers were not  
4 given the opportunity to know the options of either  
5 reading their own meter and submitting those reads to the  
6 company for an actual bill and that they were -- and  
7 therefore voiding the estimated bills that they incurred.

8               Staff also is concerned with the regulatory  
9 signal it may send to other regulated utilities, that if  
10 they too violate the Commission rule and their own  
11 tariffs, the worst that could occur would be that they  
12 would ultimately settle for consumer credits or monies  
13 that the consumers were entitled to if the utility did not  
14 violate the Commission rules or tariffs.

15              In addition, Staff also believes there is a  
16 possibility of a precedent being set, that with the  
17 present Stipulation & Agreement and that it may actually  
18 encourage utility managements to take risk and whether to  
19 comply with Commission rules and regulations or not  
20 because, after the fact, utilities may only be required to  
21 return to its customers the amounts that they were already  
22 entitled to.

23              The billing rules specified in Chapter 13  
24 exist to provide protections for both utility customers  
25 and the utilities that serve them. Utility billing,



1 notifications of estimated meter reads, requests to  
2 receive actual meter reads, billing data and records are  
3 all within the control of Laclede Gas Company, and as a  
4 regulated LDC should be held accountable for complying  
5 with the requirements of the Commission rules and their  
6 own tariffs.

7 This concludes my comments. Thank you.

8 COMMISSIONER APPLING: Staff, just one  
9 further question, please. How do you -- how do you  
10 explain away the fact that the company cannot get into  
11 people's houses and read the meter?

12 MS. FRED: I cannot explain away. In fact,  
13 I do agree that there are probably situations where the  
14 company has not been able to get in and get access to the  
15 meter to get an actual read. However, I do believe the  
16 company should at least be more forthcoming with the  
17 customer by providing written notice to them that here's  
18 the circumstance that may occur if you do not allow us  
19 access to read that meter. And I feel like that the  
20 company has not done that.

21 They have not provided the notice to the  
22 customer to advise them that here are some options. If  
23 you do not let us in, you'll receive estimated bills. If  
24 you let us in, you'll get actual bills and you will not be  
25 penalized in the future with a large catchup bill that you

1 will have to request to have to be spread over a longer  
2 period of time if you can't pay it at that time.

3                   Therefore, the mismanagement of this  
4 particular situation is not the -- I mean, it's the  
5 solution. I mean, we either have to make the company  
6 follow Commission rules and their own tariffs to prevent  
7 such occurrences, or if we don't, then this mismanagement  
8 will continue.

9                   COMMISSIONER APPLING: Okay. Thank you.  
10 Mr. Pendergast, did you -- this is the last question I'm  
11 going to ask this morning. I'll probably get more than I  
12 wanted to hear anyway, but anyway, but I needed to hear  
13 it. So do you have anything to close this out for my  
14 question?

15                   MR. PENDERGAST: Yes. Thank you,  
16 Commissioner. I'd just like to go ahead and say that I  
17 fully respect and understand the need of any regulatory  
18 body to give serious attention to whether its rules are  
19 being followed, whether a utility is following its  
20 tariffs. We do not take that lightly.

21                   I don't want to rehash all the arguments  
22 that have already been made in the testimony as to why we  
23 believe we were complying with the Commission's rules, why  
24 we had advised Staff of what we were doing and why we were  
25 doing it and were under the impression that what we were

1     doing was acceptable, why the safeguards and measures and  
2     practices we had in place to make sure meter readers were  
3     leaving hang tags with notices at doors where they  
4     couldn't go ahead and get in was appropriate and  
5     sufficient. I don't think it's necessary to do that.

6                     One thing I will say is that I believe  
7     Staff in its testimony had indicated some, as I said  
8     earlier, disagreement with Public Counsel's position that  
9     in those instances where notice has been provided to a  
10    customer, that it is not appropriate to go ahead and tell  
11    the utility that it can only go back 12 months, that there  
12    are circumstances where the customer has an obligation,  
13    has a responsibility to go ahead and provide us with a way  
14    to get in. And if the customer doesn't do that, the  
15    customer does it at his own risk.

16                    We are looking past that. We are saying we  
17    don't care whether the customer got 20 notices or  
18    5 notices or 3 notices, we're providing a remedy to  
19    everybody. We're providing a remedy that's probably  
20    significantly richer for many customers than Ms. Fred  
21    would have said was appropriate, and I think that that  
22    fact ought to go ahead and be taken into consideration  
23    when you determine whether or not the company has done  
24    what is reasonable and appropriate to go ahead and  
25    conclude these matters.

1 Thank you.

2 COMMISSIONER APPLING: I said I was going  
3 to end, but is there anyone else that, Mr. Thompson,  
4 Ms. Shemwell, OPC, that want to make a comment before I  
5 depart?

6 MR. POSTON: If I could just respond to  
7 Mrs. Fred's comments. She suggested that this agreement  
8 does not do enough, does not go -- does not provide  
9 enough, I guess, monetary compensation, and I think she's  
10 confusing what this agreement is intended to do. This  
11 agreement is intended to resolve Public Counsel's  
12 complaint, and it also resolves the safety issue.

13 Public Counsel's complaint does not involve  
14 all of the other things that she threw in there about the  
15 notice. She says this doesn't cover enough customers and  
16 the 500,000 from the estimates we've received will cover  
17 every single customer that we believe was harmed by the  
18 12-month adjustment violation, every single person over  
19 the last two years, and potentially there will be  
20 additional sums that won't even get up to 500,000.

21 When she talks about millions of dollars,  
22 this isn't enough, she's confusing what Staff's Count 1  
23 addresses and what Public Counsel's complaint addresses.  
24 I believe Mr. Thompson clarified that, but I think there's  
25 some confusion there. This agreement does not go to

1 Staff's Count 1.

2 COMMISSIONER APPLING: Mr. Poston, thank  
3 you. Mr. Thompson?

4 MR. THOMPSON: Just briefly, your Honor. I  
5 saw in the paper yesterday where Judge Brown sent somebody  
6 to prison for a long period of time for embezzling money  
7 from a local business. The person had embezzled \$480,000  
8 over the course of a long period of time, ten years  
9 perhaps. In that case, the person, the embezzler went to  
10 prison in order to expiate their crime of violating state  
11 law. In addition, they have to give back the \$480,000 to  
12 the company they stole it from.

13 In this case, it's somewhat similar,  
14 although I don't mean to compare Laclede to an embezzler,  
15 and I apologize for that. But nonetheless, there's two  
16 issues here. One issue is the violation of the  
17 Commission's rule, similar to committing a crime, and the  
18 other issue is the money that was, in our opinion,  
19 wrongfully taken from ratepayers.

20 This Stipulation & Agreement will flow  
21 money back to those ratepayers. That's like giving the  
22 \$480,000 back to the business. But it leaves the  
23 additional matter of the violation of the Commission's  
24 rules. Thank you, your Honor.

25 JUDGE WOODRUFF: All right.

1                   COMMISSIONER APPLING: Thank you, Judge,  
2   and I will shut up.

3                   JUDGE WOODRUFF: Thank you, Commissioner  
4   Appling. Well, at this point, then, the Commission will  
5   take this Stipulation & Agreement under advisement and  
6   will issue an Order as appropriate. At this point, then,  
7   we are adjourned.

8                   WHEREUPON, the hearing of this case was  
9   concluded.

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## 1 C E R T I F I C A T E

2 STATE OF MISSOURI )  
3 ) ss.  
4 COUNTY OF COLE )

5 I, Kellene K. Feddersen, Certified  
6 Shorthand Reporter with the firm of Midwest Litigation  
7 Services, and Notary Public within and for the State of  
8 Missouri, do hereby certify that I was personally present  
9 at the proceedings had in the above-entitled cause at the  
10 time and place set forth in the caption sheet thereof;  
11 that I then and there took down in Stenotype the  
12 proceedings had; and that the foregoing is a full, true  
13 and correct transcript of such Stenotype notes so made at  
14 such time and place.

15 Given at my office in the City of  
16 Jefferson, County of Cole, State of Missouri.

17 Kellene K. Feddersen, RPR, CSR, CCR  
18 Notary Public (County of Cole)  
19 My commission expires March 28, 2009.  
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