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December 13, 2002

FILED³

DEC 13 2002

Missouri Public
Service Commission

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
Governor's Office Building
Madison & E. Capitol
Jefferson City, MO 65101

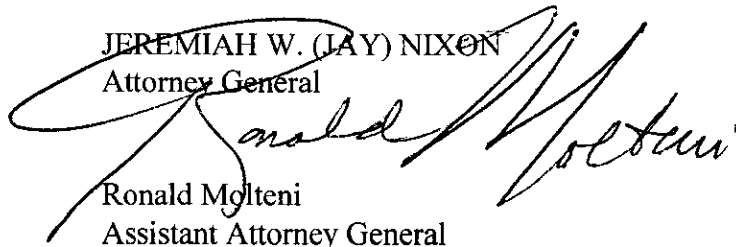
RE: *In the Matter of the Tariff Filing of Laclede Gas Company to Implement a Gas Supply Incentive Plan Called Catch-Up-Keep-Up*, Case no. GT-2003-0117, Tariff No. JG-2003-396

Dear Judge Roberts:

Enclosed for filing in the above-referenced case are the original and 8 copies of the post-hearing brief with attached proposed findings of fact filed on behalf of the Missouri Department of Natural Resources Energy Center. Thank you for your attention to this matter.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General


Ronald Molteni
Assistant Attorney General

Enclosures

cc: Judge Ruth
All Parties on the Service List

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DEC 13 2002

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

Missouri Public
Service Commission

In the Matter of the Tariff Filing of)
Laclede Gas Company to Implement a)
Program called Catch-Up-Keep-Up.)
)

Case No. GT-2003-0117

**MISSOURI DEPARTMENT OF NATURAL RESOURCES
POST-HEARING BRIEF**

The Missouri Department of Natural Resources ("MDNR"), an intervenor in this case, asserts the following as its post-hearing brief.¹

ISSUES IDENTIFIED FOR COMMISSION DECISION

1. Is there a need for a Program similar in form to the one proposed by Laclede (the "Program") and, if so, what is the nature, immediacy, and scope of that need?

There is a need for a low income assistance program. [See Exhibit 4, Meisenheimer Direct, p.7, l. 6-10, discussing LIHEAP's falling short in meeting recipient's needs for heating assistance.] That need is immediate. [Meishenheimer Direct, Exhibit 4, p. 8, ft. 10, noting that September total arrearages amount to \$18,523,086 for 110,324 customers, according to Laclede's responses to OPC DR Nos. 10 and 11.] Its scope is substantial. [Id.]

2. If there is a need, is the Program properly designed to address that need?

Prior to the changes that Laclede committed to during the course of the evidentiary hearing on this case, the answer to the Commission's issue question was an unequivocal "no." There were elements to the program that suggested it was not carefully thought out to have the most significant impact to address the needs of low income customers. [Meisenheimer Direct, Exhibit 4, p. 8, l. 11-18.] The most significant of such elements was the "band aid" approach to the problem of arrearages incurred and accrued by low

¹ MDNR's focal issue is weatherization. Accordingly, MDNR does not assert that either this brief or its accompanying proposed findings of fact is comprehensive to all the issues of the case.

income customers. [Meisenheimer Direct, Exhibit 4, p. 7, l. 10-12, noting that the benefits to low income customers of an arrearage reduction program would be short-term.] By simply reducing arrearages to the accounts of qualified low income customers and hoping that establishing a payment pattern would alter behavioral patterns, CatchUpKeepUp, as originally envisioned, offered little hope of addressing the underlying problems that led some of Laclede's low income customers to accrue those arrearages. [Id.] Other program elements appeared to be only partially contemplated. For example, the program had no termination date or means to assess its impact. [Meisenheimer Direct, Exhibit 4, p. 12, l. through p. 14, l. 15.] Also, and perhaps of most concern to MDNR, was the program's use of the term "weatherization" to mean low cost/no cost practices designed to conserve energy. [Moten Cross Examination, Transcript p. 84, l. 14-23.] The "weatherization" as contemplated by the original and tariff filed versions of CatchUpKeepUp consisted of nothing more than a few practices, like turning down the thermostat or taping plastic over windows, some of which are a common sense means to conserve energy, other of which, like placing plastic over windows, are unquantifiable energy conservation placebos, none of which, in isolation or in the aggregate serve as a substitute for truly weatherizing a home. [Id. and Nash Rebuttal, Transcript p. 447, l. 23 through p. 448, l. 3.] True weatherization, consistent with the federal Low-Income Weatherization Program administered statewide by the MDNR, does have a substantial and long term impact on a home's energy consumption, and consequently, on a customer's energy expenditures. [See Wyse Direct, p. 9, l. 9 through p. 12, l. 11.] This established and proven Weatherization Assistance Program consists of a professionally trained crew using a computerized energy audit and diagnostic tools to properly ascertaining the structure's air infiltration characteristics, and expending resources to reduce the home's energy drain. [See Wyse Direct, p. 13, l. 19-23]. Typical weatherization measures include window replacement, insulating walls

and ceilings, replacing water heaters, tuning or replacing inefficient or even unsafe heating and cooling units, and reducing unintended air flows that drain heat from the home. [Wyse Direct, p. 13, l. 14 through p. 14, l. 18, describing the Final Report of the Missouri Energy Policy Task Force; Nash Cross Examination, Transcript, p.461, l.2-6; Nash Redirect, Transcript, p. 474, l. 2-16.] To its credit, Laclede has committed to make substantial changes to CatchUpKeepUp that significantly improve its design. [Moten Cross Examination, Transcript, p. 87, l. 5-17.] The most significant of such changes is recharacterizing the weatherization component to mean the kind of substantial and long term weatherization described immediately above and committing to funding that kind of true weatherization by taking advantage of Laclede's already existing weatherization program established in Case No. GR-2001-629. [*Id.*] Also, conducting the program to incorporate an evaluation component through testing and gathering data about identified hypothesis improves the program's design. [Meisenheimer Direct, Exhibit 4, p. 12, l. through p. 14, l. 15.]

A. Does the Program have the potential to benefit or harm customers?

1. All customers.

Ignoring the funding component,² the program, with the modifications to which Laclede has committed, has a much better chance of benefitting all customers than the originally designed version, which, in fact, imposed a cost on all customers. A well-designed program with long-term planning focused on energy efficiency could benefit all customers by reducing the likelihood of customers

² MDNR is cognizant that PSC Staff and OPC have raised legal concerns about CatchUpKeepUp's funding, and in particular, its use of the discounts of FERC approved transport rates and the purchase gas adjustment process. MDNR offered no testimony on those issues and takes no position on them in this proceeding, which is why MDNR does not either endorse nor categorically reject the revised and committed-to version of CatchUpKeepUp notwithstanding the favorable changes made.

incurring future arrearages caused by over expenditures on energy resulting from inefficiently heated homes. [Imhoff Direct, Exhibit 7, p. 2, l. 20-21, stating that PSC Staff endorses a well-designed program to aid low income customers; Imhoff Direct, Exhibit 7, p. 5, l. 13-16, stating that weatherization has been shown to lower energy use.] That would in turn lower the amount of Laclede's uncollectibles which would then reduce what Laclede writes off as bad debt that would be then factored into all customers' rates when the Commission next ascertains the aggregate cost of service. [Wyse Direct, Exhibit 5, p. 12, l. 12 through p. 13, l. 7, p. 14, l. 5-18, describing the benefits of low income energy efficiency program to utilities; also see Imhoff Direct, Exhibit 7, p. 7, l. 6-7, for the point that Laclede writes off bad debt.]

2. Low-income customers.

The program, as originally designed, could benefit some low-income customers in the short run by reducing their debt as payments are made for their credit from the created fund. [Imhoff Direct, Exhibit 7, p. 6, l. 21-23, testifying that some low-income customers may benefit from the proposed program, but that Laclede shareholders will benefit most from it.] But, without a mechanism to lower the rates and total expenditures those customers incur for natural gas service, it is not likely that the original version of CatchUpKeepUp benefits those most in need of assistance, and certainly not on a long-term basis. [Meisenheimer Direct, Exhibit 4, p. 7, l. 10-12, noting that the benefits of the original CatchUpKeepUp would likely be short-term.] The modified and beefed-up weatherization component improves that likelihood greatly. While not reducing rates, at least meaningful weatherization will reduce, on a long-term basis, a home's energy consumption. [Nash Direct, Exhibit 6, p. 3, l. 4-16.] All other things being equal, that reduction in energy used will translate to a reduction in the percentage of

income that would have otherwise been spent on energy needs, regardless of rate. Coupling meaningful weatherization with cash assistance, debt-forgiveness, and possibly even a low-income rate would have an even greater and undeniable impact in helping Laclede's poor customers weather the temporal and financial storm brought on by arctic cold. [Wyse Redirect, Transcript, p. 629, l. 14-23.]

B. Does the Program have the potential to benefit or harm Laclede?

Laclede admitted at hearing that CatchUpKeepUp will have a beneficial impact on its bottom line. [Fallert Cross, Transcript p. 231, l. 6-16.] However, improving the weatherization component of the program will likely have more of a benefit and actually produce the "win-win-win" scenario Laclede advertised at hearing. Like all regulated utilities, at its simplest level, Laclede makes money by creating the widest gap (within the boundaries of just and reasonable) between its revenues and its cost. A well-designed CatchUpKeepUp, with a good weatherization component, may not increase revenues because it will result in energy conservation, but it will decrease Laclede's costs faster than it decreases revenues.

Customers will still pay connection fees, services fees, and everything not related to the volume of gas they consume. MDNR witness Ron Wyse provided some examples of the benefit-to-cost ratios born from the audits and evaluations of other weatherization programs that produced figures like \$3:37:1 [Wyse Direct, Exhibit 5, p. 10, l. 2]; \$1.62:1 [Wyse Direct, Exhibit 5, p. 11, l. 12-13] and \$1.51:1 [Wyse Direct, Exhibit 5, p. 11, l. 14-16].

C. What revisions can or should be made to the operational terms of the Program?

In its prehearing brief, MDNR stated in response to this issue question, "Focus on alleviating the causes of energy drain in homes often occupied by persons of lower income, which are often older homes, and are energy inefficient

homes, will benefit, in the long run, the company and all of its customers, but mostly, Laclede's lowest income customers." Laclede took a step in that direction by modifying the program to include a substantial and real commitment to low-income weatherization.

3. What level of funding is appropriate?

The Energy Center agrees with the \$300,000 funding commitment under Laclede's revised CatchUpKeepUp combined with the existing \$300,000 established in previous rate case, totaling weatherization funding of \$600,000. This funding is supported by Public Counsel who first suggested an additional \$300,000 CatchUp-KeepUp funding annually for weatherization. [Meisenheimer Direct, Exhibit 4, p. 11, 8-9.]

4. How can the Program be funded?

MDNR takes no position on this issue.

5. How should the Program be funded?

MDNR takes no position on this issue.

6. Can weatherization, conservation, customer outreach and education, and administrative costs be included in the program?

Yes. As can be seen from Laclede's commitment to reformulate CatchUp-KeepUp's weatherization component, weatherization and conservation can be included in the program. The administrative costs could be included, too. As Public Counsel testified, there are existing weatherization programs, and administrative costs can be streamlined to take advantage of existing administrative infrastructure. [Meisenheimer Direct, Exhibit 4, p. 10, l. 16 through p. 11, l. 7.] That will avoid having to set aside an unnecessary amount of money for administration. MDNR's witness Ron Wyse testified that customer education is a normal part of the weatherization programs with which MDNR is involved. [Wyse Rebuttal, Transcript p. 635, l. 2-3. Also see Nash Cross

Examination, Transcript, p. 457, l. 19-25]. The Urban League's Rolandis Nash, in providing testimony at the request of MDNR, discussed the comprehensive approach the Urban League takes when it assesses and subsequently weatherizes a home. [Nash Rebuttal, Transcript p. 449, l. 8 through p. 452, l. 22.]

7. If so, how should they be included?

Weatherization, conservation, customer outreach and education, and administrative costs are existing components of Commission authorized weatherization plans. There is no need to reinvent the wheel on how they can be included in CatchUpKeepUp. They should be included in the same way they are included in existing successful weatherization programs like those administered by MGE and Ameren, which are modeled after the federal Low Income Weatherization Program administered on a statewide basis by the MDNR.

Attached to this post-hearing brief (and incorporated in it by reference) are MDNR's Proposed Findings of Fact.

WHEREFORE, for the foregoing reasons, MDNR requests that should the Commission approve CatchUpKeepUp, that it order the program to include appropriate funding for a meaningful weatherization component that makes use of Laclede's already existing low income weatherization plan.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

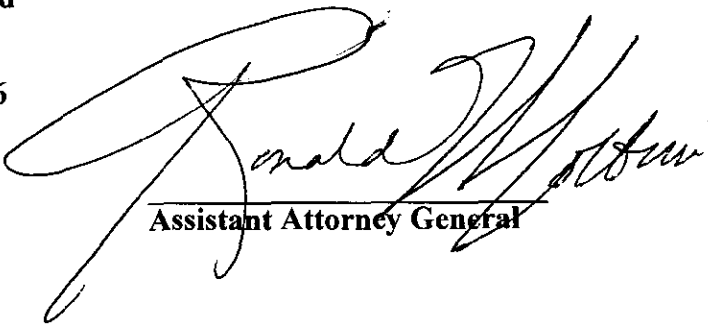
I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, by United States mail, this 13th day of December, 2002, to:

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MDNR'S PROPOSED FINDINGS OF FACT¹

A. Facts About Energy Conservation

1. Plastic over windows does not reduce energy consumption. Nash Cross-Ex., Tr. p. 454, l. 20-25.
2. Turning down the thermostat reduces energy consumption. Nash Cross-Ex., Tr. p. 455, l. 1-3.
3. Lowering the water heater temperature conserves energy. Nash Cross-Ex., Tr. p. 455, l. 4-6.
4. Windows are the largest cause of loss of heat. Nash Cross-Ex., Tr. p. 460, l. 20-23.
5. The value of a weatherized home can increase appreciably. Nash Cross-Ex., Tr. p. 464, l. 20-24.
6. While turning the thermostat down and the water heater temperature down are good energy practices, they are not substitutes for insulating a home. Nash Redirect, Tr. p. 473, l. 20; p. 474, l. 13.
7. Energy conservation measures, such as caulking, weather stripping, insulation, heat system tuneups and replacements and programmable thermostats, etc., long-term improvements, have costs related to purchase and installation. Wyse Direct, p. 4, l. 9-12.

¹There being no legal dispute in this case regarding weatherization, MDNR is not offering proposed conclusions of law.

8. If a customer dials down his thermostat one degree, for heating space, that customer should expect a 1% reduction in space heating over an 8-hour period. For a 16-hour period, that one degree reduction will lead to a 2% reduction in space heating and for a 24-hour period, the one degree reduction on the thermostat will lead to a 3% reduction in space heating. Wyse Rebuttal, Tr. p. 634, l. 1-11.
9. The cost of fuel makes a difference in the amount of savings resulting from weatherization. Wyse Cross, Tr. p. 737, l. 1-5.

B. The Need for Low Income Weatherization

10. A significant number of low income households in Missouri are in need of energy efficiency improvements. Wyse Direct, p. 6, l. 2-3.
11. There is a tremendous need for weatherization in the City of St. Louis, including weatherization to new construction. Nash Cross-Ex., Tr. p. 456, l. 6-11.
12. As of the 2000 census for the City of St. Louis alone, there are 83,388 households eligible for weatherization assistance at 150% of the poverty level. Nash Direct, Exh. 6, p. 3, l. 18.
13. The energy center of the Department of Natural Resources estimates an additional 637,891 Missouri homes are eligible for the state's Weatherization Assistance Program. Wyse Direct, p. 6, l. 3-6.
14. More than 3,200 families are currently on weatherization waiting lists in Missouri. Wyse Direct, p. 6, l. 16-17.

15. Winter home heating bills in Missouri impose significant burdens on low income households. Wyse Direct, p. 6, l. 22-23.
16. Winter heating expenditures for the 2002-03 winter heating season are projected to increase by approximately 25%. Wyse Direct, p. 9, l. 7-8.
17. Low income households spend approximately 14% of their income on energy needs. Wyse Direct, p. 11, l. 19-20.
18. Most of the people assisted by the Urban League's weatherization programs are seniors with families living in the home with them. Nash Cross-Ex., Tr. p. 459, l. 20-23.
19. When the Urban League weatherizes a home owned by someone other than its occupants, it gets the landlord to sign documentation committing to continue rental to low income individuals. Nash Cross Ex., Tr. p. 465, l. 7-22.
20. The originally filed CatchUpKeepUp proposal did not provide long-term sustainable benefits to help low income customers avoid future billing arrearages. Wyse Direct, p. 3, l. 10-11.

C. The Benefits of Weatherization

21. Residential weatherization that improves energy efficiency mitigates the long-term problem of energy affordability for low income customers. Arrearage forgiveness itself does not address the problems that low income residential customers cannot afford energy costs above a certain level and related rate impacts on all customers. Wyse Direct, p. 3, l. 15-19.

22. A well-designed and managed weatherization systems program will help reduce the energy demand by natural gas customers and may be expected to reduce utility bill amounts for such customers. The long-term benefits of residential weatherization assistance may also help low income customers avoid future billing arrearages. Wyse Direct, p. 5, l. 4-8.
23. An audit of the U.E. Experimental Weatherization Program administered by the East Missouri Action Agency and audited using the U.S. Department of Energies national energy audit procedure, produced an average benefit to cost ratio of \$3.37 to one. Wyse Direct, p. 9, l. 22 through p. 10, l. 3.
24. The Missouri Gas Energy Low Income Weatherization Assistance Pilot Program served 343 clients providing an estimated savings of over \$61,000 a year in 1997, or \$1,167,540 over the 20-year life of the installed measures. Wyse Direct, p. 11, l. 1-4.
25. On average, households using natural gas for space heating, domestic hot water in cooking, reduced their consumption by 34.4 million BTUs annually, or 20.9% of total gas consumption for a program-wide savings of 296 billion BTUs over the 20-year life of the installed measures. This gas savings was provided through a 28.2% reduction in space heating related gas consumption and an 8.5% increase in base load consumption and provided each customer with an annual savings of \$155. Wyse Direct, p. 11, l. 5-10.

26. The benefit to cost ratio for the MGE program was \$1.62 to \$1.00. Wyse Direct, p. 11, l. 12-13.
27. According to the Oakridge National Laboratories Comprehensive Evaluation of the national weather assistance program, the federal program produced a cost to benefit ratio of \$1.51 to one. Wyse Direct, p. 11, l. 14-16.
28. Weatherization reduces space heating fuel consumption by an average of 18.2%. Wyse Direct, p. 12, l. 1-2.
29. For homes using electricity for heat, weatherization reduces space heating fuel consumption by 35.9%. Wyse Direct, p. 12, l. 2-3.
30. For natural gas homes, annual space heating fuel consumption is reduced by weatherization by 33.5%. Wyse Direct, p. 12, l. 3-4.
31. Weatherization is a cost-effective means to help low income individuals or families pay their energy bills year after year for the life of the energy efficiency product. Wyse Direct, p. 12, l. 6-8.
32. Weatherization reduces the amount of state and federal assistance needed to pay higher utility bills, keeps money in the local economy, results in a positive impact on the household's promptness in paying utility bills, reduces arrearages, and helps reduce environmental pollution through energy efficiency. Wyse Direct, p. 12, l. 8-11.
33. Low income energy efficiency programs result in substantial non-energy savings to utilities. Wyse Direct, p. 12, l. 15-16.

34. These non-energy savings include reductions in working capital expense, uncollectible accounts, credit and collection expenses, and others. Wyse Direct, p. 12, l. 16-18.
35. Lasting energy efficient improvements are installed in a home resulting in lower utility bills year after year. Nash Direct, p. 3, l. 11-13.
36. Weatherization results in significant space heating savings. A study of MGE's weatherization program found a 28% savings in space heating. Another study by the Oakridge National Laboratory for the Department of Energy showed one-third savings on natural gas heated homes. Wyse Cross Ex., Tr. p. 736, l. 12-25.
37. The weatherization programs that involve the Department of Natural Resources provide consumer education. Wyse Rebuttal, Tr. p. 634, l. 16, through p. 635, l. 3.
38. The educational process for consumers is a part of the weatherization process undertaken in weatherization programs like that administered by the Urban League. Nash Cross-Ex., Tr. p. 457, l. 19-25; p. 458, l. 1-7.
39. Part of the weatherization process includes checking furnaces and bringing in qualified HVAC people to clean furnaces. Nash Cross Ex., Tr. p. 468, l. 3-11.
40. In weatherizing homes, checking the furnace is part of health and safety. Nash Cross Ex., p. 467, l. 15-21.