

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Verified Application and)	
Petition of Laclede Gas Company to Change Its)	<u>Case No. GO-2008-0351</u>
Infrastructure System Replacement Surcharge)	Tariff No. YG-2008-0644

ORDER DENYING MOTION FOR EXPEDITED TREATMENT AND
ESTABLISHING TIME TO RESPOND TO STAFF RECOMMENDATION

Issue Date: June 19, 2008

Effective Date: June 19, 2008

On April 25, 2008, Laclede Gas Company filed an application and petition to change its infrastructure system replacement surcharge (ISRS). Laclede's request was accompanied by an implementing tariff. The Commission has suspended that tariff until August 23.

Section 393.1015.2(2), RSMo (Supp. 2007), allows the Staff of the Commission to file a report regarding Laclede's ISRS application no later than 60 days after the application was filed. Staff filed its recommendation on June 12, advising the Commission to approve Laclede's application as submitted. Staff also recommended the Commission approve Laclede's implementing tariff to be effective on August 23.

Laclede responded to Staff's recommendation on June 13 with a motion asking the Commission to expedite its consideration of its ISRS application and to issue an order approving that application no later than June 19.

On June 16, the Commission ordered that any party wishing to object to either Laclede's motion for expedited treatment, or its application and petition to change its ISRS, do so no later than June 18. On that date, the Office of the Public Counsel filed a response

objecting to Laclede's request for expedited approval. Public Counsel contends it has not had sufficient time to review Staff's recommendation to verify that the data and methods used to calculate the proposed ISRS are consistent with the law and the terms of the stipulation and agreement in GR-2007-0208. Public Counsel indicates it can offer any objections to Laclede's ISRS application by June 23.

On June 19, Laclede filed a pleading in which it accedes to Public Counsel's objection and modifies its request for expedited treatment to request Commission approval of its ISRS application effective by June 24.

In light of Public Counsel's objection, the Commission will deny Laclede's motion for expedited treatment to the extent it asks the Commission to approve its ISRS application by June 19. On June 12, before Laclede filed its motion for expedited treatment, the Commission issued an order directing that any party wishing to respond to Staff's recommendation do so no later than June 23. The Commission will reiterate that requirement in this order.

A question remains about how quickly the Commission can make an order approving the ISRS application effective. Laclede's modified motion for expedited treatment asks the Commission to approve its ISRS application at its June 24 agenda meeting, to be effective that same day. The Commission may be able to issue such an order on June 24, depending upon the responses filed by Public Counsel or other parties, but it is unable to make that order effective on the date of issue.

By statute, all orders of the Commission become effective after thirty days, "except as otherwise provided."¹ Customarily, the Commission gives its final orders a ten-day

¹ Section 386.490.3, RSMo 2000

effective date. That practice has been upheld by reviewing courts.² However, the Commission must give its orders an effective date that will allow a reasonable time for the filing of an application for rehearing.³ If the Commission were to make its order approving Laclede's ISRS application effective on the date of issue, it would be effective immediately, and no time would be allowed for the possible filing of an application for rehearing. That would not be reasonable. Therefore, the Commission must give any order approving Laclede's ISRS application an effective date that will allow a reasonable opportunity for an objecting party to file a request for rehearing.

IT IS ORDERED THAT:

1. Laclede Gas Company's Motion for Expedited Treatment is denied.
2. Any party wishing to respond to Staff's Recommendation regarding Laclede Gas Company's application to adjust its ISRS rate, or otherwise object to that application, shall do so no later than June 23, 2008.
3. This order shall become effective on June 19, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Morris L. Woodruff, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 19th day of June, 2008.

² *State ex rel. Kansas City, Independence & Fairmount Stage Lines Co. v. Pub. Serv. Com'n*, 333 Mo. 544, 63 S.W.2d 88 (Mo 1933).

³ *State ex rel. Office of the Public Counsel v. Pub. Serv. Com'n*, 236 S.W.3d 632 (Mo banc 2007) (Allowing 1 hour and 20 minutes for filing an application for rehearing is not reasonable).