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December 16, 2002

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Re: Case No. GT-2003-0117

Dear Mr. Roberts:

Enclosed for filing on behalf of Laclede Gas Company, please find an original and eight (8) copies of Laclede Gas Company's Proposed Findings of Fact and Conclusions of Law.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Very truly yours,

James C. Swearengen

JCS/lar
Enclosure
cc: All Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

LACLEDE GAS COMPANY'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

COMES NOW Laclede Gas Company ("Laclede" or "Company") and, pursuant to paragraph H of the Commission's November 8, 2002, Order Adopting Procedural Schedule and Expediting the Transcript, submits its Proposed Findings of Fact and Conclusions of Law for the above referenced case, stating as follows:

FINDINGS OF FACT

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The Commission in making this decision has considered the positions and arguments of all of the parties. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

Background and Procedural History

Laclede first raised the issue of an incentive program primarily designed to benefit both the Company and its low-income customers in July 2002 during pre-hearing settlement conference meetings with the Staff and Public Counsel in Laclede's rate case proceeding, Case No. GR-2002-356. (Tr. 281; Exh. 21, p.2). Subsequently, on July 29,

2002, Laclede filed a tariff seeking to establish a program known as "Catch-Up/Keep-Up" (the "Program"). (Exh. 1, p. 6) As initially filed, the Program was to be funded with 30% of the discounts obtained by Laclede from the maximum tariff rates that the Federal Energy Regulatory Commission allows pipelines to charge for transportation and storage services. Two-thirds, or 20%, of the discounts were to be used to reduce the arrearages of low-income customers who, among other things, made three timely payments of their current monthly levelized bills. The remaining third, or 10% of the discounts, was to be retained by Laclede as a direct incentive to maximize the discounts.

On August 21, 2002, the Staff filed a motion requesting that the Commission suspend and reject the tariff that proposed the Program. The Staff raised a number of issues in support of its motion. Although Laclede filed a response disputing many of the points raised by Staff, it ultimately withdrew the tariff filing containing the Program on September 18, 2002 and filed a new tariff revising the Program on September 23, 2002. It is that tariff filing which initiated this case.

The revised Program differs from the one that was initially filed in several respects. Laclede states that these changes were made to address concerns raised by Staff and others during the course of discussions on the Program. (Exh. 1, p. 6; Tr. 420). Among the changes made to the Program were the: (i) elimination of the Company's right to retain a 10% share of the discounts (Exh. 1, p. 7); (ii) institution of an annual funding cap of $6 million, so that the cost of the Program would not exceed $6 million regardless of the amount of pipeline discounts obtained by the Company (Exh. 1, p. 8); (iii) designation of the Program as experimental (Exh. 1, p. 10); (iv) addition of language allowing a customer to be excused from non-payment of current bills due to "extenuating

circumstances" (Exh. 1, pp.12-13); (v) addition of language specifying that contracts required to administer the Program be subject to review by the Staff and Public Counsel (Exh. 1, p.13); (vi) addition of a provision making available to participating customers, if reasonably practical, a delayed payment date option if required to accommodate the customer's income schedule (Exh. 1, p. 13); (vii) addition of a provision limiting third-party administrative costs of the Program to 10 percent of the Program's funding, or $600,000, (Exh. 1, p. 13); (viii) institution of escrow requirements for the Program's funds that, among other things, limited the use of such funds, and any interest earned thereon net of applicable taxes, solely to the Program (Exh. 1, p. 13); and (ix) imposition of an obligation that any unused and uncommitted funds under the Program be flowed through to all firm sales customers through the Purchased Gas Adjustment ("PGA") Clause upon termination of the Program (Exh. 1, p. 14).

Notwithstanding the revisions incorporated in the Program, Staff and Public Counsel both moved to suspend the Company's September 23 tariff filing. On October 10, 2002, the Commission suspended the tariff to November 21, 2002, and scheduled a prehearing conference for October 23, 2002. The tariff was subsequently suspended until January 21, 2003, pending the outcome of this proceeding.

On November 8, 2002, the Commission issued its procedural schedule for this case. Pursuant to this schedule, Laclede, Staff, Public Counsel, and the Missouri Department of Natural Resources ("DNR")[1] filed direct testimony on November 19, 2002. The parties also agreed to offer live rebuttal testimony at the hearing in this case, which was held on December 2-5, 2002. Further, the parties filed a list of issues, which

[1] DNR's application to intervene in this case was approved on November 26, 2002.

will be followed herein in making findings of fact and conclusions of law.

On November 22, 2002, the parties filed their respective position statements on the various issues. In Laclede's position statement, the Company offered to further revise the Program based on the direct testimony of other parties. At the hearing, the Company produced a specimen tariff, admitted as Exhibit 13, which consisted of the September 23 proposed tariff, redlined to show the changes that the Company was willing to make to the Program, in response to the direct testimony of the other parties (the "Revised Program"). Specifically, Laclede offered to: (i) establish a termination date in 2006, subject to the right of any party to seek an extension (Exh. 13, par. H.6); (ii) limit administrative costs to 5% of the Program's funding cap (Exh. 13, par. H.3.e); (iii) change the amount of the quarterly arrearage reduction to the lesser of one-fourth of the customer's arrearage or $375 (Exh. 13, par. H.3.b); (iv) while the Revised Program is active, reflect any reduction in uncollectible expense in the Company's cost of service for rate recovery (Exh. 13, par. H.3.h); (v) lower the eligibility threshold for the Revised Program from 175% to 150% of the federal poverty level in the first year of the Revised Program, after which it could return to 175% if sufficient funding were available (Exh. 13, par. H.3.a); (vi) add numerous recordkeeping requirements for purposes of evaluating the effectiveness of the Revised Program (Exh. 13, par. H.3.f) and (vii) provide for $300,000 in Program funding to be used to supplement Laclede's current weatherization program (Exh. 13, par. H.3.e). For purposes of this Report and Order, the Commission will consider the Revised Program represented by Exhibit 13 to be Laclede's proposed program in this case.

Public Counsel's Position

Although Public Counsel indicated concerns with the funding mechanism for the Program, it submitted testimony indicating that it would not oppose a more limited arrearage plan on an experimental basis under certain conditions provided by Public Counsel, if the Commission were inclined to adopt one. (Exhibit 4, p. 6) Laclede effectively agreed to some of these conditions through the Revised Program represented by Exhibit 13. However, differences still remain between Public Counsel's position and Laclede's position. Specifically, Public Counsel testified that, if the Commission is inclined to proceed with a version of Laclede's proposal, it should differ from the Revised Program in the following material terms: (i) enrollment in the experiment should terminate on March 31, 2004, with arrearage payments ending on September 30, 2004; (ii) arrearage reduction should equal (rather than "not exceed") the lesser of one-fourth of the customer's arrearage or $375; (iii) the participation threshold should be 125% of the federal poverty level; (iv) contracts between Laclede and the social service agencies implementing the program should be approved by the Commission prior to the program going into effect; and (v) the amount of program funding to be used for arrearage forgiveness should be capped at $2.588 million, which would be used to serve approximately 12,940 customers at an average arrearage of $200 per customer. (Exhibit 4, pp. 9-14, Exhibit 14, Tr. 388-99). With the addition of Public Counsel's proposed $300,000 in supplemental funding for the Company's existing weatherization program and an allowance for administrative costs, the total amount of Program funding would be approximately $3 million.

Staff's Position

Although Staff counsel indicated during her opening statement that Staff opposes the Revised Program, she also stated that the program was "worth a try" and proposed that the Commission approve it subject to the Program being funded through an Accounting Authority Order ("AAO"), in which Laclede would track the costs of the program and apply for reimbursement of these costs in its next rate case. (Tr. 26-27, 29-30; *see also* Exh. 7, pp. 14-15). Staff's main concerns are with the method and level of funding. Staff opposes the use of pipeline discounts savings to fund the program on various grounds. These include its assertion that using the PGA to fund the Program in a manner that could reduce the Company's uncollectible expense would represent an inappropriate commingling of gas and non-gas costs and could potentially cause the Company to double recover these expenses (Exh. 7, pp. 6-7; Exh. 9, p. 4; Exh. 10, pp. 4-5). At the same time Staff also expressed the concern that the Program might also increase the arrearages of low-income customers. (Exh. 7, p. 6). Staff also expressed concern regarding the size of the Program and some of its operational details. (Exh. 7, p. 8; Exhibit 8).

DNR's Position

It is clear that DNR favors weatherization programs like those that have been approved for Laclede, MGE and AmerenUE. (Exh. 5, p.3) It is not clear whether DNR supports the Revised Program. At one point, DNR witness Ronald Wyse indicated that he supported the Revised Program "with those changes regarding the long-term benefits of weatherization." (Tr. at 638) However, Mr. Wyse also stated that while he supports cash assistance for low-income customers, and actively supports low-income

weatherization programs, DNR is not "endorsing" the Revised Program. (Tr. at 738) Regardless, it appears undisputed that DNR does not oppose the Revised Program, and as indicated by its attorney, Mr. Molteni, the Revised Program with a specific weatherization component has "become 100 percent more palatable to the Department [of Natural Resources]..." (Tr. at 189)

Issues To Be Resolved

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

Finding of Fact:

The Commission finds that there is a need for a program to assist low-income customers. Ample evidence was presented to support this point, and no party provided evidence to the contrary. Laclede witness Moten testified at length to the gap between certain customer's income levels and gas bills, and the unavailability of resources from other areas to help bridge this gap. (Exh. 1, pp. 14-15). Staff witness Imhoff also expressed interest in pursuing solutions to energy affordability issues, noting that the average annual income for low-income customers is $677 per month. (Exh. 7, pp.2-3, 5). Public Counsel also indicated in its Statement of Position that "[m]any of Laclede's customers cannot afford to pay the natural gas service that is necessary to heat their homes during the winter months" and indicated that it would have no objection to a more limited program if the Commission was inclined to move forward with one. (Exh. 4, p. 6). Finally, DNR witness Wyse testified to the significant burdens of home heating bills on low-income customers. (Exh.5, pp.6-7) DNR further noted in its Statement of

Position that "[t]here is a need for a low income assistance program. That need is immediate. It's scope is substantial."

The evidence presented in this case is supportive of these statements. It indicates that the main source of government funding for low-income energy assistance, LIHEAP, has been declining and is expected to decline further. Laclede witness Moten testified that it was anticipated that LIHEAP funding for Missouri this winter would be some $9 million dollars less than the $41 million received last winter and over $19 million less than the $51.4 million in LIHEAP funding what was received for the winter of 2000/2001. (Exh. 1, pp. 15-16). In addition, he testified that it was highly unlikely that the State of Missouri itself would be in a position to provide any meaningful energy assistance this winter under the state's Utilicare Program given its current budget constraints. (*Id.*) He further testified that of the estimated 90,000 Laclede customers whose incomes are low enough to qualify for LIHEAP assistance, only about 15 to 20 percent of these households actually receive such assistance. Moreover, for those households that are able to receive LIHEAP assistance, their incomes are extremely low, averaging around $6,970 per year in FY 2001. As a result, even with the modest grants available through LIHEAP, these households still have an energy burden (i.e. expenditures for utility service as a percentage of income) that substantially exceeds the maximum recommended amount of 10 percent of income. (Exh. 1, p.15)

Consistent with this situation, Laclede's customers are experiencing large arrearages. The evidence showed that, as of September 30, 2002, there were 110,324 residential customers on Laclede's system with total arrearages of $18,523,000. Moreover, a total of 21,080 of these customers' accounts had been "finaled," meaning

that, as of that date, they were not receiving gas service. Arrearages applicable to these finaled accounts totaled nearly $10 million as of that same date. (Exh. 1, p. 16; Exh. 2, p.3) Although it was not suggested that all of the customers represented by these arrearages would be unable to meet their utility payment obligations, the sheer magnitude of the arrearage problem faced by the Company and its customers indicates that there is an immediate need for the type of program proposed by Laclede.

For the same reasons, as well as those discussed below and under Issue #3, the Commission's finds that the scope of this need is sufficient to warrant adoption of the Company's proposed funding level of $6 million, under which $5.4 million would be applied to helping customers with their arrearages, and the remainder used to supplement funding for the Company's current weatherization program and to pay third party administrative costs. Notably, the only other party to seriously address the scope of the need for the Program and what an appropriate level of funding would be to meet that need was Public Counsel. In her testimony, Public Counsel witness Meisenheimer recommended an overall funding level of approximately $3 million, with approximately $2.6 million of that devoted to the arrearage grant aspects of the Program, and the remainder devoted to weatherization and administrative costs. (Exh. 4, pp. 10-11).

While Laclede stated that Ms. Meisenheimer's approach for determining an appropriate funding level was, in most respects, reasonable, (Tr. 205), Laclede asserted that it had one major flaw in that it assumes an average arrearage level of $200 for all customers who would be eligible for the Program. (Tr. 205-206; Exh. 4, p. 10). However, the $200 amount was computed by looking at the average arrearage levels of only heat grant customers who were still actively receiving service from the Company.

(Tr. 206). Those most in need of assistance, however, are those customers who, because of their level of arrearages, have been unable to maintain service. As noted above, the more than 20,000 customers who fit into this category had total arrearages of nearly $10 million. (Exh. 2, pp. 2-3). This equates to an average arrearage amount of almost $500 dollars per customer, an amount that is more than double the $200 average arrearage level assumed by Ms. Meisenheimer. Moreover, as Mr. Fallert testified in his rebuttal testimony, if one looks at those customers who have been disconnected and have previously received heat grants, the average arrearage level per customer rises to approximately $1,000. (Tr. 206). Mr. Fallert was able to identify at least 3,000 customers who fell into this category alone. (*Id.*).

Given this evidence, the Commission finds that the $200 average arrearage level assumed by Ms. Meisenheimer substantially understates the scope of the need for the Revised Program and that the Company's proposed funding level is far more consistent with the arrearage experience of those customers who are most likely to participate in the Revised Program. In making this finding, the Commission also notes that there are safeguards in the Revised Program to ensure that the Company's customers will receive back any Program funds that may not be used in the event low income customers do not take full advantage of the funding levels authorized for the Revised Program.

In light of this evidence, the Commission finds that there is an immediate and substantial need for a low-income program similar in form and magnitude to the one proposed by Laclede. The Commission further finds that Revised Program should be approved immediately, especially since the winter heating season has already begun.

Issue #2: If there is a need, is the Program properly designed to address that need?

Finding of Fact:

The Commission finds that, subject to the terms of this Report and Order, the Revised Program is properly designed to address the needs of all customers, including low-income customers. Because the Company's low-income customers often receive assistance only in the minimum amount needed to maintain service, they are caught in a cycle of persistent or increasing arrearages that leads them in, turn, to experience a cycle of disconnections and reconnections. They reconnect, if they can, each fall with a minimum payment and are disconnected in the spring when the weather improves. (Tr. at 57-58).

The ultimate goal of the Revised Program is to provide these customers with the means, as well as the incentive, to "break the cycle" of missed payments and service interruptions that impose costs on all customers, including the low-income customer. In the process, it is also designed to relieve the kind of stress that results from a chronic uncertainty over high past due obligations and, more importantly, whether utility service will be available. (Exh. 1, p. 4) The Revised Program is designed to do this by making utility service more affordable to low-income customers by affording them the opportunity to reduce their arrearages.

At the same time, the Program is also designed to benefit other customers as well. For in exchange for receiving the more affordable rate and the grants required to work off their arrearages, customers must satisfy certain obligations imposed by the Program. Specifically, they must apply for any financial assistance from governmental sources for which they may be eligible, agree to implement no-cost conservation or weatherization

measures that can reduce their energy consumption, and demonstrate a commitment to making timely and complete payments on their reduced energy bills. (Exh. 1, pp. 4-5; Schedule JM-1, p. 2). As they do so, a portion of their arrearages will be eliminated each quarter. (*Id.*) As a result, low-income customers have an incentive to improve their payment performance and take other energy efficiency measures, all of which will operate to benefit the larger body of customers.

The Program also provides an additional incentive to reduce costs for all customers by specifying that the Program will be funded through the use of 30 percent of the pipeline discount savings achieved by the Company, up to an overall cap of $6 million. (Exh 1, pp. 5, 8; Schedule JM-1, p. 1). As a result of this feature, funding for the Program depends entirely on the Company's successful efforts to negotiate payment obligations with its pipeline suppliers for storage and transportation services that are below the maximum rates that FERC has deemed to be just and reasonable. (Exh 1, pp. 4-5). In Laclede's view, this represents a marked enhancement to other low-income programs that have been approved by the Commission that simply increase base rates to all other customers in order to fund the assistance program. In contrast, the Catch-Up/Keep-Up Program provides an incentive to generate that funding by reducing, not increasing, an element of the Company's cost of service. In short, the Catch-Up/Keep-Up Program provides both the Company and its most vulnerable customers with incentives to take actions that are reasonably calculated to benefit all customers.

As noted by Laclede witness Moten, extensive evidence was provided by Public Counsel witness Roger D. Colton in ***Missouri Gas Energy***, Case No. GR-2001-292, showing that programs designed to make utility service more affordable have resulted in

both improved payment performance by those participating in the program as well as reductions in the costs of disconnection and other related activities. These findings were based on actual programs implemented in a variety of states. (Exh. 1, pp.17-18)

The Revised Program is essentially similar to the MGE Experimental Low Income Rate ("ELIR") tariff with regard to the benefit it provides to low-income customers. Many low-income customers with arrearages maintain gas service under the "Cold Weather Rule" (4 CSR 240-13.055), in which they are expected to pay a levelized amount of their combined projected charges and arrearages. Whereas the ELIR affords low-income customers a reduction of current or projected charges if they pay the remainder of their bill, the Revised Program affords such customers a reduction of past charges if they pay the remainder of the bill. Regardless of whether the reduction comes off the front end or the back end of the bill, as far as the customer is concerned, the bottom line is the same. (Tr. at 685-87) For example, a customer who has an arrearage of $500 and income at 75% of the federal poverty level will receive a bill reduction from MGE under the ELIR of $480 ($20 per month for 2 years) and a bill reduction from Laclede under the Revised Program of $500 ($125 per quarter for four quarters).

It should be further noted that in many other respects the Revised Program is very similar to, and in some respects superior to, MGE's ELIR, which was supported by Staff and Public Counsel and approved by the Commission. In addition to a reduction from the full amount of the bill, these respects include: a payment schedule based on a levelized plan, a requirement that the customer stay current with plan payments, some discretion to excuse customers who fail to stay current, a requirement that customers apply for governmental energy assistance, a termination date for the experimental program, a

provision for disposing of unused funding,[2] information gathering for reports evaluating the program,[3] and funding by firm sales customers in a limited amount.[4] (Tr. at 652-68) In summary, other than the amount of funding and the qualification threshold (100% of federal poverty level for the ELIR versus 150%/175% for the Revised Program), it appears that the only substantive difference between the ELIR and the Revised Program is the method of implementing the reduction (arrearage reduction versus bill credit). This difference only makes the Revised Program more attractive from an experimental perspective, because it will permit evaluators of these programs to determine whether either of these methods is superior.

In addition to its similarity to MGE's ELIR, the Revised Program also resembles a low-income plan sponsored by Public Counsel in a Laclede rate case, Case No. GR-92-165. (Exh. 3, p.5) This plan, borrowed from the Wisconsin Gas Company, advocated a three-pronged approach: arrearage forgiveness based on paying current bills, cost-effective weatherization measures and reduced current charges. (Exh. 3, Schedule MTC-4, p.5) The evidence in this case shows that Laclede's Revised Program matches the first two prongs of Public Counsel's plan. (Tr. at 322-24) As discussed above, the third prong (reduced current charges) is simply the other side of the same cash assistance coin

[2] Laclede's Revised Program returns unused funds to firm sales customers through the PGA; MGE's ELIR contributes unused funds to the Mid-America Assistance Coalition. (See Tr. at 659-661; Exh. 13; Exh. 3, Schedule MTC-3, p.4)

[3] According to Staff witness Imhoff, Laclede's information gathering obligations under the Revised Program are more specific, if not broader, than MGE's obligations under the ELIR. (Tr. at 662-65)

[4] MGE's ELIR is funded solely by residential customers rather than all firm sales customers. (Exh. 3, Schedule MTC-3, p.4). MGE's residential customers pay 8 cents per month under the ELIR to serve 1000 customers, while Laclede residential customers would, at most, pay about 62 cents per month under the Revised Program to serve multiple thousands of customers, assuming such program generated no offsetting benefits. (Tr. at 295-96)

from arrearage forgiveness. Therefore, we find that the Revised Program is effectively similar to the plan sponsored by Public Counsel in Case No. GR-92-165.

Finally, Staff witness Warren testified as to the proper design of Laclede's program. Regarding the Program, the witness provided direct testimony on November 19, 2002, stating that:

> "The parameters of the program need to be defined and monitored. Some of these parameters are the number of eligible customers, number of applicants, number of participants in the program, along with the amount of Laclede's arrearages that are attributable to low-income customers and how the program effects these participants and the overall level of arrearages."
> (Exh. 8, p.6)

After Laclede provided Exhibit 13, representing the Revised Program, Staff witness Warren admitted only that some of his concerns had been addressed by Exhibit 13. However, when asked what things had not been addressed, he was unable to produce any specific items of information that the program lacked, noting only a generalized and undefined interest in the income of the participants,[5] "a better characterization of the experiment," and closer tracking. (Tr. at 758-59) These generalizations are not substantive objections sufficient to delay a program that appears to be otherwise adequately designed and in any event very similar to programs already approved by the Commission or proposed by Public Counsel. Regarding participant income, this information is already necessary to provide the information suggested by Public Counsel and incorporated into the Revised Program. (See Exhibit 13, par. H.3.f (viii – xvi), as amended by Section 2C *infra)* Further, while witness Warren testified that a fundamental goal of any experiment is to gain more and better information as a step to

[5] The witness noted that this information should be available through the customers' participation in LIHEAP.

additional activity (Tr. at 772), neither he nor witness Imhoff were able to explain why the Staff supported the ELIR with its modest informational requirements, but oppose the Revised Program which contains much more specific data gathering obligations. (See Exhibit 13, pp. 28-j and 28-j1; Exh. 3, Schedule MTC-3, p.4)

In summary, for the reasons stated above, we find that the Revised program is properly designed to address the need of low-income customers.

Issue #2A: Does the Program have the potential to benefit or harm customers.

1. All Customers.

Finding of Fact:

The Commission finds that the Revised Program is likely to benefit Laclede customers. The evidence in this case demonstrated that the Company's paying customers pay for the bad debts of those who don't pay, since these bad debts are ultimately recovered as a cost of service through the ratemaking mechanism. With respect to paying customers, the goal of the Revised Program is to motivate low-income customers to develop better payment habits, thus reducing the level of these bad debts in the long run. Concurrently, the cost of taking collection action against these customers should decline and the amount of working capital devoted to carrying their arrearages should decrease. These benefits will also eventually flow to all customers in the form of reductions in these elements of the Company's cost of service. (Exh. 1, p.17; Exh. 2, p.5-6) The Company presented evidence that it expected bad debts to decrease by $2-3 million, and no party provided evidence to the contrary. (Exh. 2, p. 4)

We are confident that the Revised Program has no potential to harm customers. Because of the Company's decision to relinquish any right to retain a portion of the

discounts savings achieved by Laclede, every last dime of those savings will go to the Company's customers, either through the PGA or in the form of Program benefits and services. Accordingly, on a net basis customers cannot be harmed by the Program. Moreover, if the Program has any positive effect at all on reducing uncollectible expenses or increasing the level of pipeline discounts that would otherwise be achieved than all customers will benefit on a net basis. Even for those customers who cannot participate in the Program, the total cost for a typical residential customer would only be about 62 cents a month or about 1 percent of the customer's bill (Tr. 295-96), and then only in the unlikely event that the Revised Program had no positive impact on reducing uncollectible and related expenses or increasing pipeline discounts compared to what would have otherwise been experienced in the absence of the Program.

However, to the extent that these factors have better results than assumed above, the experiment could be performed on a low-cost or no cost basis, and ratepayers could enjoy long-term benefits from lower bad debt expenses. As one example, Laclede is currently tracking expenses associated with the Commission's emergency amendment to its Cold Weather Rule (4 CSR 240-13.055(13)), pursuant to a tracking mechanism established and continued in its last two rate cases. To the extent the Revised Program causes bad debts under that tracking mechanism to decrease, Laclede ratepayers will directly benefit from that decrease, thus effectively lowering the cost of the experiment. (Tr. at 202, 300-01). As another example, to the extent that low-income customers who qualify for participation in the Revised Program are not able to meet the requirements to receive the benefits under the Revised Program (e.g. fail to make three monthly payments without extenuating circumstances), the unused dollars will flow back to the ratepayers

through the PGA, which also lowers the cost of the experiment. As a final example, if the Revised Program reduces bad debt expense for customers whose arrearages are not being tracked by the Cold Weather Rule tracking mechanism, ratepayers will receive the benefit of this reduced expense beginning with the next Laclede rate case.

Issue #2A: 2. Low-income customers.

Finding of Fact:

The Commission finds that the Revised Program is highly likely to benefit low-income customers. In exchange for making timely payments and agreeing to implement low or no cost weatherization and conservation measures that will also benefit them, these customers will be entitled to receive service under more affordable terms. Such terms will include a levelized assessment of their projected bills, which will not include their arrearages. In addition, they will have an opportunity to get relief from these arrearages that would otherwise continue to make utility service unaffordable. (Exh. 1, p.17). The Commission also notes that the potential value of the Program to low-income customers was widely recognized by those low-income customers who testified at the public hearing in this case, as well as those agency personnel who work with such customers every day to cope with their financial challenges. (Tr. 18-30).

Further, we find that the Revised Program will also benefit such customers through its low-income weatherization component. Specifically, as part of the Revised Program, Laclede will add $300,000 to supplement its current weatherization program. (Exh. 13, par. H.3.e) DNR witness Wyse presented evidence that weatherization measures were effective in lowering the bills of low-income customers. (Exh. 5, pp.9-12) For example, a study performed on the MGE weatherization pilot program for the period

1994-99 revealed a benefit-cost ratio of 1.62:1. This means that for every dollar invested in the program, energy costs for low-income customers were reduced by $1.62. (Exh. 5, pp.10-11) However, other evidence cast doubt on the effectiveness of weatherization. Laclede witness Moten acknowledged the successful weatherization programs, but also pointed out that a Laclede weatherization program had yielded a benefit-cost ratio of .76-1, while an Ameren program's ratio was .85:1. (Tr. at 46-47) Given this information, it appears that, while weatherization may not be a panacea for energy affordability issues, it can have beneficial effects and the Commission finds that it is worthwhile to continue pursuing weatherization as a method of reducing energy consumption for low-income households.

In summary, the Commission finds that the two-pronged approach of cash assistance through an arrearage reduction program and energy efficiency through additional weatherization forms a combination that is very likely to benefit low-income customers. (Tr. at 44-46, 629, 637-38)

Issue #2B: Does the Program have the potential to benefit or harm Laclede?

Finding of Fact:

The Commission finds it is likely that the Revised Program is likely to produce a modest benefit to Laclede that, because of the Company's proposal to eliminate any right to retain for its own use a portion of the discount achieved by the Company, will only be indirect. As stated herein *supra*, we believe that the Revised Program will reduce bad debt expense. Laclede has testified that it believes such expenses will be reduced by $2-3 million. Laclede further presented evidence that the Revised Program will also reduce its costs to reconnect customers, as a result of fewer disconnections, and its costs of

collection. (Exh. 2, pp. 4-6). Because of the Emergency Cold Weather Rule tracking mechanism established in Laclede's last two rate cases, however, the beneficial impact of some of these reductions in uncollectible expense will be tracked in between rate cases and ultimately used to benefit all customers in the Company's next rate case (Tr. 202), while any other cost savings will ultimately flow to customers through the ratemaking process. (Tr. at 283)

Staff testified that it may be improper to implement the Revised Program outside the context of a rate case, because any reduction in bad debt expenses permits the Company to double charge customers for bad debts, since these expenses are already allowed for as part of the ratemaking process. (Exh. 7, p. 7; Exh. 12, p. 2) The Commission does not agree that this issue raises a concern. Double recovery of bad debts only applies if it is certain that bad debts will be reduced below the level assumed in rates. Given the degree to which the company's bad debts already exceed the level assumed in rates, however, the potential impact of numerous factors on bad debts, including the impact of declines in governmental funding, potentially colder than normal weather and economic conditions, and the inability to definitively assess in advance what the Program's impact will be on bad debts, there is no certainty that this will occur. (Exh. 2, pp. 6-7)

The evidence also indicates that no adjustment for bad debt expense was made in MGE's rate case to account for the ELIR or that any tariff provisions were incorporated in MGE's ELIR to require that any reductions in bad debts be immediately flowed through to customers. This is true even though the Program was funded through a surcharge to all residential bills. This is consistent with the concept of an experiment: the

parties would not be able to assess the effect of the experiment on bad debts until *after* the experiment was performed.

The Commission further notes that it has, on various occasions, imposed changes in safety and billing requirements, levels of assessment funding and various kinds of record-keeping requirements that have imposed additional costs on utilities between rate cases. (Tr. 204). The Commission is unaware of any instance where Staff has ever advised the Commission that it could not take such actions because they would have a detrimental financial impact on the utility. (*Id.*). Moreover, the Staff itself has recommend changes to the rate design of Laclede's PGA in the past, even though adoption of those changes would have had a negative impact on the Company's bad debt levels and collection expenses between rate cases. ***See In the matter of Laclede Gas Company's PGA Rate Design,*** Case No. GR-94-328, 4 Mo. P.S.C.2d 32, 37 (1995). In view of this, we find nothing unreasonable or unjust about approving a Program in which every dime of savings achieved by the Company goes to benefit customers and the only benefit to the Company is an indirect one.

Issue #2C: What revisions can or should be made to the operational terms of the Program?

Finding of Fact:

From the time the tariff for the Program was filed on July 29, 2002, Laclede has made numerous revisions resulting in the Revised Program now before us. In its various pleadings and in testimony, Laclede has represented that many of these changes were made to address the comments of other parties. (Tr. at 47-50) Apparently, this issue has been discussed on numerous occasions over the past months. (Tr. at 431-32; Exh. 21, p.2) Based on the foregoing, and on the evidence provided at the hearing, the

Commission finds that the operational terms of the Revised Program, as set forth in Exhibit 13 are appropriate and should be approved, with the following revisions:

(a) As suggested by Public Counsel, parts (viii) to (xvi) of Section H.3.f of the Revised Program tariff (Exh. 13) should provide that, in addition to information at 100% and 125% of the federal poverty level, Laclede should also capture information at the 150% level and, beginning with the second year of the program, at the 175% level, if Program funds are sufficient to support making funding available at that level (Tr. at 396-97); and

(b) As suggested by Public Counsel, the words in Section H.3.b of the Revised Program tariff (Exh. 13) should be revised to remove the words "not exceed" and substitute the words "be equal to" (Tr. at 391).

Issue #3: What level of funding is appropriate?

Finding of Fact:

Based on the information cited in its discussion under Issue #1 above, the Commission finds that the scope of the need for a low income assistance program for Laclede's customers is sufficient to warrant adoption of the Company's proposed funding level of $6 million, under which $5.4 million would be applied to helping customers with their arrearages, and the remainder used to supplement funding for the Company's current weatherization program and to pay third party administrative costs.

The Commission finds that such a funding level is proportionate to the need that has been identified. As previously discussed, the Company had over 90,000 customers in its service territory who are currently eligible for LIHEAP and, based on historical

experience, it can be expected that no more than 15 to 20 percent of those customers will be able to obtain LIHEAP funding. (Exh. 1, pp. 14-15). Moreover, as of September 30, 2002, the Company had 21,080 disconnected customers with arrearages totaling $9,927,000 dollars. (Exh. 2, pp. 2-3). Given these needs, and the expected decline in LIHEAP funding, the $5.4 million in Program funding that would be available for direct financial assistance under the Company's proposal is not excessive. To the contrary, the Commission finds that it is fully proportionate to the need that exists.

The Commission also notes that the only other party to seriously address the scope of the need for the Program and what an appropriate level of funding would be to meet that need was Public Counsel, which recommended an overall funding level of approximately $3 million, with approximately $2.6 million of that devoted to the arrearage grant aspects of the Program, and the remainder devoted to weatherization and administrative costs. (Exh. 4, pp. 10-11). As previously discussed under Issue #1, *supra*, while this recommendation recognizes a substantial need for funding, it nevertheless understates that need by assuming an average arrearage level that is significantly lower than that being experienced by those customers who are most likely to participate in the Program.

With respect to the weatherization component, as discussed in Issue 2A above, we find that Public Counsel's proposal to use $300,000 in Program funds for this component of the Revised Program, as supported by Laclede and DNR, is appropriate. Regarding administrative costs, as discussed in Issue 2C above, the Commission also finds that administrative costs should not exceed 5% of the Program's $6 million dollar funding cap, resulting in an overall funding level of $6 million.

In addition to finding that such a funding level is warranted by the unmet need that exists for low income funding, the Commission finds this amount is reasonable for two other reasons. First, the evidence in this case shows that, at the $6,000,000 funding level proposed by Laclede, the cost to residential customers would, at most, approximate 62 cents per month for the typical residential customer or about 1 percent of the customers overall bill (Tr. 295-96). And this maximum cost would only be incurred in the unlikely event that the Program had absolutely no effect on lowering uncollectible expenses below, and increasing the level of pipeline discounts achieved by the Company above, the levels that would otherwise be experienced. The Commission finds that this modest amount is appropriate to fund an experiment that is designed to provide some relief for the Company's most vulnerable customers, lower uncollectibles for all customers over the long–term and provide benefits to society as a whole. (Exh. 1, p. 18) Second, while the Commission has taken a reasonably conservative approach to the funding level, the Commission is not concerned with "overfunding" the Revised Program, because, as provided herein, any overfunding would be returned to ratepayers through the PGA.

Issue #4: How can the Program be funded?

Finding of Fact:

The Commission will treat this issue as asking whether the Revised Program can be funded with a share of the pipeline discounts obtained by Laclede. Because this issue calls for a legal conclusion, such issue is determined under the Conclusions of Law section of this Brief.

Issue #5: How should the Program be funded?

Finding of Fact:

The Commission finds that the Revised Program should be funded with a share of pipeline discounts. This method of funding is at the very least superior to the method of funding the MGE ELIR, where customers are simply assessed a surcharge to fund that program. Under the Revised Program, Laclede is motivated to create funding that might not have been available *but for* the incentive program funding method. Evidence presented at the hearing demonstrated that these discounts are not funds that consumers can count on every year; pipeline suppliers can and have reduced them, and to the extent they do, gas costs to customers will increase. In fact, such evidence indicated that pipeline operators are applying pressure to reduce the level of discounts achieved by Laclede. (Tr. 328, 336). Thus, the pipeline incentive aspects of the Revised Program can be effective even if they only result in Laclede maintaining, or lessening the reductions in, the level of pipeline discounts it currently achieves.

Staff testified that the incentive portion of the Revised Program is not a "GSIP" (Gas Supply Incentive Plan), nor is it properly structured. (Exh.7, p. 10; Exh. 10, p.7) The Commission finds, however, that the use of pipeline discount savings to fund the Revised Program does constitute an appropriately designed incentive feature. Regardless of how effective this feature may be in encouraging a greater level of pipeline discounts than would otherwise be the case, it is surely more effective than simply increasing PGA rates to fund the Revised Program, as Staff suggests could be done, without any incentive at all to reduce this component of the Company's costs. Moreover, the Commission notes that the Company has made a number of changes to the Program since it was first

filed in July that properly address various concerns that were raised by the Staff regarding this incentive feature. (Exh. 1, pp. 7-10). These include those provisions of the Program that impose an overall $6 million cap on the amount of pipeline discounts savings that may be used to fund the Revised Program as well as elimination of the Company's right to retain 10 percent of the discounts savings for its own use.

The latter revision is particularly noteworthy because it means that every last dime of discount savings achieved by the Company under the incentive mechanism will be flowed through to customers, either though the PGA or through the grants and services provided under the Revised Program, including services designed to educate customers on low-cost or no-cost conservation measures and to weatherize their homes. This also brings the incentive feature of the Revised Program squarely in line with the parameters for a properly designed incentive mechanism that was adopted by the Commission's Natural Gas Commodity Task Force. (Exhibit 16). For example, one parameter states that an "[i]ncentive mechanisms may be an effective tool when the level of compensation required by the LDC, for engaging in cost reducing actions does not exceed the net benefit consumers receive for the level of cost reductions that can be reasonably anticipated to result." (Exh. 16, p. 50) In this case, of course, customers receive the net benefit of ***all*** of the discount savings achieved by Company since it is not retaining any of those savings for itself but instead flowing them through, in one form or another, to its customers. Moreover, to the extent the Revised Program results in lower uncollectible expenses or greater discounts than would otherwise be the case, customers will receive an even larger measure of benefits.

Another parameter provides that: "[I]ncentives should be targeted to areas of operation in which the LDC's actions have a meaningful impact in reducing costs, enhancing net revenues, or in providing other benefits that are in the customers interest, such as efficiency programs." (Exh. 16, p. 50). Once again, the incentive features of the Revised Program proposed by Laclede are fully consistent with this parameter in that they provide Laclede with an incentive to reduce its pipeline supplier costs, which can clearly be impacted by an LDC's efforts, while also giving low-income customers both the incentive and the means to reduce their arrearages and energy consumption through conservation, weatherization and other efficiency measures that are designed to benefit all customers.

Under these circumstances, we find that the pipeline discount incentive is an appropriate method of funding for the Revised Program.

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

Finding of Fact:

The Commission will treat this section as a legal issue and address it under Conclusions of Law.

Issue #7: If so, how should they be included?

Finding of Fact:

The Commission finds that these items should be included pursuant to the terms of the Revised Program. (Exh. 13, par. H.3.e) Specifically, in accordance with the discussion under Issue #2A and 3 above, the Commission finds that weatherization should be included by allocating $300,000 of program funds to supplement the

Company's existing weatherization program. The Commission further finds that conservation measures, customer outreach and education should also be included in the Revised Program as provided in Exhibit 13, paragraph H.3.e. To the extent these items are performed by outside parties, they should be funded through the administrative expenses allowed under the Revised Program as set forth under Issue #3 above.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law:

Jurisdiction:

Laclede is a regulated public utility over which the Commission has jurisdiction in accordance with Chapters 386 and 393, RSMo 1994. The Commission must protect the public interest, ensure that Laclede's rates are just and reasonable, and ensure that Laclede provides safe and adequate service to the public. §§ 393.130 and 393.140, RSMo 1994.

Issue #2: If there is a need for the Program, is the Program properly designed to address that need?

Conclusion of Law:

Both the Commission and Missouri courts have consistently found that the Commission has broad authority to approve experimental rates for the purpose of acquiring the data necessary to fix just and reasonable rates. See ***In the matter of the investigation into all issues concerning the provision of extended area service (EAS) in***

the State of Missouri under Commission Rule 4 CSR 240-30.030, 29 Mo. P.S.C.(N.S.) 75, 106 (1987), *citing,* ***State ex rel. Watts Engineering Company v. Missouri Public Service Commission,*** 191 S.W. 412 (Mo. banc 1917); ***State ex rel. Washington University v. Missouri Public Service Commission,*** 272 S.W. 971 (Mo. banc 1925); ***State ex rel. City of St. Louis v. Missouri Public Service Commission,*** 296 S.W. 790 (Mo. banc 1927); ***State ex rel. Campbell Iron Company v. Missouri Public Service Commission,*** 296 S.W. 998 (Mo. banc 1927); ***State ex rel. McKittrick v. Missouri Public Service Commission,*** 175 S.W.2d 857 (Mo. banc 1943); and ***State ex rel. Laclede Gas Company v. Missouri Public Service Commission,*** 535 S.W.2d 561 (Mo.App. K.C.D. 1976). The Commission has previously used that discretion to approve other programs that contain elements similar or identical to those contained in the Program under consideration in this case. These include both programs that provide grants or credits to low-income customers for purposes of making service more affordable or weatherizing their homes, *see* ***Re: Laclede Gas Company,*** Case No. GR-2001-629 (2001); ***Re: Missouri Gas Energy,*** Case No. GR-96-285 (1997); ***Re: Union Electric Company,*** Case No. GR-2000-512 (2000), ***Re: Missouri Gas Energy,*** Case No. GR-2001-292 (2001) and programs that have permitted the savings achieved by gas utilities to be retained or used for other purposes rather than flowed through the PGA. (***Re: Laclede Gas Company***, Case No. GR-96-193 (1996); ***Re: Missouri Gas Energy,*** Case No. G0-2000-705 (2000); ***Re: Union Electric Company,*** Case No. GT-2001-635 (2001)). By structuring the Program as experimental, i.e. by limiting both its term and magnitude, the Company has brought the Program squarely within this broad range of Commission discretion.

Issue #4: How can the Program be funded?

Conclusion of Law:

The Commission concludes that the Revised Program can be funded with a share of pipeline discounts. Certainly the law authorizes the Commission to approve programs under which gas utilities are permitted to retain, rather than flow through the PGA, a portion of the actual gas costs they have incurred as a means of providing them with an incentive to reduce costs or enhance revenues. Nor can it be seriously argued that paying such reward out of the PGA contaminates the PGA with non-gas costs. Such issues relating to gas incentive mechanisms were decided in ***State ex. rel. Midwest Gas Users' Assn. v. Public Service Comm'n***, 976 S.W.2d 470 (Mo. App. 1998). An incentive clause like the one at issue here is intended to give the Company an incentive to purchase transportation and storage services as cheaply as possible. ***Midwest Gas Users' Assn*** at 476. The fact that the Company has volunteered to use the incentive funds to help low-income customers does not make the program any less legally sound. Moreover, the Commission has approved a number of incentive mechanisms that directly involved pipeline discounts, including one for Laclede itself. These incentive mechanisms have been approved or extended both within and outside of rate cases. (Exh. 3, pp.6-7)

With respect to the PGA clause, we agree with the testimony presented by Staff that the Commission may make changes to the rate design of a gas utility's PGA Clause, that is, the Commission may allocate costs recovered through the PGA, including transportation and storage costs, among various customers and customer classes in a manner the Commission finds to be just and reasonable. (Tr. at 804-09). Indeed, the Commission has previously considered such changes in separate PGA rate design

proceedings. ***See In the matter of Laclede Gas Company's PGA Rate Design,*** Case No. GR-94-328, 4 Mo. P.S.C.2d 32, 37 (1995). Therefore, there should not be an issue of Laclede doing indirectly what the Commission may itself do directly through the PGA clause. The only difference is that there is a pipeline discount incentive in the middle that provides the Company with an incentive to reduce this component of its costs rather than simply fund the Program through an overall increase in PGA rates. In conclusion, the Commission finds no reason that the Revised Program cannot be funded with a share of pipeline discounts obtained by Laclede.

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

Conclusion of Law:

The Commission concludes that weatherization, conservation, customer outreach and education, and administrative costs can be included in the program. The Company has proposed such items and no party has presented any argument or evidence that they should be prohibited. Nor are we aware of any.

Finally, orders of the Commission must be based upon competent and substantial evidence on the record. § 536.140, RSMo 1994. Based upon its findings of fact and conclusions of law set forth above, the Commission concludes that a low-income energy assistance program in the form of the Revised Program, modified to comply with this order, would be in the public interest.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Proposed Findings of Fact and Conclusions of Law has been duly served upon the General Counsel of the Staff of the Public Service Commission, Office of the Public Counsel and all other parties of record in this case by email, fax, or by placing a copy thereof in the United States mail, postage prepaid, on this 16th day of December, 2002.