

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

Public Service Commission)
Of the State of Missouri,)
)
Relator,)
)
v.)
)
Laclede Gas Company; The Laclede)
Group, Inc.; and Laclede Energy)
Resources, Inc.)
)
Respondents.)

Case No. 10AC-CC-00170

LACLEDE GAS COMPANY'S
RETURN TO WRIT OF MANDAMUS

COMES NOW Respondent, Laclede Gas Company ("Laclede" or "Company"), by the undersigned counsel, and in obedience to the Judgment and Writ of Mandamus issued by this Court in the above entitled case on June 25, 2010, submits this Return to the Writ of Mandamus, stating as follows:

1. In connection with Laclede's Actual Cost Adjustment (ACA) cases covering ACA periods 2004-2005 (GR-2005-0203) and 2005-2006 (GR-2006-0288), the Staff of the Missouri Public Service Commission filed or served data requests seeking the following information from Laclede:

1. For the 2004-2005 ACA: a copy of all Laclede Energy Resources (LER) gas supply and transportation invoices, contracts and nomination records that were effective for the months of January 2005 and April 2005.
2. For the 2005-2006 ACA: a copy of all Laclede Energy Resources (LER) gas supply and transportation invoices, contracts and nomination

records that were effective for the months of January 2006 and April 2006.

3. The ledgers or deal books or journals or other documents that record all of LER gas supply and transportation deals in summary form or report form or spreadsheet form or similar form. The response should include sales dates, sales and purchase volumes, sales and purchase prices, cost of gas sold, and net margin.

4. Documentation showing LER's use of any capacity released to LER by the Laclede Gas Company. The response should include receipt and delivery points, date of use, volumes nominated, and Transportation Service Agreement (TSA) number used to make the nomination.

2. Over the past three years, Laclede has produced a host of information relating to LER. In the ordinary course of production for ACA cases and its Annual Cost Allocation Manual Report, Laclede has produced information regarding its transactions with LER, along with data pertaining to market pricing for those transactions. In addition, LER has voluntarily cooperated with Laclede in providing information to Staff on LER's business over and above information relevant to compliance with rules governing affiliate transactions. A summary of the information on LER that Laclede has produced to Staff is set forth below.

<u>Date</u>	<u>Information</u>
2006-2007	For the two ACA periods beginning October 1, 2004 and ending September 30, 2006, Laclede provided Staff every invoice paid by Laclede for gas supply and transportation, along with contracts, nominations and other relevant documents requested by Staff.
August - September 2007	With LER's assistance, Laclede provided a voluminous amount of LER data. On September 14, 2007, Staff reported to the Commission that it is "reviewing a large amount of information from LER provided by Laclede."

February – April 2008 Laclede provided copies of supply contracts between Laclede and LER, and between Laclede and non-affiliated suppliers on the same pipeline.

With LER's assistance, Laclede made available for review at Laclede's offices in Jefferson City hundreds of pages of LER's invoices for baseload gas that LER purchased at the location where the supply contract between LER and Laclede was based.

June 24, 2008 Laclede's gas supply personnel hosted a live demonstration of how Laclede conducts transactions with affiliates and non-affiliates on the Intercontinental Exchange ("ICE") Trading platform, and showed concrete examples of how past transactions with LER have been priced and the documentation relied upon to ensure compliance with the affiliate transaction rules.

September 15, 2008 With LER's assistance, Laclede provided copies of LER supply invoices.

February 2009 Despite Staff's refusal to meet and confer on the appropriate information for Laclede to produce so that Staff can perform its affiliate transaction audit, Laclede produced to Staff market pricing information, including transaction confirmations, ICE Sheets, and *Gas Daily* Reports for a sample month. Laclede also provided additional market information, including a contract under which LER won a bid to serve the St. Louis area school aggregation program

3. Attached hereto is a letter dated February 4, 2009 (without attachments), in which Laclede responded to Staff's request for the above stated information. Also attached hereto is a statement under oath by Laclede's Vice President of Gas Supply affirming that Laclede has produced all of the information sought that is within Laclede's possession, custody or control.

WHEREFORE, this Return to Writ of Mandamus was completed by Respondent
Laclede Gas Company on this 30th day of July, 2010.

Respectfully submitted,

LACLEDE GAS COMPANY

Michael C. Pendergast By: *Diana C. Carter*
#50527

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Certificate of Service

Comes now the undersigned, and states that a copy of the foregoing pleading has
been served this 30th day of July, 2010, by hand-delivery or by United States Mail, First
Class, postage prepaid, to counsel of record, including:

Jennifer Heintz
Attorney for the Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

Marc D. Poston
Attorney for The Office of the Public Counsel
P. O. Box 2230
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Diana C. Carter

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MICHAEL C. PENDERGAST
VICE PRESIDENT
ASSOCIATE GENERAL COUNSEL

February 4, 2009

Mr. Steven C. Reed
Chief Litigation Attorney
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO. 65101

Re: Case Nos. GR-2006-0288 and GR-2005-0203

Dear Steve:

I am writing on behalf of Laclede Gas Company ("Laclede" or "Company") in response to the Commission's January 21, 2009 Order Regarding Request for Clarification in the above-referenced cases. In its Order, the Commission clarified that Laclede should provide the Staff with the information Staff requested from Laclede in your August 28, 2008 email to me "[t]o the extent Laclede is in possession of such information."

Steve, this case ultimately comes down to one very simple issue: Did Laclede pay or charge a reasonable market price in its dealings with LER? Both the affiliate transaction rules and prudence operate to provide assurance to Laclede customers that the pricing involved in transactions with LER is comparable to the pricing that would have taken place between Laclede and a non-affiliated party.

Regardless of whether Laclede is buying gas supplies from or selling gas supplies to LER, there should be a standard process for documenting market price. Toward this end, Laclede and Staff held meetings in which Laclede discussed how it maintains market information to support market pricing on off-system sales and capacity releases made to LER. Specifically, Laclede uses a public trading exchange known as IntercontinentalExchange or "ICE" to support market pricing on off-system sales, and uses pipeline companies' electronic bulletin boards to support market pricing on capacity releases. Laclede conducted a demonstration for Staff on how ICE works and what information is available. Laclede sought to reach an understanding with Staff upon which Laclede could rely in documenting these types of affiliate transactions.

The Staff has to date declined to reach agreement on a practical method to confirm market pricing. This may be due to the fact that Staff's view of the appropriate pricing standards differs from Laclede's view as expressed above.

Staff apparently believes that, when LER sells gas supplies to Laclede, the price paid by Laclede should be the lowest cost that LER incurred to obtain gas in the field. And when Laclede sells gas supplies to LER, Staff apparently believes that the price received by Laclede should be the prevailing price at the location of the sale plus any profit LER later made on selling the gas supplies it purchased from Laclede. Accordingly, in its discovery requests, including the August 28, 2008 data requests, Staff seeks information on LER's purchases from non-affiliated parties for gas supplies sold to Laclede, and on LER's sales to non-affiliated parties for gas supplies LER bought from Laclede. Other than documents previously furnished to Staff, Laclede is not in possession of the information sought in the August 28 data requests.

Staff's position on market pricing simply cannot be appropriate, because *it essentially precludes LER from engaging in any affiliate transactions with Laclede*. According to Staff, when LER sells gas supplies to Laclede, LER must charge a price that is based not on the competitive prices being demanded and paid by other, non-affiliated suppliers, but rather on the cheapest cost of gas that LER has in its portfolio, without compensation of any kind for the services LER has provided, the internal costs it has incurred, or the risks it has undertaken. There is simply no marketer (or any other business for that matter) that would agree to provide service under such unreasonable conditions.

Conversely, when LER purchases gas supplies from Laclede, Staff insists that LER agree not to compete with Laclede for any potential sale of gas or, if it does compete, to disgorge any margins made on such sales. Once again, no rational marketer or business owner would ever agree to operate under such unreasonable restrictions.

Moreover, these anti-competitive conditions are inconsistent with federal law, not to mention the Commission's own affiliate transaction rules. And since Staff has apparently not requested similar information from any other marketer, it appears that Staff wants to impose these unreasonable, unlawful and discriminatory conditions on LER only – a position that is again flatly inconsistent with the anti-discrimination provisions of the Commission's own affiliate transaction rules.

Notwithstanding our differences, Laclede seeks to continue to pursue the process for establishing market pricing by supplementing the information it has previously provided to Staff. Accordingly, last week, Laclede invited Staff to meet so that the parties could review and discuss this information. Unfortunately, Staff refused our invitation to meet. Nevertheless, Laclede is voluntarily sending information to Staff by overnight mail for delivery tomorrow.

In terms of the issue involving Laclede's purchases of firm baseload gas from LER on the MRT West Line, we have previously provided Staff with contracts and other information which show that such purchases were competitively priced compared to the prices that were being demanded by unaffiliated suppliers on the same upstream pipeline on which the purchases were made. However, we understand Staff's view that the West Line pricing data is not the relevant benchmark because the agreement gave LER the flexibility to deliver gas into the St. Louis market. While Laclede does not believe it is either necessary or

appropriate to look at pipelines other than the MRT West Line to determine market pricing, it has taken Staff's view of the matter seriously and has accumulated information on the market prices for firm deliveries into the St. Louis market during the relevant ACA periods. This information includes the competitively bid price paid by the marketer for the school aggregation program for firm gas supplies into the St. Louis area during the two subject ACA periods. It shows that the price charged by LER to Laclede for supplies delivered to the city gate was consistent with the price paid by these unaffiliated buyers. (See e.g. the pricing provisions of the school aggregation contract that is to be separately transmitted to the Staff by Louie Ervin on behalf of the Missouri School Board Association). This information should satisfy Staff's desire to identify a competitively bid price at the St. Louis city gate.

It is difficult to conceive of a more robust and conclusive piece of evidence that Laclede's purchases from LER were competitively priced and hence prudent, and we would urge the Staff to take this information into consideration and withdraw its proposed disallowance relating to these purchases. At a minimum, I would hope the Staff would not continue to resist meeting with Laclede to discuss this highly relevant information that, by any measure, should eliminate any lingering concerns it has regarding these purchases.

With respect to gas and capacity sold by Laclede to LER, we have previously provided extensive schedules, as well as thousands of pages of supporting documents, detailing the basis and price for Laclede's off-system sales and capacity releases to LER as well as the score of other marketers that Laclede does business with. We have also made our gas supply personnel available on at least two occasions to go over specific transactions and explain the market data which demonstrates why a particular sale made to LER was competitively priced.

We were prepared to go into even greater detail last week at the meeting we requested. Specifically, we were and are willing to go through the sales transactions on a day by day and transaction by transaction basis. Although Staff declined our meeting request, we nevertheless have attached to this letter a sample of the information compiled by Laclede. This information shows that the prices charged by Laclede to LER for gas and capacity are consistent with both the prices Laclede charged to other marketers at the same location, and with the prevailing state of the market at the time of the transaction. When combined with the other information Laclede has previously provided, we believe this information further demonstrates that the Company acted prudently and in accordance with its obligations under applicable Commission rules.

In summary, we hope that Staff will reconsider its position on market pricing, or at the very least be willing to meet with us in the near future to discuss the information we have prepared. I look forward to hearing from you.

Sincerely,

/s/ Michael C. Pendergast

Michael C. Pendergast

AFFIDAVIT OF STEVEN F. MATHEWS

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

COMES NOW the undersigned, Steven F. Mathews, after first being duly sworn and under oath, states and deposes as follows:

1. My name is Steven F. Mathews. I am Vice President, Gas Supply, for Laclede Gas Company. I have personal knowledge of the following information.

2. In connection with Laclede Gas Company's Actual Cost Adjustment (ACA) cases covering ACA periods 2004-2005 (GR-2005-0203) and 2005-2006 (GR-2006-0288), the Staff of the Missouri Public Service Commission filed or served data requests seeking the following information from Laclede Gas Company:

1. For the 2004-2005 ACA: a copy of all Laclede Energy Resources (LER) gas supply and transportation invoices, contracts and nomination records that were effective for the months of January 2005 and April 2005.

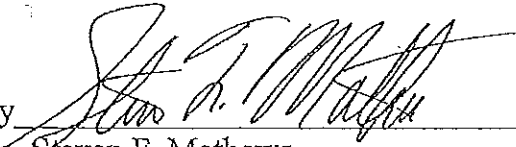
2. For the 2005-2006 ACA: a copy of all Laclede Energy Resources (LER) gas supply and transportation invoices, contracts and nomination records that were effective for the months of January 2006 and April 2006.

3. The ledgers or deal books or journals or other documents that record all of LER gas supply and transportation deals in summary form or report form or spreadsheet form or similar form. The response should include sales dates, sales and purchase volumes, sales and purchase prices, cost of gas sold, and net margin.

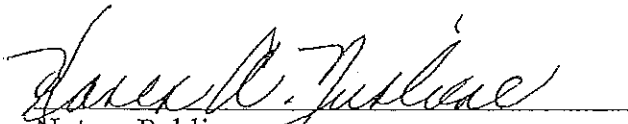
4. Documentation showing LER's use of any capacity released to LER by the Laclede Gas Company. The response should include receipt and delivery points, date of use, volumes nominated, and Transportation Service Agreement (TSA) number used to make the nomination.

3. To the best of my knowledge and belief, Laclede Gas Company has produced all of the information in its possession, custody or control that is responsive to the above stated data requests.

LACLEDE GAS COMPANY

By 
Steven F. Mathews
Vice President, Gas Supply

Subscribed and sworn to by me this 29th day of July 2010.


Notary Public

