

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

In the Matter of the Application of Laclede     )  
Gas Company to Change its Infrastructure     )                   **Case No. GO-2016-0333**  
System Replacement Surcharge in its        )  
Laclede Gas Service Territory                )

In The Matter of the Application of Laclede     )  
Gas Company to Change its Infrastructure     )                   **Case No. GO-2016-0332**  
System Replacement Surcharge in its        )  
Missouri Gas Energy Service Territory        )

**RESPONSE TO ORDER DIRECTING FILING**

**COMES NOW** Laclede Gas Company (“Laclede” or “Company”), on behalf of itself and its Missouri operating unit, Missouri Gas Energy (“MGE”), and submits this Response to the Commission’s February 24, 2017 Order Directing Filing. In support thereof, Laclede states as follows.

1. On February 22, 2017, the Commission issued its Order Directing Filing of Reconciliation and Responses (hereinafter the “Order”) in which it directed its Staff to:

“ . . . file a reconciliation that complies with Subsection 386.420.4, RSMo. The reconciliation shall be detailed and contain the dollar value and rate impact of each contested issue decided by the Commission. It shall also contain the class billing determinants used by the Commission to calculate the rates and charges approved by the Commission.”

2. On February 23, 2017, the Staff filed a response to the Order in which it stated that it could not provide a quantification of the value of the issue raised by the Office of the Public Counsel (“OPC”) relating to the eligibility of replacement costs on cast iron and unprotected steel safety replacement projects where some plastic facilities were also incidentally replaced. Staff indicated that that there was nothing on the evidentiary record to support such a quantification because “OPC never quantified the adjustment it sought and, in a DR response, admitted that it was unable to do so.” Staff

went on to note that performing such a quantification at this stage of the proceeding would require a significant amount of work and would involve adopting various assumptions which may involve disputed methodology.

3. Laclede concurs with Staff that there is insufficient evidence in the record to quantify the value of the incidental plastic pipe issue raised by OPC. Accordingly, while Laclede has attached a proposed reconciliation that provides the dollar value and rate impact of the hydrostatic testing issue that was contested and decided by the Commission, the reconciliation does not attempt to provide a dollar value or rate impact for the incidental plastic pipe issue.

4. It is important to note, as Staff has, that this inability to place a monetary value on OPC's issue is a direct result of OPC's failure to provide such a quantification, or even a method that could be used to derive such a quantification. In his direct testimony, OPC witness Hyneman asserted that "[t]here are very simple methods that could be used to separate the eligible ISRS costs from the ineligible ISRS costs." (OPC Exh. 1, p. 10, lines 5-6). Nowhere in his testimony, however, did Mr. Hyneman actually propose such a method, simple or otherwise. Because of this failure to formulate any method for adjusting the costs of newly installed pipe to account for what it claims is a disqualifying replacement of some plastic pipe, OPC was also necessarily unable to provide any quantification of the dollar value of its proposal. Nor did Mr. Hyneman testify or propose in his direct testimony that the absence of such a quantification should in any way warrant a complete disallowance of all ISRS costs.

5. The appropriate response to OPC's failure to quantify, or even provide a method for quantifying, the value of its issue is for the Commission to provide a reconciliation that truthfully acknowledges that no quantification of the issue can be

provided because its proponent did not provide the evidence necessary to calculate one. This is an entirely appropriate and satisfactory way of complying with subsection 386.420.4 for several reasons. First, it is an accurate reflection of the evidentiary record in this case. Second, it is an elementary rule of statutory construction that a statute should not be construed in a manner that would lead to an impossible, absurd or illogical result. (*Anderson ex rel. Anderson v. Ken Kauffman & Sons Excavating, L.L.C.*, 248 S.W.3d 101, 106 (Mo.App. 2008); *Leiser v. City of Wildwood*, 59 SW3d 597 (E.D. Mo. 2001)). It would be clearly illogical in this instance to construe subsection 386.420.4 as requiring the Commission to try and quantify the value of an issue when the proponent of that issue did not provide the evidence necessary to do so. Third, attempting to provide a quantification at this stage of the proceeding would be contrary to the purposes underlying Commission Rule 4 CSR 240-2.130(7)(A) which explicitly requires that a party's direct testimony "shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief." Clearly, OPC failed to meet this requirement by omitting from its direct testimony any description or explanation of the method that it believes should be used to adjust replacement costs in those instances where there is some incidental replacement of plastic pipe.<sup>1</sup> Finally, providing a quantification of the issue at this late stage would deprive Laclede of its due process rights to cross-examine, rebut and otherwise challenge

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<sup>1</sup>A reviewing court would certainly recognize the propriety of a Commission action aimed at upholding this rule as evidenced by a recent decision by the Western District affirming the Commission's rejection of a proposal by KCPL to include certain projected costs in its revenue requirement. Because the proposal was not made in KCPL's case-in-chief, but instead raised for the first time in surrebuttal testimony, the Commission determined that it would be unfair and prejudicial to the rights of other parties to consider such a proposal. See *In the matter of Kansas City Power and Light Company's Request for Authority to Implement a General Rate Increase for Electric Service v. Public Service Commission*, WD 79125 consolidated with WD 79143 and WD 79189 (Opinion Issued September 6, 2016). The deficiency in OPC's proposal in these cases is even more extreme. At least in the KCPL case, the utility submitted a fully formed proposal, albeit at a late stage in the proceeding. OPC never submitted such a proposal.

the reasonableness and propriety of the assumptions and methods underlying any such calculation. It would be fundamentally unfair to deprive Laclede of these rights by creating a quantification that OPC had the obligation and opportunity to provide in its case-in-chief, but did not. For all of these reasons, the Commission should adopt the reconciliation attached hereto.

**WHEREFORE**, Laclede Gas Company, on behalf of itself and its operating unit, MGE, respectfully requests that the Commission adopt the reconciliation attached to this Response.

Respectfully submitted,

**/s/ Rick Zucker**

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ATTORNEYS FOR LACLEDE GAS COMPANY  
AND MISSOURI GAS ENERGY

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of the Public Counsel, on this 27th day of February, 2017 by hand-delivery, fax, electronic mail or by regular mail, postage prepaid.

**/s/ Marcia Spangler**

Missouri Gas Energy  
ISRS Revenue Requirement Reconciliation

Value of Hydrostatic Testing Issue	ISRS Total without Hydrostatic Testing Costs	ISRS Total with Hydrostatic Testing Costs	Difference
<b>ISRS Activity:</b>			
<b>Gas Utility Plant Projects--Total -(RM) RSMo 393.1012:</b>			
<u>Work Orders Placed in Service:</u>			
Replacement Mains, Services and Associated Valves and Regulators	\$ 34,149,746	\$ 35,997,151	\$ (1,847,404)
Deferred Taxes (Previous ISRS)	(2,148,408)	(2,148,408)	-
Accumulated Depreciation (Previous ISRS)	(1,211,026)	(1,211,026)	-
Deferred Taxes (Current)	(4,362,339)	(4,729,579)	367,240
Accumulated Depreciation (Current)	(231,052)	(240,273)	9,221
<b>Total ISRS Rate Base</b>	<b>\$ 26,196,921</b>	<b>\$ 27,667,865</b>	<b>\$ (1,470,943)</b>
<b>Pre-tax rate of return from S&amp;A in GR-2014-0007</b>	<b>9.75%</b>	<b>9.75%</b>	
<b>Total Revenue Requirement on Capital</b>	<b>\$ 2,554,200</b>	<b>\$ 2,697,617</b>	<b>\$ (143,417)</b>
<b>Depreciation Expense</b>	<b>\$ 632,098</b>	<b>\$ 664,982</b>	<b>\$ (32,884)</b>
<b>Property Taxes</b>	<b>\$ -</b>	<b>\$ -</b>	
<b>Current ISRS Revenues</b>	<b>\$ 3,186,298</b>	<b>\$ 3,362,598</b>	<b>\$ (176,301)</b>
<b>Value of Hydrostatic Testing Issue</b>	<b>\$ (176,301)</b>		
<b>Charges by Customer Class</b>			
Residential	\$ 1.97	\$ 2.00	\$ (0.03)
Small General	\$ 2.92	\$ 2.96	\$ (0.04)
Large General	\$ 9.90	\$ 10.03	\$ (0.13)
Large Volume	\$ 77.60	\$ 78.62	\$ (1.02)
Whiteman AFB	\$ 77.60	\$ 78.62	\$ (1.02)
Transportation	\$ 77.60	\$ 78.62	\$ (1.02)

Value of Incidental Plastic Issue

UNDEFINED - NO BASIS FOR QUANTIFICATION