

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
v.)	Case No. GC-2011-0006
)	
Laclede Gas Company,)	
Respondent.)	

**MOTION FOR COMMISSION TO TAKE NOTICE OF
STAFF’S ADMISSION OF STAFF’S OWN VIOLATION OF THE
COMMISSION’S AFFILIATE TRANSACTIONS RULES**

COMES NOW Laclede Gas Company (“Laclede” or “Company”) and files this Motion for the Commission to Take Notice of Staff’s Admission of Staff’s Own Violation of the Commission’s Affiliate Transactions Rules. In support thereof, Laclede states as follows:

1. In its Counterclaim filed in this case on September 22, 2010, Laclede alleged that Staff was in violation of the Commission’s Affiliate Transaction Rules, 4 CSR 240-40.015 and 40.016 (the “Rules”)¹, which require affiliate transactions to be priced as follows:

For purchases of goods or services by a utility from its affiliate:	The lesser of fair market price or the fully distributed cost to the utility to provide the goods or services for itself.
For sales of goods or services by a utility to its affiliate:	The greater of fair market price or the fully distributed cost to the utility.

¹Laclede also alleged that Staff violated Laclede’s Cost Allocation Manual (CAM), which was promoted by Staff and developed for the specific purpose of determining how affiliate transactions should be accounted for and priced, all pursuant to the Stipulation and Agreement approved by the Commission in Laclede’s corporate restructuring case, Case No. GM-2001-342. The current version of the CAM has been on file with the Commission and in Staff’s possession since 2004.

2. In paragraphs 8 and 9 of the Counterclaim, Laclede specifically alleged that Staff ignored both the Rules and the CAM in reviewing affiliate purchases and sales of gas supply in Laclede's ACA proceedings. In paragraph 8, Laclede stated that:

“Staff has effectively taken the position that Laclede should purchase gas supply from LER not at a fair market price as established by the Rules and the CAM, but rather at **LER's** cost.”

In paragraph 9, Laclede added that

“Staff has also effectively taken the position that Laclede should sell gas supply to LER not at the higher of fair market price or Laclede's fully distributed cost, as established by the Rules and the CAM, but at that price **plus** any profit that LER might or could earn on its resale of gas supply.”

3. On October 25, 2010, Staff filed its Answer to Laclede's Counterclaim. In its responses to paragraphs 8 and 9 of the Counterclaim, Staff admitted that its positions on affiliate transactions conflicted with the Rules and the CAM, as follows:

For purchases of gas supply by Laclede from LER:	“Staff admits that its position is that Laclede should buy gas from LER at LER's acquisition price.”
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For sales of gas supply by Laclede to LER:	“Staff admits that its position is that any profit realized on sales of gas by Laclede to LER should inure to the benefit of ratepayers.”
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4. With these admissions, the Staff has acknowledged that it is effectively seeking to prohibit affiliate transactions that the Commission's own Rules explicitly permit. By declining to apply the Rules' fair market pricing provisions, Staff denies Laclede's affiliate the same opportunity granted to every other Laclede supplier or purchaser in the wholesale market: to be compensated for the services it provides and the

risks it undertakes. There is simply no way that Staff's position can be squared with the pricing provisions of the Rules.

5. Laclede is entitled to have its affiliate transactions reviewed by the Commission's Staff in accordance with the Commission's Rules pertaining to those transactions. Laclede respectfully requests that the Commission take notice of (i) Staff's admission that it is not adhering to the pricing standards of the Rules; (ii) Laclede's allegation that it feels aggrieved by Staff's departure from the Rules; and (iii) the principle that Staff has an obligation to comply with the law, and the Commission has an obligation to take supervisory action when it is so abundantly clear, as it is in this case, that Staff is not doing so.

Respectfully submitted,

/s/Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Counterclaim was served on the Staff and on the Office of Public Counsel on this 26th day of October, 2010 by United States mail, hand-delivery, email, or facsimile.

/s/ Gerry Lynch