

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

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|--|---|---------------------------|
| In the Matter of Laclede Gas Company's |) | |
| Purchased Gas Adjustment (PGA) to be |) | Case No. GR-2005-0203 and |
| Audited in its 2004-2005 and 2005-2006 |) | GR-2006-0288 |
| Actual Cost Adjustment |) | |

MOTION TO COMPEL

COMES NOW, the Staff of the Public Service Commission, and pursuant to 4 CSR 240-2.090 moves the Commission for an order compelling Laclede Gas Company (Laclede) to provide documents for copying and inspection.

1. This case and Case No. GR-2006-0288 concern the Staff's proposed adjustments to Laclede's purchased gas costs for the 2004-2005 and 2005-2006 time periods.

2. On July 25, 2008, the Staff submitted to Laclede a list of documents that are necessary to complete Staff's inquiry into the prudence of Laclede's gas purchasing practices and Laclede's compliance during the ACA periods with the affiliate transactions rules, 4 CSR 240-40.015 and 40.016. Many of the documents concern Laclede's relationship with its affiliate, Laclede Energy Resources (LER).

3. On August 21, 2008, the Staff and Laclede met with the RLJ to discuss the documents requested by the Staff. At that time the Judge indicated that the conference fulfilled the requirements of 4 CSR 240-2.090(8).

4. On August 28, 2008, the Staff submitted a revised list of documents to Laclede and requested that Laclede produce the documents for inspection and review. Staff's request is attached as Exhibit 1(HC).

5. Laclede did provide copies of LER supply invoices for its ** _____ **. But on September 8, 2008, Laclede responded by letter objecting to the requests and declining to produce the balance of LER supply and transportation invoices described in Exhibit 1.

6. Compared to Staff's initial request for documents, the Staff's revised list of documents in Exhibit 1 considerably reduces the burden upon Laclede and LER to produce documents. Instead of requesting 24 months of documents relating to LER's gas supply, the Staff has requested only two months of records for each ACA period at issue.

7. Staff also requested the dealbook or journal documenting LER's gas supply and transportation transactions. ** _____ **. ** The Staff concludes that LER maintains such a record that is also easily printed.

8. The Staff also requested documents showing ** _____ **. **

9. The documents dealing with LER's gas supply, transportation, and ** _____ ** are relevant to Staff's current inquiries into Laclede's prudence and affiliate rule compliance. ** _____ **

10. _____

(1) _____

(2) _____

(3) _____

(4) _____

_____ **

11. The Commission rule promulgated under the authority of section 393.140(11) provides at 4 CSR 240-40.015(6)(A) and 40.016(7) that "a regulated gas company shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule."

40.015(B) provides:

B. The Commission shall have the authority to-

1. Review, inspect and audit books, accounts and other records kept by a regulated gas corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and make findings available to the Commission; and

2. Investigate the operations of a regulated gas corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

12. In addition, Section 386.450 provides that the Commission "may require, by order served upon any corporation, person or public utility...the production ...of any books accounts, papers or records kept by said corporation, person or public utility in any office or place within or without this state."

13. A utility's costs are presumed prudent when parties deal with arms length transaction. But when the dealings are between affiliates, section 393.140(11) and 4 CSR 240-40.015 clearly remove any presumption of prudence and place the burden of record keeping and compliance with the law on Laclede Gas Company. "It is generally held that...the utility bears the burden of proving that expenses incurred in transactions with affiliates are reasonable."¹ "Throughout the United States it is recognized that a public utility's dealings with affiliates require thorough investigation and close scrutiny by a public utility commission."²

¹ *Boise Water Corp. v. Idaho Public Util. Commission [Boise Water I]*, 97 Idaho 832, 555 P.2d 163, 167-169 [1976]; *Boise Water Corp. v. Idaho Public Util. Com'n. [Boise Water II]*, 99 Idaho 158, 578 P.2d 1089, 1090, 1091 [1978]; *Washington Water Power v. Idaho Public Util.*, *supra* note 26, 617 P.2d at 1251 and *Southwestern Bell v. State Corp. Com'n of Kan.*, 4 Kan.App.2d 44, 602 P.2d 131, 133 [1979].

² *Turpen v. Oklahoma Corp. Comm.*, 769 P. 2d 1309, 1320 (Ok. Sup. Ct. 1988) citing *United States v. Western Elec. Co., Inc.* 392 F.Supp. 836,853 [D.D.C. 1984] See also *Smith v. Illinois Bell Teleph. Co.*, 282 U.S. 133, 157, 51 S.Ct. 65, 72, 75 L.Ed. 255, 267 [1930]; *General Tel. Co. of Upstate N.Y. v. Lundy*, 17 N.Y.2d 373, 271 N.Y.S.2d 216, 222-23, 218 N.E.2d 274, 278-279 [1966]; *New England T. & T. Company v. Dept. of Pub. Util.*, 371 Mass. 67, 354 N.E.2d 860, 868-869 [1976]; *Washington Water Power v. Idaho Public Util.*, 101 Idaho 567, 617 P.2d 1242, 1247-1248, 16 A.L.R.4th 435 [1980]; *Pacific Telephone and Telegraph Co. v. Flagg*, 189 Or. 370, 220 P.2d 522, 529-530 [1950] and *Town of New Shoreham v. R.I. Pub. Util. Com'n.*, 464 A.2d 730, 733 [R.I.1983].

WHEREFORE, the Staff moves the Commission to order Laclede to provide the documents requested in Exhibit 1 and the bonus calculations and supporting criteria and documents for the employees identified above.

Respectfully submitted,

/s/ Steven C. Reed

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel and parties of record this 18th day of September, 2008.

/s/ Steven C. Reed

**Case No. GR-2005-0203
and GR-2006-0288**

Exhibit 1

Is Highly Confidential

In Its Entirety

**Case No. GR-2005-0203
and GR-2006-0288**

Exhibit 2

Is Highly Confidential

In Its Entirety

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Exhibit 3

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Exhibit 4

Is Highly Confidential

In Its Entirety