

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
v.)	Case No. GC-2011-0098
)	
Laclede Gas Company,)	
)	
Respondents.)	

LACLEDE GAS COMPANY’S MOTION FOR ORDER OF DEFAULT

COMES NOW Laclede Gas Company (“Laclede” or “Company”), and files this Motion for Order of Default and, in support thereof, states as follows:

1. On October 6, 2010, the Staff filed a complaint against Laclede and two of its affiliates.¹ On October 7, Staff filed an amended complaint, and the Commission approved Staff’s request for leave to amend by order dated November 12, 2010. On November 8, 2010, Laclede filed an Answer and Motion to Dismiss a portion of the original complaint.
2. Staff filed a second amended complaint (herein so called) on November 22, 2010. On December 3, the Commission issued an order granting Staff leave to file its second amended complaint and directing Laclede to respond by December 10.
3. On December 10, 2010, Laclede filed and served its Answer, Motion to Dismiss Counts I and V of the Complaint, and Counterclaim. More than 30 days have now passed since such filing and service, and Staff has not responded to either the Motion to Dismiss Counts I and V or to the Counterclaim. The Commission has issued

¹ On December 22, 2010, the Commission dismissed the Complaint as against both affiliates, Laclede Energy Resources, Inc. and The Laclede Group.

no orders lengthening the time for responses. Accordingly, Laclede seeks an order of default on both the Motion to Dismiss and the Counterclaim.

4. Commission Rule 4 CSR 240-2.080(15) provides that parties shall be allowed 10 days to respond to a pleading unless otherwise ordered by the Commission. More than 10 days have elapsed since the filing of the Motion to Dismiss. Good cause exists for granting the motion for the reasons stated in the motion, and for the same reasons articulated by the Commission in its December 22 Order Dismissing Staff's Second Amended Complaint Against Laclede Energy Resources, Inc. and The Laclede Group, Inc. Laclede therefore requests that the motion be granted by default.

5. Commission Rule 4 CSR 240-2.070 pertains to complaints. This rule discusses timing for responding to formal complaints, but not for responding to counterclaims. Without a specific rule, it may be argued that the general 10 day period in Rule 2.080(15) applies as set forth above. However, it may also be instructive to refer to the Missouri Rules of Civil Procedure (MRCP) for guidance. MRCP Rule 55.25(b) provide that a reply to a counterclaim shall be filed within 30 days after the counterclaim is filed.

6. Regardless of whether Commission Rule 2.080 or MRCP Rule 55.25 apply, more than 30 days have elapsed since Laclede filed its counterclaim in this case on December 10, 2010. For the reasons stated therein, good cause exists for the Commission to grant the counterclaim. Laclede therefore requests that the counterclaim be granted by default in favor of Laclede.

WHEREFORE, Laclede respectfully requests that the Commission grant the Company's motion and dismiss Counts I and V of Staff's Second Amended Complaint,

find in Laclede's favor on its Counterclaim and grant the relief requested in paragraph 33 thereof, and grant such other and further relief to which Laclede is justly entitled.

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 pleading was served on the Staff and on the Office of Public Counsel on this 13th day of January, 2011 by United States mail, hand-delivery, email, or facsimile.

/s/ Gerry Lynch