

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

In the Matter of Laclede Gas)	
Company's Tariff to Increase its)	<u>File No. GR-2010-0171</u>
Annual Revenues for Natural)	Tariff No. YG-2010-0376
Natural Gas Service)	

**LACLEDE GAS COMPANY'S SUGGESTIONS IN OPPOSITION TO
STAFF'S REQUEST FOR SUBPOENAS AD TESTIFICANDUM**

COMES NOW Laclede Gas Company ("Laclede" or "Company") and for its Suggestions in Opposition to Staff's Request for Subpoenas *ad Testificandum*, states as follows:

1. On May 14, 2010, Laclede filed its Response in Opposition to Staff's Motion to Add Parties (the "Motion") in which Laclede stated, among other things, that the Motion serves no purpose other than to harass Laclede for objecting to Staff's circumvention of the Commission's affiliate transaction rules.

2. The harassment continues. Late in the afternoon of July 6, 2010, Staff filed in EFIS two letters sent to Mr. Steve Reed, Commission Secretary, requesting that he issue subpoenas for the top two officers in the Company to testify at a hearing on July 9, less than 72 hours hence. These officers are Laclede's CEO, Douglas H. Yaeger, and its Executive Vice President, Kenneth Neises. The purported reason given as to why these executives are needed to testify regarding the Motion is that they are officers of both Laclede and other Laclede affiliates.

3. Commission Rule 2.100(2) provides that a subpoena shall not be issued fewer than 20 days before a hearing, except for a showing of good cause. The request for

these subpoenas should be rejected because the Staff has failed to show good cause for issuing them fewer than 20 days before the hearing.

4. The subpoena for Mr. Yaeger makes no attempt to show good cause. It provides no explanation as to why the Commission Secretary should issue a subpoena less than three days before the hearing, and should be rejected for that reason alone. In addition, as Staff correctly stated in its request letter, Mr. Yaeger filed direct testimony in this proceeding. That testimony was filed on December 4, 2009. Therefore, not only has the Staff issued numerous data requests regarding affiliate cost allocations, but it can and has, issued several data requests to Mr. Yaeger's attention directly. There is therefore no reason at all that he should be summoned to testify on a matter that Staff has had seven months in which to seek from him whatever information it believed was necessary and appropriate, much less summoned on such an unreasonably short notice that would require him to disrupt other scheduled business activities.

5. In effect, Staff's own argument, that these employees serve as officers for multiple affiliates, including Laclede Gas Company, serves as a basis to deny the subpoenas. Because this case has been brought by Laclede Gas Company, Staff may, and has, requested information from the Company as to cost allocations among the Company and its affiliates. Because Messrs. Yaeger and Neises are both officers of Laclede Gas Company, they would answer any of those questions that require their specific knowledge. In fact, although Mr. Neises, who also has other scheduled business to attend to on July 9, is not a witness in this case, he has received and responded to two data requests. In addition, Staff has also had a full opportunity since this case was initiated to seek to depose Messrs Yaeger and Neises in the event Staff believed they actually

possessed information that was critical to their Motion. In view of these considerations, there is no good cause to subpoena either of them on such short notice.

6. The letter requesting a subpoena for Mr. Neises contains a sentence in which Staff states that it prepared the subpoena as soon as possible after the Commission's July 1 Order. Laclede disagrees. By Order dated June 24, 2010, the Commission informed the parties that it would need evidence in connection with the July 9 oral argument on the Motion. Staff has been on notice since that date that witnesses would be needed for the hearing. Staff has not shown good cause why it waited until July 6 to subpoena these witnesses.

7. At this point it is clear that Staff's motion is not meritorious. Staff filed it on May 4 claiming that it needed to add affiliates to the rate case for discovery purposes. Yet as the time for discovery has dwindled, Staff has made no effort to move the matter along, has postponed the matter on questionable grounds, and has taken a position in its June 30 pleading (to set the hearing on the Motion for August 2) that would effectively moot the Motion. The parties are preparing for a July 9 hearing only because the Commission has taken the initiative to force the issue.

8. So what possible purpose can Staff have for the Motion other than to harass Laclede for refusing to agree with the Staff's unlawful position that an affiliate should sell gas to the utility at the affiliates' cost, and not at the market price as required by the affiliate transaction rules? Laclede respectfully suggests there is no other purpose.

WHEREFORE, for the foregoing reasons, Laclede Gas Company respectfully requests that the Commission direct its Secretary to decline to issue the subpoenas requested by Staff.

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 General Counsel of the Staff of the Missouri Public Service Commission and the remaining parties to Case No. GR-2010-0171 on this 7th day of July, 2010, by hand-delivery, facsimile, email or United States mail, postage prepaid.

/s/ Gerry Lynch

Gerry Lynch