

Exhibit No.:
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Sponsoring Party: Public Counsel
Case No.: GR-99-315

SURREBUTTAL TESTIMONY

OF

TED ROBERTSON

FILED

AUG 19 1999

Submitted on Behalf of
the Office of the Public Counsel

Missouri Public
Service Commission

LACLEDE GAS COMPANY

Case No. GR-99-315

August 19, 1999

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


In the Matter of Laclede Gas Company's)
Tariff Sheets to Revise Natural Gas Rates) Case No. GR-99-315

AFFIDAVIT OF TED ROBERTSON

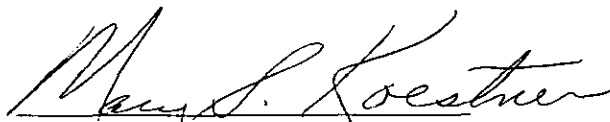
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ted Robertson, of lawful age and being first duly sworn, deposes and states:

1. My name is Ted Robertson. I am a Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony consisting of pages 1 through 16.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Ted Robertson

Subscribed and sworn to me this 19th day of August, 1999.


Mary S. Koestner
Notary Public

My commission expires August 20, 2001.

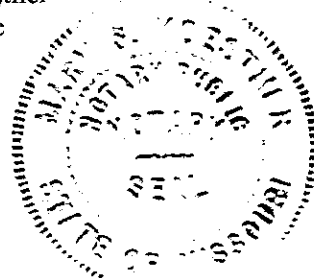


TABLE OF CONTENTS

<u>Issue</u>	<u>Page</u>
Introduction	1
Safety Replacement Program AAO	2
Manufactured Gas Plant AAO	11
Y2K AAO	14

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
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SAFETY REPLACEMENT PROGRAM AAO

Q. MR. FALLERT STATES ON PAGE ONE, LINES 17 AND 18, OF HIS REBUTTAL TESTIMONY, THAT ALL PARTIES AGREE THAT THE SAFETY REPLACEMENT PROGRAM DEFERRAL SHOULD CONTINUE. IS THAT A CORRECT STATEMENT REGARDING THE PUBLIC COUNSEL'S POSITION ON THIS ISSUE?

A. No, it is not. Public Counsel has recommended that all the accounting authority orders currently utilized by the Company, including the SRP AAO, be discontinued (Robertson Rebuttal Testimony, pages 54 - 58).

Q. IS THE PUBLIC COUNSEL AWARE OF COMPANY'S ATTEMPT TO INTERJECT INTO THE RECORD NEW TESTIMONY THAT DOES NOT REBUT THE DIRECT TESTIMONY OF ANY OPPOSING PARTY?

A. Yes. On page six, lines 11 - 22, and page seven, lines 1 -2, of his rebuttal testimony, Mr. Fallert offers new testimony on an issue and costs that were not included in the test year authorized by this Commission. The direct testimony of the other parties therefore did not address these costs. The Company's proposal is to add a brand new category of costs to the terms of the current SRP accounting authority order. Costs, which all parties agree, are not allowed deferred cost treatment pursuant to the terms of the present accounting authority

1 order. The costs he describes are for activities to survey copper service lines on the
2 distribution system for leaks.

3
4 Q. DOES THE PUBLIC COUNSEL OPPOSE MR. FALLERT'S PROPOSAL?

5 A. Yes, the Public Counsel opposes his testimony on this issue for several reasons, the least of
6 which, is that it is not proper rebuttal to either the MPSC Staff or Public Counsel direct
7 testimony. His discussion centers around a new Company proposal for costs that were not
8 even included in the test year or the known and measurable period of the current case.
9 Neither the MPSC Staff or the Public Counsel have had the opportunity to audit or review
10 the expenditures he has claimed nor should we. Even if the costs have been incurred, as
11 reported, they are outside the test year of the instant case and as such are irrelevant to the
12 matter at hand.

13
14 Q. WHEN WERE THE COSTS HE DISCUSSES INCURRED?

15 A. Mr. Fallert states on page six, line 21, of his rebuttal testimony, that the costs were incurred
16 during the period March through June 1999. However, it's Public Counsel's understanding
17 that none of the costs were included in the test year period or the known and measurable
18 period.

1 Q. DID THE MPSC STAFF OR THE PUBLIC COUNSEL ADDRESS THESE COSTS IN
2 THEIR DIRECT TESTIMONY?

3 A. Since the costs were incurred after the known and measurable period of the instant case
4 they are outside of the test year thus, the costs Mr. Fallert describes would not have been
5 included in either the MPSC Staff's or the Public Counsel's direct testimony filings. Since
6 they were not included in either the MPSC Staff's or the Public Counsel's direct testimony,
7 Mr. Fallert has provided inappropriate rebuttal testimony. That is, he is rebutting nothing
8 because the costs were not addressed in direct testimony of any opposing party. He is, in
9 fact, attempting to create a completely new issue relating to the costs.
10

11 Q. ARE THE COSTS MR. FALLERT DISCUSSES TO BE INCLUDED AS ONE OF THE
12 ITEMS FOR TRUE-UP?

13 A. It is my understanding that the costs he discusses are not on the list of items to be included
14 in the true-up for the instant case.
15

16 Q. IS IT THE PUBLIC COUNSEL'S IMPRESSION THAT THE COMPANY IS
17 ATTEMPTING TO HANG ANOTHER COST ORNAMENT ON THE ACCOUNTING
18 AUTHORITY ORDER CHRISTMAS TREE?

19 A. Yes. Public Counsel believes that the Company is attempting to force the Commission
20 into a hasty decision on costs which, everyone agrees, are not a component of the current

Surrebuttal Testimony Of
Ted Robertson
Case No. GR-99-315

1 SRP accounting authority order nor were they a cost incurred in the test year of the instant
2 case. It would be inappropriate for the Commission to grant the Company's proposal
3 because the costs and issue which Mr. Fallert discusses have not been rationally subjected
4 to a thorough review or scrutinized for accuracy and reasonableness.

5
6 Q. SHOULD MR. FALLERT'S REBUTTAL TESTIMONY ON THIS ISSUE BE
7 STRICKEN FROM THE RECORD?

8 A. Yes. Public Counsel did file on August 17, 1999 a motion to strike the portions of witness
9 Fallert's rebuttal testimony with regard to this matter.

10
11 Q. HAS THE COMPANY PROPOSED A CHANGE TO THE "SUNSET PROVISION" OF
12 THE SAFETY REPLACEMENT PROGRAM ACCOUNTING AUTHORITY ORDER?

13 A. Yes, it has. Schedule 3 of Mr. Fallert's rebuttal testimony describes the changes the
14 Company is proposing.

15
16 Q. DOES THE PUBLIC COUNSEL OPPOSE THE COMPANY'S REQUEST TO EXTEND
17 THE TIMEFRAME BEFORE THE COMMISSION REVIEWS ITS SAFETY
18 REPLACEMENT PROGRAM DEFERRALS?

19 A. Yes. The Public Counsel does not believe that extending the timeframe that the Company
20 is allowed to book the SRP deferrals before the Commission implements its oversight

Surrebuttal Testimony Of
Ted Robertson
Case No. GR-99-315

1 function is in the best interests of either the Company or ratepayers. Under the Company's
2 proposal it is possible that the Company could continue to defer costs pursuant to the SRP
3 AAO for between four and five years. Public Counsel believes that, at a minimum, the
4 administrative burdens placed on the Commission to track and manage the plan for such a
5 long time period of time would be cumbersome and not worthy of the desired result.

6
7 Public Counsel believes that the other terms the Company has recommended are not
8 workable either. For example, how would the Commission determine if the Company
9 would be required to file a rate case. Would the MPSC Staff and/or the OPC be required
10 to simply review, and trust in, the Company's unadjusted financials or conduct a full-blown
11 earnings investigation of the Company at the end of the first three years? Also, how would
12 the Commission determine the actual source of any underearnings experienced by the
13 Company, if underearnings exist? The Company's proposal fails to state if the
14 Commission will be required to look at all rates to determine reasonableness, not just the
15 extraordinary costs deferred. If an earnings investigation indicated an overearnings
16 situation, would the MPSC Staff and/or OPC be allowed to file a complaint case or would
17 the Commission be required to order the Company to file a rate case in six months?
18 Lastly, no provision for administrative hearings been made.
19

1 Q. IS THERE SOUND REASONING BEHIND THE TWO YEAR SUNSET PROVISION
2 AS IT CURRENTLY EXISTS?

3 A. Yes. In the past, the Commission has put a requirement in most AAOs it has issued that
4 the recipient utility file a rate case within a certain period of time after the AAO is granted,
5 or write off the accumulated deferrals. In the Commission's Report and Order in Case Nos.
6 EO-91-358 and EO-91-360, Missouri Public Service, pages 8-9, it states:

7
8 The Commission finds that a time limitation on deferrals is
9 reasonable since deferrals cannot be allowed to continue indefinitely.

10 The Commission finds that a rate case must be filed within a
11 reasonable time after the deferral period for recovery of the deferral
12 to be considered. For purposes of this case the Commission finds
13 that twelve months is a reasonable period. This limitation
14 accomplishes two goals. First, it prevents the continued
15 accumulation of deferred costs so that total disallowance would not
16 affect the financial integrity of the company or the Commission's
17 ability to make the disallowance; and secondly, it ensures the
18 Commission a review of those costs within a reasonable time. If the
19 Costs are truly extraordinary, recovery in rates should not be delayed
20 indefinitely. A utility should not be allowed to save deferrals to
21 offset against excess earnings in some future period.
22
23

24 As explained above, this requirement prevents a utility from stockpiling deferrals year after
25 year, while otherwise enjoying adequate (or better) earnings related to all other aspects of
26 its operations. The reasoning of the Commission's decision in Case No. EO-91-358 and

1 EO-91-360 remains sound today. Laclede has not offered any compelling reason to extend
2 the sunset provision.

3
4 Q. WHY SHOULD A UTILITY BE REQUIRED TO HAVE FILED A RATE CASE OR BE
5 PLANNING AN IMMINENT CASE BEFORE AN ACCOUNTING ORDER IS
6 GRANTED BY THE COMMISSION?

7 A. This condition is necessary to prevent open-ended deferral of costs on a utility's books.
8 Typically, an accounting authority order allows deferral of costs from a point in time
9 requested by the utility to the date rates will be in effect resulting from the utility's next rate
10 proceeding. The condition usually limits the period of deferral to a fairly short period of
11 time in the hope that it will not lead to a long-term distortion of financials that might
12 otherwise occur.

13
14 Q. ARE THERE OTHER REASONS FOR LIMITING THE TIME PERIOD FOR
15 DEFERRALS PRIOR TO COMMISSION REVIEW VIA A RATE CASE?

16 A. Yes. Accounting authority orders in the past have properly reserved ultimate ratemaking
17 of the deferred costs to a future rate case. Thus, if a rate case is not filed soon after the
18 accounting order is granted, costs may be deferred for a number of years (the Company's
19 proposal could extend the time period to between four to five years). If ratemaking
20 treatment of the costs is not ultimately allowed by the Commission, the Company would

1 be required to perform a "write-off" of the entire deferred amount at the time of the
2 Commission's decision. If the Company had been deferring costs for several years, this
3 immediate write-off could be extremely large and it would have more severe consequences
4 on publicly reported earnings than if the Company had merely charged the deferred costs
5 to expense when incurred. The possibility of a larger write-off will almost certainly cause
6 the Company to argue that rate recovery of the deferred costs is required for that reason
7 alone, regardless of merit (Mr. Fallert uses this very argument for MGP deferrals on page
8 sixteen, lines 1 - 6, of his instant case rebuttal testimony). Therefore, the Commission
9 could expect to see arguments by the Company that the granting of accounting authority
10 order in and of itself dictates rate recovery of the amounts deferred, making a pretense of
11 the "no ratemaking" clause of the original accounting authority order. For this reason,
12 maintaining the integrity of the ratemaking and accounting authority order process requires
13 that deferrals of costs by the Company pursuant to the SRP accounting authority order be
14 limited by the requirement of a filed or imminent rate case.

15
16 Q. ON PAGE EIGHT OF HIS REBUTTAL TESTIMONY MR. FALLERT ALLUDES TO
17 DIFFERENCES BETWEEN LACLEDE AND MISSOURI GAS ENERGY
18 COMPANY THAT JUSTIFY RATE BASE TREATMENT FOR LACLEDE'S SRP
19 BALANCES. IS HIS RATIONAL REASONABLE SUPPORT FOR RATE BASE
20 TREATMENT OF THE DEFERRALS?

Surrebuttal Testimony Of
Ted Robertson
Case No. GR-99-315

1 A. No, in my opinion it is not. Mr. Fallert cites two examples why his Company is in a
2 different position than Missouri Gas Energy and thus, deserving of rate base treatment
3 for the SRP balance. His first example cites that the Company is utilizing an AFUDC
4 rate that is offset by 1%. The implication is that by accepting a lower AFUDC rate the
5 Company is somehow justified or will be made whole only if it is provided with rate
6 base treatment of its SRP deferred balance. His argument completely skirts the
7 regulatory lag position I discussed in my rebuttal testimony. He does not attack the fact
8 that absent the accounting authority order the Company would receive nothing, no return
9 (zero AFUDC), for the time period from when the plant is placed in-service until it is
10 included in rates. Public Counsel's position is that the regulatory lag should be shared
11 by the Company and the ratepayer, it does not matter whether the Company has deferred
12 \$0.99 or the entire \$1.00.

13
14 His second argument essentially states that his Company and the MPSC Staff are
15 currently in the process of reviewing additional work for possible addition to the current
16 safety replacement program thus, Company is not in a position to control the extent of
17 regulatory lag through scheduling. Public Counsel believes that replacement work that
18 is under review or not currently authorized has no bearing on the issues in the current
19 case and is irrelevant to the Commission's decision whether the current SRP balance
20 should be included or excluded from rate base. The Company's ability to schedule its

1 safety replacement program should be focused on current authorized replacement work.
2 When and if the Commission authorizes an accounting authority order variance for the
3 additional replacement work Mr. Fallert discusses, there will be ample time in future rate
4 cases to argue the appropriate regulatory accounting treatment for the costs.
5

6 **MANUFACTURED GAS PLANT AAO**
7

8 Q. HAS THE PUBLIC COUNSEL RECOMMENDED DISALLOWANCE OF ANY IN-
9 SERVICE PLANT, DISTRIBUTION OR OTHERWISE, OWNED BY THE
10 COMPANY?

11 A. No. It is expected that the Company will, as it has in the past, continue to earn an
12 appropriate return on its in-service plant.
13

14 Q. MR. FALLERT ARGUES ON PAGE TEN OF HIS REBUTTAL TESTIMONY THAT
15 THE COMPANY SHOULD NOT BE RESPONSIBLE FOR THE COST OF
16 REMEDIATING THESE SITES BECAUSE IT WAS NOT FORESEEABLE AT THE
17 TIME MGPs WERE IN OPERATION. WHAT IS THE PUBLIC COUNSEL'S
18 RESPONSE?

19 A. The Public Counsel's position, as stated in my rebuttal testimony, is that the Company's
20 shareholders are explicitly provided with a return, including a risk premium, that

1 provides compensation to equity shareholders to assume this type of risk. This risk
2 premium is based on the fact that shareholders may, due to known or unknown events,
3 not obtain full reimbursement of, or a return on, of the equity capital they commit to the
4 Company's operations. The possibility of equity capital loss requires that shareholders
5 demand a higher return than investors such as bondholders who are in a better position
6 for capital recovery in the unlikely event of the Company's total liquidation.

7
8 Mr. Fallert's argument on page twelve, lines 17 - 22, of his rebuttal testimony, that the
9 risk of remediation costs have never been explicitly discussed or recognized in any
10 return on equity calculation is irrelevant. Shareholders cannot be expected to identify
11 with any great clarity all risks that they may incur now or in the future; therefore, they
12 require and seek returns commensurate with their individual level of security. Because
13 the federal laws pertinent to this issue have been in-force for a great many years I do not
14 think it reasonable that the shareholders of Laclede have not been aware of the law's
15 implication and as such have factored into their analysis a risk premium that will
16 compensate them for the possible effects associated with the MGP sites remediation.
17 The purpose of the additional risk premium is to compensate for known and unknown
18 events. This concept is appropriate for all shareholders past, current and future.
19

1 Q. ARE THE REMEDIATION COSTS INCURRED FOR THE BENEFIT OF CURRENT
2 CUSTOMERS?

3 A. Contrary to Mr. Fallert's remarks on page thirteen, lines 10 -12, of his rebuttal testimony,
4 the MGP remediation costs do not arise from activities that were engaged to serve
5 current or future customers. They are, in fact, related to activities which were incurred
6 to serve **past** customers, and are not appropriately included in the instant case cost of
7 service. The Company's shareholders received the benefit or detriment of any gains or
8 losses incurred when the MGP was sold or discontinued; therefore, the shareholders
9 should also be responsible for costs associated with the ultimate clean-up of those sites.
10

11 Q. IS THE COMPANY'S PROPOSED ALTERNATIVE TO THE ELIMINATION OF
12 THE MANUFACTURED GAS PLANT ACCOUNTING AUTHORITY ORDER
13 REASONABLE?

14 A. No, it is not. Company seeks, in the alternative, to put in place a mechanism to initiate
15 another MGP AAO should related costs reach certain thresholds and to recover all actual
16 expenditures it has incurred prior to April 1996 along with a \$734,000 accrual of
17 expected costs. It also requests that future costs would be included in the cost of service
18 for this case.
19

1 The Public Counsel is opposed to the Company's recovery of any MGP costs whether
2 they be current, deferred, accrued or future related. The Company's position that it
3 receive reimbursement for costs not actually incurred is not a reasonable offer given that
4 only actual expenditures incurred are deferred pursuant to the MGP AAO. Company
5 apparently believes that all it has to do is book an accounting accrual and automatically
6 it is deserving of reimbursement from ratepayers. Of course, on page sixteen, lines 10 -
7 13, of his rebuttal testimony, Mr. Fallert does offer an olive branch of sorts. He states
8 that in the event that future costs do not exceed the amounts recovered through
9 amortization, such difference would be returned to ratepayers in some reasonable
10 manner. Public Counsel recommends that the Commission disallow all the MGP costs
11 the Company seeks to recover that way ratepayers will not have to rely on the faux
12 magnanimity of Company's officers to keep monies that are rightfully theirs already.

13
14 Y2K AAO
15

16 Q. HAS THE PUBLIC COUNSEL RECOMMENDED THAT ALL ACTUAL YEAR 2000
17 COSTS COMPANY INCURRED PRIOR TO JULY 1, 1998 BE CAPITALIZED?

18 A. No. Mr. Fallert's statements on page seventeen, lines 3 - 6, of his rebuttal testimony, are
19 not completely accurate. Public Counsel's recommendation is that the actual Year 2000
20 costs incurred by the Company during the period March through June 1998 should be

1 capitalized; however, the actual Year 2000 costs incurred during the months of January and
2 February 1998 should neither be capitalized or included as an expense in the Company's
3 cost of service for the instant case. Public Counsel believes that the costs the Company
4 incurred during those two months have already been recovered in current rates. When
5 Public Counsel refers to the terms actual Year 2000 costs we are referring only to those
6 costs incurred for date field expansion of the Company's computerized operating systems.
7

8 Q. MR. FALLERTS TESTIMONY ON PAGE EIGHTEEN, LINES 17 - 19, INDICATES
9 THAT THE LANGUAGE OF THE Y2K AAO ANTICIPATED THE WHOLESALE
10 REPLACEMENT AND ENHANCEMENT OF LACLEDE'S COMPUTER SYSTEMS.
11 DO YOU AGREE WITH HIS INTERPRETATION OF THE AAO LANGUAGE?

12 A. No, we do not. Public Counsel is aware of the Company's actions to replace and/or
13 enhance many of its computerized operating systems and that the activities were not either
14 directly or indirectly related to the Year 2000 compliance issue; however, since the
15 Company's last rate case was settled pursuant to stipulation there was no need to challenge
16 the costs until the instant case. When Public Counsel agreed to recommend to the
17 Commission that the Company be permitted to defer Y2K compliance costs until its next
18 general rate increase case we did so with the understanding that only the costs directly
19 associated with the Year 2000 date field expansion compliance be deferred. Public
20 Counsel can think of no reason that the Commission should allow a utility an accounting

Surrebuttal Testimony Of
Ted Robertson
Case No. GR-99-315

1 variance simply because it chooses to enhance, develop and/or install completely new
2 computer hardware and computer operating systems that improve the efficiency,
3 effectiveness and competitiveness of its operations. Such activities are a normal ongoing
4 function of the utility's daily business processes thus, they certainly do not rise to the level
5 of being extraordinary or even unusual. Conceptually, the Company, due to regulatory lag,
6 would retain the benefits of the increased efficiencies during the period prior to rates being
7 changed, but wants ratepayers to bear the costs of it achieving said efficiency, i.e., the
8 Company is allowed to benefit from the regulatory lag, but ratepayers are not. Public
9 Counsel asserts that the Company's position on this issue is a veiled but simplistic attempt
10 to grab additional revenues that are not normally available to the Company.

11
12 Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?

13 A. Yes, it does.
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