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October 6, 1999

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P. O. Box 360
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FILED³

OCT 06 1999

Missouri Public
Service Commission

RE: Case No. GR-99-315 - Laclede Gas Company

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **MOTION TO STRIKE PORTIONS OF THE TRUE-UP TESTIMONY OF JAMES A. FALLERT.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Marc D. Poston
Senior Counsel
(573) 751-8701
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MDP:sw
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
OCT 06 1999

In the Matter of Laclede Gas Company's)
Tariff to Revise Natural Gas Rate)
Schedules.)

Missouri Public
Service Commission

Case No. GR-99-315

**MOTION TO STRIKE PORTIONS OF THE
TRUE-UP TESTIMONY OF JAMES A. FALLERT**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Motion to Strike Portions of the True-Up Testimony of James A. Fallert states as follows:

1. On August 18, 1999, the Staff, Laclede Gas Company (Laclede) and the Office of the Public Counsel (OPC) filed a Joint Motion to Establish True-Up Audit and Hearing. In the Motion, the parties agreed to and listed the items to be included in the true-up proceeding.

2. On September 21, 1999, the Commission issued its *Order Establishing True-Up Audit and Hearing* and re-stated the items that the parties requested for true-up. In that Order the Commission set the date for filing testimony on October 1, 1999.

3. Laclede witness James A. Fallert prepared true-up testimony that was filed with the Commission on October 1, 1999. This testimony addresses items that are beyond the scope of the true-up proceeding. Mr. Fallert's testimony also addresses items that were settled by the parties in the First Amended Partial Stipulation and Agreement filed on September 3, 1999. For these reasons, portions of Mr. Fallert's true-up testimony are highly improper and should be stricken pursuant to 4 C.S.R. 240-2.130 of the Commission's rules.

Customer Annualization

4. Mr. Fallert's testimony should be stricken from page 3, line 14 through page six, line 20 because this testimony does nothing more than criticize the methodology utilized by the

Staff. As stated in the True-Up Testimony of Arlene S. Westerfield, the Staff and Laclede agreed to for a process for settling the customer revenue annualization issue. According to that agreed upon process, each party would true-up their revenue annualizations through July 31, 1999 using the originally filed methodologies. Any differences between Laclede and Staff's annualized, trued-up amounts were to be split. This agreement between the parties is evident in Attachment 1 to the First Amended Partial Stipulation and Agreement where the parties agreed to a split of customer growth. Mr. Fallert concedes this point on page 3, line 12 when he states that the parties "agreed to split the difference between the two methods as a means of settling this issue in this proceeding." This was a settled issue and it is improper for the Company to raise these arguments in true-up testimony.

5. Laclede had ample opportunity to rebut the Staff's methodology in its rebuttal testimony or during the evidentiary hearing. This is the same methodology that the Staff utilized in the last three Laclede rate cases and Laclede was aware that this was the method used by Staff. Laclede chose not to challenge the Staff's methodology when such a challenge would have been proper, and the Company is now attempting to criticize Staff's methodology because the results are not what Laclede hoped for or expected. The true-up proceeding is not the proper time to rebut Staff's direct filed methodology and is a violation of 4 C.S.R. 240-2.130 of the Commission's rules. Laclede should be well aware that a true-up proceeding is meant to address true-up issues and it is not a last chance opportunity to criticize the Staff's direct case and/or bolster its position.

6. Portions of Mr. Fallert's testimony are inaccurate and may mislead the Commission. Although he admits on page 3, lines 19 and 20 that it is only an implication that he has drawn, Mr. Fallert characterizes the Staff's position as proposing an adjustment of 7,935

customers. This mischaracterization is again repeated on page 4, line 8. At page 5, lines 14 through 21, of his true-up testimony, Mr. Fallert goes so far as to label the 7,935 as "Staff Adjustment" and calculates an allocation of this amount. These mischaracterizations and erroneous statements are clearly false and are an obvious attempt by the Company to distort the Staff's position, which may mislead the Commission.

7. Beginning on page 3, line 14, Mr. Fallert criticizes the Staff's method. This criticism continues through to page 6, line 20. Accordingly, the Staff requests that these lines be stricken from the record so that the Commission can focus upon the legitimate true-up issues.

Short-term Debt

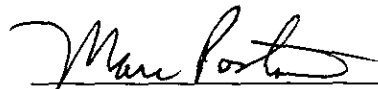
8. Mr. Fallert's testimony should be stricken from page 9, line 18 through page 10, line 12 because this testimony is nothing more than an attempt to supplement the record on an issue the Company raised during the evidentiary hearing. The appropriate level of short-term debt that should be included in the capital structure has already been addressed by the Company in the direct, rebuttal and surrebuttal testimony of Glenn W. Buck.

9. During the evidentiary hearing, Laclede asked cross-examination questions of David Broadwater regarding capital structure and its relation to rate base. Those questions and answers can be found in the cross-examination of Mr. Broadwater by Mr. Pendergast on page 362 beginning on line 4 through page 363, line 19. Also, this topic was the subject of redirect questioning by Mr. Poston that can be found on page 417 line 16 through page 419, line 15. Including that same argument in the true-up testimony of Mr. Fallert is an improper attempt to reargue this issue and is a violation of 4 C.S.R. 240-2.130. This is not a true-up issue and should not be considered in the true-up proceeding.

WHEREFORE, the Staff of the Missouri Public Service Commission respectfully requests that the Commission strike page 3, line 14 through page 6, line 20 and page 9, line 18 through page 10, line 12 of the True-Up Testimony of James A. Fallert.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 6th day of October 1999.



**SERVICE LIST FOR
CASE NO: GR-99-315
October 6, 1999**

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