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November 18, 1999

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED²

NOV 18 1999

Missouri Public
Service Commission

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

Dear Mr. Roberts:

Enclosed for filing please find the original and fourteen copies of **Public Counsel's Response To Laclede Gas Company's Motion To Strike And Request To Take Administrative Notice.** I have on this date mailed or hand-delivered copies to all counsel of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "D. E. Micheel".
Douglas E. Micheel
Senior Public Counsel

DEM/mm

Enclosures

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

NOV 18 1999

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

Case No. GR-99-315

Missouri Public
Service Commission

**Public Counsel's Response To Laclede Gas Company's
Motion To Strike And Request To Take Administrative Notice**

Comes Now the Office of the Public Counsel ("Public Counsel") and in response to Laclede Gas Company's Motion To Strike And Request To Take Administrative Notice, states as follows:

1. On or about November 12, 1999 Laclede Gas Company ("Laclede") filed its Motion to Strike portions of Public Counsel's Reply Brief in the above referenced matter. Specifically, Laclede seeks to strike Public Counsel's reference and quotation of this Commission's Report and Order in Case No. GR-96-193 with regard to the issues of return on equity and capital structure found respectively at pages 4 and 7 of Public Counsel's reply brief and Public Counsel's argument found at page 10 of its reply brief that Laclede's proposed off-system sales revenue amount for the 1998-1999 time frame is based upon an estimate. The Commission should deny Laclede's motion to strike and deny Laclede's request to take administrative notice.

2. The premise of Laclede's motion to strike with regard to the issues of return on equity and capital structure is that Public Counsel has inappropriately cited to the Commission's Report and Order in Case No. GR-96-193, which the Commission ordered published in the

Public Utility Reports. Re: Laclede Gas Company, 172 PUR 4th 83 (1996). Laclede cites the boilerplate language contained in the Stipulation and Agreement at paragraph 18 claiming it is not "appropriate to use a settlement in Case No. GR-96-193, or the Commission's order approving it, to prejudice Laclede's position on the issues raised in this case." Public Counsel does not believe that its quotation of the Commission's Report and Order, reflecting the Commission's findings of fact, violates the letter or the spirit of the Stipulation and Agreement in GR-96-193.

3. By citing to the Commission's Report and Order in GR-96-196 Public Counsel was merely quoting what this Commission found in its Report and Order, contrary to Laclede's claims Public Counsel was not implying "Laclede or any other party" approved of those findings. The important fact, that Laclede misses, is that the financial community relies on and is aware of the regulatory environment. As testified by Laclede's witness Zach Wagner in response to the following cross-examination the investment community pays attention to the regulatory environment:

Q. In formulating your analysis with respect to the local distribution companies that you follow, do you consider the regulatory environment based (sic) by an LDC as part of the company's basic business risk?

A. The regulatory environment faced by a company I follow is very material and relevant to my recommendations.

Q. So when you make a recommendation, you have already considered the company's regulatory environment; is that correct?

A. Yes.

(Tr. p. 229, l. 7-18). These quotes from the Report and Order in GR-96-193 are properly used to rebut Laclede's specious claims that Public Counsel's recommendations in this case are at variance with the past actions or statements of this Commission. The investment community is

aware of the Commission's statements. Simply put, the quotations cited by Public Counsel are statements made by the Commission contained in a public document. In its Report and Order in GR-96-193 the Commission chose to make the statements quoted by Public Counsel in its reply brief. The quotes at pages 4 and 7 of Public Counsel's reply brief should not be stricken.

5. Next, Laclede seeks to strike portions of Public Counsel's argument with respect to the speculative nature of Laclede's revenue estimates of off-system sales revenue for the 1998-1999 time frame. Laclede claims that it had "no reason to believe" its estimates would be subject to question, thus Laclede reasons that those portions of Public Counsel's brief be stricken for pointing out the fact that those claims were merely estimates. Such factual statements are not inappropriate. In fact, a review of Exhibit 45 clearly demonstrates that Laclede's claims were merely estimates. There is nothing inappropriate about pointing out this admitted fact.

6. The apparent reason for raising this claim is Laclede's attempt to supplement this record with its Gas Supply Incentive Plan ("GSIP") Monitoring Report filed on November 4, 1999. Laclede requests the Commission take administrative notice of its GSIP Monitoring Report. Such a request is contrary to 4 CSR 240-2.110 (10) and should be denied.

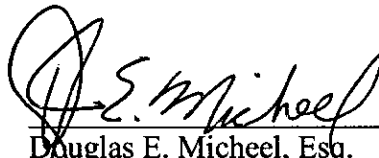
7. 4 CSR 240-2.110 (10) states:

(10) A party may request that the commission reopen a proceeding for the taking of additional evidence if the request is made after the hearing has been concluded, but before briefs have been filed or oral arguments presented, or before a decision has been issued in the absence of briefs or argument. Such a request is made by filing with the secretary of the commission a petition to reopen the record for the taking of additional evidence in accordance with 4 CSR 240-2.080, and serving the petition on all other parties. The petition shall specify the facts which allegedly constitute grounds in justification, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. The petition shall also contain a brief statement of the proposed additional

evidence, and an explanation as to why this evidence was not offered during the hearing. (Emphasis added).
The briefing of this case was concluded on November 1, 1999. Thus, pursuant to Commission rule Laclede cannot request that the Commission reopen the record to take more evidence. To do so would violate 4 CSR 240-2.110 (10).

WHEREFORE: Public Counsel requests the Commission deny Laclede's Motion To Strike and Request To Take Administrative Notice.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed or hand-delivered to the following on this 18th day of November, 1999:

Michael C. Pendergast
Laclede Gas Company
720 Olive St.
St. Louis, MO 63101

Ronald K. Evans
Union Electric
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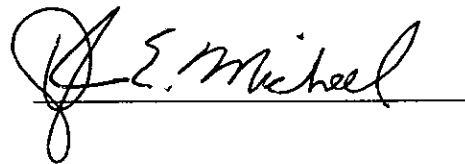
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A handwritten signature in dark ink, appearing to read "J.E. Michael", is written over a horizontal line.