

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

IN THE MATTER OF LACLEDE GAS)	
COMPANY’S TARIFF TO INCREASE)	Case No. GR-2010-0171
ITS ANNUAL REVENUE FOR)	
NATURAL GAS)	

**MOTION TO QUASH SUBPOENA AND
OBJECTIONS TO SUBPOENA**

COMES NOW Laclede Gas Company, by its Counsel, and submits this Motion to Quash Subpoena and Objections to Subpoena, and in support thereof, states:

1. On or about July 12, 2010, Counsel for the Missouri Public Service Commission Staff served a subpoena duces tecum purporting to require the deposition of the Custodian of Records for Laclede Gas Company and the production of records belonging to companies other than Laclede Gas Company; specifically, records of Laclede Energy Resources and SM&P. A copy of the attachment to the subpoena is attached hereto and identified as Attachment A.

2. The documents requested pertain to issues regarding affiliates and cost allocation. These issues have now been settled among the parties to the rate case and are no longer on the parties’ list of open issues. Continued pursuit of this information at this time is inconsistent with the parties agreement, especially as the parties are working to respond to relevant data requests, draft final testimony, and prepare for the upcoming hearing on unresolved issues.

3. In addition, the documents requested in the subpoena belong to Laclede Energy Resources, Inc. (“LER”) and SM&P and are not in Laclede Gas Company’s possession, custody or control. Laclede Gas Company further objects to production of the documents on the basis that they are not relevant to issues in the above identified rate case, nor are they reasonably calculated to lead to the discovery of relevant or admissible evidence.

4. The PSC “is an administrative body with only “such powers as are expressly conferred by statute and reasonably incidental thereto.” Union Elec. Co. v. Public Service Comm’n, 591 S.W.2d 134, 137 (Mo. App. 1979). The PSC has no regulatory jurisdiction over the affairs of LER and/or SM&P, except as pertains to transactions they may have with Laclede Gas Company. Companies such as LER and SM&P are permitted under Missouri law to operate unregulated businesses that are free from the regulatory jurisdiction of the PSC. MO. REV. STAT. §393.140 (12) (2008); see also State ex rel. Atmos Energy Corp. v. Public Service Comm’n, 103 S.W.3d 753, 764 (Mo. 2003). The records requested by the subpoena do not relate to transactions that LER or SM&P may have had with Laclede Gas Company.

5. Production of the documents identified is not authorized by the Missouri Affiliate Transaction Rules enacted by the PSC. 4 CSR 240-40.015; 4 CSR 240-40.016.

6. The PSC has previously recognized that it cannot order production of documents belonging solely to an affiliate of a regulated company, stating:

It is true that the Commission is authorized and required to examine dealings of regulated entities with their unregulated affiliates. However, as Union Electric points out, that authority applies to transactions between the affiliates and the regulated entity. **It does not apply to transactions between the unregulated affiliates and third parties absent a specific showing of relevancy to transactions between the affiliates and the regulated entity.** The Commission lacks any general authority to pry into the affairs of unregulated companies, or third parties that they do business with, merely because they are affiliates of regulated entities.

Commission’s Order on Reconsideration Concerning Discovery dated February 26, 2004 in Case No. EO-2004-0108.

WHEREFORE Laclede Gas Company requests that the Commission issue its order quashing the subpoena and/or sustaining its Objections and for such other and further relief as may be appropriate under the circumstances.

Respectfully submitted,

/s/ Michael C. Pendergast

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ATTORNEYS FOR LACLEDE GAS COMPANY

CERTIFICATE OF SERVICE

The undersigned states and certifies that a copy of the foregoing document has been delivered to counsel of record in this case by facsimile, electronic mail and first class mail, postage prepaid, this 15th day of July 2010.

/s/ Gerry Lynch

ATTACHMENT A

BOARD PRESENTATIONS FROM 2007

October 26, 2007 – Page 4 (LER & SM&P Portion)
November 29, 2007 - Page 4 (LER & SM&P Portion)

BOARD PRESENTATIONS FROM 2008

January 31, 2008 – Page 4 (LER & SM&P Portion)
March 27, 2008 – Page 6 (LER & SM&P Portion)
Pages 16 – 19
April 24, 2008 - Pages 2 -3
Page 6 (LER & SM&P Portion)
Pages 11 – 13
July 31, 2008 - Page 4 (LER Portion)
Pages 9 – 23
October 30, 2008 – Page 4 (LER Portion)
November 20, 2008 – Page 3 (LER Portion)
Pages 10 – 21

BOARD PRESENTATIONS FROM 2009

January 29, 2009 – Page 4 (LER Portion)
March 26, 2009 – Page 4 (LER Portion)
April 30, 2009 – Page 4 (LER Portion)
July 30, 2009 – Page 4 (LER Portion)
Pages 22 – 32
November 19, 2009 – Page 10 (LER Portion)
Page 12 (LER Portion)

BOARD PRESENTATION FROM 2010

January 28, 2010 - Page 5 (LER Portion)