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August 17, 1999

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

FILED

AUG 17 1999

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

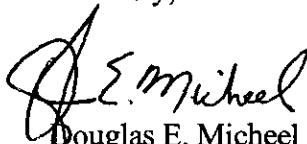
Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing please find the original and fourteen copies of **Public Counsel's Motion to Strike Portions of the Rebuttal Testimony of James A. Fallert.** 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,


Douglas E. Micheel
Senior Public Counsel

DEM/mk

Enclosures

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

AUG 17 1999

Missouri Public
Service Commission

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

**Public Counsel's Motion To Strike Portions Of The Rebuttal Testimony
Of James A. Fallert**

Comes Now the Office of the Public Counsel ("Public Counsel") and for its Motion To Strike Portions of the Rebuttal Testimony of James A. Fallert states as follows:

1. On or about August 5, 1999 Laclede witness James A. Fallert filed his rebuttal testimony in GR-99-315. In that testimony Witness Fallert raises for the first time, inclusion of "specific bar hole surveys of all cooper service lines on the distribution system" in the Safety Replacement Program (SRP) accounting authority order. (Fallert Rebuttal p. 6, l. 11-22; p. 7, l. 1-2). Such testimony does not respond to any testimony or schedules found in the prefiled direct testimony of the Staff or Public Counsel. By this filing Laclede is admittedly attempting to expand the scope of its accounting authority authorization in rebuttal testimony. ("The Company proposes that such surveys, beginning with those performed in 1999, be included in the SRP deferral as an essential part of this program."). Interjecting new issues in rebuttable testimony is contrary to Commission rule.

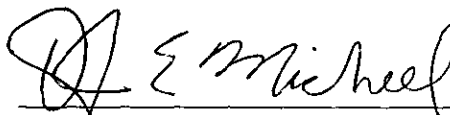
2. Pursuant to 4 CSR 240-2.130 (7)(B) ". . . rebuttal testimony shall include all testimony and schedules which are responsive to the testimony and schedules contained in any

other party's direct case." Rule (7)(B) does not allow a party, such as Laclede, to raise wholly new arguments in its rebuttal testimony.

3. Public Counsel requests that the Commission strike the portion of witness Fallert's prefiled rebuttal testimony beginning on page 6 lines 12 through 22 and page 7 lines 1 and 2. Such testimony is inappropriate rebuttal testimony and should be stricken from this record. See: e.g. State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission, 562 S.W.2d 688, 695 (Mo. App. 1978) ("It is well-settled that a motion to strike is the correct means of removing from consideration evidence properly admitted when such evidence later becomes inadmissible.")

Wherefore: Public Counsel requests that the Commission strike that portion of witness Fallert's prefiled rebuttal testimony set-out in paragraph 3 of this Motion and for any other relief the Commission deems appropriate.

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 17th day of August, 1999:

Michael C. Pendergast
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720 Olive St.
St. Louis, MO 63101

Marc Poston
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

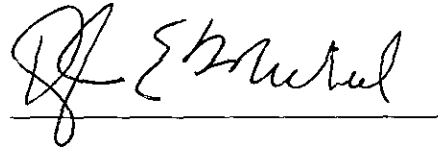
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A handwritten signature in dark ink, appearing to read "J. Landwehr", is written over a horizontal line.