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September 30, 1999

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

FILED

SEP 30 1999

Missouri Public  
Service Commission

Re: Case No. GR-99-315

Dear Judge Roberts:

Enclosed for filing please find the original and fourteen copies of a Response to Staff's Objections.

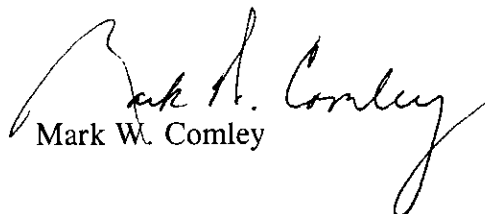
Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley

MWC:ab

Enclosure

cc: Office of Public Counsel  
Michael C. Pendergast  
Ronald K. Evans  
John D. Landwehr  
Richard Perkins  
Diana Schmidt

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

FILED

SEP 30 1999

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

Missouri Public  
Service Commission

**RESPONSE TO STAFF'S OBJECTIONS**

**COMES NOW** Laclede Gas Company ("Laclede") and for its Response to Staff's Objections in the above-captioned proceeding, states as follows:

1. On September 17, 1999, the Staff of the Missouri Public Service Commission ("Staff") filed several objections to portions of the deposition of David Broadwater being admitted into the hearing record. Laclede will briefly address each of the objections filed by Staff.

2. Staff's first three objections relate to several questions and answers that appear on pages 61 to 63 of Mr. Broadwater's deposition. Each of these questions was designed to probe Mr. Broadwater's understanding (and more generally Staff's understanding) of public comments previously made by Zach Wagner, a financial analyst with Edward Jones, regarding the return expectations for investors in local distribution companies. Specifically, Laclede was attempting to establish whether Staff was aware that the return expectations referenced by Mr. Wagner in his comments were based on the "market" rather than the "book" value of the utilities' stocks. Since Mr. Wagner's prior comments in this regard had been elicited by Mr. Broadwater's supervisor, Mr. Bible, during a public forum attended by several Commissioners and had previously been cited in testimony filed by Staff in at least one other rate case proceeding (*See* Deposition Transcript, p. 60), the Company believed that it was appropriate to determine whether Staff's representations regarding the meaning and significance of Mr. Wagner's comments were based on an accurate understanding of those comments. Moreover, Mr. Broadwater appeared to be the appropriate Staff person to ask

since he was present at the time such comments were made and was the only witness presented by Staff in this case as knowledgeable on rate of return matters.

3. It is clear from Staff's current objections, however, that notwithstanding its prior use of Mr. Wagner's public comments in testimony before this Commission, Staff really had no basis then, and apparently has no basis now, for making any representations as to the meaning, intent or significance of Mr. Wagner's prior comments. With that understanding, Laclede agrees that no evidentiary weight should be given to Mr. Broadwater's deposition answers to the extent they purport to speculate on what Mr. Wagner might have intended in making his comments. Since Mr. Wagner was, however, permitted to testify in this proceeding that his expected returns were, in fact, based on market rather than book value (*See* Exh. 10), Mr. Broadwater's answers should nevertheless be received into the record for the limited purpose of showing that any supposition to the contrary by Staff or witness Broadwater's was in error.

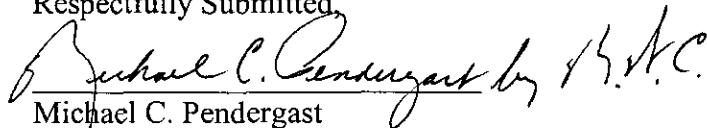
4. As to Staff's fourth objection relating to the use of the term "big problem" in a question propounded to Mr. Broadwater, it is abundantly clear from the deposition itself that Mr. Broadwater had no problem understanding what that term meant or how it was being used in the question. (*See* Deposition Transcript, pp 83-84). Nor is there any merit to Staff's contention that the use of such a term constituted an "improper characterization" because it required Mr. Broadwater to accept the questioner's conclusion. Contrary to Staff's contention, it is clear from the transcript that Mr. Broadwater was not laboring under the impression that he had to accept such a characterization, but was instead free to voice any disagreement he may have had with the use of this term. Under such circumstances, Staff's objection should be overruled.

5. Staff's fifth and sixth objections are equally meritless in that they suggest that it was inappropriate to ask Mr. Broadwater, the Staff's return on equity witness, whether, and to what

extent, an analyst making growth projections for utilities in Missouri would take into account a Commission decision not to permit rate increases for a specified period of time. If Mr. Broadwater cannot be asked hypothetical questions about a matter that is so central to his own rate of return recommendations -- i.e., the basis and nature of the analyst growth estimates included in his return analyses and how such estimates can be affected by various factors -- it is difficult to understand what areas of inquiry would be appropriate. Moreover, in its objections, the Staff makes absolutely no effort to explain what was lacking in the hypothetical questions propounded to Mr. Broadwater that would make them improper or inappropriate -- a deficiency that Missouri courts have previously recognized as a proper basis for overruling such objections. *See e.g. Nagel v. Bi-State Development Agency*, 567 S.W.2d 644, 645-46 (Mo. banc 1978). Accordingly, Laclede requests that these objections be overruled.

6. Finally, Laclede would agree with the Staff that the question beginning at line 16 of page 128 of the Deposition is, in fact, a confusing, compound question that even the questioner has difficulty understanding upon subsequent review. Laclede therefore has no objection to striking the question and the following portions of the transcript ending at line 22 on page 129.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Michael C. Pendergast by H.K.C.", is written over the typed name and title.

Michael C. Pendergast  
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, hand delivered, or sent by facsimile transmission, on this 30<sup>th</sup> day of September, 1999, to:

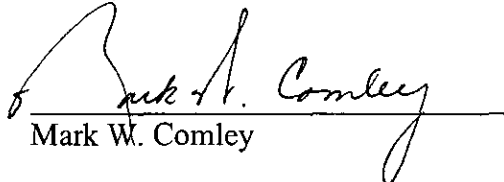
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