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January 30, 2001

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

FILED²
JAN 30 2001
Missouri Public
Service Commission

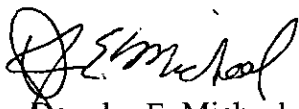
**RE: Missouri Gas Energy,
Case No. GR-2001-382**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 8 copies of **Public Counsel's Response to Order Directing Filing**. Please "file stamp" the extra enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,


Douglas E. Micheel
Senior Public Counsel

DEM:kh

cc: Counsel of Record

Enclosure

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

FILED³
JAN 30 2001

Missouri Public
Service Commission

In the matter of Missouri Gas Energy's Purchased)
Gas Adjustment factors to be reviewed in its) Case No. GR-2001-382
2000 - 2001 Actual Cost Adjustment)

PUBLIC COUNSEL'S RESPONSE TO ORDER DIRECTING FILING

COMES NOW the Office of the Public Counsel ("Public Counsel") in response to the Commission's Order Directing Filing issued on January 26, 2001, Public Counsel states:

1. In its Order the Commission states:

The Public Counsel has limited its request to MGE, which is only one of several natural gas service providers that has raised its rates, or is in the process of raising its rates, via an unscheduled Purchased Gas Adjustment (PGA). These emergency unscheduled PGA increases will affect many Missourians, not just the residents of MGE's service area. Public Counsel has offered no explanation for the limited scope of its request.

Public Counsel limited its request in this case, because this proceeding deals only with Missouri Gas Energy.

2. Where appropriate and after thorough review of each company's tariffs Public Counsel in each specific case filed its request for an emergency actual cost adjustment review. Public Counsel filed its request for an emergency ACA review on January 26, 2001 in the following cases: GR-2001-396 Atmos Energy; GR-2001-397 United Cities Gas; and GR-2001-394 Greeley Gas. On January 29, 2001 Public Counsel filed its emergency ACA review request in GR-2001-388 Southern Missouri Gas.

3. Public Counsel did not file for an emergency ACA review for Laclede Gas Company in GR-2001-387. Unlike other LDC's Laclede currently has in effect a Commission

approved Gas Supply Incentive Plan ("GSIP"). One component of the GSIP relates to Laclede's procurement of gas supplies. In GT-99-303 Public Counsel argued that Laclede's competitively bid contracts referenced to the volatile spot market indices be given traditional PGA/ACA prudence review. (For the Commission's ready reference the pertinent pages of the Report and Order in GT-99-303 are attached as Exhibit A.). However, the Commission rejected Public Counsel's proposal.¹ Instead the Commission determined Laclede's benchmark proposal was in the public interest and adopted that proposal. Public Counsel accepts the Commission decision. However, that decision has consequences. Specifically, Laclede is shielded from prudency reviews of its gas purchasing practices so long as its gas procurement costs are below 110% of the benchmark cost of gas. (For the Commission's ready reference a copy of Laclede's tariff sheet P.S.C. Mo. No. 5 Consolidated, Third Revised Sheet No. 26 is attached as Exhibit B. Section D (vi)(1)(2)(3)(4) set out Laclede's obligations.) So long as Laclede's gas procurement costs are equal to or below 110% of the benchmark cost of gas the Commission has relinquished its ability to conduct a prudency review of Laclede's gas purchasing practices.

4. On information and belief Public Counsel is aware that Laclede's costs for gas procurement are not 110% above the benchmark cost of gas. In light of this fact, Public Counsel does not believe the Commission has authority to review Laclede's gas procurement practices.

5. Given the fact that a tariff, when approved by this Commission becomes Missouri law, Allstates Transworld v. Southwestern Bell, 937 S.W.2d 314, 317 (Mo.App. 1996), and the language approved by this Commission in Laclede's tariff sheet no. 26 Public Counsel recognized the futility of requesting such a prudence review, given the fact that the Commission approved tariffs specifically preventing such a review.

¹ Three current Commissioners voted in GT-99-303 Chair Lumpe; Vice Chair Drainer and Commissioner Murray.

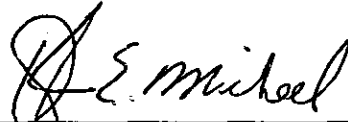
6. To be clear, Public Counsel did not agree with the Commission's decision in GT-99-303 to allow Laclede safe harbor from prudence reviews for its gas procurement costs. However, such a safe harbor was given to Laclede over Public Counsel's objections and Laclede's currently effective tariffs essentially prevent such review.²

WHEREFORE, having fully responded to the Order Directing Filing and providing the rationale for limiting its scope of the emergency ACA request, Public Counsel requests the Commission grant Public Counsel's Request for an Emergency Actual Cost Adjustment Review of Missouri Gas Energy's Purchasing Practices for the Winter 2000-2001.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY:



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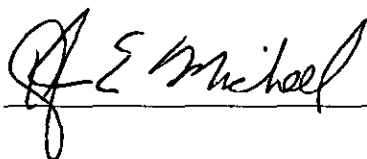
² Public Counsel points out the Commission currently has pending GT-2001-329 a case reviewing the operation of Laclede's GSIP.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been faxed, mailed or hand-delivered to the following counsel of record on this 30th day of January, 2001:

Thomas Schwarz
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

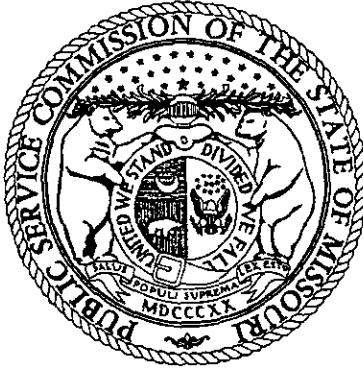
Robert J. Hack
Missouri Gas Energy
3420 Broadway
Kansas City, MO 64111



COPY

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



FILE COPY

In the Matter of the Laclede Gas Company's Tariff)
Sheets to Extend and Revise the Company's Gas) Case No. GT-99-303
Supply Incentive Plan.)

REPORT AND ORDER

Issue Date: September 9, 1999

Effective Date: September 21, 1999

Exhibit A
Page 1 of 3

SEP 09 1999

savings. Laclede's share of the savings would be based on a sliding scale that begins at 10 percent and increases to a maximum of 50 percent for savings in excess of \$.40 per MMBtu. Gas volumes covered by the firm fixed price contracts would be excluded from the Gas Procurement Component of the plan.

Furthermore, Laclede indicated its willingness to modify this component further so that Laclede would be required to absorb 10 percent of the losses and be permitted to retain only 10 percent of the gains associated with its use of firm fixed price contracts, as the Commission prefers. Laclede alleges that this would provide a moderate and balanced set of risks and rewards that would provide the company with a realistic opportunity to use firm fixed price contracts as a part of its gas supply portfolio. Public Counsel indicated that it would accept Laclede's recommendation to modify the sharing percentages to 10 percent of the benefit and detriment of use of fixed price contracts.

C. Public Counsel's Proposal

Public Counsel believes that it is inappropriate to allow Laclede to obtain financial benefits from contracts resulting from a competitive bidding process and referenced to spot market indices. Public Counsel argues that Laclede should not be given an incentive for items over which it does not reasonably exercise control, and emphasizes that Laclede neither controls the competitive market response to its bidding process nor the spot market rate after execution of the contract.

Public Counsel recommends that the traditional PGA/ACA² process be utilized for competitive bid contracts referenced to the volatile spot market indices. Public Counsel also recommends that Laclede be given an incentive to enter into fixed price and option contracts for its gas supply; in these situations, Laclede determines its involvement in the design, timing, and amount of activities intended to mitigate market volatility and escalating gas costs. Public Counsel recommends that ratepayers and Laclede share equally in the financial benefits and detriments associated with fixed and option contracts.

D. Staff's Proposal

Staff suggests a fixed price natural gas commodity cost whereby that price will be set based upon consideration of Laclede's historical gas costs and NYMEX future prices, historical demand and swing service premiums, and historical costs for lost and unaccounted-for gas.

Public Counsel indicated that it is willing to modify its proposal to include the caps recommended by Staff witness Busch in his rebuttal testimony.

II. Off-System Sales

A. Current GSIP

The second component is the Off-System Sales Component, which pertains to the off-system sales of gas to nonjurisdictional customers who are located "off" the company's system. The existing GSIP provides

² PGA/ACA refers to the Purchased Gas Adjustment/Actual Cost Adjustment procedure generally used in the natural gas industry to permit interim adjustments for gas price changes.

Missouri Public
Service Commission

Laclede Gas Company

Name of Issuing Corporation or Municipality

Refer to Sheet No. 1

Community, Town or City

REC'D OCT 05 1999

SCHEDULE OF RATES

D. Gas Supply Incentive Plan, Effective October 1, 1999 (Continued)

(vi) At the end of each ACA year, the Company shall compare the cumulative benchmark cost defined above to actual cumulative costs for the Company's on-system requirements, excluding the commodity cost of Firm Fixed Price supplies.

(1) If the Company's cumulative actual cost is greater than the cumulative benchmark cost of gas but less than or equal to 104% of such cumulative benchmark cost of gas, the IA Account is not affected and such actual costs are deemed to be prudent.

(2) If the Company's cumulative actual cost is greater than 104% of the cumulative benchmark cost of gas but less than or equal to 110% of such cumulative benchmark cost of gas, the IA Account is credited and the IR Account is debited with 50% of the difference between such cumulative actual cost of gas and 104% of the benchmark cost of gas and such actual costs are deemed to be prudent.

(3) If the Company's cumulative actual cost is greater than 110% of the cumulative benchmark cost of gas, the IA Account is credited and the IR Account is debited with 50% of the maximum difference computed in (2) above and those costs in excess of 110% of the benchmark cost of gas shall be subject to a prudence review.

(4) If the Company's cumulative actual cost is less than the cumulative benchmark cost of gas, the IA Account is debited and the IR Account is credited with 50% of the difference, subject to the maximum described in (viii) below.

(vii) With respect to commodity costs for Firm Fixed Price gas supplies the Company shall retain a portion of certain savings it may realize by purchasing gas at prices below historical levels. Accordingly, for supplies that are purchased below a Fixed Target Price ("FTP"), the Company shall debit the IA Account and credit the IR Account for the following percentage share of any savings as defined in (vii)(2) below, subject to the maximum described in (viii) below:

Missouri Public
Service Commission
99-309

FILED NOV 05 1999

DATE OF ISSUE October 4, 1999
month day yearDATE EFFECTIVE November 5, 1999
month day yearISSUED BY K.J. Neises, Senior Vice President, 720 Olive Street, St. Louis, MO 63101
name of officer title address

Exhibit B