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December 16, 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**

DEC 16 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 Motion to Make Certain Tariff Sheets Effective on December 24, 1999 in Compliance with Statute, and a Request for Expedited Clarification.

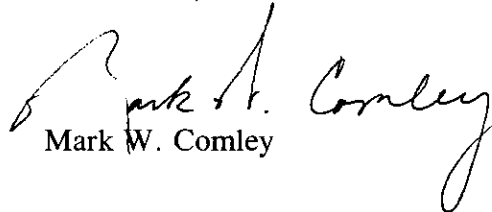
Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

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  
Diana M. Schmidt  
Richard Perkins

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

DEC 16 1999

Missouri Public  
Service Commission

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

**MOTION TO MAKE CERTAIN TARIFF SHEETS**  
**EFFECTIVE ON DECEMBER 24, 1999**  
**IN COMPLIANCE WITH STATUTE**

COMES NOW Laclede Gas Company ("Laclede" or "Company") and for its Motion to Make Certain Tariff Sheets Effective on December 24, 1999 In Compliance with Statute states as follows:

1. On December 14, 1999, the Commission issued its Report and Order in the above-captioned case in which it, among other things, approved the First Amended Stipulation and Agreement filed in this matter on September 3, 1999, as supplemented by a filing dated September 13, 1999. The Commission also authorized Laclede to increase its jurisdictional rates for natural gas service by \$11,240,000 and to file compliance tariff sheets implementing the terms of the Commission's Report and Order.
2. In compliance therewith, Laclede has filed on this date tariff sheets bearing a 30 day effective date for purposes of implementing the terms of the Commission's Report and Order. Laclede requests that all of the tariff sheets filed on this date be permitted to become effective on December 24, 1999, for good cause shown. Laclede believes that good cause exists to permit such tariff sheets to become effective on such date because: (a) such tariff sheets are in compliance with the Commission's Report and Order which also bears an effective date of December 24, 1999; (b) permitting tariff sheets resulting from a rate case order to become effective on that order's effective date is consistent with the Commission's long-standing practice in numerous prior cases involving Laclede (*See e.g.*

*Re Laclede Gas Company*, Case Nos. GR-98-374; GR-96-193, and GR-94-220), as well as other utilities (See e.g. *Re: Missouri Gas Energy, Report and Order, Case No. GR-96-285, p. 81, issued January 22, 1997*; *Re: St. Louis County Water Company, 4 MPSC 3d 94, 119 (1995)*; *Re: Capital City Water Company, 3 MPSC 3d 333, 349 (1995)*; *Re: Missouri Public Service, 2 MPSC 3d 206, 220 (1993)*; *Re: Kansas Power & Light Company, 1 MPSC 3d 235, 253 (1992)*; *Re: St. Louis County Water Company, 29 MPSC (N.S.) 425, 452 (1988)*); and (c) such action will permit the tariff sheets to become effective within the 11-month statutory suspension period prescribed by §393.150 (R.S.Mo. 1994).

3. Although Laclede believes good cause exists for permitting such tariff sheets to become effective by December 24, 1999, Missouri law affirmatively mandates that such tariffs become effective in any event no later than December 27, 1999 – the day following the expiration of the maximum statutory period for which tariffs proposing a rate increase may be suspended. As previously noted, §393.150 (RSMo. 1994) governs the placing into effect of new charges for a gas corporation which have been suspended by the Commission to provide time for a hearing. The tariff sheets in this proceeding were filed January 26, 1999, with a 30-day effective date of February 26, 1999. The Commission subsequently suspended the effectiveness of such tariffs for an additional 120 days, plus a further period of six months. See *Suspension Order and Notice* dated February 9, 1999. All such suspensions were made in accordance with the terms of §393.150. As the Commission itself recognized at page 2 of its February 9, 1999 Suspension Order in this case, this suspension period expires in its entirety on December 26, 1999. On December 14, 1999, however, the Commission issued a Report and Order rejecting Laclede's tariffs filed January 26, 1999 and directed Laclede to file tariffs with a 30-day effective date – an effective date that is nearly three weeks beyond the December 26, 1999 operation-of-law date.

4. §393.150 simply does not permit, let alone provide for, an additional period of suspension. To the contrary, §393.150 explicitly states that the entire period of suspension cannot extend for a “longer period, than 120 days beyond the time such rate... would otherwise go into effect” plus, if necessary “...a further period not exceeding six months.” As previously noted, the entire suspension period permitted by §393.150 will expire on December 26, 1999.<sup>1</sup> In view of this explicit statutory limitation on how long the Commission may take to process a rate case, the Commission must permit the tariff sheets that have been filed by Laclede in compliance with the Commission’s Report and Order to become effective no later than December 27, 1999.

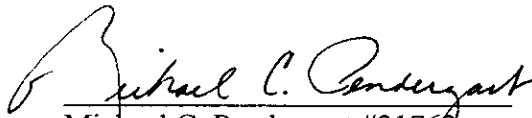
5. In addition to being required by law, there is also sufficient time between the issuance of the Report and Order on December 14, 1999 and December 26, 1999 for Laclede’s compliance filing to be reviewed, approved and become effective. Indeed, the Commission has for decades been able to successfully complete this process within similar periods of time. Given the Commission’s statutory obligation to give such matters “preference over all other questions pending before it and decide the same as speedily as possible” (see Subsection 2 of §393.150), it is clear that similar treatment should and must be afforded Laclede’s request in this case.

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<sup>1</sup> Laclede is well aware of the requirement in §393.140(11) that no change in rates may become effective except on thirty days’ notice, unless otherwise ordered by the Commission. Such 30 days’ notice has already been provided at least once in this case, however, by virtue of Laclede’s initial tariff filing on January 26, 1999. Moreover, there is nothing to suggest that this provision can in any event be construed in a way that would render the suspension limitations of §393.150 a nullity. To the contrary, the only way the Commission can harmonize both statutory provisions is to either permit the compliance tariff sheets to become effective on or before the statutory operation-of-law date or to permit the tariff sheets as initially filed by Laclede on January 26, 1999 to go into effect on that date. See *Arkansas Power & Light Company v. Missouri Public Service Commission*, 829 F.2d 1444 (8<sup>th</sup> Cir. 1987) in which the Court stated that: “The Commission may suspend rates for up to ten months. Mo. Rev. Stat. §393.150 (1978). If it does not rule on the rate request before the end of the suspension period (a time known as the ‘operation-of-law date’), the rates go into effect as filed.” *Id* at 1447.

WHEREFORE, for the foregoing reasons, Laclede Gas Company respectfully requests that the Commission issue its Order permitting all of the tariff sheets filed on this date to become effective on December 24, 1999.

Respectfully submitted,



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Thomas M. Byrne #33340  
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Certificate of Service

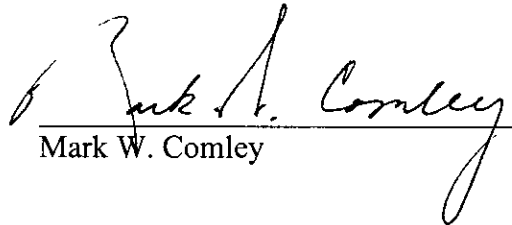
I hereby certify that a true and correct copy of the above and foregoing document was sent via facsimile and by U.S. Mail, postage prepaid, on this 16<sup>th</sup> day of December, 1999, to:

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