BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Laclede Gas Service Territory	))))	**Case No. GO-2015-0341**
In The Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory	))))	**Case No. GO-2015-0343**

POST-HEARING BRIEF

OF

LACLEDE GAS COMPANY

AND

MISSOURI GAS ENERGY

OCTOBER 26, 2015

TABLE OF CONTENTS

Page

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Laclede Gas Service Territory	))))	**Case No. GO-2015-0341**
In The Matter of the Application of Laclede Gas Company to Change its Infrastructure System Replacement Surcharge in its Missouri Gas Energy Service Territory	))))	**Case No. GO-2015-0343**

POST-HEARING BRIEF OF LACLEDE GAS COMPANY AND MISSOURI GAS ENERGY

COME NOW Laclede Gas Company ("Laclede") and Missouri Gas Energy ("MGE"), and file this Post-Hearing Brief, and in support thereof, state as follows:

INTRODUCTION

This brief will follow the list of issues. With the withdrawal of Issue A, pertaining to regulator stations, this case now revolves around the following two issues:

B. Telemetric Equipment

C. The ISRS Update Process

The first issue concerns whether Laclede's investment in telemetric equipment may be included as ISRS costs. The second issue is about whether ISRS cases may continue to be processed as they have been for the past 6 years, by updating i) investments, and ii) depreciation and deferred taxes during an ISRS case similar to the process used in rate cases. Laclede, the Staff of the Missouri Public Service Commission ("Staff"), and Local 11-6, the labor union that represents the employees who install the Company's distribution facilities every day, have all recommended that the Commission approve the

inclusion of such equipment and updated amounts in the ISRS revenues in this proceeding.

BACKGROUND

The General Assembly enacted Sections 393.1009-1015 RSMo. (the "ISRS Statute") back in 2003 in large part to encourage utilities to expedite safety replacements by permitting utilities to **begin** the decades-long process of recovering the costs of these investments without going through a full-blown rate case. But the ISRS does not just apply to safety replacements. It also applies to safety enhancements that extend the useful life of, or enhance the integrity of, such facilities, rather than just replacing them. Further, the ISRS does not just apply to safety replacements and enhancements. It also applies to facility relocations required by a governmental entity. In summary, there are three categories of ISRS eligibility: safety replacements, safety enhancements, and government-mandated relocations.[1] The ISRS shortens the delay from the time that each of these assets begin serving customers to the time when Laclede and MGE can begin the process of recovering the cost of that asset. So, OPC's assertion, in its opening statement, that the 2003 ISRS Statute was solely a response to gas-related explosions that had occurred more than a decade earlier, is simply untrue, because the ISRS Statute, by its plain language, is much broader than gas safety replacement programs. Likewise, OPC's interpretations of the ISRS Statute to define pipeline system components as only those facilities that can directly leak gas, and to define the term "deteriorated" to require gas control equipment to show visible signs of corrosion, are also unreasonable and unsupported.

[1] The 2003 ISRS legislation also included a water utility ISRS, which certainly has no connection to gas incidents.

ISSUES AND DISCUSSION

ISSUE B. Is the telemetric equipment included in Laclede's ISRS petition eligible for ISRS recovery under Section 393.1009(5)?

The telemetric equipment in Laclede's ISRS petition is eligible for ISRS recovery as safety replacements under Section 393.1009(5)(a) of the ISRS Statute. Section 5(a) defines eligible replacements as gas utility plant projects that consist of:

> "Mains, valves, service lines, regulator stations, vaults and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition."

The evidence in this case demonstrates that (i) the telemetric equipment is a pipeline system component; (ii) it was installed to comply with federal and state safety requirements, and (iii) it replaced an existing facility that was in a worn out or deteriorated condition.

Patrick Seamands, D.E. (Doctor of Engineering) testified on behalf of Laclede in this case. Dr. Seamands has a wealth of experience in energy engineering. He was Vice-President of Engineering and Chief Engineer for Southern Union Company (at the time it owned MGE). From 1999-2013, Dr. Seamands was Laclede's Chief Engineer, responsible for environmental compliance, system planning, project engineering, GIS (mapping), measurement, and facilities. Since 2013, Dr. Seamands has served as Laclede's Director of Field Operations Standards, overseeing standards and testing for distribution operations, operations training and pipeline safety compliance. Dr. Seamands has substantial experience with and knowledge of the various physical assets necessary to ensure that Laclede's distribution system is operating in a safe manner. He has a working knowledge of the federal, state and local safety requirements with which

the Company has to comply in providing distribution services. (Direct Testimony of Patrick Seamands, Exhibit 3, p. 1 to p.2, line 7)

Dr. Seamands has a B.S., M.B.A., M.S., and a Doctorate degree in Chemical Engineering from Louisiana Tech University. He has taught as an adjunct professor in the University of Kansas' Masters in Engineering Management program. He is a registered Professional Engineer in four states, including Missouri. He serves as Chair of the Regulations Section of the Accredited Standards Committee Z380, Gas Piping Technology Committee, which develops and publishes ANSI Z380.1, Guide for Gas Transmission and Distribution Piping Systems. He served on a National Council of Examiners for Engineering and Surveying sub-committee that worked to review and update the Professional Engineers exam. Dr. Seamands is a member of the American Institute of Chemical Engineers and the Society of Petroleum Engineers. (Exhibit 3, p. 2, lines 10-20)

Dr. Seamands provided expert testimony on the nature, purpose and operation of telemetric equipment.[2] There were no other witnesses who provided testimony, expert or otherwise, on these technical matters. As a result, Dr. Seamands testimony is unrebutted.

The telemetric equipment challenged in this case can be found in Exhibit 1, Appendix A, Schedule 1, page 26 of 29. The large majority of this equipment is on two lines, entitled "60419 REPL BRISTOL NETWORK RTU'S" (Remote Terminal Units) and "60418 UPGRADE INSTRUMENTATION." The first line (Work Order 604190) shows additions of $133,284.56, and the second line (Work Order 604180) shows addition of $205,916.37. Just above those two lines are minor amounts that make up the

[2] Telemetric equipment is included only in Laclede's ISRS; there is no such equipment in MGE's filing.

remainder of the $401,259 in telemetric equipment.[3] This sum represents the total amounts invested in telemetric equipment in this case. Because such amounts are recovered over a long period of time, the revenue requirement, or the amount customers would pay on an annualized basis, is only about $33,000. (Tr. 76-77)

1. ***The telemetric equipment is a pipeline system component.***

OPC first objected to the inclusion of telemetric equipment two ISRS cases ago, in Laclede ISRS Case No. GR-2015-0026. At that time, and at all times thereafter, OPC's objection has been that the replaced telemetric equipment, although obsolete, was not in a deteriorated condition. The first time that OPC raised an argument that telemetry is also not a pipeline system component under Section 5(a) of the ISRS Statute was just over a week ago, at the October 15 hearing. Despite this last minute attempt by OPC to bolster its position with arguments that were not even included in its Position Statement, Laclede was able to demonstrate at the hearing that the telemetric equipment is a pipeline system component.

First, telemetric equipment is a pipeline system component because it is an indispensable component of regulator stations, which are themselves expressly named in the short list of eligible gas plant in Section 5(a). Dr. Seamands testified that telemetry is monitoring and controlling equipment that is located at a regulator station, and is an integral component of the regulator station. Specifically, he testified that telemetry is used to electronically transmit critical gas pressure and flow data from those remote regulator stations to a centralized location[4] where trained personnel can monitor the data and take appropriate action if the data suggests that an anomaly has occurred. (Exhibit 3,

[3] The itemized list and actual work orders can be found in Exhibit 200, Schedule JSM-2.
[4] In Laclede's case, that location is Laclede's system control room at 700 Market Street in St. Louis. (Tr. 53, lines 21-22)

p. 3, lines 15-18; Tr. 46, lines 4-13) In designating eligible equipment, the ISRS Statute names the entire regulator "station," and not just the regulator itself. Therefore, as an integral component of the regulator station, the telemetric equipment is an ISRS eligible pipeline system component.

Second, telemetric equipment performs the essential function of permitting system control personnel to adjust gas pressure and flow in response to the information they are receiving from the telemetry equipment. If gas control personnel find a need to adjust gas pressure and flow, they can send information and directions back to the telemetric equipment, which equipment would then use its connection to the gas regulator to make such adjustments. (Tr. 46, lines 14-23) Without that equipment, changes in supply or demand could cause the system to either be under-pressured, potentially causing customers to lose service, or over-pressured, potentially causing gas leaks or a more serious incident. (Exh. 3, p. 3, lines 18-22; Tr. 65, lines 6-16; Tr. 52, lines 9-12). In short, for natural gas distribution operations, the telemetric instrumentation and equipment included in work orders such as 60418 and 60419 are pipeline system components that permit the Company to constantly monitor and control in "real time" critical pressure at regulator stations. (Exh. 3, p. 3, line 22 to p. 4, line 3).

There is absolutely no support for OPC's position that, in order to be a pipeline system component, a facility must be able to directly leak gas. Such a requirement is nowhere mentioned in the ISRS Statute. Nor does it make sense to define pipeline system components in such a manner. For example, a vault is a pipeline system component, but does not directly leak gas. Indeed, if we analogize a regulator station to be an automobile, telemetry equipment would be the speedometer and gas and brake

pedals. Without them, the car might still run, but the operator would not know, or be readily able to control, its speed. Under such circumstances, it defies common sense to argue that the speedometer and gas and brake pedals are not components of the automobile.

2. The telemetric equipment was installed to comply with federal and state safety requirements.

Again, not until the October 15 hearing did Laclede discover that OPC believed the telemetric equipment was not installed to comply with a safety requirement. By that time, however, Dr. Seamands had already submitted written testimony confirming that Commission Rule 4 CSR-240-40.030(13)(S)(1) and Federal Rule 49 CFR Part 192.741 require a gas utility with more than one regulating station or more than 1,000 customers to maintain graphic telemetering to monitor gas pressures. Commission Rules 4 CSR 240-40.030(4)(CC)-(FF) are the specific state law requirements concerning pressure control. The equivalent federal cites are 49 CFR Parts 192.195-201. (Exh. 3, p. 4, lines 18-22) As the old telemetry wears out or becomes deteriorated, Laclede must stand ready to replace that equipment. (Tr. 61, line 22 to 62, line 12)

3. The telemetric equipment replaced an existing facility that was worn out or was in a deteriorated condition.

In ***Liberty Energy (Midstates) Corp. v. Public Service Comm'n,*** 464 SW 3d 520, 525 (Mo. 2015), the Missouri Supreme Court defined "deteriorate" as "to make inferior in quality or value," "to grow worse," or to "become impaired in quality, state or condition." There is no question that the 10-12 year old telemetry equipment replaced by

Laclede was deteriorated under these definitions. It had become "inferior in quality and value," it had "grown worse," and it was "impaired in quality, state or condition."

Dr. Seamands testified that the old telemetric equipment was obsolete. Its manufacturer, Bristol, was providing neither replacement parts nor service support. Based on its age and inability to be repaired, Laclede viewed this equipment as having diminished reliability to perform its important function. In addition, the equipment was old under any reasonable standard for computer equipment, having been purchased in the 2000-2002 time frame. In short, after being in service for 10+ years, this electronic equipment was estimated to be at the end of its anticipated useful life. Like any mechanical or technology-based piece of equipment, it is subject to fatigue and degradation with continuous use over a long period of time. In fact, Dr. Seamands noted that similar telemetric equipment had already begun to experience failures. (Tr. 61, lines 1-7) Dr. Seamands added that significant consequences could have occurred had the equipment ceased to function prior to replacement, and Laclede felt that it should begin the replacement of such equipment in a structured manner. Such a replacement program has been ongoing for several years now. (Exh. 3, p. 5, lines 3-10; p. 6, lines 14-15)

Dr. Seamands specifically testified, based on his engineering judgment, that because the old telemetric equipment could no longer be professionally serviced and/or supported in the event of a failure, its quality or value for the function it was supposed to serve had been made severely "inferior" or "impaired." As a result, the replacements are ISRS eligible under Section 393.1009(5)(a) RSMo. (Exh. 3, p. 5, lines 14-23)

Further, Dr. Seamands testified that Laclede did not replace the equipment simply because it had become obsolete, and the Company wanted to upgrade to newer

technology. If that had been the sole criterion, Laclede would have replaced the Bristol 3300 series equipment in 2007, after the Company received notice from the manufacturer that such equipment was on a path to retirement, and was being replaced by the Bristol ControlWave product line. (Exh. 3, p. 6, lines 1-9, Exhibit PAS-D1) Instead, Laclede kept the existing telemetric equipment past the termination date for its manufacture, customer service and support, to a date that was at the end of its anticipated useful life. (Exh. 3, p. 6, lines 9-12, Exhibit PAS-D1) So even if the Commission decides that the state of being obsolete does not necessarily equate to deterioration, then the age of this equipment and the fact that similar equipment had begun to experience failures, would certainly demonstrate that it was in an inferior and deteriorated condition. In summary, the equipment had become inferior in quality and value; it was obsolete, aged and unsupported, and was therefore in a worn out or deteriorated condition. (Exh. 3, p. 6, lines 12-21; Tr. 61, line 22 to 63, line 5)

ISSUE C(i). May Laclede and MGE submit estimated "budget" ISRS investments in the petition that are later replaced with actual ISRS investments?

For at least the past 6 years, Laclede, Staff and OPC have conducted ISRS cases by having the petition include budgeted ("proforma") estimates of two months of ISRS investments, and then updating those estimates early in the case with actual expenditures. At the same time, Laclede brought forward offsetting depreciation and accumulated deferred income taxes to a point that is three to four months after the initial filing. (Buck Direct Testimony, Exh. 5, p. 5, lines 15-20) Since coming under the ownership of Laclede two years ago, MGE has participated in the same practice. (Tr. 70, line 24 to 71,

line 2) This practice has occurred in each Laclede and MGE ISRS case with OPC's participation and without OPC's objection. (Exh. 5, p. 6, lines 2-3) Suddenly, OPC has decided this practice is unlawful and wants the Commission to end it. Because it is both practical and lawful, and mirrors long-standing precedent set in more complex and voluminous general rate proceedings, the Commission should permit the practice to continue.

It should be noted that in this instance, Laclede and MGE filed their petitions in these cases on August 3, 2015. The petitions included actual ISRS expenditures through June 30, and estimates for the months of July and August. By the August 3 petition date, the facilities that would be added for July had already been put into service, and the facilities that would be added for August were already underway. In fact, all of the updated facilities were "in service and used and useful" within the meaning of Section 393.1009(3)(b) of the ISRS Statute before the 30-day effective date of the tariff filed with the petition.

The witness for Laclede and MGE, Glenn Buck, is Director, Regulatory and Finance. He is a graduate of the University of Missouri - Columbia, where he earned a Bachelor of Science degree in Business Administration. Mr. Buck is a 29 year employee at Laclede with a wealth of experience in finance and regulatory matters. He has been working on regulatory matters since 1988, and on rate cases beginning in 1990. In addition to rate cases, Mr. Buck has participated in numerous ISRS cases, and provided oral testimony before the Commission in the ISRS rulemaking case, Case No. AX-2004-0090. (Exh. 5, p. 1 to p. 2, line 11)

1. The ISRS update practice is a well-established process born out of an agreement between Staff and utilities.

As stated above, Laclede has filed pro-forma estimates followed by reconciliations in ISRS cases going back to at least 2009. In fact, the update of ISRS plant to reflect two months of additional ISRS investments is part and parcel of a corresponding practice of also updating ISRS plant to reflect an additional three to four months of accumulated depreciation expense and deferred tax liability, which results in reductions in ISRS revenues. The inclusion of estimates, updated by actual expenditures, was first approved in a Laclede ISRS proceeding in in Case No. GO-2009-0221. Such practice has been approved by the Commission in every Laclede Report and Order issued since that time including Case Nos: GO-2009-0389, GO-2010-0212, GO-2011-0058, GO-2011-0361, GO-2012-0145, GO-2012-0356, GO-2013-0352, GO-2014-0212, and GR-2015-0026. And OPC has participated in each of these cases. Further, both the Commission Staff in its Recommendations in each of these cases, and the Company, in its application and supporting schedules, have clearly identified this practice in formal submissions to the Commission. At no time over this 6 year period and multiple series of ISRS filings had OPC ever suggested that there was anything unlawful or improper about this practice. (Exh. 5, p. 5, line 15 to p. 6, line 7)

2. The update practice is simple, practical, readily accomplished and long-recognized by the Commission as valid for rate making purposes.

By law, the ISRS audit process is intended to be a simple process, especially in comparison to the rate case audit process. The ISRS audit process is limited to determining if the included projects are ISRS-eligible and if the calculations are done correctly. Section 393.1015(2)(2) of the ISRS Statute provides that:

> "The staff of the commission may examine information of the gas corporation to confirm that the underlying costs are in accordance with the provisions of sections

> 393.1009 to 393.1015, and to confirm proper calculation of the proposed charge, and may submit a report regarding its examination to the commission not later than sixty days after the petition is filed. No other revenue requirement or ratemaking issues may be examined in consideration of the petition or associated proposed rate schedules filed pursuant to the provisions of sections 393.1009 to 393.1015."

The ISRS Statute preserves regulatory oversight by providing that ISRS costs can be audited again for prudence in a subsequent rate case. Section 393.1015(8) of the ISRS Statute states:

> "Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously included in an ISRS, the gas corporation shall offset its ISRS in the future as necessary to recognize and account for any such overcollections."

In other words, if the costs of an ISRS project are found to be imprudent in a subsequent rate case, amounts collected on the project will be refunded to customers in future ISRS proceedings.

In contrast, an audit in a rate case proceeding must determine both the propriety and prudence of a particular expenditure without any subsequent opportunity to revisit the issue at a later time. By reserving the right to a subsequent prudence review, and by limiting the scope of the ISRS audit to ISRS eligibility, the legislature clearly intended to ease the burden of the audit in ISRS proceedings while providing more contemporaneous recovery of ISRS-eligible investments.[5] The eased audit burden and preliminary nature of the ISRS determination facilitates this process of updating ISRS expenditures for more contemporaneous recovery. (Exh. 5, p. 6, line 11 to p. 7, line 14)

[5] See also the Commission's ISRS Rules, 4 CSR 240-3.265(15).

In accordance with its updating agreement with Staff, Laclede and MGE provided July additions to Staff and OPC by August 14, 2015, 11 days after the petitions were filed and fully seven weeks before the 60-day due date for Staff's recommendations. The August additions were provided to Staff and OPC by Laclede on September 14, and by MGE on September 15, which is 17-18 days prior to the Staff's 60-day recommendation date. Staff, the entity specifically designated by the ISRS Statute to perform an examination of the ISRS and submit a report regarding that examination, confirmed that the provision of this information provided adequate time for Staff to perform its review of Laclede's and MGE's information. Laclede and MGE have committed to continuing such timely updates. (Exh. 100, Appendix A, p. 2; Exh 102, Appendix A, p. 3; Tr. 80-81; Tr. 89, lines 4-7; 393.1015.2(2))

In contrast to Staff, OPC is neither designated to conduct an examination of the ISRS nor submit a report. Accordingly, when OPC testified in this case that they had not even issued DRs on the updated information provided to them, that failure was of no consequence. (Tr. 118, line 13 to 119, line 14) In short, it appears that OPC opposes this practice not because it is too difficult for Staff to perform, but because OPC seeks to delay having its clients pay for facilities that are already serving them. Why else would OPC exaggerate the time period of the update, complaining to the Commission in an ISRS case earlier this year that the updated information is provided "months" after its initial filing, when in fact the information is provided days or, at most, weeks after the filing? (Exh. 5, p. 3, lines 1-15)

Mr. Buck testified that the practice of updating pro-forma information has been applied in rate cases for many years. The estimates of ISRS expenditures to be "closed"

to plant in service in the months of July and August 2015 were provided as estimates in this ISRS case in much the same way estimates are routinely included in the initial filing in rate cases and subsequently updated and even "trued-up" with actuals during the pendency of those proceedings.

Additionally, rate case updates require a review of a far greater amount of information on a wider variety of issues than the ISRS updates. But the amount of time to review rate case updates is not significantly different than the time to review ISRS updates. For example, Mr. Buck testified that Staff filed its revenue requirement testimony and accounting schedules in Laclede's 2007 rate case two weeks after receiving updated information (covering a period of six months). In Laclede Gas' 2010 rate case, the Staff filed its revenue requirement testimony and accounting schedules just 12 days after receiving all of the relevant updated information. In effect, the update audits in these two rate cases were performed in a shorter time than the time allotted to review either of the two months involved in the ISRS update audit, notwithstanding the fact that ISRS filings require a less burdensome audit process. (Exh. 3, p. 4, line 12 to p. 5, line 11)

In summary, there is a much smaller audit review in an ISRS, including an ISRS update, than there is in a rate case and rate case update. (Tr. 71, lines 7-15; Tr. 78, line 18, to 79) Although the rate case update process is much more complicated than the ISRS update process, the time available to do both are roughly comparable. And yet the rate case update process has been performed for many years with OPC's knowledge and participation, and without any objection or complaint. The Commission should deny OPC's objection to the simple and practical ISRS update process.

3. OPC's position is inconsistent with its agreement to expedite Laclede Gas ISRS cases.

In resolution of a dispute involving income taxes, Laclede Gas, Staff and OPC have reached agreements in the past few Laclede Gas rate cases, approved by the Commission, under which Laclede Gas has agreed to reduce its ISRS request by half of the value of the difference in approaches for calculating such taxes, and in exchange Staff and OPC would work to implement the Company's ISRS as soon as reasonably possible. Staff has upheld its end of the bargain; however, by opposing the reasonable practice of updating ISRS proforma estimates, OPC is violating the spirit and letter of the Commission-approved agreement.

In this case alone, Laclede Gas has reduced its ISRS request by approximately $600,000 to honor the agreement. This is a significant concession on Laclede's part for which it reasonably expects to receive the consideration of expedited implementation for which it bargained. However, in this case and a number of other recent ISRS cases, OPC has delayed implementation by raising objections to well-established practices, such as updating both ISRS additions and subtractions, and to the inclusion of costs, such as those relating to regulator stations, that are clearly eligible for recovery through the ISRS process. In some cases, these objections were raised months after the Company filed its ISRS even though such elements were included with the initial filings, and objections were not raised until "the eleventh hour," all of which have resulted in delays in approval of Laclede Gas ISRS filings.

In this case, the Company proposed a number of alternatives for litigating the issues that have previously been raised by OPC in a way that would provide at least some measure of expedited treatment in return for the significant consideration the Company

has given. Ultimately, Laclede Gas and Staff were able to agree to a proposed schedule, which OPC, in complete disregard for its agreement, argued was too expedited since the Commission had until December 1, 2015 to approve an ISRS and allow it to go into effect. Combined with its prior actions, OPC's contention in this proceeding that the Commission should take the maximum 120 day time period to decide this case, together with its opposition to proposals that would expedite the case constitutes a repudiation by OPC of its commitments under the agreement. At the very least, OPC should not be permitted to obstruct the Commission-approved agreement by objecting to a well-established, simple, reasonable and practical update process. (Exh. 5, p. 8, line 17 to p. 9)

In effect, by opposing the update process, OPC actually takes two inequitable bites at the apple: by seeking to defer the time that the updated ISRS investments would go into effect, while at the same time delaying the remainder of the ISRS application, thus denying the Company any consideration for its $600,000 concession.

4. The ISRS update process is lawful and is not prohibited by the ISRS statutes or rules.

OPC argues that the updating procedure is unlawful, despite the fact that it has been done repeatedly, with OPC's own agreement and with Commission approval. OPC's argument is that Section 1015.1(1) of the ISRS Statute only provides for a gas utility to submit supporting documentation and rate schedules with its petition, and does not provide for a true-up or update of the original petition. However, nowhere in the language cited by OPC does it state that an ISRS is limited to exactly what was filed on the date of the original petition. In fact, there are several provisions in the ISRS Statute, Commission rules and other sources that indicate that an update or true-up may take place.

First, Section 1015.1, cited by OPC, merely tells the gas utility what to file with its petition, that is, when Laclede files a petition, it is to submit rate schedules and supporting documentation. Viewed another way, this means that when Laclede chooses to file a petition establishing or changing its ISRS, it should include, and not omit, these items. There is nothing in this or any other paragraph that precludes updating this information.

Second, Section 1015.2(2) states that the Staff "may examine information of the gas corporation" to confirm that the underlying costs comply with the ISRS Statute. It does not limit either the information to be reviewed or confirmed to only that information included in the original petition.

Third, Section 1015.4(4) provides for the Commission to enter an order authorizing a gas utility to set an ISRS sufficient to recover its "appropriate pretax revenue," which is defined in Section 393.1009(1)(c) to include the right to "Recover all other ISRS costs." This certainly conflicts with an interpretation that the Company cannot reasonably update its filing to recover "all other ISRS costs."

Fourth, as noted at the hearing, the Commission's rules themselves clearly contemplate that there could be an update of portions of a project that were not completed, and used and useful at the time the petition was filed. (4 CSR 240-3.265 (20)(L)) (Tr. 39, line 25 to 40, line 19)

Fifth, the ISRS Statute permits updating for ISRS investments in the exact same way that Section 393.150 permits updates for rate cases, and that is by not precluding the kind of updating practices that have been used for years under both ratemaking statutes. Specifically, Section 393.150.1 provides for a utility to file new rate schedules, and for

the Commission to suspend the operation of such rate schedules and to hold a hearing thereon. Nowhere does the rate case statute either expressly provide for or prohibit the updating of rates, but such practice has evolved and been used for decades. In short, if Laclede and MGE can update for rate cases based on the language of the rate case statute, there is no reason that they cannot update for ISRS cases based on the language of the ISRS Statute.

Finally, permitting updates is consistent with one of the main purposes of the ISRS Statute, and that is to encourage safety investments by providing more timely cost recovery. OPC's interpretation would again have the opposite effect by delaying recovery of such costs, and by doing so for no practical or legal reason.

In summary, Laclede and MGE should be permitted to continue their practice of updating budgeted ISRS investments, because the practice is a well-established process arising out of an agreement between the utilities and Staff. It is simple, practical, readily accomplished and long-recognized by the Commission as valid for rate making purposes, and is consistent with an agreement among Laclede, Staff and OPC to expedite Laclede's ISRS filings. Finally, for a host of reasons, the practice is lawful and not prohibited by the ISRS Statute or rules.

ISSUE C(ii). May Laclede and MGE update reserves for depreciation and accumulated deferred income taxes related to actual ISRS investment amount (including amounts from previously incurred ISRS costs since the current ISRS was established)?

As set forth in the discussion in C.(i) above, Laclede and Staff agreed to update both ISRS investments and depreciation and deferred tax expense reductions. Updating two months of ISRS investments allows the utilities to more contemporaneously recover

these additional investments, consistent with the purpose of the ISRS Statute. Conversely, bringing depreciation expense and deferred income taxes forward provides an offsetting reduction to the utilities' ISRS recoveries. It is both lawful and fair to update both of these items, which result in increases and offsetting decreases to ISRS filings. Laclede and MGE urge the Commission to permit the parties to continue both practices. However, Laclede and MGE believe that fairness dictates that if the Commission decides not to permit the updating of ISRS investments, the same should apply to preclude updating of depreciation and deferred taxes.

CONCLUSION

In conclusion, Laclede and MGE respectfully request that the Commission find that the telemetric equipment included in the Laclede Gas ISRS filing is in fact ISRS eligible, and that neither Laclede nor MGE is prohibited from updating estimated ISRS investments, along with depreciation and deferred taxes, pursuant to their long standing practice, and that they are authorized to continue that practice.

WHEREFORE, Laclede Gas Company and MGE respectfully request that the Commission accept this Brief, and approve their ISRS filings as requested herein as soon as reasonably possible, consistent with the Stipulation and Agreement approved by the Commission in Case No. GR-2013-0171.

Respectfully submitted,

/s/ Rick Zucker
Rick E. Zucker #49211
Associate General Counsel
700 Market Street, 6th Floor
St. Louis, MO 63101
(314) 342-0533 (telephone)
E-mail:rick.zucker@thelacledegroup.com

ATTORNEY FOR LACLEDE GAS COMPANY AND MISSOURI GAS ENERGY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of the Public Counsel, on this 26th day of October, 2015 by hand-delivery, fax, electronic mail or by regular mail, postage prepaid.

/s/Marcia Spangler