

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

In the Matter of Laclede Gas Company's )  
Purchased Gas Adjustment Factors to be )  
audited in its 2005-2006 Actual Cost ) Case No. GR-2006-0288  
Adjustment. )

In the Matter of Laclede Gas Company's )  
Purchased Gas Adjustment (PGA) Factors ) Case No. GR-2005-0203  
to be Audited in its 2004-2005 Actual )  
Cost Adjustment . )

**STAFF'S NOTICE OF LACLEDE'S FAILURE**

**AND REFUSAL TO COMPLY WITH COMMISSION ORDER**

COMES NOW the Staff of the Missouri Public Service Commission in the above-captioned matter and, in response to the Commission's November 4, 2009 Order Directing Laclede to Produce Information states:

1. On October 31, 2006, Laclede Gas Company (Laclede) filed a tariff sheet to change its PGA factor effective November 16, 2006.
2. On November 4, 2009, the Commission, by majority vote, issued its Order directing Laclede to produce documents.
3. Laclede refuses to do so.
4. In addition to filing an Application for Rehearing, or Alternatively Request for Reconsideration, on November 9, Laclede sent Staff the attached letter in which it claimed its refusal to respond to the Commission's order, was because Laclede does not have possession of the documents.

WHEREFORE, the Staff requests the Commission accept this filing in compliance with the Commission's Order Directing Filing.

Respectfully submitted,

**/s/ Lera L. Shemwell**

Lera L. Shemwell  
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**Certificate of Service**

I hereby certify that copies of the foregoing have been emailed, mailed, hand-delivered, or transmitted by facsimile to all counsel of record the 10th day of November, 2009.

**/s/ Lera Shemwell**

**LACLEDE GAS COMPANY  
720 OLIVE STREET  
ST. LOUIS, MISSOURI 63101  
(314) 342-0532**

**MICHAEL C. PENDERGAST**  
VICE PRESIDENT  
ASSOCIATE GENERAL COUNSEL

November 9, 2009

Mr. Kevin Thompson, General Counsel  
Ms. Lera Shemwell, Deputy General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO. 65101

Re: Case Nos. GR-2006-0288 and GR-2005-0203

Dear Kevin and Lera:

I am writing on behalf of Laclede Gas Company (“Laclede” or “Company”) in response to the Commission’s November 4, 2009 Order Directing Laclede to Produce Information in the above-referenced cases. The November 4 Order requires Laclede to produce information of its affiliate, Laclede Energy Resources, Inc. (“LER”), by November 9, 2009, which constitutes three business days’ notice.

The November 4 Order is clear in stating that the four information requests submitted by Staff regarding LER information are governed by the rules of civil procedure. The Commission even went so far in the November 4 Order as to refer to its own Affiliate Transaction Rule as a red herring.

The November 4 Order further indicated that the Commission had returned to the initial conclusion it reached in the October 20, 2008 Order Granting Motion to Compel. The October 20, 2008 Order was clarified by the Commission’s Order Regarding Request for Clarification on January 21, 2009. In the January 21 Order, the Commission clarified that Laclede should provide the information requested by Staff “[t]o the extent that Laclede is in possession of the information.” Consistent with the November 4 Order, the January 21 Order also stated that Staff’s request was made according to the rules of discovery and not under the Commission’s Affiliate Transaction Rules.

Accordingly, and in compliance with the above mentioned orders, Laclede states that, other than the substantial volume of documents, including LER documents, that have previously been furnished to Staff, Laclede is not in possession of any documents responsive to the information described in the October 20, 2008 Order.

We should also note that the three business day response period allowed by the Commission is completely inadequate and unreasonable. We understand from LER that, were those documents in our possession, they could not possibly have been reviewed and

produced in such a short period. Moreover, since the request included LER contracts with third parties, LER would have had to produce numerous notices in order to contact each of these parties prior to disclosure.

Under normal civil discovery procedures, a company such as Laclede Gas Company is entitled to state that it is not in possession of documents that belong to another company such as LER, even though the two companies are affiliated. Since the Commission considers this to be a matter under the rules of civil discovery, this should end the inquiry. However, consistent with the procedural and substantive due process abuses that have marked this case over the past several months, we anticipate that neither Staff nor the current Commission will be satisfied with this legally acceptable discovery response.

Therefore, we are also writing to inform Staff that Laclede is today filing a petition with the Missouri Western District Court of Appeals for a Writ of Prohibition or Mandamus to stop the Commission from taking advantage of its improper procedural actions to order an unlawful document production. At the same time, LER, the party on whom falls the entire burden of compliance with the unlawful document request, is also requesting a Writ of Prohibition or Mandamus. We will, of course, provide copies of these filings to Staff.

We regret that your improper and extra-legal discovery requests have led to such an expensive and inefficient outcome for our respective rate and tax payers. Notwithstanding our differences, however, since the affiliate transactions rules at their essence protect utility customers by requiring Laclede to transact business with LER at a fair market price, Laclede seeks to continue to pursue with Staff a fair and workable process for establishing market pricing for the limited number of scenarios in which these companies do business.

In summary, we hope that Staff will reconsider its position on market pricing, or at the very least be willing to meet with us to discuss the future of these affiliate matters.

Sincerely,

**/s/ Michael C. Pendergast**

Michael C. Pendergast