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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 12th  
day of October, 1999.

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

ORDER REGARDING OBJECTIONS TO EXHIBIT 116

At the evidentiary hearing, Exhibit 116, the Deposition of David Broadwater, taken on July 30, 1999, was admitted into the record subject to the right of the Missouri Public Service Commission Staff (Staff) to make written objections. On September 17, 1999, the Staff filed its written objections to the admission of portions of Exhibit 116. On September 30, 1999, Laclede Gas Company (Laclede) filed its response to Staff's objections.

Staff first objects to questions and answers beginning on page 61, line 24, through page 63, line 6. Staff objects on the basis that this line of questioning requires speculation on the part of the witness. Laclede stated in its response that it "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." Laclede goes on to state that it still believes the answers should be admitted "for the limited purpose of showing that any supposition to the contrary by Staff" is incorrect.

The Commission has considered the objections of Staff and the response of Laclede. The Commission finds that since Laclede agrees that "no evidentiary weight" should be given to this portion of Mr. Broadwater's deposition, then the admittance of this portion of the deposition into the evidentiary record would serve no purpose. The Commission finds that no weight should be given to questions and answers beginning on page 61, line 24, through page 63, line 6 of Exhibit 116 and therefore, that portion of Exhibit 116 will be stricken.

Next the Staff objects to the question and answers found at page 83, lines 8-17. Staff states that the term "big problem" as used in the question was ambiguous and that it was an "improper characterization". Laclede states in its response that it is clear from the deposition transcript that Mr. Broadwater was not confused by the question and understood that he did not have to agree with the Company's conclusion if he thought it was a mischaracterization.

The Commission determines that the term "big problem" is not ambiguous. The witness did not indicate in any way that he did not understand the question. Furthermore, the following question at page 84, lines 5-8, and the witness' answer clarify his position. The Commission will overrule Staff's objection to page 83, lines 8-17.

The Staff also objects to answers given by the witness to the questions on page 85, lines 17-25 and page 86, lines 7-11 and 13. Staff's objections are that the questions call for speculation. Laclede argues that because the question related to "a matter that is so central to his own rate of return recommendations" it should be allowed.

Further, Laclede argues that Staff's objections were not sufficiently specific as to what was lacking in the hypothetical that would have made the question appropriate. Laclede cites the case of Nagel v. Bi-State Development Agency, 567 S.W.2d 644, 645-46 (Mo. banc 1978) as its authority that it is proper to overrule an objection to a hypothetical question where the objection was not specific.

In Nagel v. Bi-State the trial court overruled an objection to a hypothetical question where the objection was based on a lack of foundation. The appellate court cited authority that for a foundation objection to stand, the objection must be clear as to what specifically is missing from the foundation. Id. at 646. However, in the present case, the objection is not as to the foundation for the question, but rather, the very specific objection that the question calls for speculation. The witness had clearly stated at page 85, line 10, that he did not know what was reflected in the growth rates of analysts. The witness then went on to state that any answer he gave would be speculation. Therefore, the witness's answers to questions on page 85, lines 17-25 and page 86, lines 7-11 and 13 are speculative and will be stricken.

Staff's final objection is to the question on page 128, lines 16-25. Staff states that the question is compound and confusing. Laclede indicates in its response that it agrees the question is compound and does not object to this portion of the record being stricken. Therefore, the Commission determines that the portion of Exhibit 116 from page 128, line 16, to page 129, line 22, should be stricken.

**IT IS THEREFORE ORDERED:**

1. That the Missouri Public Service Commission Staff's objections to page 61, line 24, through page 63, line 6, of Exhibit 116 are sustained and that portion of Exhibit 116 will be stricken.

2. That Missouri Public Service Commission Staff's objection to page 83, lines 8-17, of Exhibit 116 is overruled.

3. That Missouri Public Service Commission Staff's objections to on page 85, lines 17-25, and page 86, lines 7-11 and 13 of Exhibit 116 are sustained and that portion of Exhibit 116 will be stricken.

4. That Missouri Public Service Commission Staff's objection to page 128, line 16 to page 129, line 22, of Exhibit 116 is sustained and that portion of Exhibit 116 will be stricken.

5. That this order shall become effective on October 22, 1999.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Lumpe, Ch., Crumpton, Drainer,  
Murray, and Schemenauer, CC., concur.

Dippell, Senior Regulatory Law Judge

**RECEIVED**

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION