

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

In the Matter of Laclede Gas Company's)
Purchased Gas Adjustment for 2004-2005) **Case No. GR-2005-0203**

In the Matter of Laclede Gas Company's)
Purchased Gas Adjustment for 2005-2006) **Case No. GR-2006-0288**

**LACLEDE GAS COMPANY'S REPLY TO STAFF'S RESPONSE TO
LACLEDE'S REQUEST FOR MEDIATION**

COMES NOW Laclede Gas Company and submits this brief reply to Staff's Response submitted yesterday in this case, and respectfully states as follows:

1. Staff's Response provides the precise reason why Laclede has asked for alternative dispute resolution in this case. In paragraph 1, Staff states that:

“[In its October 20, 2008 Order,] the Commission found that LER's ‘discretion in sourcing supply could result in gains for LER that should be allocated to Laclede's ACA’ and that ‘Laclede may have shared the benefit of a sale with LER, thus receiving less than fair market value.’”

2. The Commission made no such finding. Instead, all that the Commission found in its October 20, 2008 Order was that Staff had made these allegations. Regarding Staff's authorization to seek evidence to support these allegations, on January 21, 2009, the Commission clarified its Order to limit such authorization to information in Laclede's possession that may lead to evidence relevant to these ACA cases.

3. These cases present only one issue: **the pricing of affiliate transactions**. And there is only one standard by which to judge these transactions: **the Commission's Affiliate Transaction Rules** (the “Rules”).

4. The Rules exist so that all parties can know just how affiliate transactions should be priced, and so that the Commission doesn't have to authorize an investigation each time an affiliate transaction takes place. The stated purpose of the Rules are as follows:

“PURPOSE: This rule is intended to prevent regulated utilities from subsidizing their non-regulated operations. In order to accomplish this objective, the rule sets forth financial standards, evidentiary standards and record keeping requirements applicable to any...commission regulated gas corporation *whenever* such corporation participates in transactions with any affiliated entity... The rule and its effective enforcement will provide the public the assurance that their rates are not adversely impacted by the utilities’ nonregulated activities.” (4 CSR 240-40.015, emphasis supplied)

5. Rather than use the pricing standards provided in the Rules, Staff prefers to set its own standards, which are not sanctioned by any authorized governmental agency. Staff’s entire case is based upon its jaundiced and illegitimate view of affiliate transactions.

6. But Staff does not stop at straying from the Rules. Staff has also made completely unsupported allegations regarding Laclede’s affiliate transactions, and Staff now seeks the Commission’s imprimatur to conduct a fishing expedition, not of Laclede’s affiliate transactions, but of Laclede’s affiliate’s non-affiliate transactions, the purpose of which is to see if Staff can support allegations that are relevant only to Staff’s deviate standards.

7. Staff should not be allowed to ignore either the Rules or the rules of discovery. The Commission has adopted the Rules and all parties, including Staff, are bound to respect them. In order to shield itself from Staff’s rogue behavior and abuse, Laclede finds itself in the ironic position of seeking the protection of a rule meant to restrict it. And this is precisely why Laclede seeks redress through denial of Staff’s Motion, supervised mediation or oral argument.

8. Finally, in addition to misrepresenting the Commission’s October 20 Order, Staff has also mischaracterized the statements of undersigned counsel. At no time did the undersigned counsel indicate that his “goal” was to “limit” the number of documents produced. Instead, the undersigned counsel represented that the Company’s goal was not only to comply fully with the Commission’s order as written (as opposed to how Staff wished it was written), but

to also go above and beyond the Commission's Order and voluntarily provide Staff with additional information that would further demonstrate the Company's compliance with the Rules. Because the Staff apparently disagreed with the Commission's January 21 Order, however, Staff refused to participate in any meetings or discussions pending the filing and resolution of its current Motion for Clarification which seeks to change the meaning and effect of that Order.

WHEREFORE, Laclede respectfully repeats its request that the Commission establish a supervised mediation process, deny Staff's Motion for Clarification and any other relief requested by Staff in such Motion, or alternatively, schedule an oral argument on the matters addressed herein.

Respectfully submitted,

/s/ Michael C. Pendergast

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CERTIFICATE OF SERVICE

Gerry Lynch hereby certifies that the foregoing pleading has been duly served upon the General Counsel of the Staff and the Office of the Public Counsel by email or United States mail, postage prepaid, on this 4th day of March, 2009.

/s/ Gerry Lynch

Gerry Lynch