

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
v.)	Case No. GC-2011-0098
)	
Laclede Gas Company,)	
Respondent.)	

**LACLEDE GAS COMPANY’S REPLY
TO THE RESPONSES OF OPC AND STAFF REGARDING ISSUE #1**

COMES NOW Laclede Gas Company (“Laclede” or “Company”) and files this reply to the responses filed by OPC and Staff to Laclede’s motion to adopt its Issue #1 for the Staff’s complaint. In support thereof, Laclede states as follows:

1. The responses of Staff and OPC fail to even address, much less refute, Laclede’s arguments that OPC is improperly attempting to insert an issue for Commission decision in this case that was not part of Staff’s complaint.

2. Except for OPC’s rebuttal testimony, all of the pleadings, testimony and orders in this case refer only to Staff’s complaint that Laclede allegedly failed to include fully distributed cost (FDC) in its calculation of the pricing of gas supply transactions, as set forth on pages 13-14 of Laclede’s CAM. Accordingly, Laclede defined Issue No. 1 as follows: “Does Laclede’s Cost Allocation Manual (CAM) violate the pricing standards of the Affiliate Transaction Rules by not including a reference to fully distributed cost (FDC) in the pricing provisions for certain energy-related transactions.”

3. OPC and Staff propose a far broader definition of Issue No. 1, stating “Does Laclede’s Cost Allocation Manual (CAM) violate the pricing standards of the Affiliate Transaction Rules?” OPC in particular seeks to use this broad definition to

present an issue that was raised for the first time in its rebuttal testimony regarding the general definition of “fair market price” that appears at page 8 of the CAM and that applies to non-energy-related transactions.¹

4. In its two page response filed on June 29, OPC repeated the same arguments that it made in its May 31 Response to Laclede’s Limited Concurrence in the List of Issues, and that Laclede has already rebutted in the Company’s June 10 Motion to Adopt Laclede’s Issue No. 1. Laclede will not repeat its arguments at length here, but refers the Commission to Laclede’s June 10 Motion.

5. Since Laclede was not put on notice by Staff’s complaint that the fair market price definition was at issue in this case -- let alone the general fair market price definition for non-energy related transactions -- it is improper for OPC to try to ambush Laclede by interposing this issue now for Commission decision.

6. OPC’s attempt to go outside the confines of Staff’s complaint and suddenly dispute this general definition at the latter stages of this proceeding is even more improper given the fact that OPC explicitly agreed to this definition nearly ten years ago. Section VI on page 10 of the Unanimous Stipulation and Agreement (the “Stipulation”) in Case No. GM-2001-342 states that “The CAM shall be in the form contained in the direct testimony of Patricia A. Krieger,” provided that it shall be revised and supplemented within 120 days to include a host of other information described on pages 10-12 of the Stipulation. (See pages 10-12 of Schedule PAK-3 to the Direct Testimony of Patricia Krieger in this case) The general fair market price definition now

¹Laclede’s CAM has a fair market definition for general transactions at page 8 as well as more specific fair market definitions for energy-related transactions at pages 13-14 of the CAM. At page 4 of her rebuttal testimony, OPC witness Meisenheimer raises concerns only about the former definition applicable to general transactions.

being challenged by OPC was in the original portion of the CAM contained in Patricia's Krieger's direct testimony in GM-2001-342,² and thus was explicitly covered by the Stipulation signed by OPC and Staff and approved by the Commission.³

7. In paragraph 5 of OPC's June 29 Response, OPC states that "This disagreement demonstrates how essential it is for the Commission to order Laclede to file its CAM for review." Given the fact that the fair market price definition in question was not raised in the complaint in this case, and that such definition has already been explicitly agreed to by OPC and Staff and approved by the Commission, this disagreement actually demonstrates how difficult it is for Laclede to get a fair, reasonable, and consistent approach on affiliate issues from the parties that participate in its regulatory cases.

8. Finally, with respect to Issue No. 1, Staff's June 29 response is also unhelpful. Staff posits that because this is Staff's complaint, the Commission should prefer Staff's version of the issues. By this logic, when the time came to file the list of issues, a complainant could invent any issue it wanted regardless of the issues raised in its complaint. Clearly such an outcome would violate the due process rights of respondents and would be unlawful.

WHEREFORE, Laclede Gas Company respectfully renews its request that the Commission issue an order adopting Issue #1 in the Staff Complaint from Laclede's list of issues and denying the Issue #1 filed by Staff and OPC.

² See page 6 on Schedule 1 of the Direct Testimony of Patricia Krieger in this case.

³ Nevertheless, Laclede has agreed to discuss this fair market definition with OPC.

Respectfully submitted,

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ATTORNEYS FOR LACLEDE GAS
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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the parties to this case on this 5th day of July, 2011, by hand-delivery, e-mail, fax, or by United States mail, postage prepaid.

/s/ Gerry Lynch