

**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 AND MOTION FOR COMMISSION ORDER**

COMES NOW Laclede Gas Company (hereinafter "Laclede" or "Company") and in support of its Reply to Staff's Response and Motion for Commission Order states as follows:

1. On January 5, 2009, the Staff filed its Response to Request for Clarification and Motion for Commission Order. In its pleading, the Staff makes no effort to address Laclede's main point as to why the Commission's Order Denying Laclede's Motion for Reconsideration needs to be clarified. Specifically, the Staff fails to even discuss the inherent conflict in that Order between the Commission's assurances that Laclede would receive an evidentiary hearing before any matters in the above-referenced case were decided and the real-world effects of its apparent decision to adopt, without the benefit of such a hearing, Staff's ACA recommendation that an investigation of Laclede's affiliate, Laclede Energy Resources ("LER"), be conducted to address alleged concerns over transactions between Laclede and LER. Instead, the Staff simply assumes: (a) that the Commission either did not mean to provide such an assurance or did not intend to apply it to this particular Staff ACA recommendation; (b) that Laclede has no right to seek clarification regarding the seemingly obvious conflict in the

Commission's Order; and (c) that Laclede's only purpose in raising the issue is to avoid compliance with the Commission's Order. Based on these assumptions, the Staff concludes that the Commission should authorize it to pursue an action in Circuit Court under 386.360 (RSMo. 2000) for mandamus or injunction, as well as a citation for contempt against Laclede for the Company's alleged failure and refusal to abide by the Commission's Order granting Staff's Motion to compel.

2. Laclede rejects any implication by Staff that the Company's Request for Clarification, as well as its Motion for Reconsideration, have been anything but good faith attempts to obtain a clear and legally sound determination by the Commission of this important issue. To that end, Laclede has presented substantive legal arguments as to why it believes the Commission would be exceeding the limits of its jurisdictional powers, violating the terms of its own affiliate transactions rules, and depriving the Company of its due process rights (as such rights have been customarily exercised under the ACA process), were it to adopt Staff's ACA recommendation on this issue without the benefit of any evidentiary hearing. Accordingly, when the Commission offered assurances in its Order that it would provide an evidentiary hearing *before* it decided any of the matters in this case, Laclede had a reasonable basis for believing that the Commission might be trying to address Laclede's concerns in the manner requested by the Company. Indeed, if that was not the case and it was, in fact, the Commission's intention to take the irrevocable action of authorizing the Staff to effectively conduct an investigation of LER (by permitting Staff access to the LER information it has requested), it is difficult to understand how the Commission thought it was addressing Laclede's concerns at all when it said in the Order that "the Commission assures Laclede

that no decision will be made with regard to the above-captioned matters without the benefit of an evidentiary hearing.” Hence, the need for clarification.

3. In view of these considerations, Laclede continues to believe that the Commission should hold an evidentiary hearing before it effectively decides the issue of whether Staff’s ACA recommendation on this issue should be adopted. Adherence to fundamental due process requirements as well as the Commission’s long-standing practices and procedures for processing ACA cases requires no less. Should the Commission decide otherwise, however, Laclede believes that the Staff’s suggestion that the Commission authorize it to proceed with an action in circuit court under Section 386.360 (RSMo. 2000) for mandamus or injunction may provide a positive and expeditious alternative for obtaining judicial review of the fundamental legal and jurisdictional issues that the Company has raised in this proceeding. Accordingly, should the Commission determine to proceed in that manner, Laclede commits that it will cooperate fully with the Staff in expediting that process so that these important legal issues can be resolved as soon as possible.

4. At the same time, Laclede does not believe that there are any grounds to seek a contempt citation as part of such a proceeding. Laclede has done nothing more in this case than attempt in good faith to exercise its legal rights by requesting an evidentiary hearing so that it can challenge what it believes are the baseless allegations raised by Staff in support of its ACA recommendation that a full-blown investigation of LER is necessary or even legally permissible. There is nothing contemptible about requesting an evidentiary hearing or asking the Commission to clarify whether such a hearing could be conducted. Instead, these are fundamental rights that every corporation

and every citizen in this country should be permitted to exercise before final and irrevocable governmental action is taken. Accordingly, Staff's request for authority to seek a contempt citation against Laclede should be denied.

WHEREFORE, for the foregoing reason, Laclede respectfully renews its request that the Commission clarify its Order in the manner previously recommended by Laclede and provide an evidentiary hearing before deciding this matter. In the alternative, Laclede requests that the Commission authorize the Section 386.360 action that Staff has requested authority to pursue, with the condition that Staff not be permitted to seek a contempt citation against Laclede.

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 12th day of January, 2009.

/s/ Gerry Lynch

Gerry Lynch