

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

ST. LOUIS NATURAL GAS PIPELINE LLC, )	)	
	)	
Complainant,	)	
	)	
vs.	)	File No: GC-2011-0294
	)	
LACLEDE GAS COMPANY,	)	
	)	
Respondent.	)	

**ST. LOUIS NATURAL GAS PIPELINE LLC'S RESPONSE TO  
STAFF INVESTIGATION REPORT OF JUNE 30, 2011  
AND  
PROPOSED NEGOTIATION SCHEDULE**

COMES NOW Complainant St. Louis Natural Gas Pipeline LLC ("SLNGP"), pursuant to the Commission's Order Directing Responses dated July 1, 2011, and responds to the Staff's memorandum investigation report dated June 30, 2011. SLNGP also proposes a negotiation schedule.

**SLNGP Position Regarding Negotiation**

1. SLNGP confirms that it is willing to negotiate with Laclede to determine if a mutually acceptable interconnection agreement can be reached.

**Proposed Negotiation Schedule**

2. Via e-mail consultation, SLNGP and Laclede reached agreement and propose the following schedule for negotiations:

- a. On or before July 15, 2011, Laclede will communicate a proposed settlement agreement to SLNGP.
- b. SLNGP shall respond to Laclede within seven (7) days.
- c. The parties will negotiate settlement and file a joint report on or before August 11, 2011.

### **Other SLNGP Response to Staff Investigation Report**

3. On May 26, 2011, the Commission directed the Staff to investigate the allegations contained in SLNGP's complaint and to make a report to the Commission no later than July 1, 2011.

4. On June 30, 2011, Staff filed its investigation report (hereinafter "Report").

5. SLNGP's ability to respond to or supplement Staff's Report is significantly limited by its inability, to date, to conduct any discovery in this case or to review Laclede's data request responses to other parties, to-wit:

- a. On April 20, June 8 and June 10, 2011, the Office of Public Counsel ("OPC") directed data requests to Laclede concerning the allegations contained in SLNGP's Complaint. SLNGP does not know if or to what extent Laclede responded. None of that information, if any, is referenced in Staff's Report.
- b. On June 2, 2011, Staff directed data requests to SLNGP. SLNGP answered all of Staff's data requests within Staff's time constraints.
- c. On June 2 and June 14, 2011, Staff directed data requests to Laclede. SLNGP does not know if or to what extent Laclede responded, beyond what is stated in Staff's report.
- d. On June 6, 2011, SLNGP served Laclede with data requests to conduct discovery on the allegations contained in its Complaint. For the same purpose, on June 22, 2011, SLNGP served Laclede, OPC and Staff with data requests seeking a copy of all data requests between them and any responses, essentially seeking Laclede's responses to Staff and OPC.
- e. Laclede objected to SLNGP's initial data requests, and the Commission ordered on June 22, 2011, that Laclede's response to SLNGP's data requests would be delayed until after the Staff's investigation report.
- f. Neither OPC nor Staff provided SLNGP with Laclede's responses to their data requests<sup>1</sup>. The parties seem to have construed the Commission's Order of June 22, 2011, as a moratorium on any discovery by SLNGP until after the Staff's investigation.

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<sup>1</sup> OPC did provide SLNGP with a copy of its data requests to Laclede. Both OPC and Staff asked that SLNGP obtain Laclede's responses directly from Laclede.

6. The only information from Laclede made available to SLNGP is that which is contained in the Staff's report.

7. Without having the opportunity to conduct its own discovery of Laclede or even to review the information provided by Laclede to OPC and Staff, SLNGP is at a considerable disadvantage in responding comprehensively to Staff's report. SLNGP cannot determine if Staff was able to conduct a thorough investigation or if Laclede provided sufficient information for Staff to make its determinations.<sup>2</sup> On many issues, Staff's Report indicated a lack of information from Laclede and SLNGP. SLNGP's inability to conduct discovery affected its ability to respond on some issues. While SLNGP appreciates Staff's diligent efforts, the Commission should regard Staff's report as preliminary, subject to further factual development through the traditional discovery process afforded a complainant, like SLNGP.

8. SLNGP generally agrees with Staff's statement in paragraph 5 of its Response to Commission Order Directing Staff Report that if SLNGP and Laclede are able to reach an agreement, further contested proceedings may be unnecessary in this case. However, it is premature to discuss dismissal of its claims. SLNGP has stated claims for relief and has a legal right to proceed with its complaint case. SLNGP has no objection to a short suspension of other case activity pending negotiations with Laclede.

9. Staff asserts on page 3 of its Report that "discussions between SLNGP and Laclede have not matured enough to warrant a Staff recommendation of whether Laclede was imprudent in not pursuing an interconnect agreement with SLNGP." For clarification, Laclede

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<sup>2</sup> Limitations of the investigation may be a function of Laclede's responsiveness and cooperation with Staff data requests. The Report contains reference on page 4 to Laclede restrictions on its production of information to Staff.

unilaterally terminated any discussions on January 28, 2011, and made no response to SLNGP's follow-up letter on February 14, 2011.

10. Staff asserts on page 3 of its Report that “[s]o long as there is truly no cost to Laclede, Laclede should be indifferent to entering into an interconnection agreement.” SLNGP agrees with this statement of principle. It does not agree that this statement reflects a rule of prudence or the legal standard applicable to the claims it has asserted in its Complaint.

11. SLNGP agrees that its project will require FERC approval.

12. SLNGP agrees that the “the level of costs and the potential benefits to Laclede and its customers” of the SLNGP pipeline should be clarified with Laclede.

13. SLNGP agrees with Staff's suggestion on page 3 of its Report that local distribution companies, like Laclede, should “continually evaluate potential new supply and pipeline transportation opportunities for implications regarding the cost of natural gas supply in the future, operational flexibility, and transportation and supply reliability.” SLNGP submitted information (Report HC Attachment 5) supporting the significant merit of its increased REX supply offering.

14. In paragraph 1(a) of the Report, Staff reports that Laclede claims it will incur operational and financial costs after construction of the interconnection. SLNGP has not had an opportunity to verify Laclede's claims. Post-construction operational or financial costs to Laclede are not dispositive of the claims asserted by SLNGP. Staff makes no such assertion.

15. In paragraph 1(b) of the Report, Staff reports on the comparison of MRT's transport rate for REX gas and SLNGP's proposed rate<sup>3</sup>. This comparison confirms that

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<sup>3</sup> The Highly Confidential version of the Staff Report contains a slight discrepancy regarding the statement of SLNGP's proposed rate, which is more accurately reflected in its HC Exhibits A, E and S in response to Staff's data requests.

SLNGP's service will be a competitive alternative to MRT, bringing an increased supply and capacity of REX gas to the St. Louis area. Staff's Report does not detail MRT's more limited capacity as compared to SLNGP's significantly greater capacity, with room for expansion. Staff makes no report on the functionality or age of MRT's east line as compared to new construction by SLNGP.

16. In paragraph 1(c), Staff references Laclede's claim that "it already has access to the same gas supplies on the REX that would be sourced through the proposed SLNGP, but without the proposed pipeline's incremental cost." Staff does not discuss the meaning of "incremental cost." The cost reports described in paragraph 1(b) refute that claim. If "incremental cost" is intended to mean operational or financial cost, SLNGP has not been permitted discovery to determine any operational or financial cost to Laclede of the MRT east line. Staff's Report does not address this point.

17. SLNGP confirms, as suggested in paragraph 1(c), that it received no response from Laclede to its letter of February 14, 2011.

18. With respect to paragraph 2 on page 8 of the Report, Staff indicates that it received no information supporting the allegations of unfair competitive advantage to MRT or LER. Staff does reference "continuing cases" in which similar allegations against Laclede are being examined. SLNGP was not permitted discovery on this issue in advance of the Report. This claim cannot be resolved based on Staff's Report given the lack of information provided by Laclede and lack of discovery.

19. With respect to paragraph 4 on page 8 of the Report, Staff indicates that it received no documents from SLNGP or Laclede regarding service instrumentalities and facilities that are unsafe, inadequate, unjust and unreasonable or regarding unjust and unreasonable charges. SLNGP was not permitted discovery on this issue in advance of the Report. This claim

cannot be resolved based on Staff's Report given the lack of information provided by Laclede and lack of discovery.

20. With respect to paragraph 4 on page 9 of the Report, Staff indicates that it received no documents from SLNGP or Laclede regarding undue and unreasonable preference and advantage to Laclede's existing affiliated and non-affiliated transporters and undue and unreasonable prejudice and disadvantage to Laclede consumers. SLNGP was not permitted discovery on this issue in advance of the Report. This claim cannot be resolved based on Staff's Report given the lack of information provided by Laclede and lack of discovery.

21. Staff's Report lacks any discussion of the viability or merit of SLNGP's pipeline project. SLNGP submitted extensive documentation confirming the project's feasibility and significant advancement to date.

22. Subject to the above response and to the assertions contained in SLNGP's Complaint and briefing to date in this matter, which SLNGP maintains and does not waive in any respect, SLNGP agrees that Staff's Report is responsive to the Commission's Order of May 26, 2011. The Report represents a preliminary and limited assessment of SLNGP's claims. SLNGP cannot comment on the comprehensiveness of the Report given its lack of access to Laclede's data request responses. The assessment is further limited by the lack of discovery to date by SLNGP.

Respectfully submitted,

**ARMSTRONG TEASDALE LLP**

s/ Matthew D. Turner

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**ATTORNEYS FOR COMPLAINANT  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was sent via e-mail and via first-class mail, postage prepaid, on this 11th day of July, 2011, to the following:

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