

**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 IN OPPOSITION TO
MOTION OF LACLEDE GAS COMPANY TO MODIFY DISCOVERY TIME LIMITS**

COMES NOW Complainant St. Louis Natural Gas Pipeline LLC (“SLNGP”), pursuant to 4 CSR 240-2.080(15) and makes this response in opposition to *Motion of Laclede Gas Company to Modify Discovery Time Limits* filed June 9, 2011.

1. SLNGP has a legal right to conduct its own discovery and to present evidence in support of the allegations contained its Complaint. *See* 4 CSR 240-2.090 (providing for discovery as in civil actions and permitting data requests); MO. REV. STAT. § 386.390 (2000) (requiring hearing for determination of complaints).

2. Denial of discovery to SLNGP before disposing of the Complaint on the basis of fact considerations would violate the above regulation and statute and also SLNGP’s right to due process of law guaranteed under Article I, § 10 of the Missouri Constitution and the 14th Amendment to the United States Constitution (hereinafter “Constitutional Due Process”).

3. Laclede offers no legitimate basis to delay its data request answers to SLNGP.

4. First, Laclede seeks delay because third-parties have filed purported evidence in this case potentially bearing on the allegations in SLNGP’s complaint. (Laclede Motion to Modify, ¶ 3-4). The fact of these improper third-party filings, possibly influenced by Laclede, indicates that discovery should proceed immediately. Laclede should not be permitted to rely on

improper third-party “evidence” without giving SLNGP a timely opportunity to conduct discovery to respond. This would violate the Commission’s rules on discovery in 4 CSR 240-2.090, deny SLNGP the right to present evidence under § 386.390, RSMo, and deprive SLNGP of Constitutional Due Process.

5. Laclede next premises its Motion to Modify Discovery Time Limits on the false statement that the Commission has already denied SLNGP’s requested relief, indicating that it will not grant an order requiring interconnection. (Laclede Motion to Modify, ¶ 2). No such denial is contained in the Commission’s Order Denying Laclede’s Motion to Dismiss and Directing Staff to Investigate issued May 26, 2011 (hereinafter “May 26 Order”). Laclede’s argument also ignores that an order directing interconnection is not the only relief available to the Commission to remedy the violations asserted by SLNGP

6. Laclede next asserts that SLNGP’s data requests are “clearly beyond the scope of the Staff investigation directed by the Commission in the May 26 Order.” (Laclede Motion to Modify, ¶ 6). Yet, the Commission did not limit the Staff’s investigation in any way. It ordered: “Staff shall investigate the allegations raised in [SLNGP’s] complaint and shall report its findings to the Commission.” (May 26 Order, p. 3). In its Complaint SLNGP alleged *inter alia* improper affiliate advantage, failure to contract to stabilize gas prices, failure to provide safe, adequate and reasonable service instrumentalities, undue and unreasonable preference to existing transporters, discrimination against SLNGP, failure to extend uniform contract terms and unlawful anticompetitive conduct. Inquiries relevant to these claims include, without limitation, costs to Laclede of interconnection, advantages/disadvantages of the SLNGP pipeline to Laclede customers, supply diversity, cost of supply, safety and reliability of infrastructure, advantages to LER, gas price stability, undue preference for existing transporters, unreasonable and

discriminatory refusal of interconnection, failure to extend uniform contract terms and anticompetitive actions. The scope of Staff's investigation thus extends to all of these claims and issues, which are the issues queried in SLNGP's data requests. The Commission's May 26 Order did not limit the scope of SLNGP's discovery to something less than permitted in Rule 56.01(b)(1) of the Missouri Rules of Civil Procedure. Laclede offers no specific discussion or objection as to how any data request lacks relevance to the claims or defenses at issue here¹.

7. Laclede next argues that "[i]f, after reviewing the Staff's July 1 report, the Commission decides to dismiss this case, then SLNGP's data requests will be mooted and need not be answered." (Laclede Motion to Modify, ¶ 7). This wholly mistakes the applicable legal process. Even if the Staff found an absence of evidence in support of SLNGP's allegations (or found evidence disproving those allegations) and recommended that the Commission deny relief, the Commission cannot then simply dismiss the case. It would have to conduct a hearing pursuant to § 386.390, or a party would have to file a properly-supported motion for summary determination under 4 CSR 240-2.117(2). In either case, SLNGP would have the right to conduct discovery and offer factual evidence to support its claims and to oppose Laclede's defenses, if any. Laclede's argument fails to acknowledge this fundamental process. The Commission cannot legally deny SLNGP's Complaint based solely on the Staff's investigation findings without giving SLNGP the opportunity to conduct discovery and prove the allegations in its Complaint. Denial of discovery and an opportunity to present its evidence would violate the Commission's regulations, Missouri statute and SLNGP's right to Constitutional Due Process.

¹ Laclede filed separate objections to SLNGP's data requests that are not presently before the Commission for ruling.

8. Laclede is already delaying discovery, having filed separate objections to all of SLNGP's data requests. SLNGP is proceeding under 4 CSR 240-2.090(8) before filing its motion to compel discovery.

9. Laclede's Motion to Modify Discovery Time Limits should be denied. It lacks any legitimate basis for a Commission order delaying discovery by SLNGP. Further, Laclede's answers to SLNGP's data requests may assist Staff in its investigation.

WHEREFORE, Complainant SLNGP prays the Commission for its Order denying *Motion of Laclede Gas Company to Modify Discovery Time Limits* and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

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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 20th day of June, 2011, to the following:

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