

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

In the Matter of Laclede Gas Company's Verified)	
Application for Authority to Issue and Sell)	
First Mortgage Bonds, Unsecured Debt and)	
Preferred Stock, in Connection with a Universal)	Case No. GF-2009-0450
Shelf Registration Statement, to Issue Common)	
Stock and Receive Capital Contributions, to Issue)	
and Accept Private Placement Securities, and to)	
Enter Into Capital Leases, all in a Total Amount)	
Not to Exceed \$600 Million)	

**LACLEDE GAS COMPANY'S RESPONSE IN OPPOSITION
TO STAFF'S MOTION FOR CONTINUANCE
OF EVIDENTIARY HEARING**

COMES NOW Laclede Gas Company ("Laclede" or "Company") and for its Response in Opposition to the Motion for Continuance of Evidentiary Hearing filed by the Staff of the Public Service Commission ("Staff") on March 26, 2010 states as follows:

1. In its Motion for Continuance, the Staff requests that the April 8, 2010 evidentiary hearing in this case be delayed so that the Staff can use that date instead to depose the two Laclede witnesses who have sponsored testimony in this matter. Laclede respectfully submits that Staff's Motion should be denied because the Staff has failed to state any valid reason for disrupting the procedural schedule at this late date and because Laclede has already offered alternative arrangements that would permit Staff to satisfy its discovery needs while still maintaining the existing schedule.

2. In seeking to modify the procedural schedule that the Staff itself recommended and agreed to follow less than two months ago, the Staff asserts that such a modification is necessary because the Company's rebuttal testimony discusses matters

that were not addressed in its direct testimony. Accordingly, the Staff claims that it must be allowed to depose both of Laclede's witnesses so that it can further inquire into these matters. While Laclede disputes such claims, even if true, the fact that rebuttal testimony may include new contentions or argument does not provide a basis for disrupting an established procedural schedule. To the contrary, the entire purpose of rebuttal testimony under the Commission's rules is to respond to the contentions and recommendations set forth in *another party's* direct testimony, not its own. 4 CSR 240-2.130(7)(B). If, as Staff seems to suggest, such testimony was simply limited to reiterating the same claims and contentions that were already set forth in a party's direct testimony, there would be no need to even have rebuttal testimony. Indeed, such duplication would itself run afoul of the Commission's rules which permit testimony or other evidence to be excluded if it is "repetitious." 4 CSR 240-2.130(3).

3. In this instance, Laclede's rebuttal testimony complied fully with all of the parameters established by the Commission for such testimony. It focuses almost exclusively – as rebuttal testimony should – on explaining how and why Laclede believes the formula endorsed by Staff witness Marevangepo in his direct testimony for purposes of determining Staff's recommended level of long-term debt authority is inappropriate. The fact that some of the contentions made by Laclede in its rebuttal testimony may not have been anticipated by Staff is of no consequence. Indeed, that is the very kind of result contemplated by the Commission's rules and, as a party well versed in how the hearing process works, the Staff should not be permitted to use something so predictable and expected as a pretext for altering the procedural schedule at the last moment.

4. Moreover, while Staff may not have anticipated each and every contention made by Laclede in its rebuttal testimony, the fact remains that those contentions do not introduce or rely on any facts or evidence that are new or unfamiliar to Staff. Staff describes three allegedly new matters in its Motion that supposedly warrant additional discovery. The first relates to Laclede's claim that Staff's formula is inappropriate because it fails to recognize that long-term debt can also be issued to pay for unreimbursed capital expenditures made over the past five years. The two sources Laclede cited in support of this claim are (i) the statute (Section 393.200 RSMo), which identifies the payment of such expenditures as a legitimate purpose for which a utility may issue long-term debt, and (ii) the five-year unreimbursed capitalization schedule that was attached to Laclede's Application in this case as Exhibit 3. The statute has, of course, been in effect for decades, and is the principal law governing financings. Similarly, the five-year unreimbursed capitalization schedule is identical in content to capitalization schedules that Laclede has submitted for many years in support of its financing requests and that, in its most recent incarnation, has been available for Staff's review in this case for almost nine months now. Given these considerations, this issue presents nothing novel or new that would warrant upsetting the procedural schedule.

5. The same is true of the second "new" matter cited by Staff relating to Laclede's claim that Staff's formula is inappropriate because it accounts only for forward-looking capital expenditures on physical plant and fails to recognize that the Company's longer-term financing requirements must support a variety of regulatory assets that are also recoverable over longer terms. Again, it is difficult to see what it is about these regulatory assets that would not already be fully understood by the Staff.

After all, each of these regulatory assets was created as a direct result of accounting provisions approved by the Commission in proceedings in which the Staff was a full participant. In fact, many of them were created as a direct result of regulatory treatments proposed by the Staff itself. Moreover, the value, nature and other attributes of these regulatory assets are regularly reviewed by Staff in each and every Laclede rate case proceeding, including the current one that was filed four months ago. Moreover, these regulatory assets are part of the Company's rate base, which Staff has used as the limit for long-term debt in financing cases up until the present one. Under such circumstances, there is no plausible basis for the assertion that Staff needs the opportunity to depose not only one but two Laclede witnesses because these well known and well understood accounting mechanisms have been mentioned in rebuttal testimony.

6. The third "new" matter identified by Staff in its Motion relating to "margin calls" is not new at all. Staff contends that this concept was not addressed in any party's direct testimony. Contrary to Staff's claim, however, the concept of margins calls was indeed addressed in direct testimony – by none other than Staff witness Marevangepeo (*See Direct Testimony of Mr. Marevangepeo*, p. 4). In contrast, Laclede's rebuttal testimony does not even mention the term, although the Company does briefly reference hedging costs, which can include margin calls. (*See Rebuttal Testimony of Mr. Waltermire*, pp. 4 and 11). Even these brief references to hedging costs should come as no surprise to Staff, however, given the fact that such costs were discussed extensively with Staff during the course of this proceeding and specifically mentioned by Laclede in the Response it submitted to Staff's Recommendation before direct testimony was ever filed. (*See Laclede Gas Company's Response to Staff Recommendation dated January*

16, 2010, pp. 7, 13). In fact, that is apparently why Mr. Marevangepo took the opportunity to discuss the concept of margin calls in his direct testimony. Given this background, it is simply extraordinary that the Staff would claim surprise over the mere mentioning of an item in rebuttal testimony that its own witness addressed in direct testimony, and that the Company had previously raised in a pleading submitted before such testimony was even filed. Whatever else one might say about this matter, one cannot fairly characterize it as something new.

7. Finally, Staff's Motion should be denied because Laclede has already offered Staff arrangements that are more than sufficient to meet whatever legitimate discovery needs Staff might have regarding these matters. Specifically, as soon as Laclede learned of Staff's desire to depose both Mr. Waltermire and Ms. Rawlings, Laclede offered to make Mr. Waltermire available for a discussion by phone so that he could answer any questions Staff might have before he left for a long-scheduled trip. Staff was not interested in having such a discussion. Laclede also offered to make Ms. Rawlings available for a deposition in which she would answer questions on behalf of the Company that could cover both her testimony and Mr. Waltermire's testimony, provided that Staff also made Mr. Marevangepo available for deposition. Again, Staff was not interested in pursuing this solution. Finally, Laclede pointed out that the parties have already agreed to provide expedited answers to data requests and that Staff could use this discovery vehicle to obtain whatever answers or clarifications it desired. The Staff has apparently chosen not to take advantage of this alternative either. Nowhere in its Motion, however, has the Staff explained why these proposed arrangements – which would have permitted the existing procedural schedule to be maintained – were insufficient to address

its information needs. Given this failure, and the nine months that Staff has already had to conduct discovery in this case, Laclede submits that it would be particularly inappropriate to grant Staff's inflexible approach to obtaining discovery on matters that Staff should already be thoroughly familiar with.

8. For all of these reasons, Laclede respectfully requests that the Commission deny Staff's Motion, including its request to reschedule the evidentiary hearing in this case and conduct depositions on that date. If it does, Laclede remains willing to make Ms. Rawlings available for deposition this week, assuming that the Staff is willing to return the courtesy by making Mr. Marevangepo available on the same date.

Respectfully submitted,

LACLEDE GAS COMPANY

By /s/ Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Verified Response of Laclede Gas Company was served on the General Counsel of the Staff of the Missouri Public Service Commission and the Office of the Public Counsel on this 29th day of March 2010 by hand-delivery, e-mail, fax, or by placing a copy of such document, postage prepaid, in the United States mail.

/s/ Gerry Lynch