

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Office of the Public Counsel,)
 Complainant,)
)
 v.)
)
Laclede Gas Company, and)
Missouri Gas Energy,)
 Respondents.)

Case No. GC-2016-0297

**RENEWAL OF MOTION TO DISMISS OR, IN THE ALTERNATIVE,
NON-OPPOSITION TO MOTION TO STAY PROCEEDINGS**

COME NOW Respondents Laclede Gas Company (“Laclede” or “Company”), on behalf of itself and its Missouri Gas Energy (“MGE”) operating unit, and renews their motion to dismiss the Office of the Public Counsel’s (“OPC”) Complaint case, or in the alternative, submit their non-opposition to OPC’s Motion to Stay Proceedings (the “Motion to Stay”) filed in this case on September 29, 2016. In support thereof, Respondents state as follows:

1. OPC filed its Complaint in this case on April 26, 2016. On May 31, Laclede filed its motion to dismiss based on OPC’s failure to state a claim upon which relief could be granted. Among other things, Laclede argued that it was not overearning and that OPC had completely failed to state any facts supporting such an allegation. Laclede has continued to assert throughout this proceeding that there was no valid basis for a claim of over-earning. Now, five months after filing the Complaint, and having received evidence¹ sufficient to conclude that stopping the Complaint is in the public interest,² OPC seeks to avoid filing testimony in support of its allegations. Given OPC’s apparent position that there is not sufficient evidence to proceed with

¹ OPC has received regular and updated surveillance reports since April, and has had Laclede’s entire general ledger since early June.

² Motion to Stay, page 1-2.

its Complaint at this time, Laclede renews its original motion to dismiss OPC's complaint case. Laclede believes that dismissal rather than suspension is the most appropriate remedy for OPC's acknowledgement that it does not have a basis for pursuing an overearnings complaint. Moreover, dismissal will not only bring the kind of closure that is warranted by such facts, but will also eliminate an unnecessary and unjustified level of uncertainty for Laclede, its customers and the investment community.

2. In the absence of dismissal, Laclede states that it does not oppose the Motion to Stay. Laclede's non-opposition is based on its understanding, however, that all aspects of the proceeding will be stayed, including the procedural schedule, briefing schedule and any obligation to respond further to discovery on matters that may be addressed in Laclede's next rate case. Implementing the stay in this manner will finally provide the Company an opportunity to turn its full attention and resources to the extensive task of assembling a general rate case filing.

3. In paragraph 7 of the Motion to Stay, OPC stated that a stay will ensure that the "resources of all parties involved with this matter would be judiciously served . . ." This is of course the point made by both Staff and Laclede in responding to OPC's Complaint earlier this year. (See the June 14 Staff Recommendation) OPC now supports a judicious use of resources after months of distraction. OPC tries to justify its efforts by stating that the evidence it has gathered in the Complaint case can be used in a future rate case and will minimize the need for discovery therein. The Respondents question the usefulness of such dated information and fear that OPC has effectively doubled the Companies' workload. However, Respondents look forward to OPC fulfilling its representation that the parties will benefit from the Complaint by minimizing OPC's need for discovery.

4. OPC mentions some “facts” it has discovered with respect to pensions and OPEBs³ that can be addressed in a rate case. (Motion to Stay, page 3) Laclede would note that there is nothing new concerning pensions and OPEBs that was not directly addressed and agreed to in the past several rate cases, to which OPC was an active party.

5. Finally, Laclede would also briefly note that it continues to strongly disagree with a number of other assertions made by OPC in its Motion to Stay, including the unsupported implication that Spire’s acquisition of Alagasco has had, or will have, a detrimental impact on Missouri customers. (Motion to Stay, page 4) Laclede has already explained why that is not the case in pleadings submitted in other proceedings and will not belabor the issue here. Laclede agrees, however, that such issues are appropriately addressed in a rate case proceeding and looks forward to dealing with them in that forum.

WHEREFORE, for the foregoing reasons, Laclede respectfully requests that the Commission accept this response.

Respectfully Submitted,

/s/ Rick Zucker

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³ OPEB is Other Post-Employment Benefits.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the parties of record in this case on this 4th day of October, 2016 by United States mail, hand-delivery, email, or facsimile.

/s/ Marcia Spangler