



*Commissioners*

SHEILA LUMPE  
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER  
Vice Chair

## Missouri Public Service Commission

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.ecodev.state.mo.us/psc/>

May 2, 2000

BRIAN D. KINKADE  
Executive Director

GORDON L. PERSINGER  
Director, Research and Public Affairs

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. KOLILIS  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

FILED<sup>3</sup>

MAY 01 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. GO-2000-395**

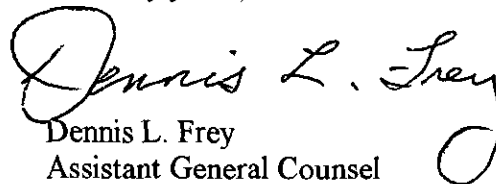
Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF MEMORANDUM IN SUPPORT OF UNANIMOUS STIPULATION AND AGREEMENT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,



Dennis L. Frey  
Assistant General Counsel  
(573) 751-8700  
(573) 751-9285 (Fax)

DLF/lb  
Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

MAY 02 2000

Missouri Public  
Service Commission

In the Matter of Laclede Gas Company's )  
Gas Supply Incentive Plan (GSIP II) )

Case No. GO-2000-395

**STAFF MEMORANDUM IN SUPPORT OF UNANIMOUS STIPULATION AND AGREEMENT**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and for its Memorandum in Support of Unanimous Stipulation and Agreement, respectfully states as follows:

1. On December 29, 1999, the Staff filed a motion requesting that the Commission enter an Order opening a docket in order to enable Staff to monitor Laclede Gas Company's ("Laclede" or "Company") Gas Supply Incentive Program ("GSIP II" or "the Plan"), which was approved by the Commission in its September 9, 1999 Report and Order in Case No. GT-99-303.

2. On January 10, 2000, Laclede filed a response to Staff's motion, stating, in pertinent part, that the Company has no objection to opening a case for the purposes suggested by Staff, and asking that the Commission adopt a procedure similar to that which it has followed in the past. Specifically, Laclede requested that it be required to file an annual monitoring report showing first-year results of GSIP II at the same time as the Company's 1999/2000 ACA filing (November 2000). Laclede also requested that the Staff's audit of the Company's GSIP II performance be timed to coincide with its audit of the aforementioned ACA filing. In addition, Laclede proposed to make quarterly summaries of its GSIP II performance available to both Staff

and the Office of the Public Counsel ("Public Counsel"). The Commission granted Staff's motion in its January 11, 2000 Order Opening Case and Directing Notice.

3. In a January 20, 2000 response to the Company's aforementioned response, Staff stated that it has no objections to Laclede's proposals, provided that the scope of Staff's review is not limited to an audit of the transactions themselves and that Staff would be permitted to exercise its review authority at such time as each quarterly report becomes available.

4. On February 1, 2000, Laclede filed its P.S.C. MO. No. 5 Consolidated Fourth Revised Sheet No. 28-a, with a proposed effective date of March 3, 2000. The purpose of the revision was to extend the term of GSIP II from the current expiration date of September 30, 2000 to September 30, 2002, and to expand the circumstances under which GSIP II may be modified or terminated.

5. On February 3, 2000, the Commission issued its Order Directing Reports and Regarding Revised Tariff Sheet. In addition to granting, subject to the Staff's conditions as noted in paragraph 3 above, the Company's proposals regarding the timing and filing of its GSIP II reports and the timing of Staff's GSIP II audit, the Commission ordered that Laclede's revised tariff sheet be filed in the instant docket, and further ordered that Staff "file a memorandum, including a recommendation as to whether or not the proposed tariff sheet should be approved, on or before February 15, 2000."

6. On February 10, 2000, an application to intervene was filed on behalf of the members of the Missouri Industrial Energy Consumers ("MIEC"), including Adam's Mark Hotels, Alcoa Foil Products (Alumax, Inc.), Anheuser-Busch Cos., Inc., The Boeing Company, Ford Motor Company, General Motors Corporation, Hussman Refrigeration, Mallinckrodt, Inc., MEMC Electronic Materials, Inc., Procter & Gamble Manufacturing Company, Ralston Purina

Company, and Solutia. This application to intervene was subsequently granted by the Commission by Order dated February 24, 2000.

7. On February 15, 2000, Staff filed a memorandum arguing that it was too early in the process to recommend whether or not the Commission should grant Laclede's request for a two-year extension of GSIP II; that Staff had not yet had a sufficient opportunity to evaluate the efficacy of the program, which was early in its currently authorized term. Accordingly, Staff recommended, among other things, that the subject revised tariff sheet be suspended at least until after the conclusion of the current legislative session. On February 18th, Public Counsel filed a pleading in support of Staff's February 15th memorandum.

8. On February 24, 2000, Laclede also filed a response to Staff's memorandum, in which the Company contested the Staff's recommendation and requested that the Company's February 1st revised tariff sheet filing not be suspended.

9. In connection with the exercise of its responsibility in this case for monitoring GSIP II, Staff submitted a total of sixteen data requests to Laclede. In a February 22, 2000 letter to Staff's counsel, the Company timely indicated its objections, primarily on relevancy grounds, to seven of these data requests. In particular, Laclede objected to three data requests (Nos. 5002, 5003 and 5004) relating to Laclede's ongoing negotiations for a new contract with Mississippi River Transmission Corporation ("MRT"), the largest supplier of transmission service on Laclede's system; one data request (No. 5012) concerning Laclede's new contract to provide service to UtiliCorp; and three data requests (Nos. 5013, 5014 and 5015) seeking information on various aspects of Laclede's off-system sales activity.

10. On February 29, 2000, the Commission issued its Order Suspending Tariff and Setting Prehearing Conference, in which it suspended the Company's revised tariff sheet for 120

days beyond March 3, 2000. The Commission also scheduled a prehearing conference for March 10, 2000, so that the Parties could discuss their positions on this matter and their expectations regarding the course this case should take. Said prehearing conference initiated a series of discussions among the parties which culminated in the filing on April 20, 2000 of a Unanimous Stipulation and Agreement ("Agreement"), in settlement of all issues in this case. Pursuant to Paragraph 6 thereof, the following paragraphs provide an explanation of the Staff's rationale for entering into the Agreement.

11. Matters in this case were brought to a head by Laclede's aforementioned February 1, 2000 filing of a revised tariff sheet, wherein the Company requested a two-year extension of GSIP II beyond the Plan's currently authorized one-year life. The Staff took the position that, at this point in everyone's experience with GSIP II, there is simply too much overall attendant risk associated with the Plan to support a recommendation that GSIP II be extended, in its current form, for two more years. In particular, Staff brought three principal concerns to the negotiating table in this case; namely:

- a) that Staff did not have sufficient data and other information to enable it to make an informed recommendation to the Commission regarding Laclede's request for a two-year extension of the current incentive program, and further, that Laclede's above-noted objections to Staff's data requests were serving to frustrate Staff's attempts to obtain such data;

- b) that in particular, and especially given the absence of data and information, the inclusion in GSIP II of the certain aspects of the Company's existing contract with MRT, as well as the contract currently being negotiated, imports too much financial risk for Missouri ratepayers during the requested two-year extension period of the Plan; and

- c) that GSIP II may be in need of significant modifications to help ensure that the Plan's design will accomplish its objectives.

12. The Agreement satisfactorily addresses all three of these Staff concerns, which are somewhat interrelated. First of all, the reduction in the proposed extension period of GSIP II,

from Laclede's originally proposed two years to one year, substantially reduces any financial risk to Laclede's customers associated with the extension.

13. Second, the risk to customers is further reduced because under the Agreement, neither Laclede's current contract nor a subsequently executed contract with MRT will be subject to the "pipeline discount" and "mix of pipeline supplier" provisions of GSIP II during the proposed one-year extension period. Rather, these elements will, upon the October 1, 2000 commencement of the one-year extension period, be subject to treatment under the traditional PGA/ACA ratemaking process. (Note: Laclede may seek re-inclusion of these excluded elements in the Plan, but only if it secures the agreement of both Staff and Public Counsel that it is appropriate to do so.) Only capacity release revenues under an MRT contract will continue to be subject to GSIP II treatment during the extension period, and pursuant to the Agreement, even those will be limited to Laclede's Maximum Daily Quantity entitlement under its current contract with MRT.

14. The inclusion of revenue caps in the Agreement provides further protection for Laclede customers. During the one-year extension period, the Company's revenues under the gas procurement section of GSIP II shall not exceed \$5,300,000, and overall revenues under the Plan shall not exceed \$9,000,000.

15. With regard to Staff's need for data and other information, the Company has agreed to drop its objection to Staff's above-mentioned data request concerning Laclede's new contract to provide service to UtiliCorp, as well as the three data requests pertaining to Laclede's off-system sales activity. Because Laclede's contractual arrangement with MRT will not be subject to the "pipeline discount" and "mix of pipeline supplier" provisions of GSIP II during the Plan's one-year extension period, the Staff does not now need contemporaneous information regarding

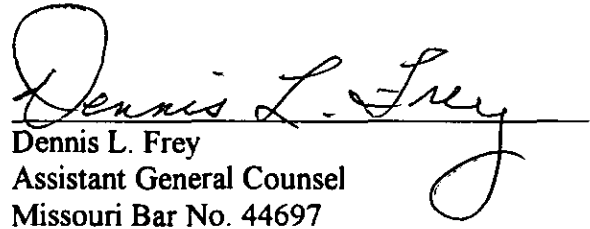
ongoing contract negotiations with MRT, and thus agrees that it will no longer seek responses to Data Request Numbers 5002, 5003 and 5004.

16. Finally, the one-year extension period: a) will provide time for the parties to gain considerable experience with the performance of GSIP II, and b) will allow sufficient time for Laclede, the Staff and Public Counsel to engage in serious negotiations aimed at correcting any deficiencies in GSIP II, so that a modified plan, satisfactory to all concerned, can be ready for implementation when, in the event the Commission approves the Agreement, GSIP II expires on September 30, 2001. The Agreement reflects the commitment of Laclede, the Staff and Public Counsel to engage in such good faith negotiations, and Staff is confident that the time frame is sufficiently lengthy, especially in light of the experience gained by Staff in negotiating an incentive plan with Missouri Gas Energy, an operating division of Southern Union Company. Those negotiations resulted in the recent filing (April 28, 2000) of a Stipulation and Agreement in Case No. GO-2000-705.

**WHEREFORE**, the Staff respectfully submits its Memorandum in Support of the Unanimous Stipulation and Agreement entered into by the Staff, Laclede, Public Counsel and MIEC, and filed in this case on April 20, 2000.

Respectfully submitted,

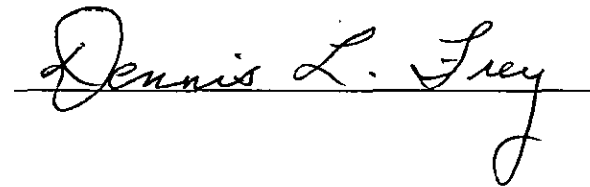
DANA K. JOYCE  
General Counsel

  
Dennis L. Frey  
Assistant General Counsel  
Missouri Bar No. 44697

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-8700 (Telephone)  
(573) 751-9285 (Fax)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 2nd day of May 2000.





**Service List for**  
**Case No. GO-2000-395**  
**Revised: May 2, 2000**

Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

Michael C. Pendergast/Thomas M. Byrne  
Laclede Gas Company  
720 Olive Street, Room 1520  
St. Louis, MO 63101

Diana M. Vuylsteke  
Bryan Cave, LLP  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102