

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

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
v.)	Case No. GC-2011-0006
)	
Laclede Gas Company,)	
Respondent.)	

**LACLEDE GAS COMPANY’S RESPONSE IN OPPOSITION TO
STAFF’S MOTION FOR SUMMARY DETERMINATION**

COMES NOW Laclede Gas Company (“Laclede” or “Company”) and, pursuant to 4 CSR 240-2.117(C), files this Response in Opposition to Staff’s Motion for Summary Determination (“Staff’s Motion”), and in support thereof states as follows:

INTRODUCTION

Staff’s Motion should be denied because it is based solely upon the language of an agreement that has been determined by the Commission itself to be inapplicable to the Staff’s information requests in certain Laclede ACA Cases.¹ In that agreement,² a copy of which is attached hereto as Attachment 1, Laclede committed to conduct and account for affiliate transactions in accordance with the provisions of its Cost Allocation Manual (“CAM”).³ Laclede further committed to make available to Staff the books, records and employees of Laclede and its affiliates as may be reasonably required to verify compliance with the CAM.⁴ Simply put, Laclede and Staff entered into an agreement,

¹ Case Nos. GR-2005-0203 and GR-2006-0288, hereinafter collectively referred to as the “ACA Cases.”

² The agreement referred to is a Unanimous Stipulation and Agreement, approved by the Commission on August 14, 2001 in Case No. GM-2001-342 (the “2001 Agreement”).

³ See Section V1, paragraph 1 on page 10 of the 2001 Agreement.

⁴ See Section IV, paragraph 2 on pages 8-9 of the 2001 Agreement.

approved by the Commission, in which the parties agreed to comply with the CAM in pricing affiliate transactions, and to provide Staff with access to the documentation necessary for it to verify such compliance.

In the ACA Cases, Staff has proposed a disallowance based upon Laclede's failure to properly account for transactions with its affiliate, Laclede Energy Resources, Inc. ("LER"). However, Staff asserted this disallowance *without* reference to the CAM, as the parties had agreed, and without reference to the Commission's Affiliate Transaction Rules (the "Rules"). Staff then proceeded to request business documents belonging to LER that are unrelated to the affiliate transactions between Laclede and LER. When Laclede objected to these requests as being irrelevant given the standards for evaluating affiliate transactions as set forth in the CAM and the Rules, Staff repeatedly contended that this request was made outside of the purview of the CAM and the Rules. In sanctioning Staff's request via its November 4, 2009 Order, the Commission agreed that the request was made without regard to the parties' 2001 Agreement, the CAM or the Rules. In fact, the Commission stated that any reference to the 2001 Agreement or the Rules was a "red herring," and that Laclede was being directed to provide the information sought by Staff pursuant to the general discovery rules of civil procedure. As the Commission stated:

The Commission emphasizes that Staff's discovery request is not an investigation under the Commission's Affiliate Transaction rule nor is it a complaint through which Staff or Public Counsel seeks enforcement of the agreement reached in Case No. GM-2001-342. These issues have but served as red herrings in what is a discovery request governed by the rules of civil procedure."

On June 25, 2010, the Cole County Circuit Court recognized the Commission's November 4 position in its Order granting the Commission's motion for mandamus. The

Court explicitly stated that Laclede was only required to provide that information which was in its “possession, custody or control.” (*Public Serv. Comm’n v. Laclede Gas Co.*, Case No. 10AC-CC00170, *Judgment and Writ of Mandamus*, issued June 25, 2010, p. 2)

Laclede has repeatedly asserted that Staff’s information request was made in defiance of the parties’ 2001 Agreement and should have been denied (as in fact it was at one juncture of these proceedings) on that very ground. Nevertheless, Laclede was ultimately instructed by the Commission that the 2001 Agreement was irrelevant to the matter at hand and the general discovery rules of civil procedure should govern the scope of Laclede’s obligations to produce such information. As explicitly found by the Commission in its January 22, 2009 Order in Case Nos. GR-2005-0203 and GR-2006-0288, and by the Circuit Court in its June 25 Judgment and Writ of Mandamus, those general rules of civil discovery clearly contemplate that Laclede must only provide such information as is in its “possession, custody or control.”

Given this background, it is nothing short of astonishing that the Staff would now seek to not only penalize Laclede for following these directions, but do so in a summary fashion. The Staff did not want to honor its discovery-related commitments under the 2001 Agreement, so it convinced the Commission that the Agreement was irrelevant and that other discovery rules should apply. Now that Laclede has complied with those other discovery rules, the Staff seeks to penalize Laclede based on an alternative theory which is the *exact opposite* of the Commission’s findings in its November 4, 2009 Order. Staff now wants to argue that the 2001 Agreement *does* in fact apply to the issue at hand (but

only to the extent and in the way Staff wants it to⁵); that the disputed information is not being sought under the general rules of civil discovery after all;⁶ and that Laclede deserves to be punished simply because it continues to comply with the explicit terms of Agreements, Rules, Orders and other legally binding instruments that the Staff chooses to ignore. The Commission should not countenance such clear and repeated departures from the requirements of its rules and orders. For all of these reasons, and those discussed below, Staff's motion for summary determination should fail, and summary determination should instead be found in favor of Laclede.

RESPONSE TO STAFF'S SUGGESTIONS IN SUPPORT OF ITS MOTION

Staff's Motion was accompanied by its Suggestions in Support ("Suggestions"). The Suggestions are instructive due to the numerous misstatements contained therein. A few of them are highlighted below.

On page 2 of the Suggestions, Staff poses the question, "What is this Case about?" Staff's answer is that "This case is about access to information." Nothing could be further from the truth. In the past 2½ years, Staff has never bothered to ask LER directly for the LER business information that Staff is seeking. If access to information was really Staff's paramount concern, one would assume that Staff would have tried that approach. What this case is really about is suppressing affiliate transactions by

⁵ Even if the Commission had found the 2001 Agreement to apply, that Agreement unambiguously states that affiliate transactions will be conducted in accordance with the CAM and that information will be made available to Staff as is reasonably required to verify compliance with the CAM. Staff's attempt to interpret general language in paragraph IV.2 to circumvent the specific terms of that same paragraph violates the well-established contract construction principle that specific language prevails over general language. *A&L Holding Co. v. Southern Pacific Bank*, 34 S.W.3d 415 (Mo. App. W.D. 2000)

⁶In its December 16, 2010 Reply to Laclede's Affirmative Defenses to the Staff's Complaint, the Staff actually asserts on page 5 that the general rules of civil discovery do NOT apply to the discovery issues at hand – a position that is also flagrantly at odds with the Commission's November 4 Order.

eliminating the affiliate's right to conduct such a transaction at a market rate, thus eliminating the affiliate's opportunity to be compensated for the services it has provided and the risks it has undertaken (i.e. earn a profit). Laclede has filed numerous pleadings in this and other cases that have evidenced Staff's true aim.

On pages 3-4 of the Suggestions, Staff explains the dangers of affiliate transactions as if Staff has discovered a concept of which the rest of the world is unaware. Not only does Staff ignore the fact that the 2001 Agreement established the CAM specifically to address affiliate transactions, Staff does not even mention the Rules that the Commission promulgated more than 10 years ago with the express purpose of safeguarding ratepayers while permitting affiliate transactions that may benefit them. On page 4 of the Suggestions, Staff states that "In order to safeguard the ratepayers against inappropriate cross-subsidization, Staff must carefully evaluate [affiliate] transactions..." Again, Staff fails to mention any of the standards that are in place to conduct such evaluations. Rather Staff leaves the impression that there are no such standards. In effect, while the Commission has lawfully set standards to permit affiliate transactions that may benefit ratepayers while prohibiting those transactions that harm them, the Staff has taken upon itself to decide that all affiliate transactions are harmful, and is acting to unlawfully enforce standards that will eradicate such transactions regardless of benefit.

On page 7 of the Suggestions, Staff claims that in the ACA Cases, the "fairly straightforward [prudence] analysis is 'complicated' by the fact that gas purchases and sales...were made between Laclede and its unregulated gas-marketing affiliate, LER." What is so complicated about applying a fair market test to these transactions? Professional appraisers do it routinely every day. The only 'complication' in this matter

arises from Staff's deceptive efforts to evade the prescribed fair market test in favor of its own notion that affiliate transactions should not exist.

Laclede incorporates herein by reference for all purposes the Company's Motion for Summary Determination and accompanying Legal Memorandum filed on December 22, 2010. These documents establish that summary determination should be granted for Laclede and denied to Staff. Laclede also incorporates herein by reference for all purposes the direct testimony of its witnesses, Patricia Krieger, Glenn Buck and Michael Cline, filed on December 15, 2010. Such testimony provides background on the creation of the 2001 Agreement and the CAM, and establishes Laclede's compliance with the agreement.

RESPONSE TO MOVANT'S FACTUAL STATEMENTS

1. Laclede agrees that Staff filed the Complaint on July 7, 2010.
2. Commission Rule 4 CSR 240-2.117(1) is not a factual statement. The rule speaks for itself.
3. Laclede agrees that it is a respondent and that it filed its answer on August 9, 2010.
4. Laclede agrees with paragraph 4 of the Staff's Motion.
5. Laclede's responses to paragraphs 6 through 25 of Staff's Motion are set forth below.
6. Laclede agrees that Complainant is the Staff.
7. Laclede agrees with paragraph 7 of the Staff's Motion.
8. Laclede agrees with paragraph 8 of the Staff's Motion.
9. Paragraph 9 is not a factual statement but a legal conclusion.

10. Paragraph 10 is not a factual statement but a legal conclusion. The statute cited therein speaks for itself.

11. Laclede agrees with paragraph 11 of the Staff's Motion.

12. Laclede agrees with paragraph 12 of the Staff's Motion.

13. Laclede agrees with paragraph 13 of the Staff's Motion.

14. Laclede Group's 10K speaks for itself.

15. Laclede agrees with paragraph 15 of the Staff's Motion.

16. Laclede agrees with paragraph 16 of the Staff's Motion.

17. Laclede agrees that the 2001 Agreement was approved by the Commission.

18. Laclede agrees that Staff has added emphasis to Section IV.2 of the 2001 Agreement in paragraph 18 of Staff's Motion.

19. Laclede admits the portion of paragraph 19 that states that the Company and Staff have a discovery dispute in the ACA Cases. Laclede denies any implication by the Staff that the pricing of affiliate transactions should be evaluated based on a subjective notion of prudence without regard to either the CAM, which the parties agreed would govern affiliate transactions, or the Rules, which were promulgated specifically to apply to such transactions. Laclede agrees that affiliate transactions are "a matter of particular concern to Staff," as stated in paragraph 19. It appears that Staff is so concerned over affiliate transactions that Staff is attempting to eliminate such transactions rather than follow the legal guidelines set by the Commission for reviewing them.

20. Laclede agrees that it denies the purpose of the discovery in the ACA Cases was to determine the prudence of Laclede's purchases from LER. The term "prudence" is used by Staff as a smokescreen so that it can avoid the standard prescribed by law, being a fair market price standard, as described in the CAM and the Rules. Rather the purpose of the discovery is for Staff to pursue and apply its own unauthorized standard, which is that affiliates must sell to utilities at the affiliate's cost. The natural result is to prohibit affiliate transactions, which is Staff's true standard. The second sentence in paragraph 20 is not a factual statement, but a legal conclusion. Laclede asserts that the Commission has permitted Staff's discovery request based on Staff's misrepresentations regarding its true standard.

21. Paragraph 21 is not a factual statement but a legal conclusion. The orders of the Commission and the court speak for themselves.

22. Laclede agrees that the hearing transcript speaks for itself.

23. Laclede agrees that it denies that it has violated Section IV.2 of the 2001 Agreement. Rather, in refusing to review affiliate transactions in accordance with the CAM, Staff has violated that agreement, and has also violated Commission Rule 2.080(7) by filing frivolous pleadings with the Commission stating either that Staff is not required to review affiliate transactions in accordance with the CAM or the Rules, or blatantly misrepresenting the meaning of fair market pricing with the intent of eliminating affiliate transactions.

24. Laclede states that the transcripts and documents referred to in paragraph 24 speak for themselves. Laclede denies that the statements in such transcripts and documents constitute a violation of the 2001 Agreement.

25. Paragraph 25 is not a factual statement but a recitation of a statute, which statute speaks for itself.

26. Paragraph 26 is not a factual statement but a recitation of a statute, which statute speaks for itself.

CONCLUSION

The material facts in this case are undisputed. Although the 2001 Agreement unambiguously prescribes that affiliate transactions are to be priced in accordance with the CAM, and that Laclede will make available the books and records of its affiliates as may be reasonably required to verify compliance with the CAM, Staff has clearly stated during the ACA Cases that it is not proceeding under the CAM or Rules, but is evaluating the pricing of Laclede's affiliate transactions pursuant to a prudence standard under which Staff itself determines whether Laclede "paid too much" for the gas it purchased from LER.

By its orders in the ACA Cases, the Commission has ruled that Staff's information requests are governed not by the 2001 Agreement, but by the discovery rules of civil procedure. The Circuit Court has supported that position. Thus, the matter has been decided in the ACA cases. Staff cannot now create a new case and collaterally attack the Commission orders of January 21, 2009 and November 4, 2009 in the ACA cases, or the Circuit Court's order of June 25, 2010. After having successfully argued to the Commission in the ACA Cases that the 2001 Agreement does not apply to Staff's ACA data requests, Staff cannot now collaterally attack those orders by claiming in this case that Laclede's actions in the ACA Cases violated the 2001 Agreement. Under these

circumstances, Laclede's actions in the ACA cases cannot have violated the 2001 Agreement as a matter of law.

WHEREFORE, Laclede respectfully requests that the Commission deny Staff's Motion for Summary Determination and instead grant Laclede's Motion for Summary Determination.

Respectfully submitted,

/s/Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Staff and on the Office of Public Counsel on this 14th day of January, 2011 by United States mail, hand-delivery, email, or facsimile.

/s/ Gerry Lynch

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JUL 09 2001

Missouri Public
Service Commission

In the Matter of the Application of Laclede)
Gas Company for an Order Authorizing)
Its Plan to Restructure Itself Into a Holding)
Company, Regulated Utility Company, and)
Unregulated Subsidiaries)

Case No. GM-2001-342

UNANIMOUS STIPULATION AND AGREEMENT

COME NOW Laclede Gas Company ("Laclede" or "Company"), the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("Public Counsel") the Paper, Allied-Industrial, Chemical, and Energy Workers Local Nos. 5-6 and 5-194, AFL-CIO (collectively known as "PACE"), and Barnes-Jewish Hospital, DaimlerChrysler Corporation, The Doe Run Company, Emerson Electric Company, Lone Star Industries, Inc., River Cement Company, SSM HealthCare, and Unity Health System (collectively known as the "Missouri Energy Group"), and represent to the Missouri Public Service Commission ("Commission") that they have reached a Unanimous Stipulation and Agreement (hereinafter "Stipulation") or otherwise resolved all of their differences in the above-captioned case. For their Stipulation, each of the parties identified above, with the exception of the Missouri Energy Group (hereinafter "the Parties") state as follows:¹

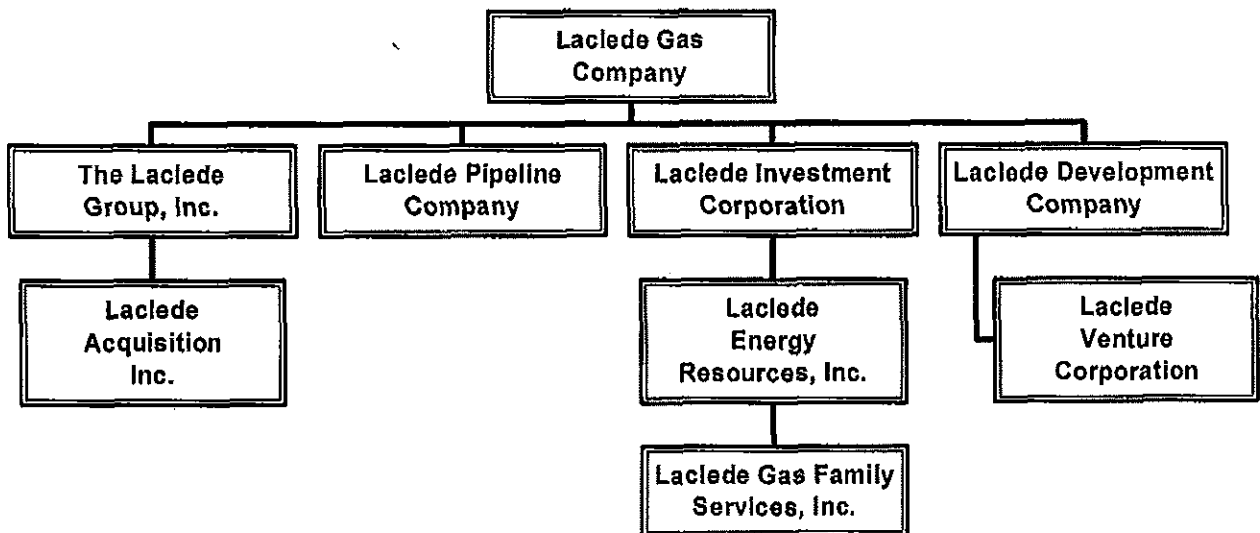
¹ The Missouri Energy Group are signing this Stipulation solely for purposes of indicating to the Commission that they neither support nor oppose the Stipulation and that such Stipulation may therefore be treated as Unanimous pursuant to the Commission's Rules of Practice and Procedure.

SECTION I BACKGROUND

1. On December 1, 2000, Laclede filed a Verified Application with the Commission in which it requested that the Commission issue an Order authorizing the Company to restructure itself into a holding company, regulated utility company and unregulated subsidiaries (hereinafter "the Proposed Restructuring").

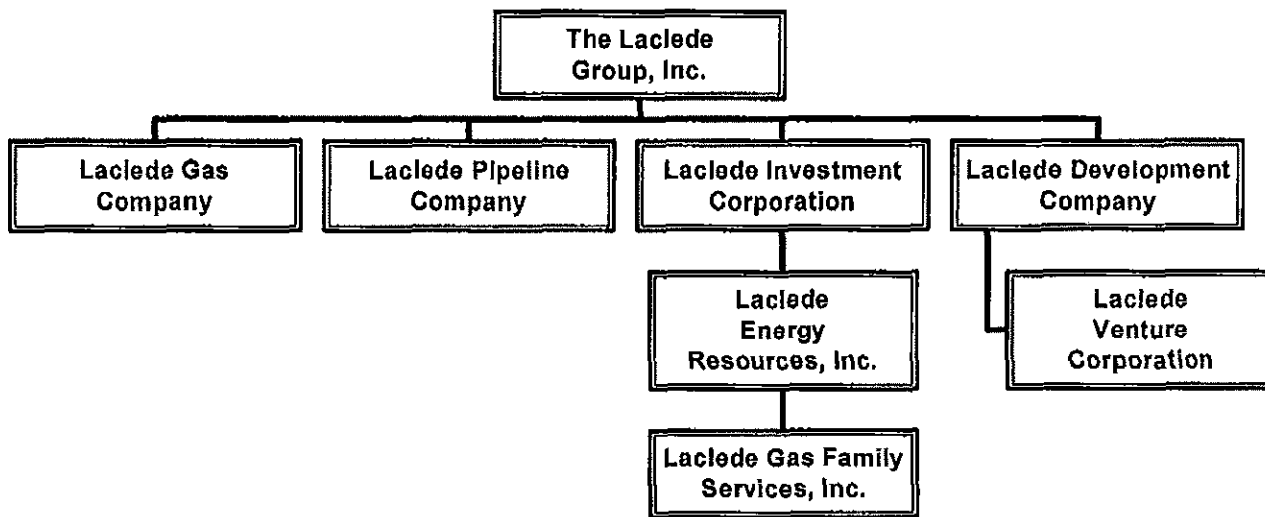
2. As described in that Verified Application, under its present corporate structure, Laclede Gas Company is the parent corporation of a number of unregulated subsidiaries, including Laclede Development Company, which has its own subsidiary Laclede Venture Corp.; Laclede Investment Corporation, which has two subsidiaries, Laclede Energy Resources, Inc. and Laclede Gas Family Services, Inc.; and Laclede Pipeline Company. Laclede has also created two other subsidiaries, The Laclede Group, Inc., and its subsidiary, Laclede Acquisition Inc., to facilitate the Proposed Restructuring. The organization chart presented below shows Laclede's present corporate structure:

Present Corporate Structure



3. Upon completion of the Proposed Restructuring, The Laclede Group, Inc. would become the parent holding company. Laclede Gas Company and the remaining unregulated subsidiaries would, in turn, become separate and independent subsidiaries of The Laclede Group, Inc. This Proposed Restructuring would be accomplished pursuant to a procedure commonly known as a "Reverse Triangular Merger." Under that procedure, Laclede Acquisition Inc. would be merged into Laclede Gas Company. Upon completion of the merger, Laclede Acquisition Inc. would no longer exist. The Laclede Group, Inc. would then hold all of the common stock of Laclede Gas Company as well as the other subsidiaries. The Organizational Chart presented below depicts this structure that would be in place following the Proposed Restructuring.

Proposed Corporate Structure



4. As discussed in the Verified Application, the Proposed Restructuring does not involve the transfer of any utility assets currently owned by Laclede Gas Company or any change in the terms and conditions of the regulated utility services provided by Laclede.

5. On December 29, 2000, and February 27, 2001, applications to intervene in this proceeding were filed by PACE and the Missouri Energy Group, respectively. Both applications to intervene were subsequently granted by the Commission.

6. On January 5, 2001, the Commission issued notice of Laclede's Application and established a deadline for parties wishing to intervene in this proceeding. By subsequent Order dated February 13, 2001, the Commission scheduled a prehearing conference for the purpose of permitting the parties to engage in settlement discussions and, if necessary, to develop a procedural schedule for addressing any remaining, unresolved issues. The prehearing conference was subsequently held on March 13, 2001.

7. As a result of their discussion both during and following the prehearing conference in this case, the Parties have agreed to a resolution of all of the issues in this case, and hereby stipulate and agree as follows:

SECTION II
APPROVAL OF PROPOSED RESTRUTURING

1. The Parties (except PACE) recommend that the Commission grant the relief requested by the Company in its Verified Application. Specifically, the Parties (except PACE) recommend that the Commission issue an Order, as soon as practicable , authorizing the Company to restructure itself into a holding company, regulated utility company and unregulated subsidiaries, as more fully described in the Company's Verified Application, and to perform and complete any transactions required to effectuate the Proposed Restructuring.

2. The Parties further recommend that such approval be conditioned on the agreements, understandings and requirements set forth in Sections III, IV, V, VI and VII of this Stipulation and Agreement. Provided such approval is so conditioned, PACE does

not object to the Commission granting the relief requested by the Company in its Verified Application.

SECTION III **FINANCIAL CONDITIONS**

1. The Laclede Group, Inc. represents that it does not intend to take any action that has a material possibility of having a detrimental effect on Laclede Gas Company's utility customers, but agrees that, should such detrimental effects nevertheless occur, nothing in the approval or implementation of the Proposed Restructuring shall impair the Commission's ability to protect such customers from such detrimental effects.

2. Laclede Group, Inc. will not pledge Laclede Gas Company's common stock as collateral or security for the debt of the Holding Company or a Subsidiary without Commission approval.

3. Laclede Gas Company will not guarantee the notes, debentures, debt obligations or other securities of the Holding Company or any of its subsidiaries, or enter into any "make-well" agreements without prior Commission approval.

4. The Laclede Group, Inc. agrees to maintain consolidated equity of no less than 30 percent of its total permanent consolidated capitalization and Laclede Gas Company agrees to maintain its equity at no less than 35% of its total capitalization, unless they are unable to do so due to events or circumstances beyond their control, including, but not limited to, acts of God, war, insurrection, strikes, civil unrest, material changes in market conditions that could not have been reasonably anticipated, or changes in the application, character or impact of laws, taxing requirements, regulations, or regulatory practices and standards governing the Company's regulated operations. Total capitalization is defined as common equity, preferred stock, long-term debt, and short-

term debt, excluding short-term debt supporting natural gas and propane inventories, purchased gas costs and cash working capital. Common equity is defined as par value of common stock, plus additional paid in capital, plus retained earnings, minus treasury stock. The Laclede Group, Inc. and Laclede Gas Company agree to notify the Staff and Public Counsel in the event they become aware of any material possibility that either or both companies will be unable to maintain their respective equity ratios. In the event either Company's equity ratio should fall below these specified levels, Laclede Gas Company shall file a plan with the Commission within 90 days of such occurrence proposing alternatives for raising the ratios to or above the levels specified herein.

5. Laclede Gas Company shall submit quarterly to the Staff's Financial Analysis Department and Public Counsel certain key financial ratios that will be calculated, to the extent practical, consistent with the methodology employed by Standard and Poor's Credit Rating Service. These key financial ratios shall include:

- (a) Pre-tax interest coverage;
- (b) After-tax coverage of interest and preferred dividends;
- (c) Funds flow interest coverage;
- (d) Funds from operations to total debt;
- (e) Total debt to total capital (including preferred); and
- (f) Total common equity to total capital.

6. Laclede Gas Company's total long-term instruments payable at periods of more than twelve months shall not exceed Laclede Gas Company's regulated rate base.

7. Laclede Gas Company agrees to maintain its debt and, if outstanding, its preferred stock rating at an investment grade credit rating, unless it is unable to do so due

to events or circumstances beyond its control, including, but not limited to, acts of God, war, insurrection, strikes, civil unrest, material changes in market conditions that could not have been reasonably anticipated, or changes in the application, character or impact of laws, taxing requirements, regulations, or regulatory practices and standards governing the Company's regulated operations. Laclede Gas Company agrees to notify the Staff and Public Counsel in the event it becomes aware of any material possibility that it will not be able to maintain such a credit rating with any established agency that typically rates Laclede's debt. In the event Laclede Gas Company's credit rating should fall below investment grade, Laclede shall file a plan with the Commission within 90 days of such occurrence proposing alternatives for raising its credit rating above investment grade.

8. The Laclede Group, Inc and Laclede Gas Company agree that the Commission has, and will continue to have, the authority after the Proposed Restructuring to regulate, through the lawful exercise of its current statutory powers, any direct or indirect transfer or disbursement of earnings from Laclede Gas Company to an affiliate that would jeopardize the Company's ability to meet its utility obligations. The Laclede Group, Inc, and Laclede Gas Company also agree that the Commission has the authority, through the lawful exercise of its ratemaking powers, to ensure that the rates charged by Laclede Gas Company for regulated utility service are not increased as a result of the unregulated activities of Laclede's affiliates and Laclede agrees, consistent with such standard, that rates should not be increased due to such activities.

SECTION IV **ACCESS TO INFORMATION CONDITIONS**

1. The Laclede Group, Inc. and Laclede Gas Company shall provide the Staff and Public Counsel with access, upon reasonable written notice during normal working

hours and subject to appropriate confidentiality and discovery procedures, to all written information provided to common stock, bond, or bond rating analysts, which directly or indirectly pertains to Laclede Gas Company or any affiliate that exercises influence or control over Laclede Gas Company or has affiliate transactions with Laclede Gas Company. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes but is not limited to, any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of The Laclede Group, Inc.'s or Laclede Gas Company's right to seek protection of the information or to object, for purposes of submitting such information as evidence in any evidentiary proceeding, to the relevancy or use of such information by any party.

2. Upon request, Laclede Gas Company and The Laclede Group, Inc. agree to make available to Staff, Public Counsel and PACE, upon written notice during normal working hours and subject to appropriate confidentiality and discovery procedures, all books, records and employees of The Laclede Group, Inc., Laclede Gas Company and its affiliates as may be reasonably required to verify compliance with the CAM and the conditions set forth in this Stipulation and Agreement and, in the case of PACE, to ensure that it continues to have the same degree and kind of access to information relevant to the investigation and processing of grievances and the enforcement of collective bargaining agreements, whether from affiliates or otherwise, as it currently has under Laclede's existing corporate structure. In addition to following standard discovery procedures, Staff's and Public Counsel's access to bargaining unit employees shall also be conditioned

on Staff and Public Counsel providing reasonable notice to the employee's Union of their intent to seek such access and the right of such employee to be represented by the Union. Laclede Gas Company and The Laclede Group, Inc. shall also provide Staff and Public Counsel any other such information (including access to employees) relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over Laclede Gas Company; provided that Laclede Gas Company and any affiliate or subsidiary of The Laclede Group, Inc. shall have the right to object to such production of records or personnel on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates or subsidiaries: (a) are not within the possession or control of Laclede Gas Company; or (b) are either not relevant or are not subject to the Commission's jurisdiction and statutory authority by virtue of or as a result of the implementation of the Proposed Restructuring.

3. Laclede Gas Company, each affiliate and The Laclede Group, Inc. will maintain records supporting its affiliated transactions for at least five years.

SECTION V **COMMISSION AUTHORIZATION CONDITIONS**

1. The Laclede Group, Inc. agrees that it will not, directly or indirectly, acquire or merge with or allow itself to be acquired by or merged with, a public utility or the affiliate of a public utility, where the affiliate has a controlling interest in a public utility, or seek to become a registered holding company, or take any action which has a material possibility of making it a registered holding company or of subjecting all or a portion of its Missouri intrastate gas distribution operations to FERC jurisdiction, without first requesting and, if considered by the Commission, obtaining prior approval from the Commission and a finding that the transaction is not detrimental to the public, provided

that for purposes of acquisitions by the Holding Company only, public utility shall mean a natural gas or electric public utility.

2. Laclede Gas Company shall not sell, lease, assign or transfer to any affiliate or third party any of its utility assets that are used and useful in the performance of Laclede's public utility obligations without obtaining Commission approval.

SECTION VI **COST ALLOCATION MANUAL CONDITIONS**

1. Upon implementation of the Proposed Restructuring, transactions involving transfers of goods or services between Laclede Gas Company and one or more of the Company's affiliated entities shall be conducted and accounted for in compliance with the provisions of a Cost Allocation Manual ("CAM") which shall be submitted to Staff, Public Counsel and PACE on or before April 15, 2003, and on an annual basis thereafter. The CAM shall be in the form contained in the direct testimony of Patricia A. Krieger, provided that the CAM, and the information that the Company is required to maintain and submit thereunder, shall be revised and supplemented within 120 days of the approval of this Stipulation and Agreement to include any and all of the following information as required to administer, audit and verify the Transfer Pricing and Costing Methodologies set forth in Section VIII of the CAM or such other Transfer Pricing and Costing Methodologies as may become applicable to the Company in the future:

- (a) For all Laclede Gas Company functions that will provide support to nonregulated affiliates and the holding company:
 - (1) A list and description of each function;
 - (2) The positions and numbers of employees providing each function;and

- (3) The procedures used to measure and assign costs to nonregulated affiliates and the holding company for each function.
- (b) A list and description of each service and good that will be provided to Laclede Gas Company from each affiliate and the holding company.
- (c) A list and description of each service and good that will be provided by Laclede Gas Company to each affiliate and the holding company.
- (d) The dollar amount of each service and good charged to each affiliate and the holding company by Laclede Gas Company, and the total cost related to each service and good listed.
- (e) The dollar amount of each service and good purchased from each affiliate and the holding company by Laclede Gas Company, and the total cost related to each service and good listed.
- (f) A detailed discussion of the basis for determining the charges from Laclede Gas Company and each affiliate and the holding company, including:
 - (1) If costs are allocated, a detailed description of the allocation process employed for each service and good;
 - (2) Detailed descriptions of how direct, indirect and common activities are assigned for each service and good;
 - (3) A detailed description of how market values are determined for each service and good; and

- (4) A detailed discussion of the criteria used to determine whether volume discounts and other pricing considerations are provided to Laclede Gas Company, affiliates, and the holding company.

(g) For each line of business that will be engaged in by Laclede Gas Company with non-affiliated third party customers following formation of a holding company and that would not reasonably be considered as a component of its regulated utility business, Laclede shall provide:

- (1) A list and description of each nonregulated activity;
- (2) The total amount of revenues and expenses for each nonregulated activity for the last calendar year; and
- (3) A listing of all Laclede Gas Company cost centers and/or functions that directly assign cost, indirectly assign cost and/or allocate cost to each nonregulated activity engaged in by Laclede Gas Company with non-affiliates.

2. Laclede agrees to make compliance with the procedures and requirements set forth in the CAM and the other terms of this Stipulation and Agreement a standard element of its Code of Conduct and to provide employee training and oversight in a manner that is reasonably designed to achieve such compliance. Laclede will conduct regularly scheduled audits to confirm compliance with its CAM and will annually review and update the CAM where necessary and submit such updates with its next CAM filing. Laclede will identify a function or position with responsibility for enforcing and updating the CAM.

3. As part of its CAM submittal, Laclede Gas Company will provide a list of all jurisdictions in which Laclede Gas Company, the holding company, affiliates, and service company, if formed, file affiliate transaction information.

4. As part of its CAM submittal, Laclede Gas Company will also provide Organizational Charts for The Laclede Group, Inc. (corporate structure), Laclede Gas Company and any other affiliate doing business with Laclede Gas Company and a copy of the annual holding company filing the Laclede Group, Inc. is required to file with the Securities and Exchange Commission.

SECTION VII

MISCELLANEOUS CONDITIONS

1. Laclede Gas Company will not seek to recover any costs related to the Proposed Restructuring from ratepayers. These costs will be identified, described and accounted for in a manner that would enable the Staff and Public Counsel to seek disallowance from rates, if necessary, in a future proceeding.

2. Laclede Gas Company will provide the Staff and Public Counsel with an explanation for any final reorganization journal entry that deviates by more than ten percent (10%) from the estimated proforma entries provided in Exhibit 4 of the Application. Copies of the actual journal entries will be provided to the General Counsel's Office no later than thirty days following the preparation of the final merger closing entries.

3. The Laclede Group and its affiliates (including Laclede) will provide the following documents to Staff and Public Counsel on an annual basis:

- (a) All new, revised and updated business plans for The Laclede Group and its affiliates (including Laclede);

- (b) Descriptions of any and all joint marketing/promotional campaigns between Laclede and The Laclede Group and any of its affiliates;
- (c) Narrative description of all products and services offered by The Laclede Group and its affiliates (including Laclede), provided that Laclede shall not be required to provide narrative descriptions of its tariffed products and services;
- (d) All information provided under this subsection shall be considered "highly confidential" or "proprietary" as those terms are used in 4 CSR 240-2.085, and shall be treated as highly confidential or proprietary information by the Staff and Public Counsel;
- (e) The Laclede Group, Inc. and its affiliates (including Laclede) shall also notify Staff, Public Counsel and PACE in the event and at such time as they commence a line of business that neither Laclede nor its affiliates were actively engaged in at the time of the Proposed Restructuring. Such notification can take the form of public announcements, press releases or other means of notification provided to the parties.

4. Laclede Gas agrees to notify the Staff, Public Counsel, and PACE in the event and at such time as any decision is made to transfer any department or function relating to the Company's provision of regulated utility services from the regulated gas corporation to a non-regulated affiliated entity or other third party; provided that nothing herein shall be construed as limiting or modifying in any manner any notice or other requirement Laclede may have relating to the transfer of bargaining unit employees or the work performed by such employees pursuant to the existing collective bargaining unit

agreements between Laclede and Pace or applicable federal labor law. At the time of its annual CAM filing, Laclede will also provide Public Counsel, Staff and PACE information detailing the name, job description, and transfer dates of any employees that were permanently or temporarily transferred between Laclede and any affiliate during the preceding fiscal year.

5. Nothing in this Stipulation and Agreement shall be deemed to change in any way any of the rights and obligations of Laclede Gas Company or PACE under the collective bargaining agreements between them or under any non-PSC law, and by entering into this Stipulation and Agreement, neither Laclede Gas Company or PACE waives any such rights.

6. Nothing in this Stipulation and Agreement or the implementation of the Proposed Restructuring shall affect in any way the scope of any existing ratemaking authority the Commission has over Laclede Gas Company relating to activities undertaken by Laclede Energy Resources or Laclede Pipeline Company prior to implementation of the Proposed Restructuring or over ratemaking issues that may arise as the result of the formation of a service company.

SECTION VIII **STANDARD PROVISIONS**

1. This Stipulation represents a negotiated settlement for the purpose of disposing of all of the identified issues in this case. None of the Parties to the Stipulation shall have been deemed to have approved or acquiesced in any ratemaking, procedural or legal principle, any method of cost determination or cost allocation, or any service or payment standard, and none of the Parties shall be prejudiced or bound in any manner by

the terms of this Stipulation in any other proceeding, except as otherwise expressly specified herein.

2. In the event the Commission approves this Stipulation and Agreement, all of the prefiled testimony submitted by the Parties in this proceeding may be received into evidence, and the Parties waive their respective rights to cross-examination, to submit oral argument or briefs, and their rights to judicial review of such determination.

3. The Staff shall file suggestions or a memorandum in support of this Stipulation and Agreement and the other parties shall have the right to file responsive suggestions. All memoranda submitted by the Parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules; shall be maintained on a confidential basis by all Parties; and shall not become a part of the record of this proceeding or bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding, whether or not the Commission approves this Stipulation. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation, whether or not the Commission approves and adopts this Stipulation.

4. The Staff shall have the right to provide, at any agenda meeting at which this Stipulation is noticed to be considered by the Commission, whatever oral explanation the Commission requests; provided that the Staff shall, to the extent reasonably practicable, promptly provide other Parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. Staff's oral explanation shall be subject to public disclosure,

except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any protective order in this case.

5. The agreements contained in this Stipulation have resulted from extensive negotiations among the Parties and are interdependent. In the event the Commission does not approve or adopt the provisions of this Stipulation in total, then this Stipulation shall be void and no signatory shall be bound by any agreements or provisions hereof.

6. To assist the Commission in its review and consideration of this Stipulation, the Parties also request that the Commission advise them of any additional information that the Commission may desire from the Parties relating to the matters addressed in this Stipulation, including any procedures for furnishing such information to the Commission.

WHEREFORE, the signatories hereto respectfully request that the Commission approve this Unanimous Stipulation and Agreement as expeditiously as possible.

Respectfully submitted,

Michael C. Pendergast

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CERTIFICATE OF SERVICE

Michael C. Pendergast, Assistant Vice-President, Associate General Counsel for Laclede Gas Company, hereby certifies that the foregoing Unanimous Stipulation and Agreement has been duly served upon all parties of record to this proceeding by placing a copy thereof in the United States mail, postage prepaid, or by hand delivery, on this 9th day of July 2001:

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Senior Public Counsel
Office of the Public Counsel
P.O. Box 7800
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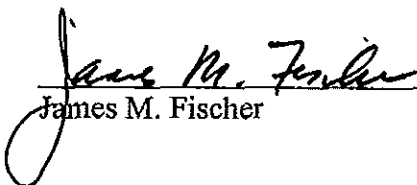
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