

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

In the Matter of Laclede Gas Company's)
Purchased Gas Adjustment for 2004-2005) Case No. GR-2005-0203

In the Matter of Laclede Gas Company's)
Purchased Gas Adjustment for 2005-2006) Case No. GR-2006-0288

**LACLEDE GAS COMPANY'S
RESPONSE TO STAFF'S REPLY**

COMES NOW Laclede Gas Company (hereinafter "Laclede" or "Company") and submits this response to the Staff's Reply to Laclede's Response that was filed in the above-captioned proceeding on October 7, 2008. In support thereof, Laclede states as follows:

1. In its Motion, the Staff states that its Motion to Compel as it relates to bonus calculation information for George Godat, Steve Mathews and Ken Neises is not moot because it has not yet received the requested information from Laclede. Although Laclede continues to believe that such information is not needed for Staff to do a proper audit of Laclede's compliance with the Commission's affiliate transactions rules, it has nevertheless provided Staff with copies of the bonus information.¹

2. That said, Laclede would note that Staff's justification for requesting such bonus information – i.e. that it may reveal that certain personnel have a conflict of interest because they have oversight responsibilities for both utility and affiliate activities – is just another frontal assault on the Commission's affiliate transactions rules. As Laclede has previously pointed out, the affiliate transaction rules explicitly authorize common corporate governance and oversight of affiliated companies, recognizing as they

¹Because these documents contain employee-specific compensation information, Laclede has designated them as highly confidential.

must that management responsibility for different companies in a holding company system must eventually converge, at some point, in a single senior executive. This is neither unlawful nor even suspicious, but instead reflects the settled and informed judgment of the Missouri Public Service Commission that sharing corporate governance functions reduces costs for all companies in a holding company system, and therefore benefits even regulated companies.

3. Those same rules further recognize that the way to address any real or perceived conflict associated with such shared management is to require that actual affiliate transactions be tested in accordance with the pricing standards that are also set forth in the rules. This approach, focusing as it does on the specific character and results of the transactions themselves rather than on amorphous perceptions of management intent, renders any perceived or actual conflict meaningless. In other words, the proof is in the pudding. The same argument applies to LER's non-affiliate business information. As the affiliate transaction rules provide, and as the Commission confirmed in the Order on Reconsideration Concerning Discovery in the 2004 Ameren case (Case No. EO-2004-0108), it is neither necessary nor permissible to delve into an affiliate's transactions with unaffiliated third parties.

4. **In short**, no matter how Staff may try and obscure it, it is *the affiliate transactions themselves* that must pass scrutiny as to whether they were appropriately priced. Laclede fully understands that the purpose of the Commission's affiliate transaction rules is to ensure that affiliate transactions are priced in a way that doesn't favor an affiliate at the expense of the utility and its customers. As Staff has conceded, Laclede has made available extensive information pertaining to these transactions and it

6. The same is true for Mr. Mathews, Laclede's Vice President in charge of gas supply. Once again, his bonus compensation for the two ACA periods under review in these proceedings was tied directly ** _____

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7. In fact, the only mention of ** _____

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8. While Laclede continues to believe that Staff did not need this bonus information to determine whether Laclede has complied with the Commission's affiliate transactions rules, it clearly undermines Staff's most recent claim as to why it needs

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access to the other LER information that is the subject of Staff Motion to Compel. As set forth in its Reply, Staff claims that obtaining the remaining LER documents (pertaining to LER sales, margins and revenues) is necessary because the ** _____

_____ ** The Staff further asserts that the need to examine this issue is particularly acute because there are ** _____

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9. There are a dozen reasons why this unsubstantiated theory does not provide a valid basis for Staff's assertion that Laclede and LER should be compelled to provide such information, many of which have already been addressed by Laclede in both this response and its previous response. The bonus calculation information requested by the Staff simply adds another one to the fold. If nothing else, it dramatically illustrates that there are not only controls in place to prevent off-system sales from migrating from Laclede to LER (in addition to those governing how transactions are to be priced), but that such controls are both robust and deeply integrated into Laclede's corporate structure. Instead of simply relying on a written procedure, Laclede has provided significant ** _____

_____ ** In fact, such revenues increased by 20% or more in each of the ACA periods under review in these proceedings (from approximately \$12.2 million to \$15 million in the 2004/2005 ACA period and from approximately \$15 million to \$18 million in the 2005/2006 ACA period). These types of revenues have, in turn, greatly benefited the Company's customers. Indeed, over the past three years alone they have offset approximately 14% of the fixed charges the Company incurs to reserve gas supply and pipeline capacity to meet its customers' requirements.⁴

10. In short, Staff's revenue migration claim is just as specious and unconvincing as the other arguments Staff has offered in an effort to get the Commission to disregard the clear limits that the Commission's own affiliate transactions rules place on Staff's access to affiliate information. ** _____

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11. Given these considerations, Laclede would again ask that the Commission schedule a hearing in these cases so that the merits of Staff's proposed disallowances and its claims as to why a broader investigation of LER is necessary can be thoroughly addressed with the factual discipline that only an evidentiary hearing can provide. If the

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⁴Staff's fixation on whether Laclede has wrung every possible dollar out of its off-systems sales and capacity release opportunities is even more difficult to understand given Staff's apparent disinterest in the far lower levels achieved by other utilities. Once again, it appears that Staff's idea of an appropriate response to utility efforts that produce comparatively superior results for customers is to never acknowledge the achievement, but instead to seek ways to penalize the utility that produced the benefits. This is hardly the kind of constructive regulation that will produce beneficial results for customers over the long-term.

Commission ultimately concludes that there is enough substance to Staff's claims to support its recommendation in that regard, than so be it. But this nearly four year old series of ACA cases should not continue to be held hostage to the unsubstantiated and, in Laclede's view, demonstrably implausible rhetoric that the Staff has offered in support of its effort to reboot the process with an entirely new course of discovery. For all of these reasons, Laclede strongly believes that it is time that Staff be required, once and for all, to prove with tested facts what it has been saying with unrestrained flourish in its pleadings.

WHEREFORE, for the foregoing reason, Laclede respectfully renews its request that the Commission deny Staff's Motion, or alternatively defer its ruling on such Motion until the completion of the evidentiary hearing in this case. Laclede further requests that the Commission establish a hearing date in this case as soon as possible.

Respectfully submitted,

/s/ Michael C. Pendergast

Michael C. Pendergast, Mo. Bar #31763
 Vice President and Associate General Counsel
 Rick Zucker, Mo. Bar #49211
 Assistant General Counsel - Regulatory

Laclede Gas Company
 720 Olive Street, Room 1520
 St. Louis, MO 63101
 Telephone: (314) 342-0532
 Fax: (314) 421-1979
 Email: mpendergast@lacledegas.com
 rzucker@lacledegas.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing pleading has been duly served upon the General Counsel of the Staff and the Office of the Public Counsel by email or United States mail, postage prepaid, on this 17th day of October, 2008.

/s/ Rick Zucker

Rick Zucker