

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

In the Matter of Laclede Gas Company's)
2010-2011 Actual Cost Adjustment Filing) **Case No. GR-2012-0133**

STAFF REPLY TO LACLEDE RESPONSE

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission") in the above-captioned matter, and files its Reply to Laclede Gas Company's ("Laclede" or "Company") Response filed on February 11, 2013 in this case.

1. The Commission has held open several of Laclede's ACA cases pending resolution of the Laclede Energy Resources ("LER") discovery dispute and the lawsuit Laclede filed against MoGas Pipeline, LLC ("MoGas," f/k/a Missouri Pipeline Company) for a refund of overcharge payments. This case covers Laclede's 2010-2011 ACA period; resolution of Laclede's 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 ACA periods is still pending and the cases for these periods remain open. In its Recommendation in this case, Staff recommended this case also be held open pending resolution of the LER discovery dispute and so that Staff can monitor Laclede's pursuit of overcharge refunds from MoGas.

2. On page 9 of its Response, Laclede states that it disagrees with Staff's recommendation that this case be held open to monitor Laclede's actions with regards to pursuing refunds from MoGas. However, as set forth in a recent joint pleading by Laclede, Staff, and the Office of the Public Counsel ("OPC") in Laclede's immediately

prior ACA case (Case No. GR-2011-0055¹), since there are open ACA cases covering prior ACA periods it is premature to close the current ACA case.

3. From an accounting standpoint, the ACA balance for this period should not be finalized until final ACA balances are established for the prior periods, because the prior period ending balances become the beginning balances for subsequent periods. From a purely legal standpoint, without arguing on the merits, finalizing the ACA balance for this period (or any subsequent ACA period) before the balances for prior periods become finalized could raise issues regarding retroactive ratemaking and/or the filed rate doctrine, thereby arguably precluding the Commission from ordering adjustments in any prior ACA period(s). Therefore, it was premature to set a procedural schedule in the GR-2011-0055 Laclede ACA case (as Laclede recognized) and it is certainly premature to close the current ACA case, to set a procedural schedule, or to establish final balances for Laclede's 2010-2011 ACA.

4. As stated above, in addition to the current case, resolution of Laclede's 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 ACA periods is still pending and the cases for these periods remain open. The Commission should be aware that Staff and the other parties are not sitting by idly allowing these prior cases to remain open without reason. Several, if not all, of these prior cases are likely to be affected by the resolution of external litigation. Furthermore, the parties have been actively involved in discussions which could lead to settlement, or at least partial settlement, of some or all of these prior cases. However, until the final ACA balances are established for these prior periods, it is premature to close this case

¹ Request to Cancel Prehearing Conference and Procedural Schedule Filing Date, filed on February 14, 2013, in Case No. GR-2011-0055.

for the reasons set forth in paragraph 3 above and as set forth in the attached Memorandum.

5. By Order issued February 14, 2013, Staff was given until March 11, 2013, to file its Reply to Laclede's February 11 Response to Staff's Recommendation. Staff's Reply, which is set forth herein and in the attached Memorandum, primarily addresses those areas where Staff and Laclede disagree, to the extent that Staff believes comments are necessary or where Staff believes clarification is required. Comments are provided in the attached Memorandum for the broad issues of: Reliability and Gas Supply Analysis, Natural Gas Supply Request for Proposal (RFP) Process; Lange Underground Storage Non-Recoverable Gas; Missouri Pipeline Company Overcharges; and Discovery Issues. However, silence of Staff in the attached Memorandum on any particular issue does not necessarily indicate agreement with Laclede's Response.

WHEREFORE, Staff respectfully requests the Commission issue an order (1) accepting the attached Memorandum setting forth Staff's Reply to Laclede's Response to Staff's Recommendation in this case, (2) holding this case open, (3) ordering Laclede to keep the Commission and Staff informed as to the resolution of its lawsuit against MoGas, and (4) making such further orders as the Commission deems proper.

Respectfully submitted,

/s/ Jeffrey A. Keevil_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 11th day of March, 2013.

/s/ Jeffrey A. Keevil_____