

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

In the Matter of Laclede Gas Company's Filing)
of Revised Tariffs to Increase its Annual) File No. GR-2013-0171
Revenues for Natural Gas)

STAFF'S STATEMENT DESCRIBING DISCOVERY CONCERNS

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), through the undersigned counsel, and respectfully states as follows:

1. On March 13, 2013, the Commission issued its *Order Adopting Recommended Procedural Schedule, Establishing Test Year, and Delegating Authority* ("Order") which set a Discovery Conference for April 19, 2013.

2. Paragraph 5 subsections (A) and (B) of the Order provided as follows:

(A) Discovery conferences will be held in Room 305 at the Commission's office at the Governor's Office Building, 200 Madison Street, Jefferson City, Missouri or in the Commission's offices in St. Louis, Missouri. Each discovery conference will begin at 10:00 a.m.

(B) Not less than 2 business days before each discovery conference, any party that has a discovery disagreement or concern involving another party shall file a brief statement describing that disagreement or concern and identifying any other parties involved. Such statement need not be a formal motion to compel. Any party may attend a discovery conference, but only those parties involved in an identified discovery disagreement must attend. If the parties do not identify any discovery disagreements or concerns as described herein, the presiding office may cancel the conference.

3. Staff is submitting this Statement pursuant to paragraph 5(B) of the Order quoted above, and will attempt to keep this Statement as brief as possible per paragraph 5(B). Staff's discovery concerns involve Laclede Gas Company ("Laclede") responses to data requests ("DRs") submitted to Laclede by Staff. Also, in recognition

of paragraph 5(A) of the Order quoted above, Staff respectfully requests that the April 19th discovery conference be held in Jefferson City, Missouri.

4. Attached hereto are copies of Staff Data Requests to Laclede numbered 200-208, 210-212, 219, 221-224, 241, and 244; also attached hereto are copies of Staff Data Requests to Laclede numbered 270-288, 290-293, 107.1, and 69.1 which are designated as Highly Confidential except for DR 293. Also attached are communications received from Laclede concerning these Data Requests.

DRs 200-208, 210-212, 219, 221-224, 241, and 244

5. In regard to DRs 200-208, 210-212, 219, 221-224, 241, and 244, as shown on the attached letter dated April 8, 2013, Laclede objected to DRs 200 – 204, 221, 223 and possibly 222. For the remaining DRs in this group, Laclede’s April 8 letter stated that it was unable to answer within the Commission’s 20-day time limit without stating the reasons for its inability to answer within the 20-day time limit¹, but stated that it “believes” it could provide responses by May 3, 2013². On April 10, 2013, representatives of Staff and Laclede had a conference call concerning this group of DRs and Laclede’s letter dated April 8. During this call Laclede indicated it would provide some information in response to some of the sub-parts of those DRs to which it had originally objected; however, it is not entirely clear what Laclede intends to provide or whether Laclede intends to respond to the remaining portions of those DRs.

¹ The Commission’s rule governing data requests, 4 CSR 240-2.090, provides in subsection (2) that “The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient [of a data request] objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission.”

² Responses to DRs 200-208, 210-212, 219, 221-224 are due April 16, 2013 and responses to DRs 241 and 244 are due April 17, 2013. Also, although included in Laclede’s letter, responses have been received to DRs 219 and 244.

6. Furthermore, also of significant concern regarding all of the DRs in this group is the matter of when Laclede intends to respond. Staff raised this concern during the conference call on April 10, and after the conference call Laclede indicated via email (copy attached) that it would provide responses by April 30 instead of the May 3 date Laclede gave in the letter dated April 8. During the call, Staff had indicated to Laclede that Staff was willing to split the difference between when the responses were originally due and Laclede's original proposal of May 3, *i.e.*, April 24. The reason for Staff's concern regarding the response date is that according to the procedural schedule for this case ordered by the Commission, Staff's Revenue Requirement Direct Testimony is due on May 17, 2013. Accordingly, pursuant to Staff's internal timeline, first drafts of Staff's Revenue Requirement Direct Testimony are due by May 1, 2013. Even without the internal timeline, but particularly problematic with the internal timeline, Laclede's proposed response date of April 30 is too late to provide Staff the opportunity to meaningfully review the responses to be provided by Laclede and incorporate that information into Staff's Direct Testimony, even assuming that such responses are complete and do not necessitate follow-up discovery.

DRs 270-288, 290-293, 107.1, and 69.1

7. In regard to DRs 270-288, 290-293, 107.1, and 69.1, as shown on the attached letter dated April 15, 2013, Laclede did not object to any of these DRs but stated that it was unable to answer within the Commission's 20-day time limit and that it "believes" it could provide responses by May 7, 2013³. Like Staff's concern regarding Laclede's proposed response date for the other group of DRs addressed above, the

³ Responses to DRs 270-288 are due April 23, 2013; responses to DRs 290-293 and 107.1 are due April 24, 2013; and response to DR 69.1 is due April 25, 2013.

reason for Staff's concern regarding the response date for these DRs is that, according to the procedural schedule for this case ordered by the Commission, Staff's Revenue Requirement Direct Testimony is due on May 17, 2013. Accordingly, pursuant to Staff's internal timeline, first drafts of Staff's Revenue Requirement Direct Testimony are due by May 1, 2013. Even without the internal timeline, but particularly problematic with the internal timeline, Laclede's proposed response date of May 7 is too late to provide Staff the opportunity to meaningfully review the responses to be provided by Laclede and incorporate that information into Staff's Direct Testimony, even assuming that such responses are complete and do not necessitate follow-up discovery.

Discovery Conference

8. The discovery conference scheduled for April 19, 2013, needs to resolve the above issues on the record, including which DRs and subparts which Laclede initially objected to Laclede will answer (in regard to the first group of DRs addressed above) and when Laclede will provide answers (in regard to both groups of DRs addressed above). Staff would also note that if a response deadline cannot be reached which allows Staff sufficient time to adequately prepare and file its Revenue Requirement Direct Testimony on May 17, Staff would request the Regulatory Law Judge issue an order allowing Staff to either file Supplemental Direct Testimony on the issues addressed by these Data Requests or to address those issues in its Rebuttal Testimony.

WHEREFORE, Staff submits this Statement Describing Discovery Concerns, with attachments, in advance of the discovery conference set for April 19, 2013, and

respectfully requests that said discovery conference be held in the Commission's offices in Jefferson City, Missouri.

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 16th day of April 2013.

/s/ Jeffrey A. Keevil