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June 26, 2001

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. GM-2001-342

Dear Judge Roberts:

Enclosed for filing in the above-referenced matter please find the original and eight copies of the Statement of Position of Laclede Gas Company.

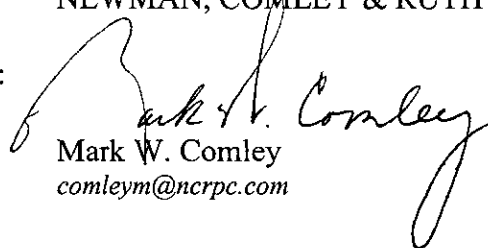
Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

Thank you.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:

  
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MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Michael C. Pendergast  
All parties of record

**FILED<sup>2</sup>**  
JUN 26 2001  
Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>  
JUN 26 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

**STATEMENT OF POSITION OF  
LACLEDE GAS COMPANY**

COMES NOW Laclede Gas Company ("Laclede" or "Company") and, pursuant to the procedural schedule adopted by the Missouri Public Service Commission ("Commission") for this proceeding, provides the following Statement of Position regarding the issues identified in the Proposed List of Issues filed by the Staff of the Missouri Public Service Commission ("Staff") on June 11, 2001.

**General Issues**

- (A) **Does the application for authority to reorganize as currently filed represent a detriment to the public interest? If so, what is the nature and significance of that detriment to the approval of the application?**

No. The Company's application for authority to reorganize its corporate structure (the "Proposed Restructuring") does not represent a detriment to the public interest. The Proposed Restructuring does not involve any transfer of utility assets from Laclede Gas Company to an affiliate. Nor does it involve any change in the terms and conditions of the regulated utility services provided by Laclede to its customers. Accordingly, Laclede Gas Company's customers will continue to receive safe and adequate service after the Proposed Restructuring. And far from imposing any additional costs on Laclede's utility customers, the Proposed Restructuring will provide Laclede Gas Company and its

customers additional legal protection from any unregulated business risk because none of the unregulated subsidiaries will be owned directly by Laclede Gas Company, as is the case currently.

None of the other parties to this proceeding have provided any evidence showing that an actual and legally recognizable detriment would occur as a result of the Proposed Restructuring. Instead, they have claimed that customers *may* be detrimentally affected by the Proposed Restructuring because it is *possible* that the Proposed Restructuring will enable the Laclede Group, Inc. and its various companies to engage in certain activities beyond the Commission's jurisdiction that potentially could result in unacceptable risks or costs being imposed on Laclede Gas Company's utility customers. Laclede does not believe that such speculations qualify as a detriment that can or should prevent approval of the Proposed Restructuring.

**(B) Should the Commission approve certain conditions before this proposed restructuring is approved? What, if any conditions discussed in the prefiled testimony of the parties, should be approved by the Commission?**

While the Company's Proposed Restructuring is not detrimental to the public interest, the Company has nevertheless proposed measures to ensure that customers will be protected from any alleged harm associated with affiliate transactions between Laclede Gas Company and the holding company or other non-utility subsidiaries. For example, Laclede has developed and will use a Cost Allocation Manual ("CAM") in connection with the Proposed Restructuring that will ensure a proper allocation of costs or pricing of transactions between regulated and unregulated operations, as determined in conformity with all applicable current or future laws or regulations. Additionally, the Company has accepted all of Staff's proposed modifications to its CAM with the

exception of two matters. Laclede has also committed that, pursuant to applicable current or future laws or regulations, it will provide access to the books and records of its affiliates as necessary to determine whether any charges to, or payments from, Laclede Gas Company are reasonable. Moreover, after the Proposed Restructuring, Laclede Gas Company will remain intact as a regulated public utility subject to oversight by the Commission, just as it is today. As a result, the Commission will continue to exercise its broad powers to review and approve charges paid by customers of Laclede.

Although, as stated previously, the Proposed Restructuring does not involve any acquisition or transfer of utility assets, and will not result in any change in the terms and conditions of utility service provided by Laclede, Staff and OPC have nevertheless proposed a broad array of conditions and restrictions. While the Company believes many of these conditions are unnecessary, it has essentially agreed, in one form or another, to most of them. The Company objects, however, to certain conditions and restrictions proposed by Staff and/or OPC that are either impossible to implement, unnecessary or beyond the Commission's statutory authority to implement. These include, among others, proposed conditions and restrictions that would: (a) mandate Commission approval of the unregulated activities of Laclede's affiliates; (b) require the Commission to approve the transfer of any functions between Laclede and its affiliates; (c) require the Company to provide certain guarantees regarding its credit ratings and equity ratios that are beyond the Company's power to unilaterally control; and (d) require the Company to furnish affiliate information that is irrelevant to the cost and reliability of its regulated operations, such as employee and planning information relating solely to its unregulated operations. They also include certain ratemaking conditions that, consistent with prior Commission

practice, are more appropriately addressed through the Commission's exercise of its traditional ratemaking and complaint powers. While the Company continues to work with the parties to develop alternative measures that would resolve these differences, it reserves the right to challenge any proposed conditions or restrictions which the Company opposed or did not accept in its surrebuttal testimony.

- (C) Does Section 393.140(12) RSMo 2000 prevent imposition of conditions limiting or requiring Commission approval of the business activities of the proposed holding company and its unregulated subsidiaries? Do other regulated utilities engage in unregulated business activities through subsidiary companies with or without Commission approval?

Pursuant to Section 393.140(12) RSMo 2000 the Commission's power does not extend to businesses not otherwise subject to the Commission's jurisdiction so long as such businesses are conducted and kept substantially separate and apart from the utility's business. This fundamental statutory limitation on the Commission's authority is reflected in the fact that Laclede and many other Missouri utilities have historically engaged in a wide variety of unregulated businesses through subsidiary companies without the Commission's guidance or approval as shown by Mr. McNeive's Schedule No. 2. A number of the conditions and restrictions proposed by Staff and OPC violated this express limitation on the Commission's statutory powers.

#### Issues relating to the Intervenor Unions

- (A) If the Commission accepts OPC's recommendation that it and Staff should have access to employees of the Laclede Gas Company and the Laclede Group in connection with Cost Allocation (CAM) compliance should that "access" be limited to non-bargaining unit employees?

Laclede believes that it is unnecessary to prescribe the specific circumstances under which Staff or OPC would have access to employees of Laclede Gas Company or

its affiliates since such issue can be resolved by following normal discovery procedures.

However, in the event the Commission decides to prescribe such access, Laclede takes no position on whether such access should be limited to non-bargaining unit employees.

- (B) In the alternative, in connection with CAM compliance, if the Commission believes that the Staff and OPC should have access to all employees of the companies described just above, regardless of bargaining unit status, should the Staff and OPC be required to give reasonable notice of any requested inquiry to the bargaining unit employee's union and allow that union to be present and represent the employee during the CAM inquiry?

Laclede believes that it is unnecessary to specifically prescribe the circumstances under which Staff or OPC would have access to employees of Laclede Gas Company or its affiliates since such issue can be resolved by following normal discovery procedures. However, in the event the Commission decides to specifically prescribe such access, Laclede takes no position on whether Staff and OPC should be required to give reasonable notice of any requested inquiry to the bargaining unit employee's union or allow that union to be present and represent the employee during the CAM inquiry.

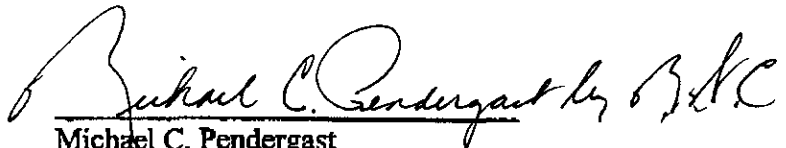
- (C) If the Commission adopts the Staff's recommendation that a "Code of Conduct" be applied to CAM compliance, should enforcement of this Code be limited to non-bargaining unit employees?

Laclede recommends that the Commission adopt its recommendation regarding how compliance with the CAM should be incorporated into the Company's Code of Conduct and opposes any Commission action which would purport to determine which employees are covered by or subject to that Code.

(D) Do the other parties agree to the considerations sought by the unions as detailed on page 7 and page 8 of Mr. Schulte's Surrebuttal?

Laclede does not object to the recommendations set forth on pages 7 and 8 of Mr. Schulte's Surrebuttal, provided that the language proposed by Laclede for providing access to such information is adopted by the Commission.

Respectfully submitted,



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Associate General Counsel  
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**CERTIFICATE OF SERVICE**

Michael C. Pendergast, Assistant Vice President and Associate General Counsel for Laclede Gas Company, hereby certifies that the foregoing Statement of Position of Laclede Gas Company has been duly served upon the General Counsel of the Staff of the Public Service Commission, Office of the Public Counsel and 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 26<sup>th</sup> day of June, 2001.

