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STATE OF MISSOURI  
  
PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS  
  
Prehearing Conference

March 10, 2000  
Jefferson City, Missouri  
Volume 1

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In the Matter of Laclede Gas     )  
Company's Gas Supply Incentive ) Case No.  
Plan (GSIP II).                     ) GO-2000-395

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VICKY RUTH, Presiding,  
REGULATORY LAW JUDGE.

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1 P R O C E E D I N G S

2 JUDGE RUTH: Let me say good morning and  
3 welcome to the prehearing conference for Case  
4 GO-2000-395, In the Matter of Laclede Gas Company's  
5 Gas Supply Incentive Plan.

6 I'd like to begin by taking entries of  
7 appearance, and we'll just start over on my left  
8 over here.

9 MR. PENDERGAST: Your Honor, they're with  
10 me. Michael C. Pendergast and Thomas M. Byrne,  
11 appearing on behalf of Laclede Gas Company. Our  
12 business address is 720 Olive Street, St. Louis,  
13 Missouri 63101.

14 JUDGE RUTH: And Staff?

15 MR. FREY: Thank you, your Honor. Dennis  
16 L. Frey, appearing on behalf of the Staff. The  
17 address is Post Office Box 360, Jefferson City,  
18 Missouri 65102.

19 MS. VUYLSTEKE: Diana Vuylsteke, appearing  
20 on behalf of the Missouri Industrial Energy  
21 Consumers. I'm from the law firm of Bryan Cave,  
22 LLP, 211 North Broadway, Suite 3600, St. Louis,  
23 Missouri 63102.

24 JUDGE RUTH: OPC?

25 MR. MICHEEL: Douglas E. Micheel,

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1 appearing on behalf of the Office of Public Counsel  
2 and the public, P.O. Box 7800, Jefferson City,  
3 Missouri 65102-7800.

4 JUDGE RUTH: Thank you.

5 Do the parties have any preliminary  
6 matters we need to take care of to begin with?

7 (NO RESPONSE.)

8 JUDGE RUTH: Okay. I'd like to start this  
9 prehearing conference by mentioning that what I'd  
10 like to do today is give the parties an opportunity  
11 to briefly state their positions. It's one last  
12 chance before the Commissioners determine which way  
13 they want to go on this case. And then after I  
14 leave the room, you will be given an opportunity to  
15 have discussions, settlement discussions if that's  
16 a possibility or even since you're all here  
17 together, you might want to discuss procedural  
18 schedule dates, if it should come to that.

19 And I'd like to begin with Laclede and  
20 I'll give you an opportunity to go first.

21 MR. PENDERGAST: Thank you, your Honor. I  
22 appreciate that. Laclede's position on the tariff  
23 filing that it made, I think has been made fairly  
24 clear in the pleadings that we filed to date, but I  
25 will just briefly restate where we're at.

1           What we're seeking is an extension of the  
2     current GSIP, which is scheduled to expire  
3     September 30 in the year 2000 and seek a two-year  
4     extension. And when the Commission, as your Honor  
5     may recall, initially proposed or approved the  
6     GSIP, despite the fact that all parties had  
7     recommended longer terms to the proposed incentive  
8     mechanisms, only extended it for a year, approved  
9     it for a year.

10           And in doing so, the sole reason that the  
11    Commission gave for that was that it wanted to  
12    monitor developments in the General Assembly in  
13    this legislative session relating to energy  
14    deregulation to determine whether or not there  
15    might be any significant developments there that I  
16    think would potentially impact the program.

17           In recognition of that reason given for  
18    the Commission for only authorizing initially a  
19    one-year program, we came forward, and we proposed  
20    in the same tariffs that we -- with which we sought  
21    to extend the GSIP language that indicated that the  
22    Commission would suspend operation of the GSIP in  
23    the event and at such time as legislation was  
24    ultimately passed and implemented that had a  
25    material impact on the GSIP.

1           In doing that we think we accommodated  
2   Commission's concern that if something should  
3   happen in the legislative session, which we think  
4   based on what we've been hearing, the General  
5   Assembly is very, very unlikely.

6           But nonetheless, if it were to happen,  
7   there would be adequate provision for the  
8   Commission to act upon that and modify or even  
9   terminate the GSIP in the event that it had a  
10   material impact and necessitated that type of  
11   action.

12           In addition, we went beyond that, and we  
13   also proposed language that was similar to a  
14   proposal that, I think Public Counsel had in the  
15   last case, to make the market out of provisions,  
16   which today in the GSIP only applied to Laclede and  
17   only gave Laclede the unilateral right to seek a  
18   termination or modification of the GSIP based on  
19   unusual circumstances and requested that they go  
20   ahead and be applied to all parties so that all  
21   parties can seek to do that. And all parties can  
22   seek to do that whether it had an adverse or a  
23   positive impact on purchase gas costs.

24           In doing that, we were trying to make  
25   adequate provision for other parties who might

1 think there's been some unusual and unforeseen  
2 change that necessitates a reevaluation of GSIP and  
3 make sure they had an opportunity to do that.

4 By the same token, and that your Honor is  
5 aware, there's also been a proceeding that's been  
6 opened up to monitor the GSIP and Laclede's  
7 performance thereunder. We did not oppose that  
8 docket being opened up, and we even came forward  
9 and we suggested that we would voluntarily file  
10 quarterly reports summarizing the results of the  
11 GSIP. And we have indicated our willingness to  
12 Staff to answer a number of data requests that they  
13 have provided in response to that.

14 I think that's the second or maybe third  
15 piece of the puzzle in addition to giving parties  
16 the right to come forward if there are significant  
17 changes that would justify taking another look at  
18 it. We tried to play a positive, constructive role  
19 in providing those parties with the means to  
20 identify those changes as they occur and to come  
21 forward and try and exercise those rights, if  
22 indeed such action is warranted.

23 So from our perspective, we think all the  
24 pieces of the puzzle are in place to permit this  
25 GSIP, which this Commission found to be in the

1 public interest less than seven months ago to go  
2 forward. We're here today to listen to the other  
3 parties and to see, you know what, if any,  
4 suggestions they have on the tariff language we  
5 proposed.

6 I think when Staff responded to it, they  
7 said they didn't have any opinion on it. Hopefully  
8 they've got an opinion today. We will listen to  
9 those opinions. We will try and react  
10 constructively and positively to them. And  
11 hopefully we will be able to come into a situation  
12 where we can allow this program to go forward under  
13 terms that are acceptable to everybody. Thank you.

14 JUDGE RUTH: Thank you. I have just one  
15 question, and if you can tell me why Laclede  
16 selected a two-year extension, why that period?  
17 Why for two years? Why not one year? Why not  
18 something else?

19 MR. PENDERGAST: Your Honor, I think the  
20 main reason we selected two years was that when we  
21 originally proposed the program, we were looking at  
22 three years. I think most parties were looking at  
23 three year indefinite length programs, and the  
24 original GSIP was three years. So I don't think it  
25 was anymore complicated than that, but from a



1 conceptual standpoint, if these programs are going  
2 to be effective, we think they have to be allowed  
3 to operate for at least some nominal year term, and  
4 I think those were the considerations underlying  
5 our proposal. Thank you.

6 JUDGE RUTH: Staff?

7 MR. FREY: Thank you, your Honor. Staff's  
8 position at this time remains what it was at the  
9 time the Staff filed its recommendation, which was  
10 that we are not -- Staff is not prepared at this  
11 time to recommend whether or not to suspend this  
12 tariff. And we, as you know, filed a  
13 recommendation to that effect, and the  
14 recommendation was adopted by the Commission.

15 So as I say at this time, we are adhering  
16 to that position and expect that in the discussions  
17 today perhaps we can cast more light on the  
18 respective positions of the parties.

19 The only other thing I would point out is  
20 that Mr. Pendergast mentioned that the Company was  
21 responding to our data requests. They have  
22 objected to seven of the data requests that we have  
23 submitted. I just wanted the record to reflect  
24 that. That's all I have to say, your Honor.

25 JUDGE RUTH: Mr. Frey, I want to just

1 clarify for my own understanding then, at this  
2 point staff wants to use today as an opportunity to  
3 discuss the matter with Laclede further. At this  
4 time then does Staff have any sense as to whether  
5 or not the tariff will need to be suspended past  
6 the initial 120 days, I believe is what it has been  
7 suspended to, 120 days to July 1?

8 MR. FREY: No, your Honor. As a matter of  
9 fact, in the Staff's recommendation, Staff  
10 requested that this prehearing conference be set  
11 for after the conclusion of the legislative  
12 session. Commission chose to schedule it today, so  
13 that's why we're here.

14 JUDGE RUTH: And I will say one concern of  
15 the Commission is that if this is going to move  
16 towards a hearing-type process, the time is  
17 limited, the clock is ticking and that's why we  
18 scheduled this as an early prehearing conference,  
19 but I appreciate your comments.

20 MR. FREY: Thank you, your Honor.

21 JUDGE RUTH: OPC, I'll let you go next,  
22 and I'll come back to you then.

23 MR. MICHEEL: Thank you, your Honor. We  
24 filed a response, as you know, to the Staff's  
25 memorandum saying that we generally supported the

1 Staff's memorandum. I'm hopeful today that we can  
2 talk about the issues to see specifically what the  
3 Company and Staff have at issue. I don't  
4 anticipate that we're going to be very active in  
5 this docket.

6 JUDGE RUTH: Okay. Thank you very much.

7 MS. VUYLSTEKE: On behalf of the Missouri  
8 Industrial Energy Consumers, we do not take a  
9 position on Laclede's request at this time. We  
10 would reserve the right to take a position in the  
11 future. The operation of the GSIP and the outcome  
12 of Laclede's request is important to large  
13 customers and that's why we're in this case. Like  
14 I said, we may take a position later, but we don't  
15 have one at this time. Thank you.

16 JUDGE RUTH: Okay. Thank you.

17 I do not have any further questions.  
18 And -- I'm sorry. Go ahead, Mr. Pendergast.

19 MR. PENDERGAST: Your Honor, if I could be  
20 permitted a very brief response, and I know this  
21 isn't the time to get into an argument over  
22 discovery, but I did want to point out, just so  
23 there's no misunderstanding, I think we referenced  
24 in one of our pleadings that we filed in response  
25 to Staff's recommendation that we had been served

1 with a number of data requests.

2 And we also indicated there that we  
3 thought a number of those data requests went well  
4 beyond matters that had been reflected in the GSIP  
5 results to date, that they were related to, you  
6 know, perspective types of items that weren't even  
7 reflected in the GSIP.

8 And so we thought we had good grounds.  
9 Continually we have good grounds for resisting some  
10 of the data requests. And I realize until or  
11 unless a Motion to Compel is filed, and we have an  
12 opportunity to further elaborate on that, you're  
13 not in a position to -- and nor would it be  
14 appropriate to rule on it.

15 But we didn't want to just lay there that  
16 we have willy-nilly not provided answers to data  
17 requests. We will be providing answers to the  
18 majority of the data requests that were submitted,  
19 but only when it goes well beyond what we think was  
20 contemplated in your Order establishing what Staff  
21 is supposed to look at, that we object it. Thank  
22 you.

23 JUDGE RUTH: Thank you.

24 And I will allow Staff an opportunity to  
25 respond, if you have something brief.

1                   MR. FREY: Not at this time, your Honor.

2                   Thank you.

3                   JUDGE RUTH: Okay. Thank you.

4                   That will conclude then the on-the-record  
5                   portion of the prehearing conference. I will leave  
6                   the room, go to my office and allow you to be in  
7                   your deliberations. I would ask that when you  
8                   finish today, if someone would just give me a call  
9                   or stop by my office and let me know that you have  
10                  finished. And if for any reason you need me, I  
11                  will be in all day today, and I can come back in if  
12                  that's necessary.

13                  MR. PENDERGAST: And along those lines,  
14                  your Honor, in addition to getting back to you and  
15                  reporting where we're at, it may also be helpful  
16                  for us to suggest to you how we'd like to  
17                  communicate maybe where we're at to the  
18                  Commission. I know in the Order there wasn't  
19                  anything specific that talked about filing  
20                  something, but if it would be helpful, we would  
21                  cover that with you at that time, too.

22                  JUDGE RUTH: That would be helpful. I  
23                  appreciate that.

24                  MR. PENDERGAST: Thank you.

25                  JUDGE RUTH: Thank you very much.

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1                   WHEREUPON, the on-the-record portion of  
2   the prehearing conference was concluded.  
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