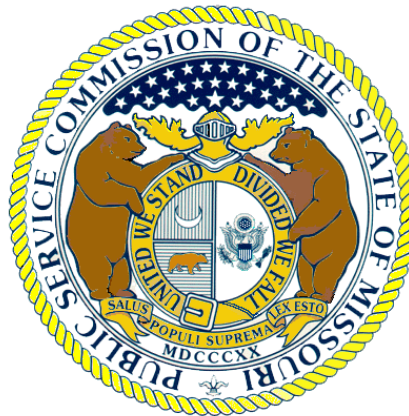


STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 12<sup>th</sup> day  
of November, 2015.

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



In the Matter of the Verified Application and Petition )	
of Laclede Gas Company to Change Its )	<b><u>File No. GO-2015-0341</u></b>
Infrastructure System Replacement Surcharge )	Tariff No. YG-2016-0041
in Its Laclede Gas Service Territory )	
In the Matter of the Application of Laclede Gas )	
Company to Change its Infrastructure System )	<b><u>File No. GO-2015-0343</u></b>
Replacement Surcharge in it Missouri Gas )	Tariff No. YG-2016-0042
Energy Service Territory )	

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**REPORT AND ORDER**

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**Issue Date:** November 12, 2015

**Effective Date:** December 1, 2015

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**BEFORE THE PUBLIC SERVICE COMMISSION  
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Company to Change its Infrastructure System ) **File No. GO-2015-0343**  
Replacement Surcharge in it Missouri Gas ) **Tariff No. YG-2016-0042**  
Energy Service Territory )

**REPORT AND ORDER**

**APPEARANCES**

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Missouri Gas Energy**

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**USW Local 11-6\***

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*\* USW Local 11-6 intervened in File No. GO-2015-0341.  
The Commission granted the application of USW Local  
11-6 to be excused from the evidentiary hearing.*

**REGULATORY LAW JUDGE:    Kim S. Burton**

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

In the Matter of the Verified Application and Petition )  
of Laclede Gas Company to Change Its ) **File No. GO-2015-0341**  
Infrastructure System Replacement Surcharge ) **Tariff No. YG-2016-0041**  
in Its Laclede Gas Service Territory )

In the Matter of the Application of Laclede Gas )  
Company to Change its Infrastructure System ) **File No. GO-2015-0343**  
Replacement Surcharge in it Missouri Gas ) **Tariff No. YG-2016-0042**  
Energy Service Territory )

**REPORT AND ORDER**

Issue Date: November 12, 2015

Effective Date: December 1, 2015

**PROCEDURAL HISTORY**

On June 19, 2015,<sup>1</sup> Laclede Gas Company (“Laclede”) filed a *Notice of Intended Case Filing and Application for Waiver of 60 Days’ Notice Period* in File No. GO-2015-0341. On that same day, Missouri Gas Energy (“MGE”), an operating unit of Laclede, also filed a *Notice of Intended Case Filing and Application for Waiver of 60 Days’ Notice Period* in File No. GO-2015-0343. In their filings, both MGE and Laclede requested a waiver from the requirement in Commission rule 4 CSR 240-4.020(2) that a utility provide notice at least sixty days before the filing of what is likely to be a contested case. Both Laclede and MGE stated they intended to file applications to adjust their Infrastructure System Replacement Surcharge (“ISRS”). On June 30, the Commission issued orders granting the requested waivers.

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<sup>1</sup> All dates are to the year 2015 unless indicated otherwise.

## Laclede

On August 3, Laclede filed a verified application and petition to change its ISRS tariff to recover certain infrastructure replacement costs through a customer surcharge, as authorized by sections 393.1009, 393.1012 and 393.1015, RSMo.<sup>2</sup> With its application, Laclede filed a tariff to implement the surcharge with a September 2 effective date (Tariff No. YG-2016-0041). Laclede also requested the Commission establish a procedural schedule and set a hearing to determine the eligibility of certain expenses under relevant ISRS statutes.

On August 7, the Office of the Public Counsel (“OPC”) responded to Laclede’s application in File No. GO-2015-0341 by filing *Public Counsel’s Motion to Reject Tariff Filing or Alternative Motion for an Evidentiary Hearing, and Motion Regarding a Procedural Schedule*. The Commission issued an order on August 7 suspending Laclede’s ISRS tariff until December 1, and set an October 15 evidentiary hearing on Laclede’s application. USW Local 11-6 filed an application to intervene in the Laclede case, which the Commission granted.

## MGE

MGE similarly filed a verified application and petition to change its ISRS tariff in its Missouri Gas Energy Service Territory on August 3. MGE filed a tariff with a September 2 effective date (Tariff No. YG-2016-0042). On August 11, the Commission issued an order suspending MGE’s tariff until December 1 and directing the Commission’s Staff to file a recommendation on the application by October 2. On

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<sup>2</sup> All statutory references are to the 2013 Cumulative Supplement of the Missouri Revised Statutes, unless indicated otherwise.

August 26, OPC filed a motion requesting the Commission reject MGE's ISRS tariff or set the matter for hearing by consolidating the case with the pending evidentiary hearing on Laclede's ISRS application.

The Commission issued an order on August 27 setting a joint evidentiary hearing on Laclede's and MGE's applications for October 15.<sup>3</sup> Staff filed separate recommendations on Laclede's and MGE's applications on October 2. A joint evidentiary hearing was held on October 15. The parties filed post-hearing briefs on October 26.

On November 9, Laclede and MGE filed a motion requesting expedited treatment. OPC filed a *Response in Opposition to Motion to Expedite* on November 10.

### **JOINT FINDINGS OF FACT**

1. Laclede Gas Company ("Laclede") is a public utility, incorporated under the laws of the State of Missouri. Laclede is engaged in the business of distributing and transporting gas to customers in Eastern Missouri, specifically for customers located in the City of St. Louis, and the Counties of St. Louis, St. Charles, Crawford, Jefferson, Franklin, Iron, St. Genevieve, St. Francois, Madison, and Butler.<sup>4</sup>

2. MGE is an operating unit of Laclede that conducts business in its MGE service territory under the fictitious name of Missouri Gas Energy. MGE is engaged in the business of distributing and transporting natural gas to approximately 500,000 customers in the western Missouri counties of: Andrew, Barry, Barton, Bates,

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<sup>3</sup> Commission rule 4 CSR 240-2.110(3) states that the Commission may order a joint hearing when pending actions involve related questions of law or fact.

<sup>4</sup> Exhibit 1; Verified Application and Petition Laclede Gas Company, pg. 2, ¶ 3-4.

Buchanan, Carroll, Cass, Cedar, Christian, Clay, Clinton, Dade, DeKalb, Greene, Henry, Howard, Jackson, Jasper, Johnson, Lafayette, Lawrence, McDonald, Moniteau, Pettis, Platte, Ray, Saline, Stone, and Vernon.<sup>5</sup>

#### **A. LACLEDE**

3. Laclede's most recent general rate increase was approved by the Commission in File No. GR-2013-0171. After the general rate case, an ISRS was established on April 12, 2014, authorizing Laclede to recover the cost of statutorily eligible infrastructure replacements through a surcharge on customer bills rather than through a formal rate case.<sup>6</sup> Since then, the Commission approved two additional ISRS adjustments by Laclede.<sup>7</sup> The total of these adjustments are included in Laclede's current ISRS rates for the recovery of eligible costs through February 28.<sup>8</sup>

4. On August 3, Laclede filed an application seeking to adjust its ISRS to recover certain infrastructure investments made during the period from March 1 through June 30, as well as estimated infrastructure replacement costs through August 31 ("Laclede Application").<sup>9</sup>

5. The Laclede Application includes a rate schedule and supporting documentation identifying the utility account, work order description, month of completion, addition amount, depreciation rate, accumulated depreciation, and

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<sup>5</sup> Exhibit 2, Verified Application and Petition of MGE, ¶ 3.

<sup>6</sup> See File No. GO-2014-0212; Exhibit 1, ¶ 1.

<sup>7</sup> See File Nos. GR-2015-0026 and GO-2015-0269; Exhibit 1, ¶ 2. Section 393.1015.3 allows a gas corporation to change its ISRS rates no more than two times every twelve months.

<sup>8</sup> Exhibit 1, ¶ 2.

<sup>9</sup> Exhibit 1.

depreciation expense for all ISRS work order additions from March through June with estimates for the months of July and August.<sup>10</sup>

6. In the Laclede Application, the company estimated that its eligible ISRS costs for the period March 1 through August 30 entitled the company to an incremental increase in ISRS revenue of \$4,330,031.<sup>11</sup>

### **Laclede Telemetry Equipment**

7. As part of the proposed ISRS increase, Laclede seeks to recover \$401,259 in infrastructure investments for telemetric instrumentation and equipment replaced by the company.<sup>12</sup>

8. In a gas distribution system, gas constantly flows through the pipeline at different pressures from a variety of different sources to customers. Appropriate flow and pressure must be maintained to ensure the safety, integrity and reliability of the gas distribution system.<sup>13</sup> If there is a disruption in pressure or flow, real time data allows a gas company to take remedial action on a timely basis.<sup>14</sup>

9. Telemetry equipment is a main component of the regulator station. It is used to electronically transmit information on pressure and flow at a regulator station in real time

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<sup>10</sup> Exhibit 1, Appendix A, B,C.

<sup>11</sup> Exhibit 1.

<sup>12</sup> Exhibit 1, Appendix A, Schedule 1, pg. 26; Exhibit 3, Seamands Direct Testimony, pg 5. See also Exhibit 100 pg 2- Staff Memorandum on Laclede. Plant-in-service related to telemetry equipment from prior ISRS cases were included in the submitted rates for this ISRS application. Staff states that this is due to an agreement between Laclede and OPC in Laclede's previous ISRS filing that the values related to those items would be excluded in the previous ISRS filing, but could be considered in future ISRS filings.

<sup>13</sup> Exhibit 3, pg. 4, ln 5-9.

<sup>14</sup> Exhibit 3, pg. 4, ln 4-13.



to a central control room so that the information can be monitored by individuals, who then send information back to that regulator station to adjust the flow or pressure.<sup>15</sup>

10. The telemetry equipment is physically located next to a regulator station. Lines run from the telemetry equipment to the regulator controller that tells it to open or close. The telemetry equipment also connects to pressure and flow information.<sup>16</sup>

11. If telemetry equipment fails, the failure can cause a gas leak by allowing the pipe to over-pressurize. It can also impact the service provided to customers by shutting off the gas so customers lose service.<sup>17</sup>

12. Laclede uses telemetry equipment in order to comply with federal and state safety regulations.<sup>18</sup>

13. Between 2000 and 2002, Laclede purchased and put into use the Network 3300 Series telemetry equipment from Bristol Network. In 2007, Laclede received notice from Bristol Network that this line of telemetry equipment was on the path to retirement and being replaced by a new Bristol ControlWave product line.<sup>19</sup> Bristol Network stated that it would stop providing repair parts on the Network 3300 Series in 2009 and would only continue to repair, service or replace the line through June 2011.<sup>20</sup>

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<sup>15</sup> Transcript; pg. 46, ln. 2-9; Exhibit 3; pg. 3, ln 22- pg. 4, ln. 3.

<sup>16</sup> Transcript; pg. 46, ln. 14-23.

<sup>17</sup> Transcript; pg. 52, ln. 9-12; pg. 65, ln 6-16.

<sup>18</sup> Exhibit 3, pg. 4, ln 14-22. 4 CSR 240-40.030(13)(S)(1) and 49 CFR Part 192.741 require a utility with more than one regulating station or more than 1,000 customers to maintain graphic telemetering to monitor gas pressure.

<sup>19</sup> Exhibit 3, pg. 6, ln. 4-21.

<sup>20</sup> Exhibit 3, Attached Exhibit PAS-D1.

14. Laclede approved the purchase of replacement Bristol ControlWave RTUs and other telemetric equipment in December 2011 and began replacing existing telemetry equipment in 2012.<sup>21</sup>

15. As part of Laclede's replacement of old telemetry equipment, the large majority of the telemetry expense for which Laclede currently seeks ISRS recovery is found in work order 604180 (\$205,916.37) and work order 604190 (\$133,284.56).<sup>22</sup> An additional \$62,057 is identified in four smaller telemetry work orders (#001172,#003306, #003402, and #00537).<sup>23</sup>

16. The telemetric equipment in work orders 604180 and 604190 were replaced while Laclede was replacing low-pressure regulator stations with new higher pressure stations.<sup>24</sup> While there were failures at different times on different pieces of similar equipment, the telemetric equipment removed in those two work orders were operating as expected at the time they were replaced.<sup>25</sup> There were no signs of corrosion on the exposed portions of the replaced equipment.<sup>26</sup>

### **Budgeted Infrastructure Replacements for July and August**

17. From the time the Laclede Application was filed on August 3, Staff had sixty days – until October 2 – in which to review the ISRS rate request and file a recommendation with the Commission.<sup>27</sup>

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<sup>21</sup> Exhibit 3, pg. 6, ln. 4-21.

<sup>22</sup> Exhibit 1, Appendix A, Schedule 1, pg 26.

<sup>23</sup> Exhibit, 200, Schedule JSM02).

<sup>24</sup> Transcript, pg. 63, ln. 15- pg. 64, ln 9.

<sup>25</sup> Transcript, pg. 57, ln 1-19.

<sup>26</sup> Transcript, pg. 56, ln. 22-25.

<sup>27</sup> Exhibit 100, Staff Memorandum on Laclede, pg. 2. Section 393.1010.2.(2), RSMo.

18. Staff began a review of the Laclede Application by evaluating the actual expense records provided at the time the petition was filed for the months of March through June.<sup>28</sup> On August 14, Laclede replaced the estimates provided to Staff and OPC for July in the Laclede Application with actual ISRS eligible plant addition cost information. The estimates for the month of August were updated with actual costs on September 14.<sup>29</sup>

19. As part of its review of Laclede's Application, Staff's auditing unit reviewed all supporting work papers, work orders, and other documentation provide by Laclede to evaluate ISRS eligibility. Staff also communicated with Laclede's personnel to seek clarification of information when necessary. Staff had sufficient time to conduct a review of the work papers and work orders associated with the true-up information provided by Laclede for the months of July and August.<sup>30</sup>

20. Staff determined the value of the infrastructure improvements for the months of July and August – which Staff identified in its reconciliation as the “true-up” – is \$1,914,665.<sup>31</sup>

21. The value of property included in an ISRS decreases over time as the property depreciates from the moment of installation and as additional accumulated depreciation and deferred income taxes are calculated.<sup>32</sup>

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<sup>28</sup> Exhibit 100, Staff Memorandum on Laclede, pg. 3.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Transcript, pg. 86, ln 22- Pg. 87, ln 2. Staff recommended a revenue requirement for Laclede's infrastructure system replacements from March 1 through August 31, 2015 and including depreciation reserve and deferred income tax reserve through October 15, 2015 of \$4,497,173. Transcript, pg. 84, ln. 7-10.

<sup>32</sup> Transcript, pg. 77, ln 3-15.

22. Staff updated the amount of accumulated depreciation reserve and accumulated deferred income tax reserve associated with Laclede's ISRS plant additions through October 15 to reflect as closely as possible the revenue requirement at the time an ISRS rate will go into effect.<sup>33</sup>

23. In its October 2 recommendation, Staff also submitted a rate design for the collection of Laclede's total ISRS surcharge for each of Laclede's customer rate classes.<sup>34</sup> No party opposed Staff's ISRS rate design.

24. Staff did not perform a reconciliation of the ISRS revenue Laclede collected from customers over the past twelve months to account for over-or under-collection of ISRS revenue because Laclede's last ISRS tariff only went into effect on May 22.<sup>35</sup> A reconciliation will occur at the time of Laclede's next ISRS filing.<sup>36</sup>

## **B. MGE**

25. MGE's current ISRS was established to go into effect on October 18, 2014.<sup>37</sup> MGE's ISRS was then adjusted once to recover eligible costs incurred through February 28, 2015.<sup>38</sup>

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<sup>33</sup> Exhibit 100, pg. 3.

<sup>34</sup> Exhibit 100, Appendix B.

<sup>35</sup> See File No. GO-2105-0269. Exhibit 100, pg. 3. Commission rule 4 CSR 240-3.265 (17) requires a reconciliation be performed at the end of the twelve month period that an ISRS is in effect to reconcile the difference between the revenues resulting from the ISRS and the appropriate pretax revenues as determined by the Commission.

<sup>36</sup> Exhibit 100, pg. 3. Section 393.1015.5(2), RSMo requires a gas corporation to reconcile the difference between the revenues resulting from an ISRS and the Commission approved pre-tax revenues at the end of each twelve-month calendar period the ISRS is in effect.

<sup>37</sup> See File No. GR-2015-0025.

<sup>38</sup> See GR-2015-0270; Exhibit 102, Pg. 1-2.

26. On August 3 MGE filed an application seeking to adjust its ISRS to include certain infrastructure investments from March 1 through August 31 (“MGE Application”). The MGE Application included actual expenses for the period March 1 through June 30 with estimated infrastructure replacement costs through August 31 for a total proposed ISRS related revenue requirement of \$1,807,205.<sup>39</sup>

27. The MGE Application includes a rate schedule and supporting documentation identifying the utility account, work order description, month of completion, addition amount, depreciation rate, accumulated depreciation, and depreciation expense for all ISRS work order additions from March through June with estimates for the months of July and August.<sup>40</sup>

### **Budgeted Infrastructure Replacements for July and August**

28. Staff began a review of the MGE Application by evaluating the actual amounts provided in the filing.<sup>41</sup> MGE replaced the July estimates provided in the MGE Application with actual ISRS eligible plant addition costs on August 14. The August estimates were updated with actual costs on September 15, 2015.<sup>42</sup>

29. As part of its review of MGE’s Application, Staff’s auditing unit reviewed all supporting work papers, work orders, and other documentation provide by MGE to evaluate ISRS eligibility. Staff also communicated with MGE’s personnel to seek clarification of information when necessary. Staff had sufficient time to conduct a review

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<sup>39</sup> Exhibit 2.

<sup>40</sup> Exhibit 2.

<sup>41</sup> Exhibit 102, Staff Report and Recommendation, pg. 3.

<sup>42</sup> Id.

of the work papers and work orders associated with the true-up information provided by MGE for the months of July and August.<sup>43</sup>

30. Staff updated the amount of accumulated depreciation reserve and accumulated deferred income tax reserve associated with MGE's ISRS plant additions through October 15 to reflect as closely as possible the revenue requirement at the time an ISRS rate will go into effect.<sup>44</sup>

31. After conducting a thorough review and completing its calculations, Staff recommended MGE's ISRS be adjusted to include \$1,878,151 of pre-tax revenues for recovery of eligible infrastructure costs for the March 1 through August 31 period.<sup>45</sup>

### **CONCLUSIONS OF LAW**

Laclede and MGE are each a "gas corporation" and "public utility" under section 386.020, RSMo. Both Laclede and MGE are subject to the jurisdiction of the Commission, as provided in Chapters 386 and 393, RSMo. Sections 393.1009 through 393.1015, RSMo ("ISRS statute") authorize a method for gas corporations to establish or change ISRS rate schedules outside of a general rate case.

An ISRS is a single issue ratemaking tool authorized by statute that allows rates to be changed based on a consideration of only a single factor. Similar to a fuel adjustment clause, it is not intended to address every variable that impacts a utility's rates or its return on equity.<sup>46</sup>

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<sup>43</sup> Id.

<sup>44</sup> Exhibit 102, pg. 3.

<sup>45</sup> Exhibit 102, pg. 5. Including the previously approved ISRS, Staff recommends a total cumulative ISRS surcharge of \$6,683,273.

<sup>46</sup> *State ex rel. Union Elec. Co. v. Pub. Serv. Comm'n of State of Missouri*, 399 S.W.3d 467 (Mo.App. 2013).

The ISRS statute allows a gas corporation to adjust its rates and charges in order to recover costs for eligible infrastructure system replacements<sup>47</sup> after approval by the Commission. Both Laclede and MGE, as the parties requesting an increase in ISRS rates, have the burden of proof to demonstrate through competent and substantial evidence that the projects qualify under the ISRS statute.<sup>48</sup>

### **Laclede's Telemetry Equipment**

After receiving notice from the manufacturer that the Network 3300 Series of telemetry equipment was being discontinued in 2009 and no longer serviceable in 2011, Laclede began the process of converting its telemetry system to newer equipment. OPC objects to the inclusion of \$401,258 in Laclede's requested ISRS for telemetry equipment costs, arguing they are not eligible pipeline component replacements, as contemplated in section 393.1009(5)(a). Specifically, OPC asserts that the replaced equipment was not "worn out or in a deteriorated condition."

Section 393.1009(5) describes "Gas utility plant projects" which are eligible for ISRS recovery as the following:

- (a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety

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<sup>47</sup> 4 CSR 240-3.265(1)(B) defines eligible infrastructure system replacements as natural gas utility plant projects that: 1. Replace or extend the useful life of existing infrastructure; 2. Are in service and used and useful; 3. Do not increase revenues by directly connecting the infrastructure replacement to new customers; and 4. Were not included in the natural gas utility's rate base in its most recent general rate case.

<sup>48</sup> *State ex rel. Sure-Way Transp. v. Division of Transp. of State of Mo.*, 778 S.W.2d 839, 843 (Mo. App. 1989). *Deaconess Manor Ass'n v. Public Service Com'n of State of Mo.*, 994 S.W.2d 602 (1999).

requirements as replacements for existing facilities that have worn out or are in deteriorated condition.

The Missouri Supreme Court recently noted that the term “deteriorate” means, “to make inferior in quality or value,” to “grow worse,” and “become impaired in quality, state, or condition.”<sup>49</sup> Examining all these definitions of “deteriorate,” the Court concluded that “‘deterioration’ is a gradual process that happens over a period of time rather than an immediate event.”<sup>50</sup> Reversing a Commission order allowing ISRS recovery for gas facilities damaged by a third party, the court stated the Commission erred by presuming that any change to a gas utility plant project qualifies for an ISRS surcharge.<sup>51</sup>

The court’s decision makes clear that the Commission should evaluate the eligibility of gas utility plant projects narrowly in order to ensure compliance with the legislature’s intent. When evaluating the telemetry equipment Laclede replaced, which are pipeline system components installed to comply with state or federal safety requirements, the evidence shows that the specific units at issue in work orders 604180 and 604190 were still operable at the time of the replacements. There were no signs of deterioration, such as corrosion.

While it is clear that telemetry equipment plays a vital role in monitoring and ensuring the safe distribution of gas, Laclede failed to show the specific parts replaced were in an impaired condition. To simply state that the software was old, and the

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<sup>49</sup> *Verified Application & Petition of Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520 (Mo. 2015).

<sup>50</sup> *Id.* at 525.

<sup>51</sup> *Id.*



manufacturer no longer providing repair parts, is not sufficient to demonstrate ISRS eligibility due to a worn out or deteriorated condition. If that were true, Laclede would have replaced all of the telemetry equipment in 2009 or 2011. For this type of equipment, absent some type of impairment in quality, state, or condition, age alone does not justify inclusion of a gas utility project in an ISRS recovery. Also, the Missouri Supreme Court noted that a single event cannot alone show impairment or deterioration.<sup>52</sup> Accordingly, manufacturer discontinued support for the telemetry equipment cannot alone show impairment or deterioration in this case. Since the telemetry equipment replacement occurred at the same time as regulator station upgrades, it appears the timing of the replacement was more likely motivated by the efficiency of changing both at the same time than the age of the equipment or any actual impairment.

### **Pro-Forma Inclusion**

OPC contends that the ISRS applications filed on August 3 by both Laclede and MGE do not meet the statutory requirement of section 393.1015.1(1), RSMo since they fail to provide supporting documentation of actual work completed in the months of July and August. Instead, both Laclede and MGE submitted estimates of budgeted infrastructure expenses for July and August with the petitions filed on August 3.

Section 393.1015.1(1), RSMo states that:

“At the time that a gas corporation files a petition with the commission seeking to establish or change an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the

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<sup>52</sup> *Verified Application & Petition of Liberty Energy (Midstates) Corp. v. Office of Pub. Counsel*, 464 S.W.3d 520 (MO. 2015).

calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules, and its supporting documentation.”

The Commission must therefore determine if the ISRS statute restricts what is recoverable to those projects completed and documented prior to the filing of an ISRS petition. The statutory language is designed to ensure that meaningful information is provided that allows a determination of the eligibility of projects for inclusion in an ISRS. Commission rule 4 CSR 240-3.265(20) identifies what documentation should be provided at the time a natural gas utility files a petition seeking to change an ISRS. Subsection (L) of the regulatory section states that:

For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project a description of the project, the location of the project, what portions of the project are completed, used and useful, what portions of the project are still to be completed, and the beginning and planned end date of the project.

Budgeted project information meets the statutory and regulatory requirement for the initial petition filing. So long as Staff has sufficient time to perform an effective review of ISRS eligibility within the sixty days allowed by the ISRS statute, the budgeted July and August documents, along with the actual expense records provided after the filing of the petitions are acceptable.

Furthermore, were the inclusion of a project in an ISRS to be the final step in the project review, OPC’s narrow interpretation would be more persuasive. The purpose of the ISRS statute is to allow gas corporations to more timely recover costs for specific infrastructure replacements. The inclusion of a project in an ISRS does not mean the review of the cost or the project is completed. Section 393.1015.2(2), RSMo authorizes

the Commission's Staff to examine the information provided by the company and confirm that the underlying costs are in accordance with the statutes.

Reconciliation is required within twelve months of an ISRS being implemented.<sup>53</sup> After that, in a subsequent rate case, the Commission is not bound in the ratemaking treatment to be applied to the infrastructure system replacements and will still perform a prudence review were it may disallow the recovery of a project previously included in an ISRS.<sup>54</sup>

The statutory language requiring companies submit "supporting documentation" with their proposed ISRS rate schedules does not prohibit the use of budgeted information. Similar to a true-up in a general rate case, Laclede and MGE replaced the budgeted calculations with information on actual costs.

Staff received Laclede's actual ISRS eligible plant additions for July on August 14 (11 days after the petition was filed) and updated August actual expenses on September 14 (42 days after the petition was filed).

Staff received MGE's actual ISRS eligible plant additions for July on August 14 (11 days after the petition was filed) and updated August actual expenses on September 15 (43 days after the petition was filed).

Staff states that it had sufficient time after receiving the updated information to perform the examinations allowed by section 393.1015.2(2), RSMo. Staff concluded the

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<sup>53</sup> Section 393.1015.5(2), RSMo.

<sup>54</sup> Section 393.1015.8, RSMo.

projects in the updated information provided by both Laclede and MGE for the months of July and August were ISRS eligible.

OPC also asserts that the method of providing only budgeted costs at the time of the ISRS filing does not provide sufficient time to conduct discovery and review the supporting materials. By necessity, the amount of time allowed for discovery in an ISRS case is not as long as that provided in a general rate case because the review required is not as complex. The ISRS statute ensures the application procedure happens in a condensed timeframe. The Commission is required to issue an order that is effective no later than one hundred twenty days after the petition is filed, and Staff has 60 days to conduct an examination.<sup>55</sup> OPC was provided the updated July and August information at the same time as Staff. OPC never demonstrated an attempt to conduct discovery on the actual costs for July and August.<sup>56</sup> For this reason, the Commission sees no evidence of an actual impediment to OPC's ability to conduct meaningful discovery of the July and August projects submitted by Laclede and MGE.

## **Decision**

### **I. Laclede**

In making this decision, the Commission has considered the positions and arguments of all of the parties. Applying the facts to the law in reaching its conclusion, the Commission finds that Laclede has not met its burden of proof to demonstrate that

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<sup>55</sup> Section 393.1015.2(3), RSMo.

<sup>56</sup> Commission rule 4 CSR 240-2.090(2) allows parties twenty days to respond to data requests. In its *Order Suspending Tariff, Scheduling Evidentiary Hearing and Setting Procedural Schedule* issued on August 11, the Commission adopted a schedule that limited the time to respond to discovery to five business days after October 2.

the telemetry equipment included in its Work Orders: 001172, 003306, 003402, 005357, 604180, and 604190 are worn out or in a deteriorated condition so as to be ISRS eligible under the requirements of sections 393.1009 to 393.1015, RSMo. Aside from the telemetry equipment, Laclede provided competent and substantial evidence that all other projects submitted in its petition for the period beginning March 1 through August 31 are ISRS eligible.

Laclede submitted with its petition the supporting documentation required by Section 393.1015.1(1), RSMo. The projects included in Laclede's petition for the months of July and August are eligible for inclusion in its ISRS. Since no party opposed the inclusion of updated reserves for depreciation and accumulated deferred income taxes ("ADIT") related to actual ISRS investments, Laclede's ISRS rates will recognize the depreciation and ADIT through October 15.

Staff submitted a rate design for each customer class to allow Laclede to generate the surcharge amount approved by the Commission. No parties objected to Staff's rate design method. The Commission will direct Laclede to utilize Staff's rate design method.

The Commission will reject the tariff filed by Laclede on August 3 and direct the company to submit a tariff that is consistent with this order.

## II. MGE

In making this decision, the Commission has considered the positions and arguments of all of the parties. Applying the facts to the law in reaching its conclusion, the Commission finds that MGE provided competent and substantial evidence that the

Verified Application and Petition and the supporting documentation comply with the requirements of sections 393.1009 to 393.1015, RSMo. MGE submitted with its petition the supporting documentation required by section 393.1015.1(1), RSMo to allow inclusion in the ISRS of the projects identified in MGE's petition for the period beginning March 1 through August 31.

Since no party opposed the inclusion of updated reserves for depreciation and accumulated deferred income taxes ("ADIT") related to actual ISRS investments, MGE's ISRS rates will recognize the depreciation and ADIT through October 15. The Commission concludes that MGE is entitled to adjust its ISRS to recover additional Infrastructure System Replace Surcharge revenues of \$1,878,151, with a total cumulative ISRS surcharge of \$6,683,273.

Staff submitted a rate design for each customer class to allow MGE to generate the surcharge amount approved by the Commission in Appendix B of its memorandum (Exhibit 102). No parties objected to Staff's rate design method. The Commission will direct MGE to utilize Staff's rate design method.

### III. Motion for Expedited Treatment

On November 9, 2015, Laclede and MGE filed a *Motion for Expedited Treatment* requesting the Commission issue this Report and Order in File Nos. GO-2015-0341 and GO-2015-0343 on November 12, with an effective date ten days later, on November 22.<sup>57</sup> In the motion, the companies state that they are capable of filing within twenty-four

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<sup>57</sup> File No. GO-2015-0341-EFIS Item No. 53. File No. GO-2015-0343-EFIS Item No. 42.

hours tariffs that will comply with any order the Commission orders on November 12. Laclede asserts that OPC agreed in a Stipulation and Agreement in a previous Laclede rate case to work to implement Laclede's ISRS filings as soon as possible.<sup>58</sup> Therefore, six full business days to seek rehearing is "more than ample."<sup>59</sup> There is no reference in the motion of OPC acquiescing to this requested expedited treatment.

The companies assert that good cause exists to grant expedited treatment since coinciding effective dates allow Laclede to more efficiently place new rates into effect. However, the exigency of a situation does not constitute grounds for the Commission to act without authority.<sup>60</sup> An order of the Commission, unless the Commission orders otherwise, goes into effect after thirty days.<sup>61</sup> The courts have stated that although the Commission has discretion to set a time less than thirty days for the effective date of an order, anything less than ten is presumptively unreasonable.<sup>62</sup> This allowance of at least ten days between issuance and being effective is significant since section 386.500.2, RSMo requires applications for rehearing of a Commission order be filed prior to the effective date of that order.

Laclede and MGE request an order on their submitted ISRS tariffs be effective after ten days. Yet, the companies do not factor in the time needed to review any tariffs the Commission may direct them to file to comply with this Report and Order. While the scope of a review may be limited, an order approving a compliance tariff is

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<sup>58</sup> File No. GR-2013-0171, *Rate Case Stipulation*, ¶ 15.

<sup>59</sup> File No. GO-2015-0341-EFIS Item No. 53. File No. GO-2015-0343-EFIS Item No. 42 *Motion for Expedited Treatment* ¶¶2-3.

<sup>60</sup> *State ex rel. Fischer v. Public Service Comm'n*, 645 S.W.2d 39, 43 (Mo. App. 1982).

<sup>61</sup> Section 386.490.2, RSMo.

<sup>62</sup> *State ex rel. Office of Public Counsel v. Public Service Commission*, 409 S.W.3d 522 (2013).

appealable.<sup>63</sup> Therefore, to ensure sufficient time for any party to request a rehearing, the Commission will allow at least ten days before the effective date of this Report and Order.

The Commission will deny the *Motion for Expedited Treatment*. Since section 393.1015.2(3), RSMo requires the Commission to issue an order to become effective no more than one hundred and twenty days after the petitions were filed, the Commission finds good cause exists to issue this Report and Order to become effective in less than thirty days.

**THE COMMISSION ORDERS THAT:**

1. The following tariff sheet filed by Laclede Gas Company on August 3, 2015, and assigned Tariff No. YG-2016-0041 is rejected:

**P.S.C. Mo. No. 5 Consolidated**

**25th Revised Sheet No. 12, CANCELLING 24th Revised Sheet No. 12**

- 1.
2. Laclede Gas Company is authorized to adjust its Infrastructure System Replacement Surcharge in an amount sufficient to recover ISRS revenue of \$4,493,055 for File No. GO-2015-0341.
3. Laclede Gas Company is authorized to file composite/cumulative ISRS rates for each customer class consistent with Staff's recommended rate design method, found in Staff's Exhibit 101.
4. Laclede Gas Company shall file a tariff sheet in compliance with this order no later than November 13, 2015.

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<sup>63</sup> Id.



5. Staff shall review the tariff sheet required by Ordered Paragraph 4 above once it is filed by Laclede Gas Company and file a recommendation as to whether the tariff sheet is in compliance with this order no later than November 16, 2015.

6. Any party wishing to respond or comment on the tariff sheet required by Ordered Paragraph 4 above shall file its response no later than November 16, 2015.

7. The following tariff sheet filed by Missouri Gas Energy, an Operating Unit of Laclede Gas Company, on August 3, 2015, and assigned Tariff No. YG-2016-0042 is rejected:

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**P.S.C. Mo. No. 6**

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**5<sup>th</sup> Revised Sheet No. 10, Canceling 4th Revised Sheet No. 10**

8. Missouri Gas Energy, an operating unit of Laclede Gas Company is authorized to adjust its Infrastructure System Replacement Surcharge sufficient to recover revenues of \$1,878,151 for File No. GO-2015-0343.

9. Missouri Gas Energy is authorized to file composite/cumulative ISRS rates for each customer class consistent with Staff's recommended rate design method, found in Staff's Exhibit 102.

10. Missouri Gas Energy shall file a tariff sheet in compliance with this order no later than November 13, 2015.

11. Staff shall review the tariff sheet required by Ordered Paragraph 10 above once it is filed by Missouri Gas Energy and file a recommendation as to whether the tariff sheet is in compliance with this order no later than November 16, 2015.

12. Any party wishing to respond or comment on the tariff sheet required by Ordered Paragraph 10 above shall file its response no later than November 16, 2015.

13. The November 9, 2015 *Motion for Expedited Treatment* is denied.

14. This order shall be effective on December 1, 2015, except for Ordered Paragraphs 4, 5, 6, 10, 11, and 12 above, which shall become effective upon issuance.



**BY THE COMMISSION**

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff  
Secretary

Hall, Chm., Stoll, W. Kenney, and  
Coleman, CC., concur;  
Rupp, C., dissents.

Burton, Regulatory Law Judge.