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

In the Matter of the Tariff Filing of Laclede Gas Company to Implement a Gas Supply Incentive Plan called Catch-Up-Keep-Up.	))))	Case No. GT 2003-0064 Tariff No. 200300078

MOTION TO SUSPEND AND REJECT TARIFF FILING

AND FOR EXPEDITED TREATMENT

COMES NOW the Staff of the Missouri Public Service Commission and for its Motion to Suspend and for Expedited Treatment states:

1. On July 29, 2002, Laclede Gas Company (Company) filed tariff sheets designated P.S.C. MO. No. 5 Consolidated, Original Sheet No. 28-h; Original Sheet No. 28-I; Original Sheet No. 28-j; and Original Sheet No. 28-k, proposing to implement a Catch-Up/Keep-Up Plan. The tariff filing, which is attached as Appendix A, bears a proposed effective date of August 29, 2002.

2. This tariff, if allowed to go into effect, would permit Laclede to implement a plan that is a similar to a transportation incentive plan.

3. Staff's recommendation concerning this tariff is attached to this pleading. Please see Attachment 1.

4. Staff requests that the Commission act on an expedited basis and in any event, no later than August 28, as the effective date of the tariff is August 29, 2002. This request for expedited treatment was made as soon as Staff realized that it might be necessary. The benefit to the public and to Laclede's customers is that suspension allows hearings to be held if necessary

so that the public may express its interest in and concerns about this tariff which Laclede has portrayed as providing substantial benefits to its customers.

5. This request is being submitted in accord with 4 CSR 240-2.065(3) and the Staff requests that the Commission suspend this tariff and open a case concerning the reasonableness of the proposed tariff.

WHEREFORE, Staff respectfully requests that the Commission suspend, this tariff for the reasons set out above.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Lera L. Shemwell

Lera L. Shemwell
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Certificate of Service

I hereby certify that copies of the foregoing have been emailed, mailed, hand-delivered, or transmitted by facsimile to all counsel of record this 21st day of August 2002.

/s/ Lera L. Shemwell

STAFF MEMORANDUM

Company: Laclede Gas Company
Received Date: July 29, 2002
Effective Date: August 29, 2002
Purpose: To Implement a Catch-Up/Keep-Up Program and Transportation Incentive Savings

On July 29, 2002, Laclede Gas Company (Laclede or Company) filed tariff sheets proposing a new transportation incentive program, and having an effective date of August 29, 2002. The filing proposed that Laclede would bill residential customers 30 percent more than the actual cost of transportation, Laclede would keep one-third of the excess billings for itself, and apply the remaining two thirds of the excess billings to assistance for low-income residential customers. Laclede called this proposed tariff package "Catch-up/Keep-up".

The Staff has conducted an initial review of Laclede's proposed tariff. Staff notes that this proposal closely resembles Laclede's attempt in Case No. GT-2001-329 to salvage its flawed transportation discount "incentive" plan. This proposal, like that one, simply charges residential customers more than the actual cost to provide service, diverts some of the charges to provide some help to needy customers, and diverts some of the excess charges to Laclede's shareholders. The premise of the program is that the diversion to Laclede will provide an incentive for Laclede to obtain more transportation discounts. The reality of the program is that Laclede secured similar levels of discounts before the inception of its first incentive program. This type of incentive mechanism also contains a flaw that actually provides an incentive for an LDC to favor higher Federal Energy Regulatory Commission (FERC) rates, since those same maximum rates provide the benchmark for shareholder savings. These aspects of Laclede's program bear close scrutiny.

Further complicating matters is Laclede Gas Company's recent abandonment of its gas purchasing function to an affiliated corporation. The Staff is investigating that in Case No. GO-2002-1099. The Commission has ordered Staff to file its report in that case by November 1, 2002, and the results of that investigation may have application to Laclede's "incentive" in this case.

The Commission cannot do directly what Laclede proposes to do for a substantial fee in this case – subsidize one subclass of customers by the other members of the class. Section 393.140 RSMo 2000. The Commission reached this difficult conclusion in Case No. GE-2001-393, an application by MGE in January, 2001. Since that time, the General Assembly has considered and rejected a proposal to modify Section 393.140 to permit the Commission to implement the type of low-income program that Laclede proposes. The Commission should fully explore any proposal to do indirectly what it cannot do directly.

Finally, pursuant to Laclede's rate case public hearings, the public is requesting public hearings relating to the Program, and the Staff needs more time to examine the operational details of Laclede's proposal.

After its initial review of Laclede's proposed tariff changes, Staff recommends that the Commission suspend these tariff sheets. The Staff has verified that the Company has filed its annual report and is not delinquent on any assessment. Staff is not aware of any other mater before the Commission that affects or is affected by this filing, however, the following cases are currently pending before this Commission:

Appendix A

GR-2000-622	1999/2000 ACA
GR-2001-387	2000/2001 ACA
GO-2002-356	General Rate Case
GR-2002-389/GR-2002-1103	2001/2002 ACA
GA-2002-429	Warm Weather AAO Application
GO-2002-452	Generic PGA Docket
GO-2002-1099	Gas Supply Reorganization Investigation
GT-2003-0032	School Aggregation Tariff

Therefore, Staff recommends that the following tariffs, as filed on July 29, 2002, go into effect on and after August 29, 2002, sheets be rejected:

P.S.C. MO. No. 5 Consolidated
Original Sheet No. 28-h
Original Sheet No. 28-i
Original Sheet No. 28-j
Original Sheet No. 28-k

Service List for
Case No. GT-2003-0064
Tariff File No. 200300078
Revised: August 21, 2002 (SW)

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

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AUG 2 6 2002

Missouri Public
Service Commission

In the Matter of the Tariff Filing of Laclede Gas Company to Implement a Gas Supply Incentive Plan called Catch-Up-Keep-Up	))))	Case No.GT-2003-0064

LACLEDE GAS COMPANY'S RESPONSE TO STAFF'S MOTION TO SUSPEND AND REJECT TARIFF FILING

COMES NOW Laclede Gas Company ("Laclede" or "Company"), and for its Response to the Staff's Motion to Suspend and Reject Tariff Filing and for Expedited Treatment, states as follows:

The Catch-Up/Keep-Up Program

1. On July 29, 2002, Laclede filed a tariff (the "Tariff") proposing a "Catch-Up/Keep-Up" program (the "Program") for its low-income customers. Because of the time required to complete the work that must be done if the Program is to be implemented this winter, including the time required to coordinate the Program with community action agencies, to conduct agency and Company outreach efforts to make eligible customers aware of the Program, and to make any necessary modification to the Company's information systems, Laclede sought and continues to believe that it is critical to have the Tariff approved on thirty days' notice. And given the degree to which the Program is designed to benefit both low-income customers and the Company's remaining customers, the Company continues to believe that approval on thirty days' notice is appropriate.[1]

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[1] As discussed, *infra*, in order to obtain such approval Laclede has also proposed a condition on the Commission's approval of the Tariff that addresses many of the concerns that have been raised by Staff in its Motion to Suspend.

2. The Program is structured to benefit low-income customers in three key ways. First, it allows the customer to obtain, or continue to receive, utility service at a levelized, affordable rate equal to 1/12 of their annual charges for gas service, net of any available grants from other sources -- payment terms that are significantly more favorable than those mandated under the Commission's Cold Weather Rule in that they exclude any arrearages in the calculation of the customer's payment obligation. Second, the Program provides the customer with an opportunity to work off these arrearages if the customer establishes a practice of making his or her reduced payment obligations on a timely basis and agrees to implement cost free, self-help conservation measures. The ultimate goal of these measures is to provide the customer with the means as well as the incentive to "break the cycle" of missed payments and service interruptions that impose costs on both the customer and the utility and the kind of stress that results from a chronic uncertainty over whether service will be available. Finally, the Program provides the Company with an incentive to extract and maintain the greatest level of pipeline discounts possible from its out-of-state pipeline suppliers on behalf of such customers.

3. At the same time, the Program is also designed to benefit the Company's other customers in three major ways. First, it encourages the kind of positive changes in the payment and energy conversation practices of the Company's most vulnerable customers that, over the longer term, can reduce the level of uncollectible and collection expenses that would otherwise be reflected in the Company's cost of service. Second, the Program is structured to ensure that the Company's remaining customers will receive the full benefit of these favorable impacts. It does so by including provisions that safeguard the Company's access to the same amount of federal and state low-income energy assistance that it would otherwise receive in the absence of the Program and by requiring that all funding under the Program be used to benefit natural gas

customers of Laclede. Finally, the Program also gives the Company an incentive to maximize the level of pipeline discounts to be shared with these customers.

4. As suggested above, the Program uses as its source of funding the savings that the Company achieves as a result of its ability and success in negotiating discounts from the maximum rates charged by its pipeline suppliers for transportation and storage services. Specifically, the Tariff provides that 70 percent of such discounts will be distributed to all of the Company's customers. Of the remaining 30 percent retained by the Company, two thirds would be used to assist low income customers through the Catch-up/Keep-up Program and one third would be retained by the Company. The end result is that the Company would ultimately retain only 10 percent of such discounts for its own use.

5. On August 22, 2002, the Staff filed its Motion to Suspend and Reject Tariff Filing and for Expedited Treatment (the "Motion").

6. Also on August 22, 2002, the Commission issued an order requiring that any responses be filed by August 26, 2002. Laclede files this Response pursuant to that order. As discussed below, the Staff has provided no grounds to support suspension of the Tariff, much less rejection. Further, the benefits of promptly approving the Tariff outweigh the unsupported concerns raised by the Staff in its Response.

Response to Staff's Motion

7. In the Staff Memorandum attached to its Motion, Staff raises several concerns regarding the Tariff. Specifically, the Staff asserts that the Program:

(a) is similar to the pipeline discount incentive program that Laclede had previously proposed in that by permitting the Company to retain a share of such discounts it would allow Laclede to charge some customers more than the actual cost of service, and use these extra proceeds to help needy customers and reward shareholders;

(b) would give Laclede an incentive to favor higher FERC tariff pipeline rates in order to increase the amount of the discount available for the Program; and

(c) may result in an unlawful subsidy of some customers by other customers.

8. In addition to identifying these concerns regarding the Program itself, the Staff also suggests that additional review is necessary because, in the words of Staff, Laclede has "abandon[ed]" its gas purchasing function to an affiliate and that such alleged action may have some application to the Catch-Up/Keep-Up Program. Finally, Staff asserts that the public has requested public hearings, and that Staff itself needs more time to examine the operational details of the program.

9. At the outset, it should be noted that none of the concerns support rejection of the Tariff. Indeed, a review of the memorandum attached to the Motion simply indicates Staff's belief that the various concerns expressed therein either "bear close scrutiny", "may" apply to the case or "should be fully explored." Moreover, in its Motion Staff only requests that the Commission "suspend" the tariff in the body of the Motion and in the concluding sentence of the Memorandum only mentions rejecting the tariffs in a manner that appears to be a typographical error rather than a fully formed request. In any event, Staff has provided no grounds to reject the Tariff, but has directed all of its arguments toward suspension.

10. Nor are Staff's arguments for suspension well taken. Although, as discussed below, the Company is proposing that a condition be imposed by the Commission on its approval of the Tariff that should address Staff's concerns, it nevertheless does not believe that those concerns have merit. Regarding concerns (a) and (c), Staff cannot seriously argue that the Catch-Up/Keep-Up program involves an improper subsidy of some customers by others in violation of §393.140 RSMo 2000. First, it should be recognized that Commission has previously approved

a number of pipeline discount incentive programs under which utilities were permitted to retain a share of such discounts as a means of encouraging them to achieve or maintain the greatest level of discounts possible. From 1996-2001, Laclede itself participated in a tariffed pipeline discount incentive as part of its Gas Supply Incentive Program. In addition, the Commission has previously approved pipeline discount programs for both Missouri Gas Energy ("MGE") and AmerenUE. *See Re: Missouri Gas Energy's Fixed Commodity Price PGA and Transportation Discount Incentive Mechanism*, Case No. GO-2000-705, Order Approving Stipulation and Agreement (August 1, 2000); ***Re Missouri Gas Energy***, Case No. GR-2001-292, Order Approving Second Revised Stipulation and Agreement (July 5, 2001); ***Re: Union Electric Company d/b/a AmerenUE for Authority to Extend its Gas Supply Incentive Plan***, Case No. GT-2001-635, Order Approving Unanimous Stipulation and Agreement (May 31, 2001). In none of these cases, was there ever a finding, or to Laclede's knowledge even an allegation, that such pipeline discount programs were unlawful. The only difference between the incentive programs approved for Laclede, MGE and AmerenUE and the Catch-Up/Keep-Up Program is that Laclede has committed to directing most of the savings from Catch-Up/Keep-Up to assisting its most vulnerable customers. Staff's position that the Catch-Up/Keep-Up program is somehow unlawful, because Laclede is now proposing to give a large majority of its incentive savings to low income customers rather than retaining such savings for itself, is a tortured view of the law and cannot withstand scrutiny. In Laclede's view, such a use of incentive savings is unquestionably a good thing and the law cannot be fairly or reasonably construed to suggest that such an objective is prohibited.

11. Moreover, Staff's concerns regarding the possibility that the Program may constitute an *indirect* subsidy in violation of §393.140 RSMo 2000 are even more inexplicable

given Staff's endorsement of proposals that provide a *direct* rate or assistance benefit to low income customers. For example, on July 5, 2001, the Commission issued its Order approving Second Revised Stipulation and Agreement in MGE's rate case proceeding, Case No. GR-2001-292. Among other things, this Stipulation, which had been entered into by Staff, Public Counsel and MGE, required MGE and the Staff to develop an experimental low-income rate in a tariff to be filed by October 1, 2001. After the tariff was filed, Staff submitted its memorandum recommending approval on October 25, 2001. On October 30, the Commission issued its Order Approving the Experimental Low Income Tariff. More recently, in AmerenUE's complaint case, Case No. EC-2002-1, the Staff filed testimony in which it advocated approval of a Program that would have funded a low-income assistance program directly out of the rates paid by other customers. In fact, as shown by the excerpt of testimony set forth in Attachment 1 to this Response, Staff specifically indicated that the concept of funding such a program out of the rates paid by other customers had originated with Staff. Assuming that Staff was not recommending or proposing something that it knew to be unlawful in these other cases, it is impossible to find any merit in Staff's concerns regarding the "indirect" subsidy that it says may result from the Company's program.

12. Nor is Staff's reference to the Commission's decision in Case No. GE-2001-393 persuasive. In that case, MGE sought to donate pipeline *refunds* to a consumer action agency to aid low-income customers. The Commission found that these funds properly belonged to all customers and could not be rebated for the benefit of only some customers. Pipeline refunds are, of course, amounts that have already been paid by the LDC's customers and that the Federal Energy Regulatory Commission ("FERC") has subsequently determined to be in *excess* of the just and reasonable and lawful rate to be charged by these pipelines. Indeed, that is precisely

why such monies are being refunded. In contrast, pipeline discounts are savings that a utility has negotiated *below* the just and reasonable rate that FERC allows the pipeline to charge. Moreover, pipeline discounts, in contrast to pipeline refunds, are savings that the Commission has repeatedly determined to be appropriate for sharing between the utility and its customers. In view of these critical differences, there is no substance to Staff's argument that the MGE decision is applicable to the Company's Catch-up/Keep-up Program.

13. Regarding Staff's concern that the Program might encourage a utility to support higher FERC-approved rates in order to increase the amount of the pipeline discount incentive payment, Laclede can only state that it has no intention of engaging in such unethical behavior, regardless of whether such an action might benefit its low-income customers. Nor has any disallowance ever been proposed or adopted by the Commission based on such a theory in the five years that the Company operated under a pipeline discount incentive. Moreover, given the Commission's active participation in FERC proceedings, and the availability of prudence reviews in the ACA process, Laclede is confident that the Commission has all the tools it needs to effectively monitor and remedy such an action in the unlikely event Staff's concerns should ever materialize. In the meantime, however, a worthwhile program should not be scuttled simply because of the mere possibility of wrongdoing – a possibility that is inherent in almost any human endeavor. Staff's argument is not persuasive.

14. Likewise, Staff's argument regarding Laclede's gas purchasing function is overblown, meaningless and simply wrong. First, in order to create panic regarding the Tariff, Staff mischaracterizes Laclede's actions with its affiliate Laclede Energy Services, Inc. ("LES") as an "abandonment" of its gas purchasing function. Laclede has not abandoned its gas purchasing function to LES, and Staff knows this. The same Assistant Vice President of Laclede

who has been managing the gas supply function is still supervising it for Laclede and it is this person who will continue to oversee and negotiate the Company's pipeline contracts. Instead, like many other holding company organizations, Laclede has formed an affiliate to provide certain nomination and administrative services to Laclede Gas Company, as well as other affiliates – services that in any event had in large measure not even been performed by Laclede until several years ago, but had instead been performed by a third-party. Regardless of Laclede's corporate structure, this issue cannot possibly affect the Catch-Up/Keep-Up program.

15. As to Staff's claim that the "public" is requesting public hearings, the Commission should be aware that the "public" referred to by Staff are a handful of members of one group called Heat Up St. Louis ("HUSL"). HUSL is a relatively new organization that, somewhat similar to Dollar-Help and Dollar-More, raises funds to aid low-income utility customers. Laclede has chosen Dollar-Help to administer the Catch-Up/Keep-Up program not HUSL, a factor that in Laclede's view helps to explain HUSL's interest in the Company's Program.

16. Finally, Staff also claims that it needs more time to examine the operational details of Laclede's Tariff. Staff is well aware of the details of the pipeline discount portion of the Program, as it was involved in reviewing the same kind of program for the past five years. Nor is the low-income assistance portion of the program so complex as to require further study. This argument is a smoke screen by Staff meant to forestall approval of the Tariff.

Proposed Condition

17. Laclede believes that the Catch-Up/Keep-Up Program will be of great benefit to thousands of families struggling to make ends meet in our service territory. As previously discussed, with another winter fast approaching, it is crucial that the Program be approved in

short order so that the agency coordination, outreach and information systems work required to implement the program can be done. Indeed, given the importance of timely approval to the Company's low-income customers, Laclede is willing to make a final disposition of the 10 percent share that the Company had initially proposed to retain for its own use subject to subsequent discussions with Staff and Public Counsel, and if, necessary, determination by the Commission. Laclede further agrees and commits to abide by any Commission determination in this regard from the August 29, 2002 effective date of the Tariff proposed by the Company. Accordingly, the Company would not object to a Commission Order approving the Tariff upon the condition that Laclede fulfill its agreement, as stated herein, to abide by any final disposition by the Commission of what portion of the 10 percent share that was to be initially retained by the Company should be directed toward additional funding of the Program. In the event the Commission believes it is necessary, Laclede will also commit to filing a separate tariff to reflect this commitment. In the meantime, however, approval of the Tariff proposed herein will allow the Company to get a vital Program for its most vulnerable customers up and running now -- a Program that promises to benefit all customers, as well as low-income customers, with the savings achieved by the Company as a result of its continuing efforts to reduce the amounts it pays to out-of-state suppliers below the maximum rates approved by FERC.

WHEREFORE, for the foregoing reasons, Laclede Gas Company respectfully requests that the Commission issue its Order approving the Tariff on the condition specified herein.

Respectfully Submitted,

Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Response was served on the General Counsel of the Staff of the Missouri Public Service Commission on this 26th day of August, 2002 by hand-delivery or by placing a copy of such Response, postage prepaid, in the United States mail.

Exhibit No.:	
Issues:	Alternative Regulation Plan AmerenUE's Low Income Assistance Program; DNR's Low Income Weatherization Program; and Energy Efficiency Services for Residential and Commercial Customers
Witness:	Wess A. Henderson
Sponsoring Party:	MO PSC Staff
Type of Exhibit:	Surrebuttal Testimony
Case No.:	EC-2002-1
Date Testimony Prepared:	June 24, 2002

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

SURREBUTTAL TESTIMONY

OF

WESS A. HENDERSON

UNION ELECTRIC COMPANY d/b/a

AMERENUE

CASE NO. EC-2002-1

Jefferson City, Missouri
June, 2002

Attachment 1

achieve the maximum efficiency possible, without compromising quality of service, in order to increase its overall earnings.

Staff proposed that the term of a new experiment would be three years. Due to a need to revisit these experiments on a regular basis due to the dynamic nature of events in the electric industry and regulation in general, Staff would recommend that any future experiment have a three-year term. This time frame allows the experiment to have an adequate period to be effectuated and evaluated while not leaving the plan in place an inordinate amount of time if there are problems occurring that had not been anticipated.

Q. Is there any component of the AmerenUE alternative regulation plan (ARP) proposed in the AmerenUE rebuttal testimony that Staff believes should be adopted in this case?

A. Yes. Staff would support the establishment of the low income assistance funding and programs as discussed in the rebuttal testimony of two AmerenUE witnesses with two modifications:

Mr. Richard J. Mark discusses the low income assistance program in his rebuttal testimony on page 2, lines 22 through page 6, line 4. Mr. Warner L. Baxter discusses the low income assistance program in his rebuttal testimony on page 73, lines 7 through 17 and Schedule 1-6, line 7 through page 1-7, line 2.

Q. Are there any modifications that Staff would suggest to the program proposed by the Company?

A. Yes. Staff would propose that the initial funding of $5 million would be independent of AmerenUE's ARP proposal. After the first year of this program, $1 million will be annually added to the low-income fund. This is an extremely important modification since AmerenUE's earnings can be significantly influenced by, among other things, affiliate transactions. Currently, the Company is not operating under the Commission's affiliate transaction rule or a formal interaffiliate code of conduct adopted by the Commission. The $1 million funding would be continued until such time as the Commission decides to cancel the program. The initial $5 million funding amount would be amortized over a three-year period or $1.6 million for each of the first three years. The amount of $2.6 million should be recorded as a regulatory expense in the Company's books.

Q. Did the Staff suggest a low-income assistance program in its discussions with the Company regarding the third EARP?

A. Yes. Staff believes that this concept originated with Staff. In the last two EARPs, there were no provisions for funding of a low-income weather assistance program or a "price stabilization fund." Staff proposed this concept in its discussions with AmerenUE regarding a new EARP.

Q. Please explain what the Staff means by a price stabilization fund.

A. Staff had seen the impact of the extraordinarily high gas prices on the ability of low-income gas customers to pay their gas bills during the abnormally cold winter of 2000-2001. The Staff proposed in its discussions with the Company a price stabilization fund which was designed to provide $5 million for each sharing credit period to be used to mitigate electric prices for low-income customers due to events such as abnormally cold or abnormally hot weather.

Q. Have you read the testimony of Anita C. Randolph from the Department of Natural Resources (DNR) regarding the establishment in this case of a low income weatherization assistance program and a program for utility-based energy efficiency services for residential and commercial customers?

A. Yes. I have.

Q. Is the Staff supportive of DNR's proposals?.

A. Yes. Ms. Randolph states as follows at page 2, lines 8 to 10 of her rebuttal testimony:

> The Energy Center [of DNR] is seeking commitment by AmerenUE to provide additional funding for weatherization assistance for their low-income residential customers and utility-based energy efficiency services and programs for residential and commercial customers.

As previously stated in this testimony, after the extremely cold winter of 2000-2001 and the effect it had on low-income households across the state, it became evident that there was a greater need to assist low-income customers respecting the abnormally high cost of heating their homes during extreme cold weather. This program would help people that otherwise would have little or no heat during the winter to have the means to continue to stay in their homes and pay their heating bills.

Weatherization assistance, as proposed by DNR, thus would benefit low-income customers. Since many low-income customers live in older, energy inefficient homes, this program would provide funding to help with such items as insulation, new energy efficient appliances, and new energy efficient heating and cooling equipment.

Regarding DNR's proposal for utility-based energy efficiency services and programs for residential and commercial customers, DNR identified utility-based energy efficiency services and programs available today such as residential and commercial energy audits, consumer education, and rebates or low-interest loans for the purchase of