

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

In the Matter of Laclede Gas Company's)
Request to Increase Its Revenues) Case No. GR-2017-0215
for Gas Service)

In the Matter of Laclede Gas Company)
d/b/a Missouri Gas Energy's Request to) Case No. GR-2017-0216
Increase Its Revenues for Gas Service)

**MISSOURI DIVISION OF ENERGY'S
MOTION TO COMPEL DATA REQUEST RESPONSES FROM STAFF AND
MOTION FOR DISCOVERY CONFERENCE REGARDING THE SAME**

The Division of Energy, by and through counsel, moves the Commission to compel the Staff of the Missouri Public Service Commission to provide full answers to certain outstanding data requests, and in support states as follows:

1. On, July 21, 2017, the Division of Energy ("DE") served data requests identified as DR DED-DE 206 and DR DED-DE 207 on Staff. That data requests requested complaints received by Staff regarding the current effective rate design for both Laclede Gas and MGE respectfully. Copies of these data requests are attached to this motion as Exhibits A and B.
2. On July 24, 2017, DE received Staff's objection to DR DED-DE 207 (regarding customer complaints about the rate design of Missouri Gas Energy, or "MGE"). A copy of this objection is attached as Exhibit C.
3. As an initial matter, DE has never received an objection from Staff to DR DED-DE 206 (regarding customer complaints about the rate design of Laclede Gas Company, or "Laclede"). Thus, Staff has therefore waived any objection to the this data request under the 10 day rule, and thus should be immediately compelled to answer the request.

4. Referring back to Staff's Objections to DR DED-DE 207, each of the objections is without merit. First, Staff states that it is impossible to search for "rate design" in its complaint database. However, this purported disability is not well-taken—DE understands that customer complaints are housed electronically, are associated with comment topic identifiers, and do provide insight as to customers' satisfaction with rate design (see response to Staff's "relevance" objection below). Therefore, DE requests that Staff be required to provide comments that were classified by Staff's identifiers as being likely to reflect concerns with the rate designs of both Laclede and MGE. These types of classifications are discussed by Staff witness Ms. Carol Gay Fred in GR-2009-0355, Tr. vol. 13, pages 788-790 and 793-794. If Staff persists with an inability to search its own records, DE representatives are willing come to the Governor's Office Building to review complaints housed in the Staff database themselves..

5. The remainder of Staff's objection to DE's data request are mere boilerplate objections and may be dispensed with summarily. To the extent that these objections require direct rebuttal, each is without merit.

6. Staff states that the DE-DED "vague and ambiguous." The DR clearly requested that Staff, "... provide a copy of all complaints received by Staff regarding the current effective residential rate design of Laclede Gas Company d/b/a Missouri Gas Energy from October 1, 2014 onwards." There is nothing vague about this request. The date ("from October 1, 2014 onwards"), subject ("residential rate design"), and nature of the record sought ("complaints received by Staff") are all straight-forward and plainly stated.

7. The DR is not "unduly burdensome and overly broad" given the existence of a searchable database. Staff does not describe why the DR is "overly broad." Indeed, the DR plainly is not, as DE self imposed temporal limits for the complaint data. Moreover, Staff did

not articulate any burden in terms of time, money, or other resources that would be consumed in order to fulfill the data request. The failure to do so precludes Staff from claiming undue burden.

8. Staff next claims that complaints are “irrelevant” to this case. The case involves questions of rate design, which can be addressed through lines of inquiry including reviews of customer responses to rate designs. DE notes that Staff witness Carol Gay Fred, as well as other parties’ witnesses, addressed customer comments in the 2009 and 2014 rate cases of MGE; for example, in GR-2009-0355, Ms. Fred indicated that, “... based on public comments or e-mail or – that we received, it appears that they’re (the customers) unhappy with the adverse effect of the new rate design.” (See GR-2009-0355, Tr. Vol. 13, p. 796, ll. 17-19.) Laclede and MGE have rate designs that mitigate the impact of weather and other factors on revenue collection. Rate-payer concern or acceptance of such mechanisms, as expressed in public comments to the commission, is not just relevant to the Commission’s inquiry, but is critical to the function of the Commission and the ability of DE to effectively advocate in this forum.

9. Staff makes one last attempt to defeat the data request, claiming that the request calls for personal identifiable information. This is without merit. As an initial matter, as a governmental entity DE always respects the confidentiality of personally identifiable customer information, and has received such information through DRs requesting customer bill samples from several utilities. DE’s attorney of record is permitted to receive confidential information under 4 CSR 240-2.135(6). This portion of the confidential information rule confirms that the confidentiality provisions at Section 386.480, RSMo. do not prohibit Staff from disclosing confidential information during the course of normal business, such as in response to a DR.

10. DE staff is bound by statute to abide by confidentiality and nondisclosure requirements. On August 28, 2013, Executive Order 13-03 transferred “all authority, powers,

duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Energy from the Missouri Department of Natural Resources to the Missouri Department of Economic Development” By extension, energy information that is provided to the Missouri Division of Energy, and requested by the provider of information to be kept confidential, is exempt from public disclosure according to Section 640.155.1 RSMo. There is a penalty of a Class A misdemeanor if any officer or employee of the department divulges any such confidential information, and any such act shall be grounds for summary dismissal. This statute has been deemed sufficient protection for any Highly Confidential information submitted by gas and electric utilities in cases at the Public Service Commission that become available to the Division of Energy staff. This is due to the fact that Sec. 640.155.1 carries a penalty equal to or greater than the penalty that Section 386.480 imposes on PSC, its staff and the Office of the Public Counsel. As a result, Division of Energy employees have not been required to submit non-disclosure agreements (called “certificates of compliance” in the PSC rule at 4 CSR 240-2.135) in order to have access to HC information filed with the Commission or distributed among parties.

For these reasons, the Division of Energy respectfully prays that the Staff be compelled to provide full and complete responses to DR DED-DE 206 and DR DED-DE 207 and that the matter be added to the issues to be discussed at the August 9, 2017 discovery conference or such other time as may accommodate the procedural schedule of these matters.

Respectfully submitted,

/s/ Brian Bear

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 7th day of August, 2017.

/s/ Brian Bear

Brian Bear