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October 12, 2000

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

FILED²

OCT 12 2000

Missouri Public
Service Commission

Re: Case No. GC-2001-137

Dear Judge Roberts:

Enclosed for filing please find the original and eight copies of the Answer of Laclede Gas Company.

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

Thank you.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:


Robert K. Angstead

RKA:ab

Enclosure

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

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
OCT 12 2000

The Staff of the Missouri Public Service
Commission,)

Complainant,)

v.)

Laclede Gas Company)

Respondent.)

Case No. GC-2001-137

Missouri Public
Service Commission

ANSWER OF LACLEDE GAS COMPANY

COMES NOW Laclede Gas Company ("Laclede" or "Company"), pursuant to the Commission's September 12, 2000 Notice in the above captioned case, and submits its Answer to the Complaint filed against Laclede by the Staff of the Missouri Public Service Commission on or about September 7, 2000. In support of its Answer, Laclede states as follows:

1. On September 7, 2000, the Staff of the Missouri Public Service Commission ("Staff") filed a Complaint against Laclede in connection with an incident which occurred on March 25, 2000, at 416 Boyce Avenue in Farmington, Missouri. As a result of the incident, the residential structure located at that address sustained moderate damage and one of the occupants of the residence received 2nd degree burns that were subsequently treated several days later at a medical facility.¹

2. Although the Staff has acknowledged in another case relating to this incident that there were "no probable violations of MoPSC pipeline safety regulations

¹ The incident occurred within the operating area of Laclede's Missouri Natural Division. For purposes of this Answer, however, Laclede or Company will be used exclusively in connection with any reference to the Company or its Divisions.

that contributed to the incident" (See Staff's Gas Incident Report in Case No. GS-2000-673, p. 2),² it nevertheless alleges in its Complaint that the Company's actions following the incident violated two Commission rules. Specifically, Staff alleges that the Company violated: (a) 4 CSR 240-40.020(4)(A) by failing to notify the MoPSC of a reportable incident within two hours of discovery; and (b) 4 CSR 240-40.030(14)(C) by not conducting emergency procedures in a timely manner such that would provide for public safety and protect property.

3. Laclede denies that it violated any Commission rule in connection with this incident. The Company will accordingly respond to each of Staff's allegations in turn.

ALLEGED FAILURE TO NOTIFY

4. As previously noted, the Staff has alleged that the Company violated: (a) 4 CSR 240-40.020(4)(A) by failing to notify the MoPSC of a reportable incident within 2 hours of discovery. That rule specifically provides that such notice must only be given when the event involves a release of gas from the operator's facilities and one or more of the following criteria apply:

A. A death;

B. A personal injury involving medical care administered in an emergency room or health care facility; whether inpatient or outpatient, beyond initial treatment and prompt release after evaluation by a health care professional; or

C. Estimated property damage, including cost of gas lost, to the

² In its Complaint, Staff has incorporated by reference its Gas Incident Report in Case No. GS-2000-673 -- the gas safety case that was established in connection with this incident. As a result, Laclede will necessarily be required to address and reference certain aspects of that Gas Incident Report in its Answer in this case.

operator or others, or both, of ten thousand dollars (\$10,000) or more.

(See 4 CSR 240-40.020(4)(A)1.A, B and C).

5. It is obvious from Staff's Complaint and its Gas Incident Report in Case No. GS-2000-673 that neither of the first two criterion applied in this case. Specifically, there was no fatality involved in the incident as contemplated by subparagraph A. Moreover, the only person to sustain injuries as a result of the incident did not seek medical attention as contemplated by subparagraph B until March 29, 2000, or two days after notice was provided by the Company. (See Staff's Gas Incident Report, p. 3). As a result, Staff's allegation of a rule violation rests entirely on the fact that the incident involved more than \$10,000 in estimated property damage as contemplated by subparagraph C.

6. And even here Staff does not allege that Laclede personnel knowingly or intentionally violated the requirement to provide notice when estimated property damage exceeds \$10,000. To the contrary, Staff notes at page 20 of its Gas Incident Report in Case No. GS-2000-673 that the Laclede Claims Assistant who had responded to the incident initially believed that the estimated damage was less than \$5,000 – an amount substantially below that required to trigger a notice to the Staff.³ Indeed, it was not until Monday, March 27, 2000, that more experienced management and claims personnel estimated for the first time that the incident involved more than \$10,000 in property damage. As soon as this determination was made, Laclede personnel took immediate steps to notify the Staff (and, in fact, did notify the Staff) of the incident within the 2 hour

³ The responding fire department also apparently underestimated the damage to the structure, as evidenced by its Report which indicated there had been "minor property damage."

period of discovery prescribed by 4 CSR 240-40.020(4)(A). (See Staff's Gas Incident Report in Case No. GS-2000-673, p. 20).

7. In fact, rather than demonstrate the violation of a Commission rule, Staff's Complaint simply serves to highlight the degree to which Laclede has attempted to meet its notice obligations to the Commission through the voluntary implementation of internal reporting practices that are more stringent than those provided for by the Commission's pipeline safety rules. As Staff's Gas Incident Report indicates (pages 19-20), the internal practices followed by Laclede require that the Company's field personnel (including the Claims Assistant who responded to this incident) notify the Claims Department whenever it appears that an event may be gas-related. Moreover, this notice is to be provided regardless of whether the incident involves any of the other criteria normally required under 4 CSR 240-40.020(4)(A) to trigger a notification to the Commission.

8. Regrettably, because of a human error and miscommunication, these more stringent, internal reporting practices were not fully followed in this case. Under such circumstances, Laclede believes it is entirely appropriate for the Staff to point out any discrepancies between the Company's actions and the Company's own, more stringent notification and reporting practices. Laclede also believes it is appropriate for Staff to suggest that the Company make revisions to its procedures to better ensure that these practices will be fully observed in the future. Indeed, as Staff notes at page 15 of its Gas Incident Report, the Company has already taken such action.

9. The Company does not believe it is appropriate or necessary, however, to recommend that the Company be charged with, let alone penalized for, an alleged violation of a notification requirement where, as in this case:

- (a) such alleged violation in no way contributed to the incident under review;
- (b) the Company fully complied with its notice obligations as soon as it was aware of the need to do so;
- (c) the inability to provide notice sooner was the result of an isolated and inadvertent failure of an employee to adhere fully to Company reporting practices that are more stringent than those mandated by the Commission's rules; and
- (d) the Company has taken steps to prevent such an inadvertent and isolated failure from occurring in the future.

10. In view of all of these considerations, Laclede respectfully submits that Staff's request to pursue penalties in connection with this alleged rule violation should be rejected by the Commission.

**ALLEGED FAILURE TO CONDUCT
EMERGENCY PROCEDURES IN A TIMELY MANNER**

11. Staff's allegation that Laclede violated 4 CSR 240-40.030(14)(C) by not conducting emergency procedures in a timely manner such as to provide for public safety and protect property is also unwarranted. Once again, there is nothing in Staff's Complaint to suggest that any alleged lack of timeliness on the part of Laclede contributed to the incident. To the contrary, Staff made clear in its Gas Incident Report that there were *no* violations of Commission rules that contributed to the incident. Nor is there anything in Staff's Complaint that would indicate that the corrective actions taken by the Company were not sufficient to provide for public safety and protect property, as required by 4 CSR 240-40.030(14)(C)1. For, notwithstanding Staff's allegations, the undisputed fact remains that once the Company responded to the incident (which Staff

indicates the Company did on a timely basis), *it was 100% successful in protecting the public and the public's property from any further damage or harm as a result of escaping gas.*

12. In view of these considerations, Staff's Complaint is, at best, simply a hypothetical surmise on what the Company could or should have done differently to achieve the same ultimate result that it did achieve. And all that Staff offers in that regard is: (a) the assertion that the Company should have begun excavating sooner over areas that had higher gas concentration readings; and (b) the claim that the Company should have had mechanical digging equipment in the main area of activity sooner. (Staff's Gas Incident Report, pp. 21-22).

13. As to the first assertion, Laclede would note that from the moment they arrived on the scene of the incident, Laclede's personnel worked in a diligent, professional and methodical manner to vent the gas being detected in the sewers and to locate the source of the leak. These actions included, among others, efforts aimed at venting the sewer lines by removing manhole covers, barholing over areas where gas was being detected, air-jacking of the streets in an attempt to minimize the concentrations of gas, evacuating residents from the area, and the continual taking of subsurface readings. In view of these activities, the Company personnel at the scene did not believe it was necessary or appropriate to begin actual excavations over areas with higher concentrations of gas, particularly when the source of the migrating gas had not yet been identified. To the contrary, any such excavation effort would have taken resources away from the Company's pursuit of the above-mentioned activities, which the field personnel on the scene believed were better designed to protect the public and property.

14. Staff's assertion that the Company should have had mechanical digging equipment available on the scene sooner is equally unfounded. First, as Staff itself acknowledges in its Gas Incident Report, the Company *did* have mechanical hand-digging equipment, in the form of jackhammers, available on the scene and used them to help break pavement and assist in the Company's airjacking efforts. (See Staff's Gas Incident Report, p. 21). Second, the backhoe equipment (which Staff asserts should have also been brought to the site sooner) was located *less than two miles or approximately 5 minutes from the site.*⁴ Given the proximity of this equipment, there is simply no basis for suggesting that public safety would have been enhanced in any material way by moving this equipment a few blocks and a few minutes closer to the area where most of the activity was taking place, particularly in view of the fact that the exact location of the leak had not yet been located.

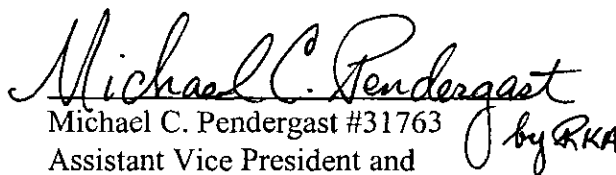
15. Staff's assertion at page 22 of its Gas Incident Report that it took over one hour to contact a backhoe operator also provides an inaccurate and misleading impression of Laclede's readiness to use such equipment. The fact is that Laclede had at least three people available on the site who, had conditions warranted, would have been qualified to retrieve and operate the backhoe within minutes of a determination being made that such equipment was needed. Once the location of the leak was identified, however, Company personnel at the scene concluded that public safety would be best served by making sure that other underground facilities in the area of planned excavation were located and marked by the responsible parties before they commenced digging with the backhoe.

⁴ In its Gas Incident Report the Staff itself notes that the shop containing the backhoe was only 10 to 12 blocks away from the scene of the investigation. (See Gas Incident Report, p. 22).

Given the time required for these locates to be made and to remove the pavement over the area of excavation, Laclede's employees knew that there was sufficient time to contact the normal backhoe operator and to have him bring the equipment to the site. And that is precisely how the timing eventually worked out, as evidenced by the fact that the backhoe was on site *and* operating within a few minutes of the time the initial efforts to locate and mark the other underground facilities and to remove the pavement within the area of excavation were completed. In light of these considerations, Staff's assertions regarding the absence of a backhoe at the scene lend absolutely no support to its allegation that the Company violated 4 CSR 240-40.030(14)(C) by not conducting emergency procedures in a timely manner such that would provide for public safety and protect property.

WHEREFORE, for the foregoing reasons, Laclede respectfully requests that the Commission schedule a hearing in this case and upon its conclusion reject the relief requested by Staff in its Complaint.

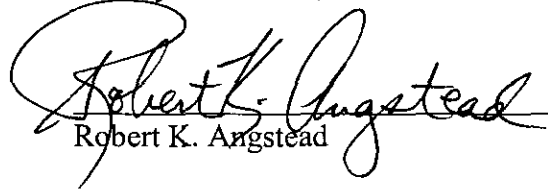
Respectfully submitted,

by RKA

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or by hand delivery, to the General Counsel's Office and Office of Public Counsel, on this 12th day of October, 2000.


Robert K. Angstead