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August 28, 2001

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

Re: Case No. GM-2001-585

Dear Judge Roberts:

Please find enclosed for filing in the above-referenced matter the Statement of Position of Laclede Gas Company. I enclose the original and eight copies of the highly confidential version, filed under seal, and one copy of the non-proprietary version.

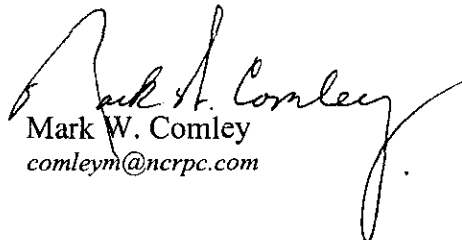
Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

Thank you.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:


Mark W. Comley
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MWC:ab
Enclosure

cc: M. Ruth O'Neill, Office of Public Counsel
Lera L. Shemwell, General Counsel's Office
Michael C. Pendergast
Paul A. Boudreau
Thomas M. Byrne
William D. Steinmeier
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FILED²
AUG 28 2001
Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

AUG 28 2001

Missouri Public
Service Commission

In the Matter of the Joint Application of)
Gateway Pipeline Company, Inc.,)
Missouri Gas Company and Missouri)
Pipeline Company.)

Case No. GM-2001-585

STATEMENT OF POSITION OF
LACLEDE GAS COMPANY

COMES NOW Laclede Gas Company ("Laclede" or "Company") and, pursuant to the procedural schedule adopted by the Missouri Public Service Commission ("Commission") for this proceeding, provides the following Statement of Position regarding the issues identified in the Proposed List of Issues filed by the Staff of the Missouri Public Service Commission ("Staff") on August 17, 2001.

1. Should the request of the Joint Applicants to acquire all of the stock of UtiliCorp Pipeline Systems, Inc. (UPL) be approved?

As a general matter, it is Laclede's position that utilities, just like other firms, should be given wide latitude in their exercise of property rights. However, such rights are not absolute. Every public utility that purchases or constructs facilities dedicated to public use accepts reasonable limitations on how such facilities may be transferred to a new owner. Specifically, they must recognize that any subsequent sale of used and useful facilities will necessarily be conditioned on whether the proposed buyer has the requisite attributes to provide the Commission with reasonable assurances that the transfer will not be detrimental to the public interest. In some exceptional cases, such as this one, that minimum standard is not met.

A. Would the sale be detrimental to the public interest?

Yes. As described in the testimony of Christopher C. Pflaum, it is the position of Laclede that the request of the Joint Applicants to acquire all of the stock of UPL should be denied because such a transaction would be detrimental to the public interest. He describes some of the financial, regulatory, litigation and reliability concerns associated with this transaction as well as the prior operations of pipeline companies that have had an ownership or operational relationship with the current applicants.

Many of these concerns have already been recognized by the Commission and expressed publicly in FERC Docket No. RP99-485-000h. These concerns create a very strong presumption that the proposed acquisition would be detrimental to the public interest.

B. If so, are there conditions that the Commission could impose to reduce or eliminate any detriment?

Given the legal uncertainties over the Commission's ability to formulate conditions that cannot be circumvented through an assertion of FERC jurisdiction or otherwise, Laclede views the imposition of conditions as an ineffective substitute for disapproval. Nevertheless, if the Commission decides to approve the proposed transaction, it is Laclede's position that it is essential that very clear ground rules be established at the outset to govern the service relationship between MPC, MGC and its existing customers following the acquisition by Gateway. Specifically, Laclede recommends that approval of the acquisition be conditioned on the following requirements:

- 1) MPC and MGC should be required to continue to provide firm transmission (FT) service to existing users of the pipelines, including Laclede, at

rates reflecting their cost of service, provided that such rates should be capped for a period of not less than 5 years. This rate cap should include a prohibition on any type of rate restructuring, including any changes that would establish rate or zone boundaries or require an LDC to purchase services that have traditionally been included as part of MPC's or MGC's tariffs.

2) MPC and MGC should be at risk for any loss of transportation volumes or any incremental expenditures designed to increase the throughput capability of the pipelines. Should MPC's or MGC's revenues fall because customers leave it or its capital or operational costs increase above the amounts currently reflected in rates in order to serve new loads, these pipelines should not be permitted to raise their rates to existing users to make up that shortfall.

3) MPC and MGC's certificates should continue to forbid them from bypassing the LDCs they serve and from providing direct service to industrial customers.

4) MPC and MGC should be required to provide existing users, including Laclede, with a right of first refusal to continue to take up to their existing contract entitlements for firm transportation.

5) MPC and MGC should be prohibited from taking any actions that would subject them to FERC jurisdiction without prior approval of the Commission.

6) MPC and MGC should be required to submit plans showing that their addition of any firm transportation customers that increase their peak throughput will not impose additional costs or lessen service reliability to existing users of

the pipelines.

7) Finally, to ensure reliability, MPC and MGC should be obligated to use firm services on interstate pipelines, whenever obligated to provide a firm delivered service to their customers.

2. **Does the condition that the Commission placed on UtiliCorp when it acquired these properties, that UtiliCorp would not connect the intrastate pipelines to the interstate Trans Mississippi Pipeline, apply to Gateway should the Commission approve the proposed transaction?**

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Additionally, Utilicorp's witness, Richard C. Kreul, states on page 6 of his Surrebuttal Testimony that "The restrictive language associated with the MPC certificate would remain after the close of the transaction." However, the imposition of this condition will not prevent Gateway from submitting to, or the FERC from imposing, jurisdiction on not only the Trans Mississippi Pipeline facilities but also all the assets under consideration in this transaction. This would cause serious detriment to the public by allowing Gateway to avoid this Commission's jurisdiction and any conditions that this Commission imposes.

A. If so, should the Commission waive this provision?

No. The Commission should not waive this position. **

B. Might the Commission lose jurisdiction over these pipelines? If so, how would the loss of jurisdiction affect the public interest?


Respectfully submitted,


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Associate General Counsel
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CERTIFICATE OF SERVICE

Mark W. Comley, for Laclede Gas Company, hereby certifies that the foregoing Statement of Position of Laclede Gas Company has been duly served upon the General Counsel of the Staff of the Public Service Commission, Office of the Public Counsel and all parties of record to this proceeding by placing a copy thereof in the United States mail, postage prepaid, or by hand delivery, on this 28th day of August, 2001.

On this 20th day of August, 2001.



Mark W. Comley