

FISCHER & DORITY
PROFESSIONAL CORPORATION

James M. Fischer
Larry W. DORITY

Attorneys at Law
Regulatory & Governmental Consultants

101 Madison, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758
Fax: (573) 636-0383

April 1, 2003

FILED³

APR 01 2003

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

Missouri Public
Service Commission

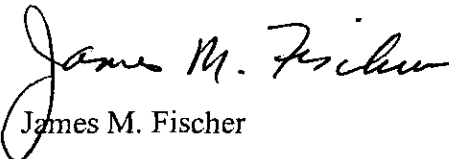
RE: *In the Matter of the Tariff Filing of Laclede Gas Company*, Case No. GT-2003-0032.

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter is an original and appropriate number of copies of the Supplemental Rebuttal Testimony of Michael T. Cline.

Copies of the foregoing have been hand-delivered or mailed this date to counsel for all parties of record. Thank you for your attention to this matter.

Sincerely,


James M. Fischer

Enclosures

cc: Office of the Public Counsel
General Counsel
Richard Brownlee

Exhibit No.:

Issue:

Witness:

Type of Exhibit:

Sponsoring Party:

Case No.:

Date Testimony Prepared:

Capacity Release

Michael T. Cline

Supplemental

Rebuttal Testimony

Laclede Gas

Company

GT-2003-0032

April 1, 2003

FILED³

APR 01 2003

LACLEDE GAS COMPANY

GT-2003-0032

**Missouri Public
Service Commission**

SUPPLEMENTAL REBUTTAL TESTIMONY

OF

MICHAEL T. CLINE

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

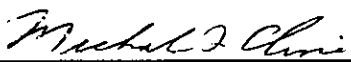
In the Matter of the Tariff Filing of)	Case No. GT-2003-0032
Laclede Gas Company)	Tariff No. JG-2003-0048

AFFIDAVIT

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

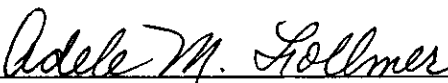
Michael T. Cline, of lawful age, being first duly sworn, deposes and states:

1. My name is Michael T. Cline. My business address is 720 Olive Street, St. Louis, Missouri 63101; and I am Director - Tariff and Rate Administration of Laclede Gas Company.
2. Attached hereto and made a part hereof for all purposes is my supplemental rebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.



Michael T. Cline

Subscribed and sworn to before me this 31st day of March, 2003.



ADELE M. FOLLMER
Notary Public — Notary Seal
STATE OF MISSOURI
Jefferson County
My Commission Expires: June 11, 2004

SUPPLEMENTAL REBUTTAL TESTIMONY OF MICHAEL T. CLINE

1 Q. What is your name and business address?

2 A. My name is Michael T. Cline, and my business address is 720 Olive Street, St.
3 Louis, Missouri 63101.

4 Q. Are you the same Michael T. Cline who has previously filed direct, rebuttal and
5 supplemental direct testimony in this proceeding?

6 A. Yes, I am.

7 Q. What is the purpose of your supplemental rebuttal testimony?

8 A. The purpose of my testimony is to rebut the supplemental direct testimony of Mr.
9 Louie Ervin, appearing on behalf of both the Missouri School Board Association
10 ("MSBA") and the Cooperating School Districts of St. Louis ("CSD"), and Mr.
11 Thomas Imhoff, appearing on behalf of the Missouri Public Service Commission
12 Staff.

13 Q. Please provide an overview of the major points you will address.

14 A. Although it is not completely clear what Mr. Ervin is recommending in his
15 testimony, it appears that he may be trying to raise issues concerning (1) whether
16 Section 393.310 of the Revised Statutes of Missouri (the "Statute") requires
17 Laclede to offer the schools a transportation program versus a resale service, and
18 (2) whether the "negative financial impact" clause in paragraph 5 of the Statute
19 applies to all incremental costs caused by Laclede's school district aggregation
20 program (the "Program") or only those costs related to aggregation and balancing
21 fees. As I discuss below, by raising these issues that have already been settled by
22 the parties, Mr. Ervin violates the Stipulation and Agreement signed by the parties

1 on October 11, 2002, and approved by the Commission in its Order of October
2 17, 2002 (the "Order"), and contravenes the corresponding tariff also approved by
3 the Commission. Regarding the treatment of capacity costs that Laclede has
4 incurred on behalf of the schools, which is the only proper issue before the
5 Commission, Mr. Ervin's testimony attempts to permit the schools to improperly
6 escape the cost consequences of their decision to no longer require Laclede's gas
7 supply and pipeline transportation arrangements. Mr. Imhoff, on the other hand,
8 takes no position on the capacity issue that was supposed to be the focal point of
9 this phase of the proceeding because he incorrectly blames the Company for not
10 providing the Staff with information the Staff believed was necessary to formulate
11 such a position.

12 **REBUTTAL TO LOUIE ERVIN**

13 Q. Does Mr. Ervin's supplemental direct testimony address issues other than the
14 issues germane to this proceeding?

15 A. Because Mr. Ervin's testimony and recommendations are not completely clear, I
16 cannot be certain. However, in several places in his testimony it does appear that
17 Mr. Ervin is seeking to relitigate issues that were resolved in the Stipulation and
18 Agreement filed on October 11, 2002, and approved by the Commission in its
19 Order, and that were not raised by any party in the meetings and discussions that
20 took place prior to Mr. Ervin's March 17, 2003 filing.

21 Q. To what issues are you referring?

22 A. There are two main issues raised by Mr. Ervin that are outside the scope of this
23 proceeding. First, Mr. Ervin seeks to relitigate the issue of whether the Statute

1 requires schools to be treated as transportation customers or as sales customers of
2 the local distribution company ("LDC"). Second, Mr. Ervin seeks to raise the
3 issue of whether the "negative financial impact" clause in Paragraph 5 of the
4 Statute applies to all incremental costs caused by the Program or only those costs
5 related to aggregation and balancing fees.

6 Q. Why is it improper for Mr. Ervin to raise these issues?

7 A. I have been advised by legal counsel that it is a violation of the Stipulation and
8 Agreement approved by the Commission, and of the corresponding tariff
9 provisions.

10 Q. Please explain.

11 A. The first sentence of Paragraph 6 of the Stipulation and Agreement states as
12 follows:

13 "The parties agree that, within 60 days of the effective date of the
14 tariff establishing the experimental program, the Company, Staff,
15 Office of the Public Counsel and the association representing the
16 schools shall meet to determine if they can reach a mutually
17 acceptable recommendation for revising the treatment of capacity
18 costs or other program provisions subsequent to May 31, 2003."
19

20 Q. Did that meeting take place?

21 A. Yes. As stated in my supplemental direct testimony, representatives of all of the
22 parties met via conference call on December 11, 2002. The capacity issue was the
23 only issue discussed at that meeting, and is the only issue that has been discussed
24 since that meeting. The parties have discussed no other program provisions.

25 Q. Does this preclude the parties from now litigating matters not raised or discussed
26 at this meeting or otherwise at issue between the parties?

1 A. Absolutely. As stated in the second sentence of Paragraph 6 of the Stipulation
2 and Agreement, "Such parties shall file either their joint recommendation or, if an
3 agreement is not reached, their individual recommendations regarding such
4 matters, by March 17, 2003 together with testimony explaining why such
5 revisions are appropriate and consistent with the requirements of §393.310." As
6 recognized in the first sentence, the treatment of capacity costs was the only
7 matter at issue at the time the Stipulation and Agreement was signed. However,
8 the parties left open the possibility that revisions to other program provisions
9 could be litigated as issues so long as they were first discussed by the parties prior
10 to the filing of testimony in order to determine whether they could be resolved by
11 mutual agreement. In addition to being a key element of the Stipulation and
12 Agreement that was bargained for by the parties, this procedure for potentially
13 narrowing any issues was also critical in light of the parties' agreement in the
14 Stipulation to recommend an accelerated schedule under which all issues would
15 be litigated in time for the Commission to issue its decision by June 1, 2003.
16 Accordingly, to the extent the parties have any right to submit recommendations
17 regarding revisions to other program provisions, that right only extends to other
18 program provisions that the parties raised in the advance discussions that had been
19 specifically established for that purpose in the Stipulation and Agreement.

20 Q. Did the parties understand that the treatment of capacity costs is the sole issue in
21 this portion of the case?

22 A. Yes. Mr. Ervin understands that capacity cost is the only outstanding issue. As
23 examples, in his supplemental direct testimony Mr. Ervin states: "No schools on

1 the Laclede system are currently participating in the aggregate natural gas
2 purchasing program because of an outstanding issue regarding interstate pipeline
3 capacity” (page 5, line 10); “Regarding pipeline capacity subsequent to May 31,
4 2003, the Laclede stipulation provides that the parties shall file their joint
5 recommendation or, if an agreement is not reached, their individual
6 recommendations regarding such matters, by March 17, 2003...The schools and
7 Laclede have not reached a joint recommendation regarding pipeline capacity.
8 The purpose of my testimony is to set forth recommendations to the Commission
9 regarding pipeline capacity” (page 6, line 23 to page 7, line 6).

10 Q. Regarding the issue of whether the Statute provides for transportation or resale of
11 natural gas supplies, was this issue raised and resolved by the parties in the
12 Stipulation and Agreement?

13 A. Yes. I previously discussed this important distinction in the direct testimony I
14 filed in this proceeding in September 2002. As agreed to by the parties in Section
15 A of the Program on Laclede Tariff Sheet No. 41, the schools, through their
16 association, will aggregate their purchases of gas supplies and sell such supplies
17 to Laclede, which will then resell the supplies to the association.

18 Q. And this issue was not raised or discussed by the parties at their December 11,
19 2002 meeting?

20 A. No, nor at any other time prior to March 17, 2003.

21 Q. What portions of Mr. Ervin’s testimony on the issue of whether the Statute
22 provides for transportation or resale of natural gas supplies are therefore
23 improper?

1 A. Mr. Ervin attempts to raise this issue on page 6, line 16 of his supplemental direct
2 testimony, where he refers to the Program as an experimental school
3 transportation program. Then, beginning at page 7, lines 19-21, Mr. Ervin
4 attempts to raise the transportation issue under cover of the capacity issue. He
5 states "[i]n my opinion, Section 393.310 intended that pipeline capacity under
6 small volume school transportation tariffs be treated in exactly the same manner
7 as in large volume transportation tariffs." On page 8, he is then asked a question
8 about his interpretation of Paragraph 4 of the Statute, whereupon he launches full
9 bore into the transportation issue, including at page 8, lines 9-13, where Mr. Ervin
10 states "[t]hat is, in my opinion, Paragraphs 4. (1), (2) and (3) of Section 393.310
11 simply recognizes [sic] that the experimental program must provide for either
12 transportation service through a not-for-profit school association in a similar
13 manner as large volume transportation service, or by resale at the gas
14 corporation's cost..."

15 Q. Are there other portions of Mr. Ervin's testimony that suffer from this same
16 deficiency?

17 A. Yes, Mr. Ervin continues his inappropriate argument on transportation on page
18 10, lines 1-17 of his supplemental direct testimony. Further, at page 20, lines 5-7,
19 Mr. Erwin states ... "it is apparent that Laclede has much more flexibility in its
20 system than is required to accommodate the legislatively mandated experimental
21 school transportation program."

22 Q. Aside from conflicting with the Stipulation and Agreement, is Mr. Ervin's raising
23 of these issues inappropriate for other reasons as well?

1 A. Yes. Contrary to what Mr. Ervin would have the Commission believe, the
2 experimental school district aggregation program is just that, a program that
3 permits schools to aggregate their purchase requirements so that they can procure
4 their own gas supply and pipeline transportation. Importantly, however, the
5 Statute provides for the resale of such supplies and transportation to the schools.
6 Thus, according to the Statute, the schools purchase their own gas supply and
7 pipeline transportation, which the gas corporation purchases from the Association
8 and then, in turn, re-sells back to the individual schools. Clearly, compliance with
9 the Statute dictates that the schools remain sales customers of Laclede, and does
10 not sanction making them small transportation customers.

11 Q. Regarding the issue of whether the "negative financial impact" clause of the
12 Statute covers all costs of the Program incurred by the LDC or just aggregation
13 and balancing costs, was this issue raised and resolved by the parties in the
14 Stipulation and Agreement?

15 A. Yes. I previously discussed this issue on pages 8-9 of the direct testimony I filed
16 in this proceeding on September 23, 2002. Further, the parties agreed to the
17 concept that the entire Program cause no negative financial impacts on pages 4-5
18 of the Stipulation and Agreement, and Section J on Sheets 44-45 of the
19 Company's tariff. Further, the Commission references this concept in pages 2-3
20 of its Order approving the Stipulation and Agreement.

21 Q. And this issue was not raised or discussed by the parties at their December 11,
22 2002 meeting?

23 A. No, nor at any other time prior to March 17, 2003.

1 Q. What portions of Mr. Ervin's testimony on the issue of the breadth of the
2 "negative financial impact" clause are therefore improper?

3 A. On page 9, lines 1-15 of his supplemental direct testimony Mr. Ervin contends
4 that Paragraph 5 of the Statute pertaining to the avoidance of the negative
5 financial impact to the Company and its other customers does not encompass
6 possible adverse effects related to capacity costs. Mr. Ervin also improperly
7 addresses this issue in his summary, page 20, lines 18-23.

8 Q. Aside from the fact that it conflicts with the Stipulation and Agreement, are there
9 other reasons why Mr. Ervin's interpretation of this provision should be rejected
10 by the Commission?

11 A. Yes, because it is also non sensical for two main reasons. First, a plain reading of
12 Paragraph 5 of the Statute makes it clear that any negative financial impact is
13 covered. There is nothing at all that indicates that the impact of capacity costs
14 would not fall under the umbrella of "any negative financial impact". Why else
15 would the word "any" be specifically used in the paragraph? Second, it would
16 make absolutely no sense for the legislature to insulate the Company and its
17 customers from any incremental administrative costs of the program only – as
18 Mr. Ervin contends – while simultaneously permitting the Company or its
19 customers to be adversely impacted in some other way.

20 Q. What is your position with regard to the issues improperly raised by Mr. Ervin?

21 A. Mr. Ervin's recommendations regarding those issues should be rejected by the
22 Commission.

1 Q. On page 6, lines 2-3 of his supplemental direct testimony Mr. Ervin states that
2 "Laclede is insisting that schools pay above market prices for pipeline capacity".
3 Again on page 10, line 13 Mr. Ervin objects to the requirement that the schools
4 pay for pipeline capacity "at prices in excess of capacity market prices". Do you
5 agree with Mr. Ervin?

6 A. No. An accurate characterization of Laclede's position is that we expect the
7 schools to reimburse us for the cost of the capacity we release to the schools on
8 Mississippi River Transmission Corporation ("MRT"). The cost of that capacity,
9 certainly at the time we purchased it from MRT, was the best we could negotiate
10 in the market as the single, largest customer on MRT from whom we receive by
11 far the bulk of our gas requirements. How that price stacks up today in terms of
12 what another shipper would pay in the market for such capacity is largely
13 irrelevant to what Laclede should be entitled to receive from a replacement
14 shipper, especially in light of the Statute.

15 Q. Please explain.

16 A. Paragraph 5 of the Statute specifically provides that the aggregation program
17 should not have any negative financial impact on the gas corporation or its other
18 customers. Unless the schools reimburse Laclede for Laclede's cost to acquire
19 the capacity needed to serve the schools, either the Company or its other
20 customers would be left to pick up the tab for any shortfall in capacity release
21 revenues, creating a negative financial impact in direct violation of the Statute, the
22 Stipulation and Agreement, and Section J of the tariff.

1 Q. What is your response to Mr. Ervin's statement on page 6, lines 12-13 of his
2 supplemental direct testimony that Laclede's way of "handling interstate pipeline
3 capacity" effectively denied St. Louis area schools from participating in the
4 program?

5 A. I take exception to Mr. Ervin's statement. Certainly it is true that no schools in
6 Laclede's service area have participated in this first year of the program despite
7 all of Laclede's efforts last fall to agree with the other parties to this case on the
8 terms of an experimental school district aggregation program that was approved
9 by this Commission. It is unclear to me why no schools participated in Laclede's
10 Program, especially in light of the fact that the schools had accepted utility
11 released pipeline capacity from all other LDCs through October 31, 2003, and
12 only accepted such capacity from Laclede through May 31, 2003, as stated by Mr.
13 Ervin himself at page 6, lines 18-23 of his supplemental direct testimony. One
14 possibility could have been that the schools determined that they would not save
15 any money by making their own supply and pipeline transportation arrangements
16 during the 2002/2003 heating season because Laclede's regulated sales rates,
17 including the impact of its hedging efforts, were so low compared to the market
18 price of gas that may have been available to the schools. It is interesting to note
19 that while Mr. Ervin, and Mr. Ervin only, has the information necessary to make
20 such a comparison, he has failed to provide one in his direct testimony. In any
21 event, it is misleading to suggest that somehow Laclede denied the schools
22 participation in the program. The program that the schools themselves agreed to,
23 including the treatment of Laclede's interstate pipeline capacity prior to May 31,

1 2003, was in place before the start of the 2002/2003 heating season and ready to
2 accommodate any interested eligible customers. Laclede should not be blamed
3 for the schools' lack of participation in the program if the underlying economics
4 of such program does not work from the schools' standpoint simply because
5 Laclede and its other customers expect, as they are entitled to under the Statute,
6 the Stipulation and Agreement, and Section J of the tariff, to recover the cost of
7 the MRT capacity that Laclede has acquired for the schools.

8 Q. What is Mr. Ervin's recommendation with respect to Laclede's capacity on MRT?

9 A. Mr. Ervin expects Laclede to stand ready to make MRT capacity available to the
10 schools whenever they request it and for whatever amount they request up to the
11 amount already covered by the existing tariff. Unlike Laclede who is
12 contractually obligated to pay MRT for the same amount of capacity each month
13 throughout the year, the schools apparently want the ability to tailor their capacity
14 commitment from month to month.

15 Q. What is your response to Mr. Ervin's recommendation?

16 A. I can understand Mr. Ervin's efforts to avoid costs that were incurred, and are
17 continuing to be incurred today, on behalf of his clients. However, because the
18 MRT capacity commitment Laclede made to serve the schools and all of
19 Laclede's other firm customers is structured differently, Mr. Ervin's
20 recommendation would shift capacity costs to those customers and away from the
21 participating schools. Thus, unless the schools are willing to compensate Laclede
22 and its customers for this type of an arrangement, according to the Statute, the

1 Stipulation and Agreement, and Section J of the tariff, such recommendation
2 should be rejected.

3 Q. On page 10 of his supplemental direct testimony Mr. Ervin suggests that it is
4 inequitable for the schools to be required to pay for their share of Laclede's
5 pipeline capacity under the experimental aggregation program when Laclede's
6 other customers who converted to transportation have no similar obligation. What
7 is your response to Mr. Ervin?

8 A. As I stated in my supplemental direct testimony, most of these other customers
9 switched to transportation service in a period during which the Company was
10 entitled under its then-effective contract with MRT to reduce its contract demand
11 to the extent that Laclede's customers no longer required firm sales service. No
12 similar feature is included in the Company's existing contract with MRT.
13 Furthermore, as I already discussed, Paragraph 5 of the Statute affirmatively
14 requires that the schools pay for the capacity Laclede has lined-up to serve the
15 schools. There is no similar statutory provision that applies to other customers'
16 conversions from sales service to transportation service.

17 Q. On page 12, lines 15-17 of his supplemental direct testimony, Mr. Ervin requests
18 that the Commission order Laclede to provide the Delivery Schedule algorithm to
19 the Association. Is Mr. Ervin correct that Laclede has not provided such?

20 A. No. The algorithm is already set forth in Laclede's tariff sheets covering the
21 experimental school district aggregation service which sheets have been on file
22 with the Commission since October 2002. Specifically, the algorithm is discussed
23 in Paragraph C.1 of Sheet No. 41 of Laclede's tariff.

1 Q. On page 13, lines 1-16 of his supplemental direct testimony, Mr. Ervin discusses
2 what he believes is "prudent" utility planning in which he suggests that Laclede's
3 pipeline capacity commitments should be structured so as to accommodate
4 customers switching from sales to transportation service without requiring
5 customers to be financially obligated to pay for their former share of pipeline
6 capacity beyond the first year of their conversion. Do you agree with this
7 depiction of prudent utility planning?

8 A. No, I do not. First, since Laclede is highly dependent on MRT capacity, it is
9 unreasonable to assume that MRT would have an incentive to agree to a contract
10 with Laclede whereby Laclede could reduce its contract demand with MRT if any
11 firm sales customer of Laclede, even a school, would no longer require Laclede to
12 hold capacity to serve that customer. What incentive would a pipeline like MRT
13 have to put that guaranteed revenue stream from Laclede at risk? In fact, this
14 issue was addressed during our last negotiations with MRT, and MRT was not
15 agreeable to such a provision. Moreover, it has been our experience that the
16 MPSC Staff closely evaluates Laclede's capacity requirements. For that reason
17 the Company cannot assume, even given the relative size of the school
18 aggregation program, that the Staff would look past some stranded capacity on
19 our system, especially when the Staff is keenly aware of the Paragraph 5
20 prohibition in the Statute pertaining to any negative impact on customers. Thus,
21 based on the close scrutiny routinely exercised by the Staff, along with the
22 contractual inability of the Company to shed capacity on its pipelines when its
23 customers convert to transportation service, the Company does not have the

1 luxury of being able to accommodate the schools' desire to receive and pay for
2 capacity in a manner different than the Company does, as Mr. Ervin suggests.

3 Q. On page 15, lines 10-17 of his supplemental direct testimony, Mr. Ervin discusses
4 the need for Laclede to line-up capacity in recognition of the potential for wide
5 swings in loads. Should this alleviate any concern the Commission may have
6 about the possible negative financial impact associated with the capacity costs
7 that are presently borne by the schools?

8 A. Absolutely not. Laclede serves a significant space heating load, and our peak is
9 highly dependent upon winter weather. Laclede enters into pipeline capacity
10 commitments knowing full well that in order to meet the peak needs of its
11 customers such capacity will not be fully utilized each day of the year. However,
12 the primary, if not the only, variable in how much of that capacity will be used is
13 the weather, not the number of customers who may switch from sales to
14 transportation service or vice versa.

15 Q. On page 16, lines 4-22 of his supplemental direct testimony, Mr. Ervin attempts to
16 make a case for the load growth the Company is allegedly experiencing,
17 presumably to convince the Commission that the capacity not taken by the
18 schools can be easily utilized to satisfy Laclede's load growth. Do you agree with
19 Mr. Ervin?

20 A. No. First of all, the change in overall throughput from 2000 to 2001 to which
21 Mr. Ervin refers is due predominantly to weather in 2001 which was nearly 30%
22 colder than 2000. Secondly, irrespective of how many new projects Mr. Ervin
23 cites from our annual reports, the most telling number in the report that has a

1 bearing on the Company's need for pipeline capacity is the Estimated Sendout on
2 Zero Day that appears on pages 38 and 39 of the same 2001 annual report which
3 Mr. Ervin cites. Such estimate of our sendout on a day with temperatures
4 averaging zero degrees Fahrenheit has been slightly declining in recent years.
5 While there are certainly new buildings and uses for natural gas in our service
6 area, obviously the added volume in terms of zero day usage is not enough to
7 keep up with the other load losses occurring throughout our system as a result of
8 efficiency-driven conservation and other factors.

9 Q. On page 17, lines 1-6 of his supplemental direct testimony, Mr. Ervin even goes
10 so far as to suggest that the supply arrangement between Laclede's affiliate,
11 Laclede Energy Resources ("LER"), and UtiliCorp is another example of the load
12 growth occurring on the Laclede system. Is this a valid example?

13 A. No. The LER arrangement has nothing at all to do with the load and capacity
14 requirements within Laclede's service territory.

15 Q. On page 18, lines 4-14 of his supplemental direct testimony, Mr. Ervin indicated
16 that Laclede refused to provide copies of its pipeline contracts to the MSBA. Is
17 there any way that the MSBA can verify Laclede's statement that Laclede does
18 not have the flexibility to reduce its capacity on its pipelines due to the school
19 aggregation program?

20 A. Yes. While the Company did refer Mr. Ervin to publicly available information
21 concerning various features of its pipeline contracts, in response to a follow-up
22 data request by the MSBA, Laclede also intends to provide relevant portions of its
23 pipeline contracts, subject to confidentiality concerns.

REBUTTAL TO THOMAS IMHOFF

1

2 Q. Do you agree with Mr. Imhoff's statement on page 1, lines 19-22 of his
3 supplemental direct testimony that Staff was unable to formulate a position on the
4 capacity issue in this case without the report Laclede was required to file by
5 March 1, 2003?

6 A. No, I do not see how actual participation, or non-participation as it turns out, in
7 the first year of the program was integral to taking a position on the capacity
8 issue. Obviously, the MSBA, CSD and Laclede did not require such a report in
9 order to make a recommendation.

10 Q. Until you received a copy of Mr. Imhoff's supplemental direct testimony were
11 you aware that Staff had intended to rely heavily on the information from the
12 March 1 status report to formulate its position regarding the capacity issue?

13 A. No, I was not.

14 Q. Did the Staff mention in the December 11, 2002 meeting among the parties that
15 was convened to attempt to resolve the capacity issue the need to obtain
16 participation data so as to formulate a position?

17 A. No, it did not.

18 Q. Should Staff have been aware as early as December 11, 2002, of the contents of
19 the report that Mr. Imhoff says Staff did not receive until March 11, 2003?

20 A. Since the schools clearly indicated in the December 11, 2002, conference call that
21 as of that date no schools were participating in the Program, Staff should have
22 been aware that there was at least a strong possibility, if not a complete certainty,
23 that there would be no revenues or expenses, or other program data, for the first

1 year of the program well in advance of the March 1, 2003 deadline when such
2 information was to have been provided. I am therefore at a loss to understand
3 how Mr. Imhoff can claim that there was any meaningful violation of the
4 Stipulation and Agreement in this case or how he can assert that the timing of the
5 Company's one paragraph letter confirming what he should have known months
6 before had any impact on his ability to provide supplemental direct testimony in
7 this case.

8 Q. Does this conclude your supplemental rebuttal testimony?

9 A. Yes, it does.

10