

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

FILED

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Missouri Public  
Service Commission

IN THE MATTER OF LACLEDE GAS COMPANY'S TARIFF  
TO REVISE NATURAL GAS RATE SCHEDULES

Case No. GR-99-315

Exhibit No. 152

Case No(s) GR-99-315

Date 9-24-04 Rptr TS

DEPOSITION OF R. LAWRENCE SHERWIN

TAKEN ON BEHALF OF THE STAFF OF MISSOURI  
PUBLIC SERVICE COMMISSION

SEPTEMBER 15, 2004

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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

In the Matter of Laclede Gas                    )   Case No.  
Company's Tariff to Revise                    )   GR-99-315  
Natural Gas Rate Schedules.                    )

DEPOSITION OF R. LAWRENCE SHERWIN, a  
witness, produced, sworn and examined on the 15th day  
of September, 2004, between the hours of 8:00 a.m.  
and 6:00 p.m. of that day at the offices of the  
Missouri Public Service Commission, 1845 Borman  
Court, Suite 101, St. Louis, Missouri, 63146, before

CHRISTINE A. SIMPSON, RPR, CRR, CCR, CSR  
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and Notary Public within and for the State of  
Missouri, commissioned in St. Louis County, Missouri,  
in the above-entitled cause, on the part of the  
Missouri Public Service Commission, pursuant to  
agreement.

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SIGNATURE INSTRUCTIONS:

Presentment waived; signature requested.

EXHIBIT INSTRUCTIONS:

None marked.

I N D E X

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1 R. LAWRENCE SHERWIN, being sworn, testified as  
2 follows:

3 DIRECT EXAMINATION BY MR. SCHWARZ:

4 Q. Mr. Sherwin, I'm Tim Schwarz. I'm an  
5 attorney for the Staff. I'll be asking you questions  
6 this morning. Have you had your deposition taken  
7 before?

8 A. I don't recall having a deposition  
9 taken, no.

10 Q. Okay. Well, if I -- if you can't  
11 understand the words that I speak or the question  
12 itself is, is unclear, please ask, you know, to  
13 repeat -- have the question repeated. Anytime you  
14 need a break, just let us know and we'll be glad to  
15 do that as well.

16 A. Certainly.

17 Q. All right. Back when this case was  
18 first heard, the Commission prescribed depreciation  
19 rates in it case. Are those rates still in effect?

20 A. No. There have been changes to those  
21 rates.

22 Q. In subsequent Laclede rate cases?

23 A. Yes.

24 Q. How would Laclede plan to effectuate a  
25 Commission order prescribing rates in this case

1 today?

2 A. Well, I haven't been party to meetings  
3 regarding that, but it's my understanding we're  
4 looking for a policy determination by the Commission  
5 in, in this proceeding, which would be used in  
6 subsequent Laclede rate cases.

7 Q. The policy would but not the rates?

8 A. That's my understanding.

9 Q. And -- never mind.

10 Can you tell us what the unit of  
11 property is at Laclede for mains?

12 A. Anytime a main is lengthened or  
13 shortened, the unit is feet. If we are replacing  
14 mains, it varies by type of material. I think what's  
15 used for some of the material is the length of a  
16 section of pipe, if we're doing a replacement. So it  
17 varies. It would be in the property catalog that was  
18 provided as a DR.

19 Q. Understood. So if whatever the pipe  
20 company ships four-inch cast iron main, that would be  
21 a --

22 A. Yeah, it might be ten feet.

23 Q. Fifteen?

24 A. Whatever length.

25 Q. Whatever length --

1           A.       On a replacement. But if we were  
2 adding length, if it was a new stretch or if we were  
3 removing length, if something was abandoned, we do it  
4 by foot. We don't -- we don't worry about how many  
5 sections of pipe, it's worked in the number of feet.

6           Q.       And if there is a replacement done  
7 that is less than a unit, how is that treated?

8           A.       That would be maintenance.

9           Q.       That would be -- and that's expensed?

10          A.       Yes.

11          Q.       And wouldn't it be true that that new  
12 pipe will provide service for many years, hopefully?

13          A.       This new section which is less than a  
14 unit of property --

15          Q.       Mm-hmm -- yes.

16          A.       This minor replacement, yes.

17          Q.       Right. So that Laclede is expensing  
18 some plant that can reasonably be expected to serve  
19 more than one year?

20          A.       Well, because it's less than a unit of  
21 property, it isn't considered plant.

22          Q.       I understand. But the, the physical  
23 reality is that the, the replacement part, if we can  
24 call a section of, of pipe or main part, the  
25 replacement part is in fact going to extend, its life



1 will extend over several years?

2 A. Sure, the life will extend, it's just  
3 not plant.

4 Q. Laclede doesn't classify it as plant,  
5 Laclede expenses it?

6 A. That's right.

7 Q. Does Laclede separately accrue and  
8 record in its books depreciation expense for the  
9 return of the original investment, the accrual for  
10 the return of the original investment, as well as the  
11 accrual for cost of removal?

12 A. The depreciation rate is a single  
13 rate. It's applied together.

14 Q. And so Laclede's records don't --  
15 there's not a separate reserve in six-inch cast iron  
16 mains for the return of the original investment and  
17 the accrual for future net salvage; is that correct?

18 A. That's true.

19 Q. You suggest in your testimony that, on  
20 page 3, line 21, that there is no judicially  
21 acceptable method.

22 A. I would say, I should correct the word  
23 method and it should have been explanation.

24 Q. Is it -- is that a correction we  
25 should make?

1           A.       Well, I'll make it on the, on the  
2 record.

3           Q.       Okay.

4           A.       But I wanted to let you know --

5           Q.       We are on the record.

6           A.       I wanted to let you know we will, I  
7 will, if somebody asks me if this is the same  
8 testimony, I'll make that as a change.

9           Q.       Yeah. Are you aware of any judicial  
10 opinion that specifically confirms any other method  
11 of depreciation?

12          A.       While that may be more of a legal  
13 question, but as I understand, orders of the  
14 Commission, if they are not challenged they, they  
15 become final after a certain point in time.

16          Q.       You suggest that prior to 1999 the  
17 Commission utilized the standard method for  
18 determining the level of net salvage. What's your  
19 basis for making that statement?

20          A.       Is there a point in your testimony  
21 that you are referring to?

22          Q.       You don't recall your testimony? It's  
23 at page 4, line 15.

24          A.       I'm sorry, can you start back with the  
25 question?

1 Q. Given your statement there, what's  
2 your basis for that statement?

3 A. The Commission is provided evidence on  
4 rates by generally a company and Staff in a  
5 proceeding, and oftentimes the Commission decides  
6 between those two presentations. The two  
7 presentations prior to 1999 typically had the  
8 standard method used to determine the rates which  
9 were put forth by the Commission. There were, I'm  
10 sure, times when cost of removal was an issue, but  
11 many times the depreciation rates are argued in terms  
12 of service life or survivor curves or what have you.  
13 But that the rates that are argued before the  
14 Commission are based on the standard method.

15 Q. Between 1978 and this case in 1999,  
16 how many Laclede cases were actually litigated as --  
17 strike that.

18 How many were litigated as opposed to  
19 settled?

20 A. I really don't have that in front of  
21 me. I know we settled a number of cases.

22 Q. And would you agree with me that  
23 settlements don't typically, aren't cited or used or  
24 represent any regulatory principle?

25 A. Yes, most, the language of the stip in

1 most settlements preclude the use of that settlement  
2 to prejudice further cases.

3 Q. Could you turn to page 6, line 6, of  
4 your testimony?

5 A. Sure.

6 Q. There you say, in fact the amount of  
7 current costs being deferred for future recovery as a  
8 result of the standard method far exceeds the amount  
9 of future net salvage costs that are being recovered  
10 now through the same depreciation rate.

11 Could you try to express that a little  
12 -- it's not clear to me exactly what that means and I  
13 wondered if you could.

14 A. I'm looking at the question, first of  
15 all.

16 Q. Sure. That's fine.

17 A. The question is, does the inclusion of  
18 an allowance for net salvage costs in the calculation  
19 of the depreciation rates mean that the utility is  
20 recovering more on rates than it is actually  
21 spending.

22 The answer is, no, not at all. In  
23 fact the amount of current costs being deferred for  
24 future recovery as a result of the standard method  
25 far exceeds the amount of future net salvage costs

1 that are being recovered now through the same  
2 depreciation rate.

3 And what I mean is that there is  
4 generally a rate for each plant account. The rate  
5 includes a component for salvage. The costs we are  
6 deferring, that I refer to, are capital costs and net  
7 cost of removal. And I'm comparing that to the  
8 future net salvage costs being recovered through that  
9 depreciation rate.

10 Q. Okay. I guess I can then narrow my  
11 question to, would you explain what current costs  
12 are, what do you mean when you say current costs?

13 A. I'm referring to current capital  
14 costs, which would be the costs of construction plus  
15 the costs of removal, the net salvage.

16 Q. Okay. So you're not talking about  
17 current costs of net salvage as being deferred for  
18 future recovery?

19 A. No, I mean total.

20 Q. Okay. Okay. Well, that, that clears  
21 things up. Thank you.

22 A. I had hoped my example covered that,  
23 but hopefully that helps.

24 Q. Yes, it does. It does indeed. How  
25 does the Commission determine and how do the parties

1 present for the Commission's consideration in a rate  
2 case amounts for repairs, payroll, postage,  
3 insurance, those types of items?

4 A. Generally a test year is used. And  
5 test year operating revenues and expenses are used  
6 for those types of items.

7 Q. And does the Missouri Commission use a  
8 historical test year or a budgeted test year or a  
9 projected test year?

10 A. It uses a historical test year  
11 adjusted for changes.

12 Q. And -- well, the Commission and, will  
13 direct the parties to update a given historical test  
14 year, is -- frequently; is that correct?

15 A. Yeah, frequently.

16 Q. And on occasion the Commission will go  
17 beyond even the true-up period, will it not? For  
18 instance, on occasion Laclede has, has had a labor  
19 contract increase that would go into effect say in  
20 August and the true-up, even though the true-up  
21 period ends earlier, that --

22 A. What I'm used to seeing is -- and this  
23 is by no means comprehensive -- but what I'm usually  
24 seeing is Staff generally might allow one day. If  
25 the true-up period ends July 31st, maybe we would get

1 the August 1st increase. So with -- but whatever.

2 Q. Yeah.

3 A. I mean, that would be a second later.

4 Q. And it would be -- it would be an  
5 unusual circumstance as well, I mean, something  
6 that's -- the union contracts, for instance, are  
7 easily verified and pretty certain to take effect; is  
8 that correct?

9 A. That's true.

10 Q. Things like postage increases might be  
11 a similar --

12 A. That would make sense to me for them  
13 to allow that, yes.

14 Q. At page 9, you talk about settlements  
15 don't constitute an endorsement of Staff's method, is  
16 that --

17 A. Yeah, right, anybody's method, it's  
18 not an endorsement of methods.

19 Q. And so the same thing would apply as  
20 well to settlements with Laclede, I mean, a  
21 settlement --

22 A. The language --

23 Q. A settlement on Laclede's method would  
24 not constitute any kind of precedent or, or  
25 endorsement of Laclede's method; is that correct?

1           A.       The language I am used to seeing,  
2 right, would apply to all the parties.

3           Q.       Could you describe for us what the  
4 standard method of depreciation is?

5           A.       Sure. As we're using the term, the  
6 standard method is expressed in an algebraic formula.  
7 The numerator of which is one unity minus the net  
8 salvage percentage. That numerator is divided by  
9 average service life.

10          Q.       Okay. And how is the net salvage  
11 percentage determined?

12          A.       That is determined by dividing actual  
13 net salvage by the -- generally it is determined by  
14 dividing net salvage by the retirements, the value of  
15 the retirements of those units of property.

16          Q.       And the retirements are at the  
17 original cost of that?

18          A.       At the original cost, yes. That's --  
19 sometimes there would be an expected percentage used.  
20 Sometimes --

21          Q.       Could you explain that for me?

22          A.       Sure. Say you've got this new type of  
23 property, you might have to estimate a percentage of  
24 what it might be worth at the end of its service  
25 life.



1 Q. And you'd also have to estimate using  
2 best judgment the average service life, would you  
3 not?

4 A. Yes.

5 Q. And how does Laclede, when it's  
6 retiring, removing and replacing plant, allocate the  
7 costs involved between the installation of the new  
8 plant and the retirement and removal of the old  
9 plant?

10 A. It's hard to generalize that.

11 Q. Well, how does Laclede do it on its  
12 books?

13 A. Well, generally an effort is made to  
14 identify costs of removal separately from the costs  
15 of installation.

16 Q. And so Laclede sends two of these big  
17 trucks out, each with a crew of three men, they dig  
18 60 feet of hole, cut out 40 feet of old pipe, put in  
19 40 feet of new pipe, fill in the hole. How is that  
20 allocated between cost of removing the old one and  
21 capitalization, the installation of the new?

22 A. It's hard to generalize.

23 Q. So, can I take it just from that  
24 portion of your answer that there, there is no  
25 standard methodology at Laclede for doing that?

1 A. It varies by type --

2 Q. That's not a fair question. I want to  
3 withdraw it.

4 Within a plant account is there a  
5 standard method of doing it?

6 A. With a certain type of plant, yeah,  
7 there's a prescribed approach.

8 Q. And so -- but that approach may be  
9 different if you're talking about six-inch cast iron  
10 main and two-inch steel main and yard services?

11 A. Yeah, and I, I should caution you.  
12 I'm not conversant in that procedure, those  
13 procedures. I haven't prepared myself for that, so I  
14 can talk in generalities.

15 Q. But Mr. Cooper pointed to you  
16 yesterday afternoon. Do you remember that?

17 A. I remember that. I, I can certainly  
18 answer more questions than he did.

19 Q. It's better to be asking the questions  
20 than answering them, is what I suppose.

21 You indicate that there aren't any  
22 authorities who support the Staff's approach. Have  
23 you done any research in that area?

24 A. I haven't personally undertaken to  
25 find authorities. I would conclude that, though,

1 from discussions with Bill Stout who has made such  
2 studies.

3 Q. I'm going to hand you the 1996 Public  
4 Utility Depreciation Practices, which I think is what  
5 you reference here on page 10 of your testimony.

6 A. Okay.

7 Q. Are you familiar with this?

8 A. Yes.

9 Q. Okay. I am going to show you page 157  
10 and ask that you read the second highlighted  
11 paragraph, if you would.

12 Would you read it into the record?

13 A. Sure. Some Commissions have abandoned  
14 the above procedure and move to current period  
15 accounting for gross salvage and/or cost of removal.  
16 In some jurisdictions, gross salvage and cost of  
17 removal are accounted for as income and expense  
18 respectfully when they are realized. Other  
19 jurisdictions consider only gross salvage in  
20 depreciation rates with the cost of removal being  
21 expensed in the year incurred.

22 Q. Thank you. And at the beginning of  
23 the work it indicates it was published in August  
24 1996; is that correct?

25 A. That's true.

1 Q. So this publication antedates or  
2 predates Staff's position in this GR-99 case; is that  
3 correct?

4 A. It does predate it. I think it was  
5 used in the evidence of the case.

6 Q. At the top of page 12 you quote Mr.  
7 Adam to the effect that he hadn't consulted with  
8 upper management on this issue; is that correct?

9 A. Yes. I don't have the transcript page  
10 with me.

11 Q. But Ms. Schad has adopted his  
12 testimony for the purposes of this case; is that  
13 correct?

14 A. Yes.

15 Q. And there's no question that upper  
16 management is familiar with and has given its  
17 approval for that position, to your knowledge?

18 A. Yeah, I have no doubt.

19 Q. Would you go back to page 10 of your  
20 testimony?

21 A. I have it.

22 Q. On page 13 -- I'm sorry, line 13 on  
23 page 10. What legal file were you looking at?

24 A. This was a, I think a case file.

25 Q. Did you in fact insert that citation

1 or was it provided to you?

2 A. I was working with a number of people  
3 on this testimony. I think someone provided this to  
4 me.

5 Q. Okay. Can you tell me if the ratio of  
6 historical cost of removal divided by the original  
7 historical cost of the property removed is an  
8 accurate predictor of cost of removal 40 years from  
9 now?

10 A. Well, the accuracy on much of the work  
11 involved in depreciation remains to be seen, such as  
12 the average service life and the percentage of net  
13 salvage. I do think it provides a reasonable  
14 estimate in many cases.

15 Q. But my, my question is, is it an  
16 accurate predictor? Have you done any studies to  
17 determine the accuracy of the predictions over time?

18 A. I haven't done any studies of such a  
19 long, long time, no.

20 Q. Have you ever taken a vintage of any  
21 particular property at Laclede and added up the  
22 amount charged to expense for cost of removal and  
23 compared that over the life of the vintage to the  
24 actual cost of removal for the vintage that's been  
25 retired?

1           A.       I'm not sure I understand your  
2 question.

3           Q.       Well, each month Laclede makes charges  
4 to depreciation expense, do they not?

5           A.       To depreciation expense, yes.

6           Q.       Yes. And a portion of that, for each  
7 account, a portion of that, of that charge is for a  
8 rateable portion of the average service life of a  
9 property and a portion represents net salvage; is  
10 that correct?

11          A.       Okay. Yes.

12          Q.       At least through the decision in this  
13 case.

14          A.       Right.

15          Q.       Have you ever, or has anyone at  
16 Laclede or at Laclede's request taken a vintage of  
17 property, say the cast iron pipe that was installed  
18 in 1945, and traced, added up, cumulatively, the  
19 amount charged for net salvage or cost of removal for  
20 that vintage and compared it to the actual cost of  
21 removal incurred for that vintage?

22          A.       No, I, I know of no such study.

23                   MR. ZUCKER: Is this for me?

24                   MR. SCHWARZ: It's for you. I'm going  
25 to show Larry.

1 THE WITNESS: As if you were counsel.

2 Q. (BY MR. SCHWARZ) This is a -- what I  
3 have given you is three pages, which is a letter from  
4 Mr. Jaudes of Laclede Gas company. Do you know who  
5 Mr. Jaudes was? Were you familiar --

6 A. Yes. He's still around.

7 Q. Is he?

8 A. Not at Laclede -- well, he's still a  
9 director of Laclede, anyway.

10 Q. Anyway, it's a letter from Laclede to  
11 the Commission specifying depreciation rates in  
12 accord with the Commission's report and order; is  
13 that correct?

14 A. Yes.

15 Q. And can you identify from any of those  
16 depreciation rates how much was for recovery of the  
17 investment in plant and how much was for net salvage?

18 A. Not from this presentation. We would  
19 have provided that, the information allowing that in  
20 a subsequent form to, with the Commission. But this  
21 does not include that information. The work papers  
22 in this case would give information which would allow  
23 someone to, to bifurcate the rate. They would  
24 include the various components.

25 Q. Unless it was a settled case?

1           A.       This -- no. There would be work  
2 papers which would show average service life and net  
3 salvage percent which were used to calculate those  
4 rates.

5           Q.       On page 14 at the bottom, you say that  
6 the main difference, and I assume that's between the  
7 standard method and Staff's method, is that Staff's  
8 method uses only a very limited amount of recent  
9 historical data to derive its estimate of net salvage  
10 costs; is that correct?

11          A.       Yes.

12          Q.       Is the Staff purporting to estimate  
13 salvage costs ten years into the future?

14          A.       I'm trying to recall how Paul Adam  
15 referred to his purpose, and I think his testimony  
16 about his method may have indicated that was his  
17 purpose. But the effect is to do a very short run --  
18 well, to -- the effect is to not provide an estimate  
19 anywhere near 10 years.

20          Q.       It's a short term estimate?

21          A.       That's -- that's the effect.

22          Q.       Yes.

23          A.       I think the purpose, stated purpose  
24 may have been different.

25          Q.       You continue to say that specifically



1 the Staff only looks at the net salvage costs  
2 incurred to remove plant that has already been  
3 retired to derive its estimate of net salvage costs.

4 A. Yes.

5 Q. In, in the standard formula, in the  
6 numerator of the net salvage ratio --

7 A. Yes.

8 Q. -- there's cost of removal?

9 A. There's a percentage representing cost  
10 of removal, yes.

11 Q. But in the formula there's a, you  
12 indicated that it was the cost to remove plant  
13 divided by the historical cost of the plant removed.

14 A. It's -- the numerator is one minus the  
15 net salvage percentage.

16 Q. Right.

17 A. And it's that percentage that I am  
18 saying is a percentage.

19 Q. Correct.

20 A. Not -- not the depreciation rate.

21 Q. I understand. I understand. But in  
22 that calculation of the net salvage percentage --

23 A. Yes.

24 Q. -- you have a cost of removal divided  
25 by the original cost of the plant that's been

1 removed; is that correct?

2 A. Yes, that's true.

3 Q. Okay. So is anyone who uses the  
4 standard method looking at costs incurred to remove  
5 plant other than plant that's been retired?

6 A. Those using the standard method are  
7 using both the cost of removal and the original cost  
8 of that retired plant,

9 Q. So you're not considering costs of  
10 plant that's still in service?

11 A. We are developing a ratio based on  
12 that historical information which would be suitable  
13 to apply to plant remaining service.

14 Q. But all of that data is in reference  
15 to plant that's already been retired.

16 A. Yes, we're using in tandem the cost of  
17 removal and the cost of the --the original cost of  
18 the plant.

19 Q. That's been retired?

20 A. That has been retired, yes.

21 Q. So that just like Staff, you're using  
22 only costs of plant that's been retired?

23 A. But the way we are using it --

24 Q. -- is you use only --

25 MR. ZUCKER: Let him finish his answer.

1 MR. SCHWARZ: I'm entitled to a yes or  
2 no answer, and as long as I get a yes or no, I'll be  
3 glad. I'm entitled to a yes or no.

4 MR. ZUCKER: Or a qualified yes or no,  
5 or a yes or no with an explanation.

6 MR. SCHWARZ: That's right. But as  
7 long as I hear a yes or no somewhere --

8 MR. ZUCKER: Or just an explanation.

9 MR. SCHWARZ: No, I'm not satisfied  
10 with an explanation.

11 MR. ZUCKER: Okay.

12 MR. SCHWARZ: Yes or no deserves yes or  
13 no.

14 MR. ZUCKER: Let him finish the  
15 question.

16 A. I'll listen to the question.

17 Q. (BY MR. SCHWARZ) The people using the  
18 standard method use only costs in the calculation of  
19 plant that has been retired.

20 A. With the exception that we talked  
21 about earlier, which would be this new type of plant,  
22 generally, yes, both the cost of removal and the  
23 original costs of the property removed, both those  
24 historical pieces of data are used to determine this  
25 ratio, this percentage.

1 Q. Correct. And in fairness, you contend  
2 that that is an approximation for future retirements  
3 as well?

4 A. Yes, a suitable approximation.

5 Q. So -- but -- so both Staff and the  
6 standard method use in their estimations data from  
7 plant that has already been retired?

8 A. True.

9 MR. BYRNE: Excuse me. This is Tom  
10 Byrne. I'm going to have to drop off the call. But  
11 I will plan to be there at 1:30 for Marty Lyons'  
12 deposition.

13 MR. SCHWARZ: Thank you.

14 Q. (BY MR. SCHWARZ) At page 16,  
15 beginning on line 2 and ending on line 5.

16 A. Okay.

17 Q. Could you explain a little, expand on  
18 that a little bit? I'm not very clear what, which  
19 analysis you're talking about.

20 A. Sure. Well, I'll read it first. By  
21 comparing how the net salvage costs of an asset as  
22 historically related in comparison to the original  
23 cost of the asset, such an analysis gives us, gives a  
24 measure of how salvage costs for new plant additions  
25 can be expected to increase over time.

1           It might be easiest -- to me the  
2 simplest understanding is to go to an item that has  
3 actual salvage cost, rather than -- or salvage value  
4 rather than cost of removal. So it still works with  
5 net cost of removal but the sign has changed.

6           A vehicle which costs 10,000 some  
7 years ago can be sold for a \$1,000 today. We divide  
8 the \$1,000 salvage by the 10,000 original cost of the  
9 vehicle and get 10 percent. And today's vehicle may  
10 cost 25,000.

11           The 10 percent applied to the 25,000  
12 would provide a reasonable estimate of the salvage of  
13 this new plant addition, the 25,000 vehicle. That's  
14 what I'm trying to relate in that sentence.

15           Q.       Okay.

16           A.       Or if we had two vehicles today, but  
17 it would apply to the two vehicles.

18           Q.       And the, the new \$25,000 vehicle, the  
19 2500 salvage value would be when it's similar age and  
20 condition --

21           A.       Yeah, years down the road, sure.

22           Q.       Okay. You suggest again on page 16,  
23 beginning on line 11, that as, Staff's has a  
24 generalized disdain for using estimates.

25                    Are you with me?

1 A. Yes.

2 Q. Could it be that Staff is just has  
3 disdain for using estimates that it doesn't feel are  
4 reasonably supported?

5 A. That wouldn't be the conclusion that I  
6 would draw.

7 Q. So you think that Staff -- what  
8 explanation then do you have for Staff supporting the  
9 estimation of service lives by use of estimates and  
10 not being comfortable with particular historical cost  
11 of, cost of removal to historical cost ratio as being  
12 an estimate for future net salvage, how do you  
13 explain that dichotomy?

14 A. It appears to me in many cases Staff  
15 looks for methods to cut back on utility's cost of  
16 service.

17 Q. So, so you'd suggest that Staff favors  
18 capitalizing and amortizing capitalized costs as a  
19 method of reducing utility revenues and opposes using  
20 estimates of net salvage because that also reduces  
21 utility revenues and that Staff is basically driven  
22 to reduce company revenues?

23 A. Well, I'm sure there are principles  
24 that Staff follows, but in deciding which estimates  
25 to accept, I believe there may be some goal seeking

1 by Staff members.

2 Q. Have you heard of the Iowa curves?

3 A. Yes.

4 Q. (Mr. Schwarz shows the witness a  
5 book.) I think Mr. Stout indicated that what I have  
6 handed you -- and I can't remember the title of it.

7 A. Bulletin 125.

8 Q. -- is, is the source of the, of the  
9 Iowa curves?

10 A. Yes. There's certainly different  
11 publications but they, yeah, this would be the source  
12 of what's called the Iowa curve.

13 Q. And do you recall that Mr. Stout  
14 indicated that that was based both on, on theory as  
15 well as an empirical study of retirement patterns of  
16 industrial property?

17 A. Yes.

18 Q. And so that would be a basis for  
19 estimating average service lives; is that your  
20 understanding?

21 A. Yes.

22 Q. Is there any similar study that you  
23 are aware of that supports the use of the formula  
24 cost of removal divided by historical cost of plant  
25 removed as an accurate estimator of future net

1 salvage?

2 A. The percentage you just described has  
3 been used over and over again in determining  
4 depreciation rates not only for utility property but,  
5 well, like I said in my example, vehicles. It is  
6 much simpler than the process reflected in the Iowa  
7 curves.

8 Q. Okay. But my question was, are you  
9 aware of a similar empirical type study that confirms  
10 the accuracy of the, what I'll call the net salvage  
11 percentage formula as an accurate estimator of future  
12 net salvage?

13 A. No, I am not aware of a study similar  
14 to the Iowa curves which would have that as a goal,  
15 no.

16 Q. Okay. And might that be also an  
17 explanation for Staff's comfort with estimations of  
18 average service life and discomfort with the use of  
19 what I'll call again the net salvage percentage  
20 formula? Is that a possible explanation?

21 A. I -- I would think if it, if it would  
22 be, we would have heard about it, that reason.

23 Q. So if it is, it hasn't been  
24 articulated very well; is that correct?

25 A. I don't remember seeing it stated in



1 that manner. And because it is so much simpler than  
2 the mortality data reflected in the Iowa curves, I'm  
3 not sure that an empirical study would be necessary.  
4 Or used by many people.

5 Q. At page 19, line 19, you're talking  
6 about safeguards. And you say, first, because the  
7 standard method incorporates net salvage costs as  
8 part of the depreciation rate, any difference between  
9 -- any difference between actual and estimated net  
10 salvage costs will be reflected in adjustments to the  
11 depreciation reserve; is that correct?

12 A. Okay.

13 Q. And the Commission ordered Staff's  
14 proposed rates in this case; is that correct?

15 A. Yes.

16 Q. And Laclede booked its depreciation  
17 expense according to the Commission order; is that  
18 correct?

19 A. Yes.

20 Q. And would not in this case, the  
21 depreciation rates in this case be reflected in the  
22 depreciation reserve?

23 A. Yes, in this '99 case the Staff  
24 position had not evolved yet to remove the net  
25 salvage from depreciation.

1 Q. What's a generation of rate payers?

2 A. I would I think agree with maybe a 10-  
3 or a 20-year turnover in generations. I mean,  
4 generation is an elusive concept unless you're  
5 looking at a family.

6 Q. Would it be appropriate to look at it  
7 as perhaps the rate payers who share a set of common  
8 rates?

9 A. Sure.

10 Q. If you, if you don't define it either  
11 that way or -- well, actually, if you define it as  
12 just a period of time you'll have people who are  
13 members of two, three, maybe even four generations of  
14 rate payers, won't you?

15 A. With a particular utility, yes, sure.  
16 That, that's entirely possible.

17 Q. Would you agree that in order to  
18 ensure intergenerational equity you will need to know  
19 at the beginning the total costs and the period over  
20 which it needs to be spread of any particular item?

21 A. To ensure it without error, yes,  
22 usually in many rate case determinations there is an  
23 acceptable level of error.

24 Q. So if -- and let me ask it a different  
25 way. If there is an error either in the estimation

1 of the total cost or of the period over which that  
2 cost is to be spread, there will be intergenerational  
3 inequities?

4 A. Strictly speaking, yes. Generally,  
5 minor variations wouldn't be called intergenerational  
6 inequities because they're minor.

7 Q. We won't -- there are minor  
8 discrepancies that we just don't worry about because  
9 they're just minor?

10 A. Yes.

11 Q. And that's -- and the proposition  
12 holds true whether you're talking about the standard  
13 method or the Staff's method; isn't that correct?

14 A. There's minor and major.

15 Q. Yes. At page 22 there's a Q and A  
16 that begins on line 4.

17 A. Okay.

18 Q. Okay. And you're talking about future  
19 customers paying for cost to serve current customers;  
20 is that correct?

21 A. Or cost to serve past customers, I  
22 believe.

23 Q. Yeah. And it's your -- I take it that  
24 you think that that's basically unfair?

25 A. Well, it is a poor design for a system

1 with regard to intergenerational equity, yes.

2 Q. And -- but it happens, does it not?  
3 For instance, let's take the cost of remediation of  
4 manufactured gas plants. When did, when did Laclede  
5 last manufacture gas for its customers' use?

6 A. Well, aside from propane, which is  
7 sometimes called a manufactured gas, it would have  
8 been either the very late '40s or a few months into  
9 the '50s.

10 Q. And has Laclede sought recovery in  
11 rate cases in the last ten years for cost to  
12 remediate some of those sites?

13 A. I would expect so. I don't have those  
14 dates in front of me.

15 Q. And so, assuming that Laclede has done  
16 so, and I think the record will so reflect, it's fair  
17 to say that there are times when intergenerational  
18 equity bows to other principles in the regulatory  
19 arena?

20 MR. ZUCKER: I object to the form of  
21 the question. He said he didn't have that  
22 information.

23 MR. SCHWARZ: And I said, assuming.

24 MR. ZUCKER: Okay.

25 MR. SCHWARZ: Assuming that Laclede

1 has, has done so. And I think the record will bear  
2 it out, that there --

3 MR. ZUCKER: What record are you  
4 referring to?

5 MR. SCHWARZ: The record of Laclede's  
6 rate cases.

7 MR. ZUCKER: In the past?

8 MR. SCHWARZ: Yeah.

9 MR. ZUCKER: Okay.

10 MR. SCHWARZ: In the recent past.

11 MR. ZUCKER: Okay, well, I'm willing to  
12 go with the assumption.

13 Q. (BY MR. SCHWARZ) Yeah. That there  
14 are times when the principle of intergenerational  
15 equity bows to other regulatory principles.

16 A. Yes, in a perfect world the cost of  
17 remediation would have been recognized as we were  
18 selling the manufactured gas and would --

19 Q. Yes.

20 A. -- have been assessed then.

21 MR. ZUCKER: Tim, do you have a lot  
22 more?

23 MR. SCHWARZ: It's short.

24 MR. ZUCKER: Do you want to take a  
25 short break?

1 MR. SCHWARZ: Yeah.

2 (A short recess was taken at this  
3 time.)

4 MR. SCHWARZ: But let's note for the  
5 record that we've had our ten-minute recess, we're  
6 not sure if Ms. O'Neill is on the line or not but we  
7 would, if she's lost the connection we'd expect to  
8 hear from her shortly.

9 Q. (BY MR. SCHWARZ) Are you familiar  
10 with SFAS, a Statement of Financial Accounting  
11 Standard, 143?

12 A. I am familiar with it.

13 Q. And to your knowledge has Laclede  
14 recognized any asset retirement obligations under  
15 SFAS 143?

16 A. Well, that's really not my area, but I  
17 understand we have not as yet.

18 Q. Okay. What about Federal Energy  
19 Regulatory Commission Order 631?

20 A. I have never read it.

21 Q. Assuming for the moment that it also  
22 deals with recognition of asset retirement  
23 obligations, would that be within the purview? I  
24 mean, is that something that you would deal with in  
25 present, in your present area of responsibility?

1           A.       It sounds more of an accounting  
2 requirement than what I am involved with.

3           Q.       Okay. And within the Laclede  
4 organization who would be the person who would be  
5 responsible for something of that nature?

6           A.       Well, accounting would fall under  
7 Barry Cooper.

8           Q.       Okay. I can't remember -- Staff is  
9 not proposing an amortization of overaccruals in the  
10 depreciation reserve in this case, is it?

11          A.       It's -- yeah, it's my recollection  
12 that came later.

13          Q.       Okay. Is Mr. Kottemann still with  
14 Laclede?

15          A.       Yeah.

16          Q.       Is he in the same position now that he  
17 was in '99?

18          A.       I don't think so. But I, I am not  
19 sure what his title was then.

20          Q.       Okay. I think I'm done.

21                   MR. PENDERGAST: Do you want to ask  
22 Ruth?

23                   MR. SCHWARZ: Yeah. Ruth, are you  
24 there yet? (Pause.) She figured I was done sometime  
25 ago.

1 CROSS-EXAMINATION BY MR. ZUCKER:

2 Q. Okay. I'm going to ask the witness a  
3 few questions. Going back to page 12 of your  
4 testimony, Mr. Sherwin, line 1, you discussed with  
5 Mr. Schwarz the testimony from GR-99-315?

6 A. I have it.

7 Q. Is it your position in your testimony  
8 that Mr. Adam hadn't appeared to discuss his, his  
9 theory with senior Staff members at the time that he  
10 testified?

11 A. Yes. That's what I say on the, in  
12 that section.

13 Q. And do you have any specific knowledge  
14 about what Staff has, has done today in terms of what  
15 senior Staff members are aware of or have approved?

16 A. No, I don't have personal knowledge  
17 about Staff discussions.

18 Q. Are you familiar with Mr. Stout's  
19 rebuttal testimony in this case?

20 A. I have read it, yes.

21 Q. And did you hear his, at his  
22 deposition earlier this week?

23 A. Yes.

24 Q. Was it your understanding that based  
25 often Mr. Stout's 30 years of experience in



1 depreciation that he has viewed the relationship  
2 between the cost of removal and original cost of the  
3 plant to be increasing over time?

4 A. Yes.

5 Q. And what is the effect of, of that  
6 increasing trend?

7 A. Well, as the negative net salvage  
8 percentage increases, this cost of removal percentage  
9 increases, it means that -- well, it -- the effect is  
10 toward conservatism of an estimate. It means that  
11 using a past relationship might tend to undercollect  
12 these costs.

13 Q. Okay. Let me take a step back. Mr.  
14 Schwarz established with you that Staff uses cost of  
15 removal of a retired plant in a, in coming up with  
16 Staff's method for net salvage amounts?

17 A. Yes.

18 Q. And the standard approach or the  
19 standard method uses a relationship between the cost  
20 of removal and the original cost of that plant?

21 A. Yes.

22 Q. And it takes that relationship and  
23 applies it to plant in service today?

24 A. True.

25 Q. To come up with a removal cost of

1 plant in service today?

2 A. That's right.

3 Q. And so, is your understanding of Mr.  
4 Stout's testimony that that relationship has resulted  
5 in a, has underestimated the actual cost of removal  
6 of plant in service?

7 A. Yes. Both of them would result in an  
8 underestimate. The Staff is a severe, major  
9 underestimate and his testimony shows that even the  
10 proposed standard method does tend to underestimate  
11 these costs.

12 Q. Would you consider Mr. Stout's  
13 testimony that this understatement based on his 30  
14 years of experience is an empirical study?

15 A. Yes, I would think that would be an  
16 empirical study on the conservativeness of that  
17 estimate.

18 Q. And have you seen Mr. Stout's rebuttal  
19 testimony where he analyzes Laclede accounts 380.10  
20 steel services and 380.20 copper and plastic  
21 services?

22 A. I have seen it.

23 Q. And would you consider that could be  
24 an empirical study?

25 A. Yes. Again, that would be an

1 empirical study of the conservative nature of these  
2 estimates.

3 Q. And do you have any reason to disagree  
4 with Mr. Stout's testimony regarding his experience  
5 over the past 30 years and how the increasing trend  
6 in the, the relationship between cost of removal and  
7 original cost has understated net salvage estimates?

8 A. No reason at all. He is an  
9 acknowledged expert.

10 Q. And do you have any reason to disagree  
11 with the empirical study he formed or he performed of  
12 Laclede Gas company plant set forth on pages 5 to 8  
13 of Mr. Stout's supplemental rebuttal testimony?

14 A. No.

15 Q. Are you aware, Mr. Sherwin, of any  
16 instances where Staff has shown a deficiency with  
17 the, this, the standard approach?

18 A. No, I don't remember -- I do not  
19 remember a demonstration.

20 Q. And how about specifically with the  
21 net salvage estimate?

22 A. No, I don't remember a demonstration  
23 of that.

24 Q. Are you aware of any particular one  
25 single net salvage estimate that Staff has, has shown

1 to be inaccurate?

2 A. I'm not aware of it.

3 Q. So let me summarize this point again.  
4 You're saying that the standard approach based on Mr.  
5 Stout's experience actually understates the net  
6 salvage estimate?

7 A. Yes. Otherwise a conservative  
8 estimate, an understatement.

9 Q. And how does Staff's approach perform?

10 A. It also is an understatement. It is a  
11 severe, major understatement. It isn't anywhere  
12 close to an estimate, the way I see it.

13 MR. ZUCKER: Okay. That's all I have.  
14 Anyone from Ameren left? (Pause.) Hearing none --

15 MR. SCHWARZ: Ruth, you haven't shown  
16 up?

17 MR. ZUCKER: Last call for Ruth?  
18 (Pause.) Okay, we're finished.

19 THE REPORTER: Signature?

20 MR. ZUCKER: Yes.

21 (Wherein, the taking of the instant  
22 deposition ceased.)

23 (Deposition to be read and signed by  
24 the witness.)

25

CERTIFICATE OF REPORTER

I, Christine A. Simpson, a Registered Professional Reporter and Notary Public within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

---

Notary Public within and for  
the State of Missouri

My commission expires March 28, 2008

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4  
5 Phone (314) 644-2191 \* Fax (314) 644-1334

6 September 16, 2004

7 The Laclede Gas Company  
8 Attn: Mr. Michael C. Pendergast  
9 720 Olive Street  
10 St. Louis, Missouri 63101

11 In Re: Laclede Gas Company/GR-99-314

12 Dear Mr. Pendergast:

13 Please find enclosed your copy of the deposition of  
14 R. LAWRENCE SHERWIN, taken on September 15, 2004, in  
15 the above-referenced case. Also enclosed is the  
16 original signature page and errata sheets.

17 Please have the witness read your copy of the  
18 transcript, indicate any changes and/or corrections  
19 desired on the errata sheets, and sign the signature  
20 page before a notary public.

21 Please return the errata sheets and notarized  
22 signature page to Mr. Thomas R. Schwarz, Jr. for  
23 filing prior to trial date.

24 Thank you for your attention to this matter.

25 Sincerely,

Christine A. Simpson, CRR, RPR, CSR

Enclosures

cc: Thomas R. Schwarz, Jr.

1 STATE OF Missouri )

2 ~~City~~  
~~CITY~~ OF St. Louis )

3 I, R. LAWRENCE SHERWIN, do hereby certify:

4 That I have read the foregoing deposition;

5 That I have made such changes in form and/or  
6 substance to the within deposition as might be  
7 necessary to render the same true and correct;

8 That having made such changes thereon, I  
9 hereby subscribe my name to the deposition.

10 I declare under penalty of perjury that the  
11 foregoing is true and correct.

12 Executed this 21 day of September,  
13 2004, at St. Louis, Missouri.

14  
15 Joyce L. Jansen

16 Notary Public

17 My commission expires: \_\_\_\_\_

JOYCE L. JANSEN  
Notary Public — Notary Seal  
STATE OF MISSOURI  
ST. CHARLES COUNTY  
My Commission Expires: July 2, 2005

18  
19 R. Lawrence Sherwin

20 R. LAWRENCE SHERWIN

21  
22 CAS/R. LAWRENCE SHERWIN, 09/15/04

23 RE: Laclede Gas Company/GR-99-315

24

25

1 WITNESS ERRATA SHEET

2 Witness Name: R. LAWRENCE SHERWIN  
Case Name: Laclede Gas Company/GR-99-315  
3 Date Taken: 09/15/04

4 Page # 14 Line # 1  
5 Should read: the August 1st increase. So with that, it is later.  
6 Reason for change: Correct translation error  
7

8 Page # 15 Line # 7  
9 Should read: The numerator of which is one (unity) minus the net  
10 Reason for change: clarification  
11

12 Page # 22 Line # 19  
13 Should read: have provided that, the information, allocating that  
in  
14 Reason for change: correct translation error  
15

16 Page # 22 Line # 20  
17 Should read: a subsequent Form 2, with the Commission. But this  
18 Reason for change: clarification  
19

20 Page # 25 Line # 13  
21 Should read: to apply to plant remaining in service  
22 Reason for change: add missing word  
23

24 Witness signature: \_\_\_\_\_  
25



WITNESS ERRATA SHEET

Witness Name: R. LAWRENCE SHERWIN  
Case Name: Laclede Gas Company/GR-99-315  
Date Taken: 09/15/04

Page # 39 Line # 25

Should read: upon Mr. Stout's 30 years of experience in

Reason for change: correct translation error

Page # 41 Line # 23

Should read: Q. And would you consider that to be

Reason for change: correct translation error

Page # \_\_\_\_\_ Line # \_\_\_\_\_

Should read: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page # \_\_\_\_\_ Line # \_\_\_\_\_

Should read: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Page # \_\_\_\_\_ Line # \_\_\_\_\_

Should read: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Witness signature: \_\_\_\_\_