

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 25th day
of April, 2006.

USW Local 11-6,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2006-0060</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER SETTING PROCEDURAL SCHEDULE

Issue Date: April 25, 2006

Effective Date: April 25, 2006

As directed by the Commission, the parties filed proposed procedural schedules to establish the filing deadlines and hearing dates in this matter. The parties were unable, however, to agree on the format of the testimony.

The Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and Laclede Gas Company filed a proposal indicating that the parties would:

file testimony adopting previous pleadings and affidavits and/or addressing any additional facts or information supporting its position or rebutting the position of an adverse party as previously set forth in such pleadings and affidavits. Nothing herein shall be construed as waiving any party's right to present live testimony at the hearing to address matters that could not have reasonably been addressed in such filing.

The USW Local 11-6 filed a separate proposal stating that:

the adoption of prior written testimony and the submission of any other written testimony the parties desire to submit, with the express understanding that the parties' presentation of live testimony at the hearing will not be limited in any way.

The USW Local 11-6 further argues that this case is well-suited to live testimony and should not be constrained by the time-consuming process of submitting detailed written testimony.

Laclede filed a response to the USW Local 11-6's proposal. In its response Laclede argues that its due process rights will be violated by allowing the USW Local 11-6 to "pick and choose" which testimony it intends to prefile and which it will present live. Laclede claims that it is not too burdensome to require the USW Local 11-6 to prefile its testimony and that without such testimony it will not have sufficient opportunity to determine the claims against it. Laclede also argues that the USW Local 11-6 has been uncooperative in Laclede's discovery requests.

The Commission has reviewed the arguments of the parties and determines that the parties shall submit one round of written testimony and may present their rebuttal and conduct cross-examination live.

Laclede's due process rights would not be harmed by having all testimony live since Laclede has adequate opportunity to conduct discovery and it will have the opportunity to cross-examine the evidence against it at a hearing.¹ However, since the parties have already prepared a portion of their cases in the form of affidavits, and since USW Local 11-6 has had adequate time and opportunity to prepare its case, it will not be

¹ If the USW Local 11-6 is not being cooperative in discovery, then those disputes should be immediately brought to the attention of the Regulatory Law Judge so that they may be resolved expeditiously.

too burdensome for the parties to prepare one round of written testimony. This will allow the Commission to study the evidence prior to the hearing and will allow the Commission to make its decision more expeditiously. In order to lessen the burden on the parties, the Commission will waive the formatting requirements of 4 CSR 240-2.130(6). The Commission therefore adopts the procedural schedule as proposed by Laclede, Staff, and the Office of the Public Counsel.

Due to the scheduling conflicts of various counsel, the parties were unable to agree to a date for a hearing on or before May 19, 2006, as directed by the Commission. The parties did agree, however, to the next available dates, May 22-23, 2006, and therefore, the Commission will adopt the dates as proposed unanimously by the parties.

The Commission shall adopt the proposed procedural schedule as set out below. The Commission also finds that the following conditions shall apply to the procedural schedule:

(A) The Commission will require the prefiling of testimony adopting previous pleadings and affidavits and/or addressing any additional facts or information supporting its position or rebutting the position of an adverse party as previously set forth in such pleadings and affidavits. The formatting requirements of 4 CSR 240-2.130(6) are waived. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing. The Commission will allow the parties to present live rebuttal testimony at the hearing to address matters that could not have reasonably been addressed in the prefiled testimony.

(B) The parties shall agree on and file a list of issues to be determined herein by the Commission. Staff shall be responsible for actually drafting and filing the list of issues and the other parties shall cooperate with Staff in the development thereof. **Any issue not included in the issues list will be presumed to not require determination by the Commission.**

(C) The parties shall file a list of the witnesses to appear on each day of the hearing and the order in which they shall be called. The parties shall propose the order of cross-examination and file a joint pleading indicating the same.

(D) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. The Commission will direct that the transcript in this case be expedited to be filed within **three days** of the hearing. If any party seeks to expedite the filing of the transcript further, such request shall be tendered in writing to the Presiding Judge at least five days prior to the date of the hearing.

(E) The Commission will also require pretrial briefs that address all the issues in dispute and the evidence that party expects to provide at hearing. The Commission will allow the opportunity for closing arguments at the end of the hearing in lieu of written post-trial briefs unless otherwise ordered.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080 except as otherwise ordered. The briefs to be submitted by the parties shall follow the same list of issues as filed in the case. The briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(G) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has been prefiled, and served on the other parties, only one copy of the exhibit is necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

(H) In the event that the parties reach a settlement of all of the issues, such settlement shall not be grounds for a continuance of the hearing unless the agreement is final, has been submitted to the Commission in writing, and there are no objections to the agreement.

IT IS ORDERED THAT:

1. The procedural schedule is adopted as follows:

Written Testimony	May 5, 2006
Issues List, Order of Witnesses, Order of Cross-examination, and Order of Opening Statements	May 9, 2006
Prehearing Briefs	May 18, 2006
Evidentiary Hearing	May 22-23, 2006 beginning at 9:00 a.m.

2. The hearing will be held at the Commission's offices in the Governor Office Building, 200 Madison Street, Room 310, Jefferson City, Missouri, a facility which meets the accessibility standards of the Americans with Disabilities Act (ADA). Any person who needs additional accommodations to participate in the hearing should call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

3. The parties are directed to comply with the conditions set out in this order.
4. The hearing transcripts shall be expedited to be filed within three business days of the close of the hearing.
5. This order shall become effective on April 25, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge