

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

The Staff of the Missouri Public Service Commission,  
Complainant,  
vs.  
Laclede Gas Company, doing business as Missouri Gas Energy,  
and  
Southern Union Company, formerly doing business as Missouri Gas Energy,  
Respondents.

**Case No. GC-2014-0216**

In the Matter of Missouri Gas Energy, a Division of Southern Union Company Concerning a Natural Gas Incident at 910 West 48<sup>th</sup> Street in Kansas City, Missouri.

**Case No. GS-2013-0400**

**STAFF'S RESPONSE TO MGE'S REPLY  
FILED MARCH 24, 2014**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and in response to the Commission's *Order Directing Staff to Continue Investigation* (Order), states as follows:

1. A natural gas explosion and subsequent fire occurred on the evening of February 19, 2013, at JJ's Restaurant in Kansas City, Missouri, killing one person,

injuring more than a dozen others, destroying the restaurant and its contents, damaging nearby buildings, and leaving more than a score of persons unemployed.<sup>1</sup>

2. Thereafter, Staff conducted an investigation to determine whether or not Missouri Gas Energy (“MGE”), the regulated natural gas utility serving JJ’s Restaurant and vicinity, had violated any Missouri statutes, Commission rules, Commission orders or tariff provisions in connection with the explosion.

3. On February 6, 2014, Staff filed its investigation report (“*Staff Investigation Report*”) in Case No. GS-2013-0400, the investigatory docket opened by the Commission with respect to the explosion, and also a *Complaint* initiating Case No. GC-2014-0216, against Respondents Southern Union Company, which formerly did business as MGE, and Laclede Gas Company, which presently does business as MGE.

4. On March 10, 2014, the day originally set for Respondents to answer Staff’s *Complaint*, each of them filed a motion to dismiss; Staff responded in opposition to the *Motions to Dismiss* on March 20, 2014. It was to that Staff pleading that MGE replied on March 24, 2014, in both Case Nos. GS-2013-0400 and GC-2014-0216 and it is that MGE pleading to which Staff now responds.

5. In its pleading of March 20, 2014, Staff agreed with the sensible suggestion of Respondent Laclede that the Commission’s consideration of the explosion would benefit from the facts and analyses developed in the course of the ongoing civil litigation arising from that event. Indeed, Staff pointed out that it has already submitted Data Requests to Laclede to obtain such material as is already

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<sup>1</sup> This event will be referred to herein as “the explosion.”

available.<sup>2</sup> However, Staff did not express agreement with Laclede's suggestion that this case be held in abeyance while proceedings go forward in Case No. GS-2013-0400. The Commission has closed that case, evidently preferring that its consideration of the explosion take place in this docket. The facts and analyses developed in the civil litigation can be introduced in this case as readily as in Case No. GS-2013-0400.

6. Laclede also suggests that Staff unaccountably ignored the question of the culpability of another regulated entity in the explosion, to-wit: Time Warner Cable Midwest, LLC, an authorized video service provider that Laclede asserts is subject to Commission investigation under § 67.2693, RSMo. That statute provides:

The public service commission shall, no later than August 28, 2008, and annually thereafter for the next three years, issue a report regarding developments resulting from the implementation of sections 67.2675 to 67.2714 and shall make such recommendations to the general assembly as it deems appropriate to benefit consumers. The commission shall conduct proceedings as it deems appropriate to prepare its report, including receiving comments from members of the public.

Staff is of the opinion that Laclede has not parsed § 67.2693, RSMo., very closely, for its plain language does not authorize any investigation or report by the Commission into the possible culpability of Time Warner Cable Midwest, LLC, or its agent, Heartland Midwest, LLC, in the events of February 19, 2013. In any event, § 386.390.1, RSMo., provides all of the authorization necessary for the Commission to proceed against any entity:

Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal

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<sup>2</sup> *Staff's Response to Motions to Dismiss*, Case No. GC-2014-0216, p. 7, n. 21.

corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by **any corporation, person or public utility**, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility, in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission . . . . (emphasis added).<sup>3</sup>

7. Laclede makes two proposals: first, that Case No. GC-2014-0216 be held in abeyance until discovery is closed in the civil litigation arising out of the explosion so that the record might benefit from the additional facts and analyses disclosed thereby, and second, that Case No. GS-2013-0400 be re-opened and Staff directed to supplement, “revise and update” the *Staff Investigation Report* filed therein with the additional facts and analyses disclosed by the civil litigation. Staff agrees now, as it did in its *Response to Motions to Dismiss* filed on March 20, 2014, that the record will benefit from access to the additional facts and analyses. Staff continues to hold the opinion that its *Complaint* against Southern Union Company and Laclede is well-taken and should not be dismissed. If placed in abeyance, it should be for as short an interval as possible. Staff will conduct whatever activities the Commission might order in Case No. GS-2013-0400.

**WHEREFORE**, Staff prays that the Commission will issue its order (1) denying the *Motions to Dismiss* Case No. GC-2014-0216 and (2) providing guidance as to the matters raised by Laclede in its pleading of March 24, 2014; and granting such other and further relief as is just in the premises.

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<sup>3</sup> § 386.400, RSMo., authorizes Laclede to complain against Time Warner and Heartland Midwest itself.

Respectfully submitted,

**/s/ Kevin A. Thompson**

Kevin A. Thompson  
Chief Staff Counsel  
Missouri Bar No. 36288

Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102  
(573) 751-6514 (Voice)  
(573) 526-6969 (FAX)

Attorney for the Staff of the  
Missouri Public Service Commission

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon all parties of record listed in the official service list maintained for this case by the Data Center of the Missouri Public Service Commission either by First Class United States Mail, postage prepaid, or by hand delivery, or facsimile transmission, or by electronic mail, on this **28<sup>th</sup> day of March, 2014.**

**Kevin A. Thompson**