

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 22nd day
of June, 2011.

St. Louis Natural Gas Pipeline, L.L.C.,)	
)	
Complainant,)	
)	
v.)	
)	
Laclede Gas Company,)	
)	
Respondent.)	

File No. GC-2011-0294

ORDER REGARDING PENDING MOTIONS

Issue Date: June 22, 2011

Effective Date: June 22, 2011

Background

On May 26, 2011, the Commission denied Laclede Gas Company's ("Laclede") motion to dismiss St. Louis Natural Gas Pipeline, L.L.C.'s ("SLNGP") complaint. A flurry of filings has followed, including: (1) Motion of Laclede Gas Company for Reconsideration and/or Clarification; (2) Southern Star Central Gas Pipeline, Inc.'s Informational Filing to Clarify the Record; (3) Comments of Centerpoint Energy-Mississippi River Transmission, L.L.C.; (4) Motion of Laclede Gas Company to Modify Discovery Time Limits and Data Request of St. Louis Natural Gas Pipeline, L.L.C.; (5) Public Counsel's Response to the Motion of Laclede Gas Company for Reconsideration and/or Clarification; (6) St. Louis Natural Gas Pipeline L.L.C.'s Response in Opposition to Motion of Laclede Gas Company for Reconsideration and/or Clarification; (7) St. Louis Natural Gas Pipeline L.L.C.'s Response and Motion to Strike Third-Party Filings of Southern Star and Centerpoint

Energy; and (8) St. Louis Natural Gas Pipeline L.L.C.'s Response in Opposition to Motion of Laclede Gas Company to Modify Discovery Time Limits.

Laclede's Motion for Reconsideration or Clarification

On June 6, 2011, Laclede filed a motion for reconsideration or for clarification. Laclede states it "is concerned that by entertaining this Complaint, the Commission is crossing the line and dictating matters that are within Laclede's management discretion, even though the Complainant made no *prima facie* showing that Laclede's retail distribution operations are unsafe, inadequate or unreasonably priced." In support of its motion, Laclede repeatedly cites to the Commission's order denying their motion to dismiss wherein the Commission stated: ". . . the Commission has no specific statutory authority to determine whether Laclede must interconnect with a particular pipeline . . ." Laclede raises another argument for its proposition that the Commission has no authority to order Laclede to interconnect with SLNGP; namely that the Federal Energy Regulatory Commission has exclusive jurisdiction over any interconnection agreements.

SLNGP responded to Laclede's motion on June 16, 2011. SLNGP reiterates its arguments that the Commission has statutory authority to order the interconnection, and observes that the Commission need not decide this issue immediately. SLNGP also addresses Laclede's argument that Federal regulation preempts review of Laclede's decision not to interconnect.

The Office of the Public Counsel also filed a response to Laclede's motion for reconsideration or for clarification. Public Counsel takes no position on whether the

Commission has authority to order the interconnection, but reiterates the position that the Commission does have the authority to investigate alleged violations of its rules.

Ruling

The May 26, 2011 order recognized the Commission's authority to further investigate matters concerning whether Laclede provides service instrumentalities and facilities that are safe and adequate at rates that are just and reasonable. And there is no question that the Commission has authority to investigate whether or not Laclede has violated any statutes, rules or tariff provisions. In those regards, SLNGP's complaint sufficiently stated a claim to survive a motion to dismiss.

Because the Commission has decided to proceed with Staff's investigation and has not decided if the case will proceed beyond the investigation, the Commission will not further address SLNGP's arguments on the merits of whether the Commission has the authority to order an interconnection at this time. The Commission has made no determination on the merits of the complaint and is awaiting Staff's report of its investigation. Furthermore, the Commission's order did not dictate any managerial decision to Laclede. Laclede's motion for reconsideration will be denied.

Laclede's Motion to Modify Discovery Timeline

On June 9, 2011, Laclede filed a motion to modify the discovery time limits prescribed by Commission rule in relation to the data requests propounded by SLNGP. Commission Rule 4 CSR 240-2.090 requires objections to be filed within ten days or answers within 20 days from the date the data requests were served. The data requests were served on June 6, 2011.

Laclede asserts that it is currently responding to a considerable number of Staff's data requests in relation to the audit of its 2009-2010 Actual Cost Adjustment case,¹ and is also responding, on an expedited basis, to Staff's and the Office of the Public Counsel data request in this case. Laclede requests that the Commission postpone the deadlines for it to respond to SLNGP until the Commission can review Staff's July 1, 2011 investigation report. At that time, if the Commission decides to proceed with this matter there will have been but a short delay, whereas if the Commission declines to proceed with the complaint the need to respond to SLNGP's data requests will be mooted.

On June 20, 2011, SLNGP responded to Laclede's motion. SLNGP cites to the Commission's discovery rule (4 CSR 240-2.090) and Section 386.390, RSMo for the proposition that it has absolute legal right to conduct discovery and to a hearing on its complaint. SLNGP further contends that denying it discovery before disposing of its complaint on the basis of fact considerations would violate its due process rights. SLNGP also asserts that even if the Commission's Staff were to report an absence of evidence with regard to the allegations in its complaint the Commission would still have to hold a hearing or entertain a properly filed and factually supported motion for summary determination, either of which would convey SLNGP a right to conduct discovery.

SLNGP's argument is based upon a premature assumption of how the Commission may dispose of its complaint, and it overlooks a crucial point of law. The Commission may determine after reviewing Staff's report, that it has no legal authority to award the relief that SLNGP has requested. If that is the ultimate conclusion of the Commission, then any factual matters in relation to the complaint could become irrelevant.

¹ File Number GR-2011-0055.

Ruling

Laclede's motion concerning delaying a response to SLNGP's data requests is reasonable and will be granted.

SLNGP's Motion to Strike Third-Party Filings

In Laclede's motion to modify the discovery time limits Laclede referenced pleadings filed by Southern Star Central Gas Pipeline, Inc. ("Southern Star") and CenterPoint Energy-Mississippi River Transmission ("CenterPoint"). Laclede believes these pleadings will support its position that SLNGP's complaint will ultimately be dismissed.²

On June 16, 2011, SLNGP filed a motion to strike the filings from Southern Star and CenterPoint. SLNGP alleges that these entities, not being parties to this action, should not be permitted to make filings without leave of the Commission. Further, SLNGP states that it is unable to pursue traditional written discovery requests with these entities and that subpoenas and depositions would be more costly and time-consuming, unfairly disadvantaging SLNGP. SLNGP asserts its belief that these filings were prompted by Laclede and demonstrate an abuse of monopoly power and anticompetitive behavior by Laclede.

Ruling

The Commission will direct Southern Star and CenterPoint to show cause why their pleadings should not be stricken, in the absence of an application to intervene.

² Specifically, Laclede states: "CenterPoint Energy-MRT ("CenterPoint") filed comments alleging that SLNGP has made a number of false statements in its pleadings, including confirming an allegation made by Laclede that SLNGP significantly overstated CenterPoint's tariffed transport rate (SLNGP quoted a rate of 20 cents per MMBtu versus the actual rate of about 7 cents); and, Southern Star Central Pipeline ("SSC") filed a pleading informing the Commission that SLNGP had failed to identify SSC as a pipeline that already provides

THE COMMISSION ORDERS THAT:

1. Laclede Gas Company's motion to reconsider the May 26, 2011 "Order Denying Laclede's Motion To Dismiss and Directing Staff To Investigate" ("Order") is denied.
2. To the extent the Commission's May 26, 2011 Order required clarification, it is so clarified in the body of this order.
3. Laclede Gas Company's motion to modify the discovery time limits is granted. The Commission will issue an order setting discovery deadlines once it has the opportunity to review Staff's investigation report.
4. No later than July 5, 2011, Southern Star Central Gas Pipeline, Inc. and CenterPoint Energy-Mississippi River Transmission shall show cause, in the absence of an application to intervene, why St. Louis Natural Gas Pipeline, L.L.C.'s "Motion to Strike Third-Party Filings of Southern Star and CenterPoint Energy" should not be granted.
5. This order shall become effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

Gunn, Chm., Clayton, Davis, Jarrett,
and Kenney, CC., concur.

Stearley, Senior Regulatory Law Judge

natural gas to Laclede off of the Rockies Express Pipeline, and that SSC should be considered in any proposals to build a new pipeline."