

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

In The Matter Of The Application Of)
Laclede Gas Company for an Accounting)
Authority Order Authorizing the)
Company to Defer for Future Recovery)
the Costs of Complying with the)
Permanent Amendment to the)
Commission's Cold Weather Rule)

Case No. GU-2007-0138

**STAFF RESPONSE TO THE COMMISSION'S ORDER DIRECTING RESPONSE TO
PUBLIC COUNSEL'S MOTION FOR WAIVER**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its Response to the Commission's Order Directing Response to Public Counsel's Motion for Waiver respectfully states as follows:

1. Both Staff and Public Counsel opposed deferral of this issue until Laclede's next general rate case proceeding as Laclede had originally requested.
2. Staff requests that the Commission issue its Order in this case prior to the operation of law date set out in Commission Rule 4 CSR 13.055(14)(G)(2).
3. Public Counsel relies on Commission Rule 4 CSR 240-2.015 in support of its proposition that the Commission may waive the operation of law date set out in Commission Rule 4 CSR 13.055(14)(G)(2).
4. Commission Rule 4 CSR 240-2.015 states "A rule in *this chapter* may be waived by the commission for good cause." (emphasis added).
5. Commission Rule 4 CSR 240-2.015 applies only to the procedural rules set out in Chapter 2 and does not apply to Commission Rule 4 CSR 13.055(14)(G)(2).

6. The statutory authority for Commission Rule 4 CSR 240-2.015 is Section 386.410, RSMo (2000).

7. Section 386.410, RSMo states in its entirety:

1. All hearings before the commission or a commissioner shall be governed by rules to be adopted and prescribed by the commission. And in all investigations, inquiries or hearings, the commission or Commissioner shall not be bound by the technical rules of evidence.

2. No formality in any proceeding nor in the manner of taking testimony before the commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission.

8. Section 386.410 explicitly refers only to practice and procedure before the Commission and does not refer to substantive rules such as Commission Rule 240-13.055.

9. Public Counsel's reliance on Commission Rule 4 CSR 240-2.015 for waiver of a Chapter 13 rule is therefore misplaced.

10. Commission Rule 4 CSR 240-13.065 provides that a utility may apply for a variance "from all or parts of Chapter 13, which may be granted for good cause shown."

11. Commission Rule 4 CSR 240-13.065 does not allow Public Counsel to obtain a variance from any Chapter 13 rule.

12. Laclede has not requested a variance pursuant to Commission Rule 240-13.065 in this case.

WHEREFORE, for the foregoing reasons, Staff requests that the Commission overrule Public Counsel's Motion for a Waiver of Commission Rules.

Respectfully submitted,

/s/ Jennifer Heintz _____

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10th day of April, 2008.

/s/ Jennifer Heintz _____