

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 26<sup>th</sup> day of  
May, 2011.

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

**File No. GC-2011-0294**

**ORDER DENYING LACLEDE'S MOTION TO DISMISS AND DIRECTING  
STAFF TO INVESTIGATE**

Issue Date: May 26, 2011

Effective Date: May 26, 2011

St. Louis Natural Gas Pipeline, LLC (SLNGP), filed a complaint against Laclede Gas Company on March 22, 2011. SLNGP's complaint alleges that Laclede has improperly and illegally refused to interconnect with an interstate natural gas pipeline that SLNGP has proposed to build to connect the St. Louis area with the NGPL interstate pipeline in Illinois. SLNGP asks the Commission to investigate Laclede's refusal to interconnect, and, ultimately, asks the Commission to order Laclede to enter into an interconnection agreement with SLNGP.

On April 21, Laclede filed an answer to SLNGP's complaint and at the same time filed a motion asking the Commission to dismiss that complaint. Laclede contends it was acting within its authority to operate its business as it sees fit when it declined to enter into a business relationship with SLNGP. Laclede specifically denies that the Commission has

any authority to dictate how it does business by ordering it to interconnect with SLNGP. Laclede further argues that any investigation by Staff in response to SLNGP's complaint is unnecessary because Staff already has full authority to investigate all aspects of Laclede's natural gas operations through its annual ACA prudence audit.

SLNGP responded to Laclede's motion to dismiss on May 13. SLNGP reiterates that it has met the applicable standard to state a claim against Laclede and asks that the Commission allow its complaint to proceed.

Staff also filed a response to Laclede's motion to dismiss on May 13. Public Counsel filed its own response on May 17. Staff takes no position on the merits of SLNGP's claims, but indicates its willingness to undertake an investigation into those claims if the Commission directs it to do so. Staff also explains that a detailed investigation into SLNGP's claims would be difficult in the context of an ACA prudence review. Public Counsel also takes no position on SLNGP's claims, but urges the Commission to direct Staff to investigate those claims.

The Commission's authority to decide this matter on the pleadings is found in Commission Rule 4 CSR 240-2.117(2), which states:

Except in a case seeking a rate increase or which is subject to an operation of law date, the commission may, on its own motion or on the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or contrary to the public interest.

The Commission's rules do not establish standards for when it is appropriate to dispose of a case on the pleadings, so the Commission will instead look to Missouri's civil procedures for guidance.

In indicating when a case may be disposed on the pleadings, the Missouri Supreme Court has stated that for purposes of the motion, all facts stated in the challenged pleading

are accepted as true. If those assumed facts are insufficient as a matter of law, the trial court may properly grant a motion for judgment on the pleadings.<sup>1</sup>

After reviewing the pleadings, the Commission finds that SLNGP has fairly presented for determination issues or matters that fall within the jurisdiction of the Commission.<sup>2</sup> While the Commission has no specific statutory authority to determine whether Laclede must interconnect with a particular pipeline, it does have authority and an obligation to ensure that Laclede provides service instrumentalities and facilities that are safe and adequate at rates that are just and reasonable.<sup>3</sup> SLNGP has raised allegations that implicate that authority and those obligations. Therefore, SLNGP's complaint is sufficient and the Commission will deny Laclede's motion to dismiss.

In the interest of moving this complaint forward, the Commission will direct Staff to investigate SLNGP's allegations and to file a report of its findings by July 1, 2011.

**THE COMMISSION ORDERS THAT:**

1. Laclede Gas Company's Motion to Dismiss is denied.
2. Staff shall investigate the allegations raised in St. Louis Natural Gas Pipeline's complaint and shall report its findings to the Commission no later than July 1, 2011.

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<sup>1</sup> *State ex rel. Nixon v. American Tobacco Co., Inc.*, 34 S.W.3d 122, 134 (Mo 2000).

<sup>2</sup> *Friendship Village of South County v. Public Service Com'n of Missouri*, 907 S.W. 2d 339, 345 (Mo. App. W.D. 1995).

<sup>3</sup> Section 393.130.1, RSMo, Supp. 2010.

3. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

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

Woodruff, Chief Regulatory Law Judge