STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 30th day of September, 2005.

In the Matter of Laclede Gas Company's Tariff to Revise Natural Gas Rate Schedules.	))	**Case No. GR-2005-0284**

ORDER APPROVING STIPULATION AND AGREEMENT AND ORDER APPROVING TARIFFS

Issue Date: September 30, 2005 Effective Date: October 1, 2005

Syllabus: This order approves the Stipulation and Agreement and approves the tariffs filed in order to implement the terms of that agreement.

On February 18, 2005, Laclede Gas Company submitted to the Commission proposed tariff sheets (YG-2005-0653) intended to implement a general rate increase for gas service provided to retail customers in its Missouri service area. The proposed tariff sheets bore a requested effective date of March 21, 2005. The proposed tariff sheets were designed to produce an annual increase of approximately $39 million in the Company's revenues including approximately $5 million for the Company's Infrastructure System Replacement Surcharge (ISRS). On February 28, 2005, the Commission suspended the Company's proposed tariff sheets for 120 days plus six months, until January 19, 2006. Along with its proposed tariff sheets, Laclede submitted supporting Direct Testimony.

On March 22, 2005, the Commission granted the unopposed applications to intervene of the Missouri Energy Group,[1] the Paper, Allied-Industrial, Chemical, and Energy Workers Local No. 5-6, AFL-CIO, and the Missouri Industrial Energy Consumers (MIEC).[2] The Commission also granted the unopposed application to intervene of the Missouri Department of Natural Resources.

The Commission held two local public hearings in the St. Louis area on August 24, 2005, to receive public comment on the proposed tariffs.

On August 31, 2005, the Staff of the Missouri Public Service Commission, Laclede, the Office of the Public Counsel, DNR, and MIEC filed a Stipulation and Agreement. No objections to the agreement were filed. A copy of the Stipulation and Agreement is attached to this order as Attachment A. As part of the agreement, Laclede submitted additional tariff sheets (YG-2006-0156) designed to implement the provisions of the agreement. Those tariff sheets bear an effective date of October 1, 2005. On September 9, 2005, Staff filed affidavits in support of the agreement.

The Commission held two additional local public hearings in the St. Louis area on September 19, 2005, to receive public comment on the terms of the agreement. The record from all four public hearings reflects that much of the public testimony focused on the fact that many low-income households are finding it difficult, if not impossible, to afford natural gas as a source of heat.

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[1] The Missouri Energy Group is comprised of: Barnes-Jewish Hospital, Emerson Electric Company, SSM HealthCare, and St. John's Mercy Health Care.

[2] The Missouri Industrial Energy Consumers are: Anheuser-Busch Companies, Inc., The Boeing Company, DaimlerChrysler, Ford Motor Company, General Motors Corporation, Hussmann Refrigeration, J.W. Aluminum, Monsanto Company, Pfizer, Precoat Metals, Procter & Gamble Manufacturing, Nestlé Purina, and Solutia.

On September 26, 2005, the Commission convened a hearing in its offices in Jefferson City in order to review the terms of the agreement with the parties. All parties except the Missouri Energy Group were represented at the hearing.

The signatory parties agreed that the Stipulation and Agreement resolves all issues in this case. The parties further agreed that all of the prepared testimony and Staff's Affidavits could be received into the record. The Commission received the Stipulation, Laclede's Direct Testimony, and Staff's Affidavits as evidence at the stipulation hearing.

In addition, Staff filed Post-Hearing Exhibit 4. No objections to that exhibit were filed and the Commission admits it into the record.

Commission rule 4 CSR 240-2.115(1) provides that if no party requests a hearing, the Commission may treat a stipulation and agreement as a unanimous stipulation and agreement. No party has requested a hearing regarding any issue and therefore, the Stipulation and Agreement will be treated as a unanimous stipulation and agreement.

The agreement provides that:

> Laclede shall be authorized to file revised tariff sheets containing new rate schedules for natural gas service. Such schedules are designed to: (a) produce an incremental annual increase in Laclede's non-gas, Missouri jurisdictional revenues of Ten Million, Five Hundred Thousand Dollars ($10,500,000), which includes Six Million, One Hundred Twenty Six Thousand Dollars ($6,126,000) in Infrastructure System Replacement Surcharges that have previously been authorized by the Commission and are already in effect; and (b) reflect in Laclede's Purchased Gas Adjustment/Actual Cost Adjustment mechanism and remove from its non-gas cost of service Four Million, One Hundred Forty Thousand Dollars ($4,140,000) in costs related to its financing of certain gas storage inventories. Revenue amounts referenced in this paragraph are exclusive of any applicable license, occupation, franchise, gross receipts taxes or other similar tax or taxes. The Parties further agree that such revenue requirement shall be allocated to the Company's various customer classes in accordance and consistent with the customer billing determinants set forth in Attachment 1 to this Stipulation and

> Agreement, and in accordance with the tariff sheets set forth in Attachment 2 to this Stipulation and Agreement, which are incorporated herein for all purposes.

The parties further agree that the rates set out in the sample tariff sheets attached to the agreement are just and reasonable. The stipulation and agreement contains numerous other provisions to resolve disputed issues between the parties, including a provision whereby the parties agree that Laclede's proposed tariffs should go into effect on October 1, 2005, or as soon thereafter as practical.

The Commission has the legal authority to accept a stipulation and agreement as offered by the parties as a resolution of issues raised in this case.[3] In reviewing the agreement, the Commission notes that[4]

> Every decision and order in a contested case shall be in writing, and, except in default cases, or cases disposed of by stipulation, consent order or agreed settlement, the decision, including orders refusing licenses, shall include or be accompanied by findings of fact and conclusions of law. * * *

Consequently, the Commission need not make either findings of fact or conclusions of law in this order.

The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence.[5] Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the agreement.

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[3]Section 536.060, RSMo Supp. 2004.

[4]Section 536.090, RSMo Supp. 2004. This provision applies to the Public Service Commission. *State ex rel. Midwest Gas Users' Association v. Public Service Commission of the State of Missouri,* 976 S.W.2d 485, 496 (Mo. App., W.D. 1998).

[5] *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission,* 776 S.W.2d 494, 496 (Mo. App. 1989).

DISCUSSION:

This case illustrates one of the most important public policy questions faced by this Commission: what is the proper balance between keeping rates affordable in order to protect the health and welfare of consumers, especially those with fixed or low incomes, and ensuring that utilities have the necessary cash flow to operate their business, maintain their infrastructure, and have **the opportunity** to earn a fair return on investment, which is necessary to encourage development and maintenance of infrastructure.[6] Both of these objectives are statutory duties of this commission.

In this case, the record reflects that Laclede has not received an increase in rates for operational costs since 2002 and that the request filed by Laclede in January requested approximately $39 million in increased rates. Furthermore, the record shows that Laclede "has experienced approximate increases in net utility investments of $90 million and operating expenses of $16 million since the last rate increase in 2002."[7] This Commission also takes notice of the fact that futures contracts for wholesale natural gas are currently trading at or near record levels and these costs must eventually be passed through to ratepayers.

The record further reflects that the proposed settlement in this case would reduce Laclede's original request by approximately 75 percent. The estimated $8.5 million in new revenues contemplated by the settlement would result in the average residential bill increasing approximately one percent or $1.05 per month for the average residential

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[6] *See generally*, Section 386.610, RSMo 2000.

[7] Affidavit of Stephen M. Rackers, filed Sept. 9, 2005, p. 3.

ratepayer. This is no trivial amount of money when considering the negative impact that high natural gas prices could have on the economy and on Laclede's customers.

Based on the agreement of the parties, the testimony received at the local public hearings in St. Louis, and the testimony received at the evidentiary hearing in Jefferson City, the Commission finds that the parties reached a just and reasonable settlement in this case. Rate increases are necessary from time to time to ensure utilities have the cash flow to maintain safe and adequate service, which is in the interest of the public welfare. Accordingly, the revisions set out in the tariff sheets attached to the Stipulation and Agreement are just and reasonable and shall be approved as set out below.

IT IS THEREFORE ORDERED:

1. That Post-Hearing Exhibit 4 filed by the Staff of the Missouri Public Service Commission is admitted.

2. That the Stipulation and Agreement filed on August 31, 2005, is hereby approved as a resolution of all issues in this case (See Attachment A).

3. That Laclede Gas Company is ordered to comply with the terms of the Stipulation and Agreement.

4. That the proposed gas service tariff sheets (YG-2005-0653) submitted on February 18, 2005, by Laclede Gas Company for the purpose of increasing rates for gas service to retail customers are hereby rejected.

5. That the proposed gas service tariff sheets (YG-2006-0156) as submitted on August 31, 2006, as part of the Stipulation and Agreement, are hereby approved for natural gas service to be rendered on or after October 1, 2005. The tariff sheets approved are:

Fifteenth Revised Sheet No. 2, CANCELLING Fourteenth Revised Sheet No. 2
Eleventh Revised Sheet No. 3, CANCELLING Tenth Revised Sheet No. 3
First Revised Sheet No. 3-a, CANCELLING Original Sheet No. 3-a
First Revised Sheet No. 3-b, CANCELLING Original Sheet No. 3-b
Fourteenth Revised Sheet No. 4, CANCELLING Thirteenth Revised Sheet No. 4
Third Revised Sheet No. 4-a, CANCELLING Second Revised Sheet No. 4-a
Fifteenth Revised Sheet No. 5, CANCELLING Fourteenth Revised Sheet No. 5
Fourteenth Revised Sheet No. 7, CANCELLING Thirteenth Revised Sheet No. 7
Sixteenth Revised Sheet No. 8, CANCELLING Fifteenth Revised Sheet No. 8
Fourteenth Revised Sheet No. 9, CANCELLING Thirteenth Revised Sheet No. 9
Ninth Revised Sheet No. 11, CANCELLING Eighth Revised Sheet No. 11
Fifth Revised Sheet No. 12, CANCELLING Fourth Revised Sheet No. 12
Ninth Revised Sheet No. 15, CANCELLING Eighth Revised Sheet No. 15
Eighth Revised Sheet No. 17, CANCELLING Seventh Revised Sheet No. 17
Twelfth Revised Sheet No. 18, CANCELLING Eleventh Revised Sheet No. 18
First Revised Sheet No. 18-b, CANCELLING Original Sheet No. 18-b
First Revised Sheet No. 18-c, CANCELLING Original Sheet No. 18-c
Eighth Revised Sheet No. 19, CANCELLING Seventh Revised Sheet No. 19
Seventh Revised Sheet No. 20, CANCELLING Sixth Revised Sheet No. 20
Twelfth Revised Sheet No. 21, CANCELLING Eleventh Revised Sheet No. 21
Fourteenth Revised Sheet No. 22, CANCELLING Thirteenth Revised Sheet No. 22
Seventh Revised Sheet No. 23, CANCELLING Sixth Revised Sheet No. 23
Fifth Revised Sheet No. 24, CANCELLING Fourth Revised Sheet No. 24
Fourth Revised Sheet No. 25, CANCELLING Third Revised Sheet No. 25
Fourth Revised Sheet No. 26, CANCELLING Third Revised Sheet No. 26
Fourth Revised Sheet No. 27, CANCELLING Third Revised Sheet No. 27
Fourth Revised Sheet No. 28, CANCELLING Third Revised Sheet No. 28
Fifth Revised Sheet No. 28-a, CANCELLING Fourth Revised Sheet No. 28-a
Third Revised Sheet No. 28-b, CANCELLING Second Revised Sheet No. 28-b
First Revised Sheet No. 28-b.1, CANCELLING Original Sheet No. 28-b.1
First Revised Sheet No. 28-b.2, CANCELLING Original Sheet No. 28-b.2
First Revised Sheet No. 28-b.3, CANCELLING Original Sheet No. 28-b.3
Third Revised Sheet No. 28-c, CANCELLING Second Revised Sheet No. 28-c
Third Revised Sheet No. 28-c.1, CANCELLING Second Revised Sheet No. 28-c.1
Fifth Revised Sheet No. 28-e, CANCELLING Fourth Revised Sheet No. 28-e
First Revised Sheet No. 28-f, CANCELLING Original Sheet No. 28-f
Third Revised Sheet No. 28-g, CANCELLING Second Revised Sheet No. 28-g
Original Sheet No. 28-h, CANCELLING All Previous Schedules
Two Hundred and Sixth Revised Sheet No. 29, CANCELLING Two Hundred and Fifth Revised Sheet No. 29
Tenth Revised Sheet No. 31, CANCELLING Ninth Revised Sheet No. 31
Tenth Revised Sheet No. 34, CANCELLING Ninth Revised Sheet No. 34
First Revised Sheet No. 36, CANCELLING Original Sheet No. 36
Fourth Revised Sheet No. R-3, CANCELLING Third Revised Sheet No. R-3
Third Revised Sheet No. R-5, CANCELLING Second Revised Sheet No. R-5

Fourth Revised Sheet No. R-5-a, CANCELLING Third Revised Sheet No. R-5-a
Second Revised Sheet No. R-5-b, CANCELLING First Revised Sheet No. R-5-b
First Revised Sheet No. R-5-d, CANCELLING Original Sheet No. R-5-d
First Revised Sheet No. R-12-a, CANCELLING Original Sheet No. R-12-a
Second Revised Sheet No. R-43, CANCELLING First Revised Sheet No. R-43
First Revised Sheet No. R-44, CANCELLING Original Sheet No. R-44

6. That this order shall become effective on October 1, 2005.

7. That this case shall close on October 2, 2005.

BY THE COMMISSION

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, and Appling, CC., concur.
Gaw and Clayton, CC., dissent, with separate
dissenting opinion(s) to follow.

Dippell, Senior Regulatory Law Judge