

Exhibit No.:

Issue:

Witness:

Type of Exhibit:

Sponsoring Party:

Case No.:

Response to Conditions

Gerald T. McNeive, Jr.

Surrebuttal Testimony

Laclede Gas Company

GM-2001-342

FILED

JUN 7 2001

LACLEDE GAS COMPANY

Missouri Public
Service Commission

SURREBUTTAL TESTIMONY

OF

GERALD T. MCNEIVE, JR.

June 2001

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

In the Matter of the Application of Laclede)
Gas Company for an Order Authorizing)
Its Plan to Restructure Itself Into a Holding) Case No. GM-2001-342
Company, Regulated Utility Company, and)
Unregulated Subsidiaries.)

AFFIDAVIT

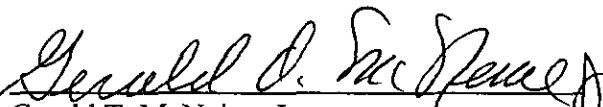
STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

Gerald T. McNeive, Jr., of lawful age, being first duly sworn, deposes and states:

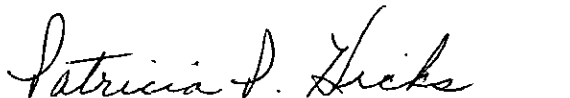
1. My name is Gerald T. McNeive, Jr. My business address is 720 Olive Street, St. Louis, Missouri 63101; and I am Senior Vice President – Finance & General Counsel of Laclede Gas Company.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony, consisting of pages 1 to 32, inclusive.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.


Gerald T. McNeive, Jr.

Subscribed and sworn to before me this 7th day of June, 2001.



PATRICIA P. HICKS
Notary Public — Notary Seal
STATE OF MISSOURI
City of St. Louis
My Commission Expires: June 27, 2002

1 **SURREBUTTAL TESTIMONY OF GERALD T. MCNEIVE , JR.**
2

3 Q. What is your name and address?

4 A. My name is Gerald T. McNeive, Jr. and my business address is 720 Olive Street,
5 St. Louis, Missouri 63101.

6 Q. Are you the same Gerald T. McNeive, Jr. who previously caused prepared direct
7 testimony to be filed in this proceeding?

8 A. Yes, I am.

9 **PURPOSE OF SURREBUTTAL TESTIMONY**

10 Q. What is the purpose of your surrebuttal testimony?

11 A. The purpose of my surrebuttal testimony is to summarize where we are in seeking
12 to resolve the outstanding issues regarding condition and restriction proposals by
13 the Commission Staff ("Staff") and the Office of the Public Counsel ("OPC").

14 Q. Please summarize where you believe the case rests currently.

15 A. The Staff and the OPC between them have produced approximately nineteen
16 conditions or restrictions which they are urging must be approved by the
17 Commission, otherwise the restructuring may be detrimental to the public and
18 should not be approved. The Company has essentially agreed to the substance of
19 eight of the conditions, offered a reasonable solution for two more, and objected
20 strenuously to the remaining one regarding the limitation on business. The
21 Company is agreeable in principle to one of the eight other restrictions, is seeking
22 to resolve some remaining differences on the cost allocation manual, but frankly,
23 believes the remainder of the Staff and OPC restrictions are extremely speculative
24 in nature, premature and otherwise lacking in reason and supporting evidence.

1 Q. Please continue.

2 A. Also, I address a number of points raised in the rebuttal testimony submitted in
3 this case by Ronald L. Bible and Stephen M. Rackers on behalf of the Staff and
4 by Mark Burdette, Ryan Kind and Russell W. Trippensee on behalf of the OPC.
5 My testimony will focus primarily on the various conditions and/or restrictions
6 that these witnesses have recommended be adopted by the Commission in
7 connection with any approval of the Company's proposed corporate restructuring
8 ("Proposed Restructuring). Specifically, I will advise the Commission of those
9 conditions recommended by Staff and OPC that the Company believes are
10 reasonable and are willing to accept without substantive modification. I will also
11 address certain other conditions that the Company would be willing to accept with
12 certain reasonable modifications that Laclede believes are necessary and
13 appropriate. Finally, I will discuss the solutions for two remaining conditions and
14 the Company's absolute opposition to one particular condition and other
15 restrictions that have been proposed by these parties and explain why such
16 remaining conditions and restrictions are not warranted, feasible, rely on
17 speculation, are premature or are otherwise unreasonable, or, in at least one case
18 not legally permissible given existing statutory limitations on the Commission's
19 jurisdiction over non-utility activities. Additionally, for the Commission's
20 convenience, I have included as Schedule 1 to my surrebuttal testimony, a listing
21 of the various eleven financial conditions, as well as a non-financial condition
22 denominated Staff Condition No. 12 (generally regarding merger with or
23 acquisition by other holding companies, which is addressed in the "Other

1 Restrictions” portion of this testimony), that have been proposed by these parties,
2 together with a brief summary of the Company's response or position on each one.

3 The remaining eight or so “other restrictions” are addressed in testimony.

4 Q. Is surrebuttal testimony also being submitted by another Company witness?

5 A. Yes, Patricia A. Krieger.

6 **GENERAL COMMENTS**

7 Q. Before addressing the specific conditions and restrictions that have been proposed
8 by Staff and OPC, do you have any general comments regarding their rebuttal
9 testimony.

10 A. Yes. Throughout various portions of their testimony, the witnesses for both Staff
11 and OPC have raised the specter that customers *may* be detrimentally affected by
12 the Proposed Restructuring. They suggest that such a result is *possible* because
13 the Proposed Restructuring will enable the Laclede Group, Inc. and its various
14 companies to engage in certain activities beyond the Commission's jurisdiction
15 that potentially could result in unacceptable risks or costs being imposed on
16 Laclede Gas Company's utility customers. Apparently, most of the conditions
17 proposed by Staff and OPC are motivated by a perceived need to address these
18 perceived concerns.

19 Q. Are the concerns raised by Staff and OPC justified?

20 A. While Staff and OPC have raised a number of legitimate issues that should and
21 will be addressed by the Company, they have also proposed several measures that
22 go far beyond anything that it is required or appropriate to ensure that the
23 Proposed Restructuring will not have a detrimental impact on Laclede's utility

1 customers. I think it is important for the Commission to recognize that the
2 various examples of potentially detrimental activity given by Staff and OPC in
3 support of many of their recommendations all involve utilities other than Laclede.
4 Moreover, most of these activities have little to do with, and certainly cannot be
5 attributed to, the specific changes in corporate structure that Laclede has proposed
6 in its Application. To the contrary, virtually every activity cited by these
7 witnesses could have occurred, and in many cases did occur, in the absence of a
8 holding company structure. Under such circumstances, there is simply no basis
9 for suggesting that there is some inherent, absolute risk for utility ratepayers in the
10 modest changes that Laclede has proposed to make to its corporate structure. In
11 fact, just the opposite is true.

12 Q. Please explain.

13 A. As pointed out in Laclede's Application and in the Company's direct testimony in
14 this case, Laclede Gas Company currently conducts and, for many decades has
15 conducted, unregulated activities through various unregulated subsidiaries which
16 are wholly owned by the Company. In the past, these activities have included,
17 among others, marketing insurance products, selling gas to larger customers on a
18 deregulated basis, installing swimming pools, investing in real estate, savings and
19 loan investment, participating in the exploration and production of natural gas,
20 producing television commercials and manufacturing personalized statuary.
21 Throughout this period, these activities have, by and large, been conducted
22 without any regulatory oversight or supervision of any kind by the Commission
23 other than that required in the normal ratemaking process to ensure that the risks

1 and costs of these activities are not borne by the Company's utility customers.
2 Like other Missouri utilities with subsidiaries involved in unregulated activities,
3 Laclede was not required to seek approval from the Commission to engage in
4 these activities, as Staff and OPC have proposed it be required to do in the future
5 as a condition for approving the Proposed Restructuring. Nor was Laclede
6 required to guarantee that these subsidiaries would maintain a certain capital
7 structure or to guarantee its own credit ratings as Staff and OPC would have the
8 Company do as part of their proposed conditions. Moreover, the Company was
9 not required to maintain a Cost Allocation Manual, provide explicit guarantees
10 that it would hold its ratepayers harmless from these activities, or make explicit
11 provisions for access to information concerning its subsidiaries in order for them
12 to engage in such activities.

13 Q. Has any evidence been presented in the rebuttal testimony of either Staff or OPC
14 that would indicate that the Company's utility customers have been detrimentally
15 affected by the Company's historical involvement in these unregulated activities?

16 A. No. Despite the historical absence of any of the conditions or restrictions
17 proposed by Staff and OPC in this case, there has been absolutely no evidence
18 introduced by these parties that would indicate that the Company's unregulated
19 activities have harmed its utility customers.

20 Q. Why is this significant in your view?

21 A. I believe it is significant for several reasons. First, it demonstrates that Laclede
22 and its subsidiaries have a long track record of being able to engage in
23 unregulated activities in a manner that does not put its regulated customers at risk

1 or expose them to the type of concerns raised by Staff and OPC in their rebuttal
2 testimony. In the final analysis, it is this kind of long-standing record of
3 responsible stewardship of a company's financial resources that provides the
4 Commission with one of the best assurances it can possibly have that a particular
5 utility, such as Laclede, will not engage in activity that could lead to the potential
6 results cited by Staff and OPC. Second, the absence of any demonstrated harm to
7 ratepayers from the Company's prior involvement in unregulated activities
8 strongly suggests that existing statutory and regulatory protections already in
9 place provide sufficient protection in this regard.

10 A. But isn't Mr. Bible correct when he claims at page 2 of his rebuttal testimony that
11 Laclede's Proposed Restructuring, as set forth in the Company's Application, will
12 have a detrimental impact on Laclede's customers, in that, absent the insulating
13 conditions, business and financial risk of the unregulated operations will be
14 transferred to Laclede Gas Company.

15 A. No. The actual approval of the Proposed Restructuring by the Commission
16 transfers no risk, either business or financial, to the regulated utility. As I just
17 discussed, Laclede currently owns and operates, directly or indirectly, six (6)
18 subsidiaries that engage in a variety of businesses. If the Application is approved,
19 Laclede intends to "dividend" those subsidiaries up to the holding company and
20 away from the regulated gas company. Thus, contrary to Mr. Bible's view, if the
21 Application is approved, the only business and financial risk in existence today as
22 a result of the Company's unregulated activities will be shifted *away* from the
23 ownership of the regulated utility to that of the unregulated holding company. As

1 a result, the Proposed Restructuring will provide more, rather than less, legal and
2 operational protection for the Company's regulated operations by better ensuring
3 that the business risk of the unregulated operations of the Laclede Group, Inc. and
4 its subsidiaries will not be transferred to Laclede Gas Company's utility
5 operations. The separation that provides for this reduction in risk is a positive
6 benefit to the Company's ratepayers, a fact that has been completely overlooked
7 by both Staff and OPC.

8 Q. Will other business and financial risks eventually increase due to the approval of
9 the Proposed Restructuring?

10 A. There is certainly no basis for making such an assumption now, and perhaps there
11 never will be. Mr. Bible's testimony suggests that absent the imposition of his
12 proposed financial conditions contemporaneous with a restructuring approval,
13 there will be an immediate, detrimental impact on Laclede's customers because
14 there is automatically a transfer of such risks to the regulated utility. However, as
15 I previously discussed, it is not the restructuring approval that creates and
16 transfers risk. Rather it is the subsequent activities of the Laclede Group and/or
17 its subsidiaries that may, in the future, create other business and financial risk,
18 which risks will be owned in the first instance by the particular subsidiary, and
19 secondarily by the subsidiaries' parent, the Laclede Group. There is no particular
20 reason to believe, however, that these activities will be any riskier than those
21 unregulated activities the Company has previously engage in or, for that matter,
22 create any more risk than the Company already faces in its regulated distribution
23 business.

1 Q. Why do you say that?

2 A. While Mr. Burdette states at page 3 of his rebuttal testimony that the Proposed
3 Restructuring creates a “potential detriment” because the unregulated parent
4 company would be free to participate in risky, unregulated operations, he goes on
5 to note that this will occur only to the extent that any new ventures are more risky
6 than the gas distribution business. However, as Mr. Burdette’s statement implies,
7 there may indeed be new ventures less risky than Laclede's distribution business.
8 Certainly, the risks faced by Laclede on the distribution side of its regulated
9 business have increased in recent years, as evidenced by the generally reduced
10 income levels that have been earned by the Company's over that period, even with
11 its incentive plan earnings added in. When combined with the additional risks
12 that the Company has faced in connection with recovering the gas supply and
13 other costs it incurs to provide regulated services, it is certainly not difficult to
14 conceive of scenarios where other lines of business would be no more risky, and
15 perhaps less risky, than the Company's regulated business operations. Following
16 Mr. Burdette’s observations, a successful new venture, particularly one with risk
17 characteristics equivalent to what the regulated distribution business has proven to
18 be during the past decade, could likely contribute to an overall strengthening of
19 Laclede’s financial position. While Mr. Burdette seems to imply that approving
20 the restructuring application without conditions would be “potentially” “...adding
21 a second bullet while playing Russian roulette....” He has left us to wonder as to
22 the identity of the “potential” first bullet in the gun.

1 Q. Doesn't a holding company structure with "potentially" riskier ventures add a
2 new type of risk and therefore require new risk solutions, such as the
3 "conditions"?

4 A. Not necessarily. As I previously discussed, the type of business and financial
5 risks that Messrs. Bible and Burdette describe are not new. Regulated utility
6 companies in Missouri, such as Laclede, have long been permitted by law to
7 conduct unregulated businesses, not subject to Commission regulation, so long as
8 their operations are substantially kept separate from the utility business (Section
9 393.140(12) RSMo). Thus, these types of risk have been with us for some time in
10 one degree or another, and the legal framework that permits them to cohabit side
11 by side with a regulated utility also contains the means to protect the regulated
12 utility's customers from such risks.

13 Q. Do you mean that the existing Public Service Commission law already provides
14 "conditions" to protect the regulated utility and its customers?

15 A. In very fundamental ways, yes. The Public Service Commission law authorizes
16 the Commission and its agent to ask questions of regulated utilities and inquire as
17 to its business practices. The same section that recognizes the legitimacy of
18 unregulated businesses being owned and operated by a regulated utility, also
19 recognizes the power of the Commission to inquire into and apportion the capital,
20 earnings, debts and expenses fairly and justly between the regulated and the
21 unregulated. The Commission has long recognized the need to examine inter-
22 company and affiliated transaction and protect the regulated entity from
23 inappropriate cost shifting. The courts have approved the Commission's use of

1 hypothetical capital structures to protect the interests of utility customers where
2 the facts required. The Missouri Supreme Court has judicially approved the
3 Commission's action in halting reductions in the unearned surplus account of a
4 regulated company by distribution to its shareholders where facts warranted.
5 Moreover, Missouri statute does not permit a regulated utility to guarantee debts
6 for either itself or for an affiliate company that are payable at periods of more
7 than twelve months after the date thereof.

8 Q. If the existing legal framework is adequate to protect the regulated entity and its
9 customers, why is Laclede willing to accept in one form or another the
10 overwhelming majority of the conditions proposed by Staff and OPC?

11 A. From the very beginning of this process, the Company has indicated that the
12 Proposed Restructuring is in no way designed to detract from the Commission's
13 existing powers to protect ratepayers from any costs or risks associated with the
14 Company's unregulated activities. As a result, the Company has no objection to
15 any condition which is reasonably designed to accomplish that goal as part of the
16 existing legal framework of protections or as a reasonable clarification or
17 extension thereof. On the other hand, the Company does not believe that it can or
18 should be required to accept conditions or restrictions that would expand the
19 Commission's powers over unregulated activities well beyond the bounds of what
20 is currently permitted by Missouri law, nor can it agree to conditions that would
21 require the Company to satisfy requirements that may be impossible to meet for
22 reasons beyond the Company's control. These criteria, and these criteria alone,

1 have governed the Company position regarding the acceptance, modification or
2 rejection of the conditions and restrictions proposed by Staff and OPC.

3 **RESPONSE TO RECOMMENDED CONDITIONS**

4 Q. Would you briefly describe the kind of conditions and restrictions that Staff and
5 OPC have proposed in their rebuttal testimony?

6 A. Although the corporate restructuring proposed by the Company does not involve
7 any acquisition or transfer of utility assets and will not result in any change in the
8 terms and conditions of utility service provided by Laclede, Staff and OPC have
9 nevertheless proposed a broad array of conditions and restrictions. Indeed, in
10 many respects, the conditions and restrictions proposed by these parties are far
11 more elaborate and, in some cases, far more burdensome than those they have
12 recommended in cases where there actually was a change in utility ownership or a
13 material alteration in existing utility operations.

14 Q. What matters do these conditions seek to address?

15 A. In general, these conditions relate to so-called "insulating" requirements that are
16 presumably designed to insulate the regulated utility from the business and
17 financial risk of the unregulated subsidiaries of the holding company.

18 Q. Which of the conditions proposed by Staff and OPC are acceptable to Laclede?

19 A. With the exception of Staff and OPC Condition No. 1, which we believe should
20 be rejected by the Commission and Condition Nos. 7 and 8, which the
21 Commission has power during rate cases to deal with, the Company is willing to
22 accept the other conditions with some modifications. Laclede has advised the
23 Staff and the OPC that it has accepted Condition Nos. 2, 3, 5, 6 and 10 without

1 substantive modification. The few slight modifications made were to make the
2 conditions consistent with applicable Missouri statute (Condition Nos. 2 and 3); to
3 accurately describe the manner of certain calculations (Condition No. 5); to
4 clarify consistent with discussions with Staff and OPC (Condition No. 6); and to
5 make consistent with normal business practice and reservation of rights
6 (Condition No. 10). Schedule No. 1 reflects Staff and OPC's Condition Nos. 2, 3,
7 5, 6 and 10 side by side with those proposed by Laclede.

8 Q. What about the remaining six proposed conditions?

9 A. Staff and OPC Condition No. 4 seeks the Laclede Group Inc.'s agreement to
10 maintain its common equity at no less than thirty percent of total consolidated
11 capitalization and for Laclede Gas Company to maintain its common equity at no
12 less than thirty-five percent. The Company has advised the Staff and OPC that it
13 is its intention not to have equity percentages that fall below the respective thirty
14 and thirty-five percent limits they propose for establishment. However, the
15 results of unintended or involuntary events, or combination of such events could
16 possibly cause those limits to be breached contrary to the intentions of the
17 Company. For example, a large regulatory disallowance, a catastrophic
18 explosion, a significant loss of sales, or some other unintended and unanticipated
19 event or combination of events could cause the breach of those limits and place
20 the Company in default of the proposed condition. For that reason, the Company
21 has proposed to substitute the term "intention" for the term "agrees." Both
22 Condition No. 4 and Condition No. 7, regarding maintenance of credit ratings, are
23 examples of requirements that are inherently unreasonable because they seek to

1 impose obligations on the Company that it may not be able to satisfy for reasons
2 that are entirely beyond its control. As I indicated earlier, the Company cannot
3 provide a blanket guarantee that such ratios and ratings will be maintained under
4 any and all circumstances since the conditions which permit such maintenance,
5 ranging from the impact of regulatory actions on the Company's finances to the
6 financial impact of changes in market or operational conditions affecting its
7 regulated business, are partially or fully beyond its control. The Company can,
8 however, state that it fully intends to maintain equity ratios and credit ratings at or
9 above the levels described in Condition Nos. 4 and 7. Moreover, the Company
10 can also make a commitment to the Commission that it will not voluntarily or
11 intentionally take any action that would cause its equity ratios or credit ratings to
12 fall below these levels. These commitments, which are, in fact, within the
13 Company's ability to keep, have been reflected in its proposed modifications to
14 Condition Nos. 4 and 7.

15 After discussion with the Staff and OPC, the Company also expanded the
16 description of short-term debt contained in the originally proposed condition in
17 recognition of the nature and extent of the Company's short term debt
18 requirements. Schedule No. 1 also contains Staff and OPC's proposed condition
19 No. 4, the Company's above described modifications side by side for comparison.

20 Q. What about Staff and OPC proposed Condition Nos. 7, 8, and 9?

21 A. Condition No. 7, concerning the maintenance of Laclede Gas Company's debt,
22 and any preferred stock, rating at investment grade, discussed above, is certainly
23 consistent with the Company's past and present intention. All of its current debt

1 ratings with Standard and Poor's, Moody's, and Fitch are above investment grade
2 and have been for some time. Nevertheless, the Company is unable to control the
3 outcome of such ratings as they can be influenced by the results of operations,
4 regulatory decisions and other events which are unintended by the Company. For
5 example, in 1997, Fitch downgraded the Company's First Mortgage Bonds from
6 AA- to A+ because the Company's financial protection measures equated to
7 levels more consistent with the lower rating. The Company wanted to maintain
8 the AA- rating with Fitch but was unable to do so. There was no holding
9 company possibility in the offing at the time of the downgrade. Fitch was simply
10 not impressed with the Company's financial results despite the fact that the
11 immediately two preceding winters were somewhat colder than normal.

12 Lower rated debt is usually more expensive than higher rated debt and this
13 eventually may impact the gas company's cost of capital to some degree.

14 Downgrades of utility debt can occur and normally the resultant change of cost is
15 recognized in the regulated utility's capital cost. However, the Commission's
16 broad ratemaking power permits it to reject unreasonable costs. Therefore, if the
17 gas company were to suffer a downgrade in its debt rating and that event under
18 the circumstances would otherwise result in an unreasonable increased cost to gas
19 customers, the Commission's powers are such it could reject, based on the facts,
20 an unreasonable increase in cost. The point here is that the Commission should
21 permit the Company to continue in its intention to maintain an investment grade
22 rating; and deal with any unreasonable cost incurrence in the subsequent rate case.

23 Between rate cases, any increase or decrease in costs will not be reflected in

existing rates, thus the customer is protected in the interim and the Commission can exercise any necessary oversight prior to the recognition of that cost in rates.

Q. Is ratemaking oversight the ultimate protection against the cost increased concerns expressed in Staff and OPC Condition Nos. 8 and 9?

A. Yes. Mr. Burdette recognizes at page 9 of his rebuttal testimony that proposed Condition Nos. 7, 8 and 9 (the latter two concern additional cost guarantees for ratepayers) "...are intended to protect ratepayers from increased costs (general revenue requirement and cost of capital) due to the reorganization." As expressed above, the Commission's ratemaking power is well suited to providing such protection as necessary. The Commission recognized that very solution in its recent decision approving the merger of Utilicorp United, Inc. and St. Joseph Light and Power Company, Case No. EM-2000-292 finding that "... if the Company's cost of debt is unreasonable, appropriate adjustments can be made to protect the ratepayers." (Report and Order dated December 14, 2000, page 11 of 44, Case No. EM-2000-292.)

Schedule No. 1 reflects proposed Staff and OPC Condition Nos. 7, 8 and 9 side by side with Laclede's proposed solution, all as discussed above.

Q. Please describe the Company's response to the remaining two Staff and OPC proposed financial conditions.

A. Staff and OPC Condition No. 11 deals generally with obtaining information to verify compliance with the prior ten proposed conditions. The Company believes that its response is consistent with Condition No. 11 and includes some

1 appropriate reservation of rights language. Schedule No. 1 reflects the Staff and
2 OPC proposed Condition No. 11 and Laclede's response.

3 Q. Does that conclude your discussion of the eleven proposed financial conditions?

4 A. No. Staff and OPC proposed Condition No. 1, a condition intended to limit the
5 business activities to be conducted in the future by the Laclede Group, Inc., the
6 unregulated holding company, and its unregulated subsidiaries. As stated at the
7 outset, the Company is strongly opposed to the application of this proposed
8 limitation for a number of valid reasons.

9 First of all, as referenced earlier, the Public Service Commission law clearly
10 provides that the Commission's consent or authorization to any act in such other
11 business shall not be required. Section 393.140(12) provides as follows:

12 In case any electrical corporation, gas corporation, water corporation or
13 sewer corporation engaged in carrying on any other business than owning,
14 operating or managing a gas plant, electric plant, water system, or sewer
15 system which other business is not otherwise subject to the jurisdiction of
16 the commission, and is so conducted that its operations are to be
17 substantially kept separate and apart from the owning, operating,
18 managing or controlling of such gas plant, electric plant, water system or
19 sewer system, *said corporation in respect to such other business shall not*
20 *be subject to any of the provisions of this chapter and shall not be*
21 *required to procure the consent or authorization of the commission to any*
22 *act in such other business or to make any report in respect thereof.* But
23 this subdivision shall not restrict or limit the powers of the commission in

1 respect to the owning, operating, managing or controlling by such
2 corporation of such gas plant, electric plant, water system or sewer system,
3 and said powers shall include also the right to inquire as to, and prescribe
4 the apportionment of, capitalization, earnings, debts and expenses fairly
5 and justly to be awarded to or borne by the ownership, operation,
6 management or control of such gas plant, electric plant, water system or
7 sewer system as distinguished from such other business. (emphasis
8 supplied)

9 It logically follows that the Commission has no power to dictate which
10 unregulated businesses in which the holding company and its unregulated
11 subsidiaries may engage.

12 Q. Are there other negative legal implications associated with Staff and OPC
13 proposed Condition No. 1?

14 A. Yes. Laclede has a right to engage in legitimate business enterprises. A right
15 specifically recognized by Section 393.140(12) RSMo. While the law recognizes
16 generally a right to classify for regulatory purposes based on actual differences in
17 the subject matter, in this case neither Staff nor OPC have articulated any
18 reasonable basis for suggesting the Commission should limit Laclede's right to
19 engage in any legitimate business. Nor have they provided any reasonable factual
20 basis which would support discriminating between Laclede's right to engage in
21 businesses of its choice versus the similar rights of any other utilities which the
22 Commission regulates. Many of those other utilities engage in a wide variety of
23 unregulated businesses through subsidiary companies without the Commission's

1 guidance or approval as shown by Schedule No. 2. Ameren, Atmos Energy
2 Corporation, Kansas City Power & Light, Southern Union and Utilicorp United,
3 Inc. are energy utilities that currently engage in such business. The Staff and
4 OPC's proposed Condition No. 1, if approved by the Commission, would
5 arbitrarily and capriciously deny Laclede those same legitimate opportunities,
6 place it at a competitive disadvantage, and could result in substantial harm to
7 Laclede and its affiliates. There has been no rational relationship established by
8 Staff or OPC that articulates the need to broaden the Commission's policy and the
9 Commission's legitimate objectives or to act contrary to the plain language of
10 Section 393.140(12).

11 Q. Aside from the legal concerns expressed above, why isn't the "energy business"
12 and the business activities derived from changes in the natural gas business a
13 sufficient area within to seek new, unregulated business opportunities?

14 A. First of all, there may prove to be opportunities in the "energy business" and other
15 business activities emerging from changes in the natural gas business. Laclede is
16 not rejecting investigating reasonable business opportunities here. However, the
17 "energy business" has certainly proven to be extremely volatile for both electric
18 and gas entities in the past year and is likely to continue to be volatile going
19 forward. If you are seeking to avoid risks associated with a new enterprise, one
20 would certainly be particularly cautious in considering possible businesses
21 experiencing significant volatility. In addition, limiting the holding company's
22 future to business possibilities in the "energy business" and change-driven gas

1 developments alone is simply an unreasonably narrow focus if seeking
2 unregulated opportunities is an objective.

3 Q. The Staff's proposed Condition No. 1 also permits the Company to expand its
4 existing unregulated, subsidiary operations to those considered incidental to
5 current operations, does it not?

6 A. Yes, however, that very limited expansion, namely to only those activities
7 considered "incidental" to current operations, dramatically underscores the
8 apparent inconsistency inherent in Staff's proposal. If the Company has
9 experience in a current subsidiary business, that would seem to be the very place
10 the Staff would encourage growth and expansion given its apparent view that the
11 holding company's knowledge and experience lie there. Yet, to the contrary, the
12 Staff's proposal is to strictly limit that possibility to "incidental" activities only. It
13 is worth noting that Mr. Burdette's version of proposed Condition No. 1 omits the
14 "incidental" limitation, the only obvious difference of any kind between the Staff
15 and OPC" in their package of financial conditions.

16 Q. What reasons do the Staff and OPC offer in support of proposed Condition No. 1?

17 A. Staff witness Bible offers no explanation in his testimony as to why proposed
18 Condition No. 1 is appropriate. OPC witness Burdette offers the following two
19 sentences:

20 "This condition limits the extent to which the companies can get involved
21 in unregulated ventures outside the area of expertise or experience,
22 without obtaining Commission approval. This limitation will help contain
23 business risk." (Surrebuttal testimony, page 7).

1 Mr. Burdette seems unaware that expertise and experience can be acquired, or
2 otherwise obtained, either individually or within an existing organization.

3 Q. Are there any other considerations why the limited "business" condition proposed
4 by Staff and OPC is inappropriate?

5 A. Certainly. Another extremely important consideration is that the condition, as
6 proposed by Staff and OPC, requires the Commission to provide any waiver from
7 this limitation. With all due respect, how is the Commission to reasonably
8 execute that responsibility? What criteria should it apply? The law clearly states
9 that the provisions of Chapter 393 which, describes the Commission powers,
10 should not apply. Obviously, proposed Condition No. 1 is the first step down a
11 very slippery, regulated or unregulated slope and the Commission should avoid
12 going there. The Commission, in the previously cited Utilicorp United, Inc. and
13 St. Joseph Power and Light merger decision, was presented with a somewhat
14 similar proposal by the Staff wherein it sought to have the Commission attempt to
15 limit UtiliCorp's right to lobby the legislature to enact legislation regarding
16 stranded costs. The Commission wisely refused to impose that Staff proposed
17 condition, stating "Staff does not indicate where the Commission would find the
18 authority...." That thought applies equally here.

19 Another relevant reason is that the "business" condition was apparently designed
20 by the Staff and OPC, entities without any obvious "expertise or experience" in
21 that area. That fact alone should, under Mr. Burdette's own criteria, eliminate this
22 condition from further consideration.

1 Q. If KCP&L accepted all of the Staff and OPC's proposed conditions, and those are
2 exactly the same financial conditions proposed here, including proposed
3 Condition No. 1, doesn't that prove that the conditions are lawful and reasonable?

4 A. Not at all. All that it proves is that for whatever reason, a reason perhaps known
5 only to KCP&L, that company chose to accept these conditions. One can
6 speculate that within the overall settlement in the KCP&L case there was other
7 some "consideration" not obvious to the uninitiated that made the acceptance of
8 these conditions worthwhile to KCP&L. What is certain however, is that a series
9 of conditions apparently fashioned from rigorous negotiation with KCP&L is now
10 being offered as the appropriate conditions for a very different size and type of
11 utility. We should not be surprised to find that one set of conditions does not fit,
12 or is not acceptable, to all companies.

13 Q. Do the reports as to the apparent problems in California and elsewhere, conveyed
14 by Messrs. Bible and Burdette in their surrebuttal testimony, nevertheless require
15 the Commission to accept all of the Staff and OPC proposed conditions and other
16 restrictions without any modifications?

17 A. Not at all. Mr. Burdette's testimony describing examples of so-called financial
18 abuse by Pacific Gas and Electric Corporation and Southern California Edison
19 respectively in California, seems to rely on memos prepared by an organization
20 identified as the "Utility Reform Network ('Turn')." The correctness and
21 accuracy of any reports on the California situation need to be appraised in the cold
22 light of day with balanced information from all quarters, not just from a utility
23 reform network. For example, the Turn memos suggest cash outflow from the

1 utilities to the parents, yet the cited portions of the memos do not address what
2 apparently created the real problem for the utilities in the first place, namely, their
3 apparent inability to pass through their power costs. The Commission should not
4 be stampeded by unbalanced, partial reports about California into accepting
5 conditions that are without true merit.

6 Likewise, Mr. Bible describes apparent financial problems Western Resources is
7 undergoing in Kansas based on information obtained from various sources. That
8 situation too still remains to be played out and what effect, if any, it may have on
9 customers in Kansas is currently unknown. What is known is that Western had
10 not restructured itself into a holding company prior to incurring its present
11 difficulties. Therefore, the initiation of a holding company structure was not, in
12 this instance, the cause for potential detriment that might occur in the future. In
13 short, problems can occur for a company without it being in a holding company.

14 **OTHER PROPOSED RESTRICTIONS**

15 Q. What other restrictions that have been proposed in this proceeding do you
16 address?

17 A. Mr. Kind, a witness for the OPC, has presented rebuttal testimony which requests
18 the Commission to impose five additional restrictions upon the Company in this
19 proceeding as prerequisites to the approval of the Application. They involve
20 (1) the possibility of preemption by the SEC of the Commission's ratemaking
21 authority; (2) provision of information on employee transfers; (3) provision of
22 information on diversification plans; (4) provision of access to books, records and
23 personnel of Laclede and its affiliates; and (5) requirement that Laclede Group

1 and Laclede not to merge with, acquire, or be acquired by another company that
2 has a controlling interest in a public utility unless the transaction is approved by
3 the Commission (this requirement is the non-financial Condition No. 12 which
4 appears on Schedule No. 1) (sometimes hereinafter referred to as the "OPC
5 Requirements").

6 Q. Does the Company believe that the OPC Requirements are reasonable and
7 necessary to avoid detriment to the public interest?

8 A. No. At least not all of them. Mr. Kind relies on general speculation and
9 conjecture to construct far-fetched scenarios that form a purported basis for a need
10 for the OPC Requirements. For example, OPC Requirement No. 1, regarding the
11 "possibility" (Mr. Kind's word) of SEC preemption of the Commission's
12 ratemaking authority as it pertains to the gas company depends on the
13 "possibility" that Laclede's holding company or its successor might become a
14 registered holding company. Laclede has absolutely no plans, intention or interest
15 in becoming a "registered" holding company, if for no other reason that it
16 involves much more paperwork and does not provide Laclede any advantages.
17 Furthermore, Laclede has yet to even become an "exempt" holding company. As
18 Mr. Kind's testimony makes clear, these types of OPC restrictions were agreed to
19 by large electric companies going through merger approvals and not ones seeking
20 "exempt" holding company status such as is Laclede's case. Furthermore, in
21 Laclede's case, the gas company is not going to be the holding company, but a
22 subsidiary of the holding company. Mr. Kind has presented only speculation, and
23 highly unlikely speculation at that, as a tenuous basis for OPC's Requirement

1 No. 1. Finally, it is highly likely that PUCHA itself will be repealed in the near
2 future since the Senate Banking Committee in April 2001 voted 19-1 to repeal
3 PUCHA. Therefore, the Commission should recognize Mr. Kind's claims for the
4 sheer speculation that they are and summarily reject them.

5 Q. What is the Company's view of OPC Requirement No. 2 seeking information on
6 employee transfers?

7 A. Based upon Mr. Kind's testimony, his chief concern seems to be a claimed
8 inability to track a possible dilution of talent somehow flowing between Laclede
9 and any of its affiliates and that this poses a risk to ratepayers. Mr. Kind does not
10 offer any examples where there has been any such dilution of talent from Laclede
11 to any of its existing subsidiaries, or any other examples of such events at other
12 utilities in Missouri under any circumstances. He acknowledges that the
13 Company has observed there will be no dilution of talent or diversion of
14 management attention from the provision of regulated services, but apparently
15 that statement is not "firm" enough because it is not embedded in a process that
16 generates a report to the OPC which report, interestingly enough, does not provide
17 any apparent basis to conclude that a dilution of talent is, or is not occurring, only
18 that transfers are occurring.

19 Q. Does Mr. Kind offer any further information regarding this restriction requiring
20 employee transfer information?

21 A. Yes. He advised that such a restriction was not necessary for KCP&L because,
22 unlike Laclede, it currently has no Stay from the Application of the Affiliated
23 Transaction Rules. It seems apparent that the real purpose of this proposed

1 restriction is a substitute for a rule that Laclede and others have appealed to the
2 courts as it is their right to do. In the previously and oft cited Utilicorp United
3 Inc., and St. Joseph Light and Power Company merger Order issued by the
4 Commission on December 14, 2000, OPC made an attempt to obtain a pledge
5 from Utilicorp for information that apparently was likewise encompassed by the
6 Affiliated Transaction Rule. Utilicorp resisted OPC's demand claiming it was
7 already bound by the Affiliated Transaction Rule and an additional pledge was
8 unwarranted. The Commission, in declining to require the pledge, found in
9 essence, that if the Affiliated Transaction Rule is upheld compliance will continue
10 to be required and if it is overturned, compliance will not be required. Laclede's
11 challenge to the Affiliated Transaction Rule is not a frivolous pursuit. If its
12 challenge succeeds, it will not be required to comply and if its challenge fails, its
13 existing stay will be revoked and it will comply. An attempt to circumvent a
14 lawfully issued stay from the Application of the rule in question certainly is not an
15 appropriate basis for approving Restriction No. 2.

16 Q. Please describe the third restriction proposed by Mr. Kind.

17 A. Mr. Kind's Restriction No. 3 seeks the Company's diversification plans, including
18 on an on-going annual basis, all new and revised and updated business plans for
19 the Laclede Group and its affiliates (including Laclede), a description of any and
20 all joint marketing/promotional campaigns between Laclede, The Laclede Group
21 and any of its affiliates, and narrative descriptions of all products and services
22 offered by the Laclede Group and its affiliates. This restriction provides
23 duplicative discovery requirements as well.

1 Q. Is this restriction appropriate?

2 A. No. The Affiliate Transaction Rule is sufficient to cover OPC's information
3 needs as it relates to true affiliated transactions. The information which OPC
4 seeks here is not primarily about transactions between affiliates, but obviously,
5 for the most part, concerns detailed, voluminous business and marketing plans as
6 well as descriptions of all new products and services. This requirement is not
7 routinely required of regulated utilities currently. This requirement is extremely
8 burdensome for any entity and to require the holding company, and its
9 subsidiaries, unregulated businesses not subject to the provisions of Chapter 393
10 of the Missouri Statutes, to comply with this restriction would be neither lawful
11 nor supported by the statements presented by the OPC. Once again, the OPC
12 asserts that KCP&L agreed to "...this type...." of condition in its stipulation and
13 agreement. A review of that document, however, fails to reflect any obvious
14 agreement of any kind concerning the provision of KCP&L's diversification plans
15 or the other detailed items sought by OPC from Laclede by this OPC proposed
16 restriction. Clearly, if KCP&L had agreed to this specific restriction, rather than
17 "...this type...." of restriction, as asserted by the OPC, that restriction's existence
18 would be obvious since much of what KCP&L agreed to and what is demanded
19 here of Laclede reflects the exact same language. Nevertheless, whatever
20 KCP&L may or may not have agreed to should not form the basis for the
21 Commission's decision in this matter. In fact, the Commission made that point
22 recently in refusing to apply market power conditions agreed to by parties in one
23 merger to a different merger when parties to the latter merger refused to agree to

1 the condition. (See Utilicorp United Inc. and St. Joseph Light and Power
2 Company, Report and Order dated December 14, 2000 at pages 21-22).

3 Q. Is the OPC Requirement No. 4, seeking access to the books, records and
4 personnel of Laclede and its affiliates, necessary to avoid any true detriment to the
5 public?

6 A. Not really. Mr. Kind's testimony voices a suspicion that Laclede's commitment
7 to books and records access is somehow tainted because it makes it within the
8 context of "... applicable current or future laws or regulations." To most people
9 that commitment is meaningful. We are a nation of laws. The Commission is a
10 creature of statute. One can only surmise that Mr. Kind requires a commitment
11 which is not bounded or dependent on what the law provides since he has
12 characterized one that is made pursuant to law as "meaningless." It is also
13 obvious from Mr. Kind's testimony that he expects sweeping access to everyone
14 and everything whether or not the law provides for it. His final fear, that
15 Laclede's language of "...charges to, or payments from," somehow creates a
16 loophole by which it can avoid affiliate transaction scrutiny, is without substance
17 for two reasons. First, the Affiliated Transaction Rule will be upheld or it will
18 fail, in which latter case a new such rule will likely be promulgated. In the
19 interim, the OPC and others can utilize the Commission's existing process,
20 established by law, to file complaints, or use discovery or similar tools to satisfy
21 itself that costs are not shifted or otherwise improperly charged.

22 Q. What is the Company's position on the OPC's Requirement No. 5, and Staff's
23 similar request that Laclede and The Laclede Group agree that The Laclede Group

1 will not merge with, acquire, or be acquired by another company that has a
2 controlling interest in a public utility unless this transaction is approved by the
3 Commission?

4 A. Laclede is agreeable in concept to that restriction, but recommends adoption of
5 the more concise language which has been proposed by Staff Witness Rackers for
6 this purpose. In fact, the Company's suggested language is the same as Staff's,
7 except for the last sentence which was added in recognition of the possibility that
8 the Commission could reject jurisdiction on its own initiative. Laclede does not
9 intend to argue, or urge any other party to argue, against such jurisdiction if it
10 reaches closure on this matter. However, without the provision contained in that
11 final sentence, a Commission disavowal of jurisdiction leaves the parties
12 somewhat at sea. The sentence is intended to clarify that condition.

13 Q. Do you have any comments or observations regarding the conditions sponsored
14 by Staff Witness, Rackers, in this proceeding?

15 A. As I mentioned earlier, many of Mr. Rackers' conditions are similar, if not
16 identical to the restrictions proposed by Mr. Kind on behalf of the OPC. With
17 respect to potential SEC and FERC preemption, witness Rackers and witness
18 Kind have very different descriptions of the requirements they propose. From an
19 examination of the KCP&L settlement document, it is clear the OPC presentation
20 was used as to SEC matters. However, it is not necessary to reach that decision
21 point since, as my earlier testimony notes, the possibility that Laclede could ever
22 become a registered holding company is beyond remote. There is absolutely no
23 basis in fact in Messers. Rackers and Kind's brief comments on this subject that

1 to suggest that this fear of preemption has any legitimacy. The fact that others,
2 who were, or are likely to become, registered holding companies, agreed to a
3 restriction or condition supposedly dealt with that contingency, is not as we know
4 any legitimate basis for compelling a party not similarly situated and not at all
5 agreeable to the apparent large administrative burden involved to be unreasonably
6 compelled to add some more meaningless documents to its files. In that regard,
7 the Commission should examine the pervasive and detailed requirements,
8 including an extensive so-called optional procedure, which appear in part as
9 Schedule No. 2, Paragraph Nos. 1a through 1g, and Schedule No. 3 to
10 Mr. Rackers' testimony, and to Schedule No. 1 of Mr. Kind's testimony. Finally,
11 as briefly mentioned earlier, Mr. Kind's testimony and schedule only propose a
12 purported need to solve for SEC preemption, while Mr. Rackers' testimony and
13 schedules suggest a wider need to avoid both SEC and FERC preemption. In the
14 often alluded to KCP&L settlement, OPC's proposal on this subject which was
15 apparently used in the Stipulation and Agreement included both SEC and FERC
16 preemption. This suggests that something is different in this case since the OPC
17 has not included FERC preemption. My point is that not only is the "potential"
18 more than remote for Laclede to become a registered holding company, the
19 apparent absolute precondition for any of the detailed requirements and
20 contingencies to be operative at all; moreover, there seems to even be confusion as
21 to what preemptions might apply between Staff and OPC. That condition is often
22 a very reliable signal that something is not right; and for that very practical reason

1 as well Mr. Rackers and Mr. Kind's varying recommendations should be
2 disregarded.

3 Q. Do you have any response to Staff's and OPC's recommendations that
4 Commission approval be sought before any transfer of utility assets is made by
5 the Company?

6 A. Yes. Both Mr. Rackers in Section 2 of Schedule 2-1 to his rebuttal testimony, as
7 well as Mr. Trippensee at page 13 of his rebuttal testimony have proposed such a
8 condition. In fact, Mr. Trippensee has proposed a substantially broader condition
9 that would require Commission approval for the transfer of any assets or functions
10 currently performed by Laclede Gas Company. Laclede believes both of these
11 proposed conditions are unreasonable and unnecessary.

12 Q. Why is that?

13 A. Once again, Missouri law already contains requirements mandating Commission
14 approval for transfers of certain utility assets that are used and useful in providing
15 utility service. To the extent the conditions proposed by Staff and OPC are
16 designed to replicate these statutory provisions they are unnecessary and
17 duplicative. And to the extent they seek to broaden the Commission's jurisdiction
18 beyond these statutory limits, they are inconsistent with Missouri law. In either
19 event, they should be rejected.

20 Q. Does the Company intend to comply with its legal obligations to seek
21 Commission approval before it transfers assets that meet the statutory criteria for
22 such approval?

- 1 A. Of course it does. And the Company is also willing to adopt Mr. Racker's
2 recommendation in Section 3 of Schedule 2-2 that would require the Company to
3 provide notification to the Staff and Public Counsel in the event it makes the
4 decision to transfer job positions, departments and or functions to an affiliate.
5 This should afford both Staff and OPC with an opportunity to assess whether any
6 such transfer requires Commission approval under applicable law and, if it does,
7 insist that such approval be obtained.
- 8 Q. Does the Company agree with Mr. Racker's recommendation in Section 7 of
9 Schedule 2-3 that Laclede Gas Company should not seek recovery of any costs
10 related to the restructuring from ratepayers?
- 11 A. No. While the Company is certainly willing to account for such costs in a manner
12 that permits them to be identified, we firmly support the Commission's prior
13 determination in other proceedings that such matters should be addressed in a rate
14 case proceeding and not as part of the approval process.
- 15 Q. Does Laclede have any objections to either of the recommendations set forth in
16 Sections 6 and 8 of Schedule 2-3 to Mr. Racker's rebuttal testimony?
- 17 A. No. Both the requirement to provide a list of all jurisdictions in which Laclede or
18 an affiliate files affiliate transaction information, as contained in Section 6, as
19 well as the requirement to provide final journal entries for the reorganization and
20 explain any deviation of more than 10% from the estimated performance entries,
21 as set forth in Section 8, are acceptable to the Company.
- 22 Q. Do you have any concluding comments?

1 A. Yes. The Company has attempted to address to the extent possible the various
2 conditions and recommendations proposed by the other parties in their rebuttal
3 testimony. Given the number of those conditions and requirements, however, the
4 Company's failure to discuss a specific proposal should not be construed as an
5 indication that the Company necessarily agrees with such proposal.

6 Q. Does this conclude your surrebuttal testimony?

7 A. Yes.

8

9

Staff Condition	Laclede Condition
<p>1. Laclede Group and its subsidiaries will not conduct any material business activities that are not part of the "Energy Business" or are not reasonably related to business activities derived from changes in the natural gas industry as a result of competition without Commission approval. With regard to expansion of Laclede Gas Company's current operations in natural gas marketing, real estate development, insurance services and the compression of natural gas, activities will be limited to those considered incidental to current operations.</p>	<p>Laclede rejects Staff's Condition No. 1. Imposing limits on unregulated business opportunities is beyond the Commission's statutory authority is unwarranted by the facts, is bad public policy, and denies the Company equal protection of the law.</p>
<p>2. Laclede Group, Inc. will not pledge Laclede Gas Company's common stock as collateral or security for the debt of the Holding Company or a Subsidiary without Commission approval.</p>	<p>The Laclede Group, Inc. will not pledge Laclede Gas Company's common stock as collateral or security for any debt of the Holding Company or a subsidiary of the Holding Company which is payable at periods of more than twelve months without first obtaining Commission approval.</p>
<p>3. Laclede Gas Company will not guarantee the notes, debentures, debt obligations or other securities of the Holding Company or any of its subsidiaries, or enter into any "make-well" agreements without prior Commission approval.</p>	<p>Laclede Gas Company will not guarantee any notes, debentures, debt obligations or other securities of the Holding Company or the Holding Company's subsidiaries which are payable at periods of more than twelve months, or enter into any "make-well" agreements without first obtaining Commission approval.</p>

<p>4. Laclede Group, Inc. agrees to maintain consolidated common equity of no less than 30% of total consolidated capitalization and for Laclede Gas Company to maintain its common equity at no less than 35%. Total capitalization is defined as common equity, preferred stock, long-term debt and short-term debt. Common equity is defined as par-value of common stock plus additional paid-in capital, plus retained earnings, minus treasury stock.</p>	<p>It is The Laclede Group, Inc.'s intention to maintain consolidated equity of no less than 30 percent of its total permanent consolidated capitalization and the intent of Laclede Gas Company to maintain its equity at no less than 35% of its total capitalization. Total capitalization is defined as common equity, preferred stock, long-term debt, and short-term debt, excluding short-term debt supporting natural gas and propane inventories, purchased gas costs and cash working capital. The Laclede Group, Inc. and Laclede Gas Company agree to notify the Staff and Public Counsel in the event they become aware of any material possibility that either or both companies will be unable to maintain their respective equity ratios.</p>
<p>5. <u>Reports</u> Laclede Gas Company shall submit quarterly to the Financial Analysis Department of the Missouri Public Service Commission certain key financial ratios as defined by Standard & Poor's Credit Rating Service, as follows:</p> <ul style="list-style-type: none"> a. Pre-tax interest coverage; b. After-tax coverage of interest and preferred dividends; c. Funds flow interest coverage; d. Funds from operations to total debt; e. Total debt to total capital (including preferred); and f. Total common equity to total capital. 	<p>Laclede Gas Company shall submit quarterly to the Staff's Financial Analysis Department certain key financial ratios that will be calculated, to the extent practical, consistent with those employed by Standard and Poor's Credit Rating Service. These key financial ratios shall include:</p> <ul style="list-style-type: none"> a. Pre-tax interest coverage; b. After-tax coverage of interest and preferred dividends; c. Funds flow interest coverage; d. Funds from operations to total debt; e. Total debt to total capital (including preferred); and f. Total common equity to total capital.
<p>6. Laclede Gas Company's total long-term borrowings including all instruments shall not exceed Laclede Gas Company's regulated rate base.</p>	<p>Laclede Gas Company's total long-term borrowings of any kind or character and excluding short-term debt shall not exceed Laclede Gas Company's regulated rate base.</p>

<p>7. Laclede Gas Company shall maintain separate debt and, if outstanding, preferred debt ratings. Laclede Gas Company agrees to maintain its debt and, if outstanding, preferred stock rating at investment grade.</p>	<p>Consistent with its representations in previous financing applications and assuming reasonable regulatory treatment, it is Laclede Gas Company's intention to maintain its debt and, if outstanding, its preferred stock rating at an investment grade credit rating. Laclede Gas Company agrees to notify the Staff and Public Counsel in the event it becomes aware of any material possibility that it will not be able to maintain such a credit rating.</p>
<p>8. The Laclede Group, Inc. and Staff agree that the allowed return on common equity and other costs of capital will not increase as a result of the reorganization.</p>	<p>As more fully described in the Company's Condition 9, Laclede believes the Commission's authority to deal with any unreasonable costs where that facts warrant is complete protection for the customers.</p>
<p>9. The Laclede Group, Inc. guarantees that the customers of Laclede Gas Company shall be held harmless if the reorganization creating The Laclede Group, Inc. with Laclede Gas Company as a subsidiary, results in a higher revenue requirement for Laclede Gas Company than if the reorganization had not occurred.</p>	<p>The Laclede Group, Inc. agrees that the Commission has, and will continue to have, the authority after the Proposed Restructuring to regulate, through the lawful exercise of its current statutory powers, any transfer or disbursement of earnings from Laclede Gas Company to an affiliate that would jeopardize the Company's ability to meet its utility obligations. The Laclede Group, Inc. also agrees that the Commission has the authority, through the lawful exercise of its ratemaking powers, to ensure that the rates charged by Laclede Gas Company for regulated utility service are not increased as a result of the unregulated activities of Laclede's affiliates and Laclede agrees not to challenge the lawful and reasonable exercise of such authority or the appropriateness of using such a standard for purposes of determining Laclede's rates.</p>

10. The Laclede Group, Inc. and Laclede Gas Company shall provide the Staff unrestricted access to all written information provided to common stock, bond, or bond rating analysts, which directly or, indirectly, pertains to Laclede Gas Company or any affiliate that exercises influence or control over Laclede Gas Company or has affiliate transactions with Laclede Gas Company. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes but is not limited to any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of The Laclede Group, Inc.'s or Laclede Gas Company's right to seek protection of the information.

The Laclede Group, Inc. and Laclede Gas Company shall provide the Commission access, upon reasonable written notice during normal working hours and subject to appropriate confidentiality protections, to all written information provided to common stock, bond, or bond rating analysts, which directly or, indirectly, pertains to Laclede Gas Company or any affiliate that exercises influence or control over Laclede Gas Company or has affiliate transactions with Laclede Gas Company. Such information includes, but is not limited to, reports provided to, and presentations made to, common stock analysts and bond rating analysts. For purposes of this condition, "written" information includes but is not limited to, any written and printed material, audio and videotapes, computer disks, and electronically stored information. Nothing in this condition shall be deemed to be a waiver of The Laclede Group, Inc.'s or Laclede Gas Company's right to seek protection of the information or to object to the relevancy or use of such information by any party.

11. The Holding Company will provide the Commission Staff, upon request and with appropriate notice, all information needed to verify compliance with the conditions authorized in this proceeding and any other information relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over Laclede Gas Company.

Upon request, Laclede Gas Company and The Laclede Group, Inc. agree to make available to Staff and Public Counsel, upon written notice during normal working hours and subject to appropriate confidentiality protections, all books and records of The Laclede Group, Inc., Laclede Gas Company and its affiliates as may be reasonably required to verify compliance with the CAM and the conditions set forth herein and any other information relevant to the Commission's ratemaking, financing, safety, quality of service and other regulatory authority over Laclede Gas Company,; provided that Laclede Gas Company and any affiliate or subsidiary of The Laclede Group, Inc. shall have the right to object to such production of records or personnel on any basis under applicable law and Commission rules, excluding any objection that such records and personnel of affiliates or subsidiaries are not subject to the Commission's jurisdiction and statutory authority by virtue of or as a result of the implementation of the Proposed Restructuring.

<p>12. The Holding Company will not, directly or indirectly, acquire or merge with, or allow itself to be acquired by or merged with a public utility or the affiliate of a public utility, where the affiliate has a controlling interest in a public utility, without prior approval from the Commission and a finding that the transaction will not be detrimental to the public.</p>	<p>The Holding Company will not, directly or indirectly, acquire or merge with or allow itself to be consumed by or merged with, a public utility or the affiliate of a public utility, where the affiliate has a controlling interest in a public utility without prior approval from the Commission and a finding that the transaction is not detrimental to the public. It is expressly understood that this condition shall not be binding in the event that the Commission on its own initiative or at the urging of a party other than The Laclede Group, Inc, its subsidiaries, or an entity that is party to such merger or acquisition, declines to assert jurisdiction over such transaction.</p>
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Subsidiary Companies Of Major Missouri Utilities

Kansas City Power & Light

KLT Inc.

KLT Telecom Inc.

KLT Gas Inc.

KLT Energy Services Inc.

KLT Investments Inc.

KLT Investments II Inc.

Home Service Solutions Inc. (HSS)

R.S. Andrews Enterprise, Inc.

Worry Free Service, inc.

New Unregulated Generation Company (formed in 2/01)

UtiliCorp

Aquila, Inc.

Aquila Canada Corporation

Aquila Energy Marketing Corporation

Aquila Risk Management Corporation

UtiliCorp Asia Pacific, Inc.

UtiliCorp Asia Pacific Pty Ltd.

UtiliCorp Australia, Inc.

UtiliCorp South Pacific, Inc.

UtiliCorp Networks Canada Ltd.

UtiliCorp Networks Canada (Alberta) Ltd.

Ameren

Ameren Development Company

Ameren Energy Communications, Inc.

Ameren ERC, Inc.

Missouri Central Railroad

Ameren Energy, Inc.

Ameren Energy Resources Co.

Ameren Energy Development Company

Ameren Energy Generating Company

Ameren Energy Fuels and Services Company

Ameren Energy Marketing Company

Illinois Materials Supply Co.

Ameren Services Company

Central Illinois Public Service Company (CIPS)

CIPS Energy Inc.

CIPSCO Investment Company

CIPSCO Securities Company

CIPSCO Leasing Company

CLC Aircraft Leasing Company

CLC Leasing Company A

CLC Leasing Company B

CIPSCO Energy Company

CEC-PGE-G Co.

CEC-PGE-L Co.

CEC-APL-G Co.

CEC-APL-L Co.

Massac Energy, L.L.C.

CEC-PSPL-G Co.

CEC-PSPL-L Co.

CEC-MPS-G Co.

CEC-MPS-L Co.

CEC-ACE-G Co.

CEC-ACE-L Co.

CEC-ACLP Co.

CIPSCO Venture Company

Union Electric Company

Union Electric Development Corporation

Electric Energy, Inc.

Southern Union

Southern Union Energy International, Inc.
Mercado Gas Services Inc.
Southern Transmission Company
Norteno Pipeline Company
SUPro Energy Company
Atlantic Gas Corporation
PG Energy Services, Inc.
PEI Power Corporation
Southern Union Total Energy Systems, Inc.
Valley Propane
Southern Union International Investments, Inc.
Energia Estrella del Sur, S. A. de C. V.
ProvEnergy Power Company, LLC
Valley Appliance Merchandising Company (VAMCO)
Morris Merchants, Inc.
Alternate Energy Corporation (AEC)
Fall River Gas Appliance Company
Energy WorX Inc.
Keystone Pipeline Services, Inc.
Lavaca Realty Company

ATMOS Energy Corporation

Atmos Energy Holdings, Inc.
 Atmos Energy Services, Inc.
 Greeley Energy Services, Inc.
 Trans Louisiana Energy Services, Inc.
 WKG Energy Services, Inc.
 Trans Louisiana Industrial Gas Company, Inc.
 Egasco, LLC
 Enertrust, Inc.
 Enermart Energy Services Trust
 Energas Energy Services Trust
United Cities propane Gas, Inc.
Atmos Energy Marketing, LLC
Atmos Leasing, Inc.
Atmos Non-Regulated Shared Services, Inc.
Atmos Storage, Inc.
 UCG Storage, Inc.
 WKG Storage, Inc.
 Atmos Exploration and Production, Inc.
 Trans Louisiana Gas Storage, Inc.