Exhibit No.: ______________
Issue(s): Pay for performance/
Alagasco & Energysouth Savings/
Decoupling/
Rate Design/
Energy Efficiency/
Economic Development Rider: CHP
Witness/Type of Exhibit: Marke/Surrebuttal
Sponsoring Party: Public Counsel
Case No.: GR-2017-0215 & GR-2017-0216

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of the Office of the Public Counsel

LACLEDE GAS COMPANY
MISSOURI GAS ENERGY

CASE NO. GR-2017-0215
CASE NO. GR-2017-0216

November 21, 2017

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Laclede Gas Company's Request to Increase Its Revenues for Gas Service	)))	Case No. GR-2017-0215
In the Matter of Laclede Gas Company d/b/a Missouri Gas Energy's Request to Increase Its Revenues for Gas Service	)))	Case No. GR-2017-0216

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Regulatory Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.

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

Geoff Marke
Geoff Marke
Chief Economist

Subscribed and sworn to me this 21st day of November 2017.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Jerene A. Buckman
Notary Public

My commission expires August 23, 2021.

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OF

GEOFF MARKE

LACLEDE GAS COMPANY
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I. INTRODUCTION

Q. Please state your name, title and business address.

A. Geoffrey Marke, PhD, Economist, Office of the Public Counsel ("OPC or "Public Counsel"), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Geoff Marke that filed rebuttal testimony in GR-2017-0215 and GR-2017-0216?

A. Yes.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of this testimony is to respond to the rebuttal testimony regarding:

- Pay for Performance
  - Laclede Gas Company & Missouri Gas Energy ("Laclede," "MGE" or the "Company") witness C. Eric Lobser
  - Missouri Public Service Commission Staff witness ("Staff") Brooke M. Richter
- Alagasco & EnergySouth Savings
  - Company witness C. Eric Lobser
- Decoupling
  - Missouri Division of Energy ("DE") witness Martin R. Hyman
  - Staff witness Michael Stahlman
  - Missouri Industrial Energy Consumers "(MIEC") witness Greg Meyer

- Rate Design
  - Staff witness Robin Kliethermes
- Energy Efficiency
  - Company witness Shaylyn Dean
- Economic Development Rider: Combined Heat and Power Pilot
  - DE witness Jane Epperson

II. PAY FOR PERFORMANCE

Q. Please provide a brief overview of the Company proposed pay for performance metrics.

A. In Mr. Lobser's direct testimony, he suggested that potentially four to six (undefined) pay for performance metrics could be chosen. Each pay for performance metric amount would equal up to plus (or minus) five basis points multiplied by the equity component of rate base established in this proceeding. These metrics would be based on differentials from, as yet, undefined baselines.

Q. Did OPC inquire into the details surrounding Mr. Lobser's proposal?

A. Yes. OPC issued several data requests for additional information regarding Mr. Lobser's proposal. For example, OPC DR-2077's question and the Company's reply is as follows:

> **Question:**
>
> Please provide a list of any and all performance metrics (e.g., call center response time) that the Company is aware of that are offered by other utilities in which an equity component of rate base is adjusted per the results.
>
> **Response:**
>
> The Company has not attempted to conduct a survey on this issue.[1]

[1] See GM-1

Additionally, OPC DR-2078's question and the Company's reply is as follows:

> **<u>Question:</u>**
>
> Does the Company expect interveners and/or Staff and Public Counsel to offer up performance metrics suggestions in direct testimony? Or will specific metrics and parameters be determined outside of the rate case?
>
> **<u>Response:</u>**
>
> Such input would be welcome by the Company.[2]

Q. Did OPC file direct or rebuttal testimony on this topic?

A. No. OPC elected not to file direct or rebuttal testimony on this topic based on the lack of detail surrounding the initial proposal and the subsequent nonresponse from intervening parties.

Q. Did the Company file rebuttal testimony on its proposal?

A. Yes. Mr. Lobser filed rebuttal to confirm the lack of responses from intervening parities to his proposal and to offer, as an alternative that:

> Because of the time constraints of this proceeding, the establishment of such metrics might be best achieved in a separate proceeding after the conclusion of these cases.[3]

Q. Please summarize Staff's rebuttal response to this Company proposal.

A. Staff witness Richter also acknowledges that the lack of substantive content from the Company regarding its proposal prevented Staff from taking a formal position. Ms. Richter states that at a minimum:

> Specific and precise definitions of the metrics and how they are measured and/or calculated should be a part of any performance incentive proposal.

And that:

---

[2] See GM-2

[3] Rebuttal Testimony of C. Eric Lobser, p. 31, 15-16.

> If a working group is organized to determine specific metrics that may be used for performance incentive proposals, Staff will participate in such a group.[4]

Q. What is OPC's position?

A. The Commission should reject the Company's proposal in total.

Q. Please explain why the pay for performance proposal should be rejected within the context of this case.

A. There are no specific metrics proposed on the record. As it stands, this is a deficient proposal without context and void of parameters. Additionally, on a practical level, it is difficult and arguably inappropriate to distill performance to a simple, and often single measure of performance. For example, assume the Company based the quality of customer service on the metric of the average length of a call with a customer. As a single measure, this metric fails to capture the quality of help given, such as whether the issue was resolved on the first call, or whether the customer was satisfied. Macro-level factors such as an economic downturn could also make employees appear to be performing to a lower standard independent of actual performance.

Q. Please explain why it is inappropriate for a future working group to be formed on this topic.

A. OPC is skeptical that a consensus could be reached and that this could become a platform for topics outside the purview of providing safe and reliable service at just and reasonable rates. Additionally, the creation of yet another "working group" without clear, agreed to deliverables or direction will further dilute the amount of finite time available to stakeholders with limited resources. Stated differently, what is the opportunity cost of providing resources and time to a nebulous topic without any framework? No doubt, there are many worthwhile, substantive regulatory issues worth exploring and investing time into. The sheer volume of regulatory

[4] Rebuttal Testimony of Brooke M. Richter, p. 4, 12-13 and 17-18.

filings and subsequent working dockets opened up in the last few years underscores this point. Given the universe of issues to be examined and the lack of interests from stakeholders on this topic, it does not appear to merit serious consideration outside the context of a rate case. Carving out a profit-inducing "pay for performance" piece as a placeholder to be examined outside of the context of the Company's rate case would also appear to constitute single-issue ratemaking as it effectively mutes all relevant factors utilized to set rates.

Not to be lost in this discussion (and stating the obvious), there is nothing preventing the Company from establishing in-house targets related to excellent performance and quality service. In fact, research suggests that better customer satisfaction has a positive correlation with rewarded ROE. For example, J.D. Power and Associates found that similar to profitability and credit ratings, customer satisfaction influences ROE. In a 2012 study, J.D. Power concluded that:

> On average, a 10-point increase in customer satisfaction, based on the 1,000-point index scale utilized by J.D. Power and Associates, is associated with a .04% increase in ROE. More notable is the finding of a .5% increase in ROE among utilities in the top quartile of customer satisfaction one year prior to a rate case, compared with utilities in the bottom quartile of customer satisfaction during the same time frame.[5]

In short, the Company is already being rewarded/penalized, in part, based on its perceived (customer satisfaction) and realized (response leakage times) performance metrics. Companies routinely cite JD Power scores or other relevant scoring factors for consideration when filing a rate case.[6] Creating a separate, isolated, profit-plus-metric outside the context of a rate case

[5]Heath, A. and D. Seldin, (2012) How customer satisfaction drives return on equity for regulated electric utilities. J.D. Power and Associates White Paper. http://www.jdpower.com/sites/default/files/How%20Customer%20Satisfaction%20Drives%20Return%20On%20Equity%20for%20Regulated%20Electric%20Utilities%20White%20Paper.pdf

[6] See Direct Testimony of Steven L. Lindsey p. 7-12.

could expose ratepayers to a "gaming" of the outcome and potentially unintended consequences.[7]

Q. Could you give an example of "gaming" the pay for performance outcome?

A. Yes. For example, a baseline three-year average rate of caller response time could be utilized to set a pay for performance target. The utility could reduce that response time average by deploying a "virtual hold" or "call deferral" software program that would artificially reduce the caller response time but also result in an inferior customer experience. Alternatively, the Company could triple its call center staff (or its outsourced 3rd-party call center staff in Texas or New York) and achieve superior results based on inflated spending. Both examples would produce distorted outcomes (an apples to oranges comparison), an inferior customer experience, and potentially a perverse "Brewster's Millions"[8] scenario where the Company is rewarded with money as a result of … spending more money.[9]

Q. Could you provide an example of the unintended consequences of an ill-designed pay for performance arrangement?

A. Yes. Introducing pay for performance financial incentives for select areas may encourage utility management to shift attention away from other performance areas that do not have incentives. This creates the very real possibility that performance in the areas without incentives will deteriorate (i.e, "teaching to the test").[10] It can also inhibit efficient utility

[7] Ariely, D. et. al (2011) Large stakes and big mistakes. *Federal Reserve Bank of Boston Working Paper:* No. 05-11 http://rady.ucsd.edu/faculty/directory/gneezy/pub/docs/large-stakes.pdf

[8] The 1985 Richard Pryor movie, *Brewster's Millions*, centered on the premise that Brewster (Pryor) has to spend $30 million within 30 days to inherit $300 million. See: https://en.wikipedia.org/wiki/Brewster%27s_Millions_(1985_film)

[9] See GM-3 for Staff's analysis of Laclede and MGE's call center declines following its recent acquisition.

[10] Gillam, S.J., Siriwardena, A. & N. Steel (2012) Pay-for-performance in the United Kingdom: Impact of the quality and outcomes framework—a systematic review. *Annals of Family Medicine*. 10:461-468. http://www.annfammed.org/content/10/5/461.full.pdf+html

planning by encouraging the Company to focus on short-term solutions, which can easily become resource intensive, contentious, litigated affairs.[11]

At the most extreme, improperly designed and minimally regulated pay for performance schemes have resulted in fraud and criminal penalties such as the recent Wells Fargo account scandal[12,13,14] and the infamous Enron Corporation scandal.[15,16]

III. ALAGASCO & ENERGYSOUTH SAVINGS

Q. What is the Company seeking in its proposed transition cost/savings calculation related to its Alagasco and EnergySouth acquisitions?

A. Mr. Lobser provides three alternative options for the Commission to consider which are paraphrased as follows:

1. The Commission could deduct half of the transition costs from the Company's savings calculation incurred to make the acquisitions. Amortized over a five-year period this would represent a $2.35 million offset;

2. The Commission could allow the Company to retain, on a one-time basis, a 50% (or 25% minimum) percentage of the cost savings; or

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[11] Lacey. S. (2015) Lies, Damned Lies and Modeling: Energy Efficiency's Problem with Tracking Savings. Greentech Media https://www.greentechmedia.com/articles/read/overcoming-energy-efficiencys-problem-with-tracking-savings#gs.b8ccQyc

[12] Reckard, R.E. (2013) Wells Fargo's pressure-cooker sales culture comes at a cost. *Los Angeles Times* http://www.latimes.com/business/la-fi-wells-fargo-sale-pressure-20131222-story.html

[13] Keller, LJ. (2017) Wells Fargo plans to close more than 400 branches through 2018. *Bloomberg*. https://www.bloomberg.com/news/articles/2017-01-13/wells-fargo-plans-to-close-more-than-400-branches-through-2018

[14] Yerak, B (2016) Illinois treasurer: State will suspend Wells Fargo business. *Chicago Tribune*. http://www.chicagotribune.com/business/ct-illinois-wells-fargo-suspend-business-20161003-story.html

[15] Niskanen, W.A. (2005) After Enron: Lessons for public policy. Rowman & Littlefield Publishers, Inc.

[16] Khan, R. (2016) There's a problem with 'pay for performance' Business Insider. http://www.businessinsider.com/theres-a-problem-with-pay-for-performance-2016-10

3. The Commission could adjust the Company's Commission-approved ROE by 10 to 25 basis points upward. [17]

Q. Staff has rejected the Company's calculation. What is the basis for the Company's appeal?

A. Mr. Lobser believes it is not "fair" from a "public policy standpoint."[18]

Q. What is OPC's position?

A. OPC supports Staff's position. For that reason and others (to be described below), OPC rejects the three options put forward by Mr. Lobser.

Q. Should the Commission be aware of any additional information?

A. Yes. On June 16, 2016, OPC filed a motion asking the Commission to issue an order opening an investigatory docket and directing Staff to investigate the acquisition of Alagasco and EnergySouth. The motion proposed that the Commission investigate whether the acquisition and proposed acquisition ("transactions") constituted a violation of a Commission order in that Spire failed to seek its prior approval for the transactions. The Commission granted the motion, and ordered the Staff to conduct the investigation and file a report setting forth the results of its investigation, including whether the transactions are within the Commission's jurisdiction. On September 1st, 2016 Staff filed its investigatory report with the following conclusion:

> **IV. CONCLUSIONS AND RECOMMENDATIONS**
>
> **A. *Conclusions:***
>
> The "not detrimental to the public interest" standard requires a cost-benefit analysis. Staff is not aware of any benefits that the transactions have or will confer on the Missouri ratepayers of Laclede and MGE; but has identified potential

[17] Rebuttal Testimony of C. Eric Lobser, p. 30, 1-19.
[18] Rebuttal Testimony of C. Eric Lobser, p. 28, 21-22 & p. 29, 1-2.

> detriments. Those detriments include higher capital costs due to Spire's debt burden, taken on to fund its acquisitions, and costs improperly allocated to Spire's Missouri operating company.
>
> **B.** ***Recommendations:***
>
> The Alagasco acquisition is complete and cannot be undone; the EnergySouth acquisition is quite small. Therefore, Staff recommends that the best way to address the detriments it has identified is in the context of a general rate case for Laclede Gas Company. Additionally, Staff will pursue a complaint against Spire for its failure to seek prior approval from this Commission for the acquisitions of Alagasco and EnergySouth.[19]

OPC also appeals to the principle of "fairness," specifically, honoring the terms of the unanimous stipulation and agreement executed by the Company and approved by the Commission in GM-2001-342 which states:

> The Laclede Goup, Inc. agrees that it 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 first requesting and, if considered by the Commission, obtaining prior approval from the Commission and a finding that the transaction is not detrimental to the public, provided that for purposes of acquisitions by the Holding Company only, public utility shall mean a natural gas or electric public utility.

Additionally, OPC also appeals "from a public policy standpoint" and has included the entire 77-page Staff investigation report in GM-4 (see also GM-2 & GM-5 for additional supporting schedules) for the Commission's consideration. Parties, including OPC, entered into the unanimous stipulation and agreement in GM-2001-342 (see GM-6) in good faith that it would be honored and exercised. It's clear from Staff's investigative report that the Company has

[19] GM-2016-0342 In the Matter of Spire Inc.'s Acquisition of EnergySouth, Inc. and Related Matters. Staff's Investigation Report p. 77.

violated those terms and that the acquisitions were detrimental to the public. Regarding the impact to Missouri customers the Staff report states:

> Yes, it has depressed the credit rating of Laclede Gas and thus increased its cost of capital which is reflected in higher rates. Additionally, Staff is of the opinion that acquisition and integration costs have improperly been allocated to Laclede Gas. Staff is also of the opinion that improper affiliate transactions are occurring on an ongoing basis between Laclede Gas and Spire and Alagasco.

As the Commission is well aware, an almost identical situation played out recently with respect to Great Plains Energy Inc.'s ("GPE") acquisition of Westar Energy.

In 2001, GPE was formed by a restructuring of KCPL, pursuant to which KCPL and GPE sought, and obtained, authority from this Commission to restructure as a holding company and wholly-owned operating subsidiary. The Commission approved that reorganization by order on July 31, 2001, in Case No. EM-2001-464. By the same order, the Commission also approved the *First Amended Stipulation and Agreement,* filed on July 9, 2001, and executed on behalf of KCPL and GPE by James M. Fischer, which states at Paragraph 7:

> **Prospective Merger Conditions**
>
> GPE agrees that it will not, directly or indirectly, acquire or merge with a public utility or the affiliate of a public utility, where such affiliate has a controlling interest in a public utility unless GPE has requested prior approval for such a transaction from the Commission and the commission has found that no detriment to the public would result from the transaction. In addition, GPE agrees that it will not allow itself to be acquired by a public utility or the affiliate of a public utility, where such affiliate has a controlling interest in a public utility, unless GPE has requested prior approval for such a

> transaction from the Commission and the Commission has found that no detriment to the public would result from the transaction.[20]

Over the past year, a series of dockets have been opened (and subsequently closed) including EM-2016-0324, EM-2016-0226, and finally EE-2017-0113 which resulted in a contested hearing in front of the Commission. Regulators and relevant parties have effectively been denied their opportunity to review the acquisitions of Alagasco and EnergySouth even though Spire entered into a similarly worded stipulated agreement as GPE did that required the Company to seek Commission approval.

Q. What are OPC's recommendations?

A. That the Commission reject Mr. Lobser's request in its entirety and order an audit of the Company's affiliate transactions and cost allocations as a result of the Alagasco and EnergySouth acquisitions as recommended by OPC witnesses Azad and Hyneman.

IV. DECOUPLING

Q. Please summarize other intervener's response to the Company's proposed decoupling mechanism.

A. Both Staff and MIEC rejected the Company's decoupling mechanism citing similar concerns as OPC. DE conditionally endorsed decoupling if it was adopted with continued energy efficiency support and a lower customer charge.

Q. Has OPC's position changed?

A. No. OPC shares the concerns outlined in Staff's and MIEC's rebuttal testimony and, like DE, supports a lower residential customer charge (specifically set at $14.00) regardless of the decoupling mechanism. To be clear, OPC does not categorically reject decoupling; however, as outlined in my rebuttal testimony, the current environment does not justify the present

[20] See also GM-7

adoption of this regulatory tool. Managing utility risk through ratemaking (outside of a rate case) is a zero-sum endeavor. To the extent that decoupling alleviates the utility's risk of revenue variability or volatility (which is the stated goal of the proposal) decoupling will result in a risk transfer to consumers who must pay additional rate adjustments. This transfer of risk should also explicitly recognize this reality in a reduction to the allowable return on equity (utility profit).

If the Commission elects to award the Company with a decoupling mechanism, OPC suggests, at a minimum, the following conditions be applied to help reduce the risk transfer to captive ratepayers:

- An initial notification to customers informing them of the decoupling process via mail, public notification for any future adjustments and a detailed explanation on the Company's website;
- Adjustments be confined to bi-annual true-ups (winter and summer) at this initial stage with filed EFIS surveillance reports similar to the electric fuel adjustment clause ("FAC") format;
- Any given adjustment should be "capped" at a 3% increase above rates set in this case with excess under-recovery carried over to future adjustments;
- Lower the residential customer charge to $14.00 in line with nation-wide natural gas averages and the other investor-owned utilities in Missouri;
- Provide an explicit provision for the Commission to account and adjust for revenue volatility due to the occurrence of an economic recession/depression;[21] and

[21] In 1991 the Maine PSC approved a decoupling mechanism for Central Main Power Company ("CMP"). Around the time of its adoption, Maine, as well as the rest of New England, was experiencing the start of a recession that resulted in lower sales levels. The lower sales levels caused substantial revenue deferrals that CMP was ultimately entitled to recover. By 1992, the recession had created a $52 million risk shift transfer from CMP to its customers. See also *Proposed Increase in Rates, Order Granting Motion to Withdraw Proceeding,* Docket No. 91-174 (Jan. 10, 1992). As well as, *Consideration of Issues Concerning ERAM-Per-Customer for Central Maine Power Company, Order Approving Stipulation*, Docket No. 90-085-A (February 5, 1993).

- Make an explicit downward adjustment to the allowed return on equity of at least 10 basis points to recognize the risk transfer from shareholders to ratepayers.

V. RATE DESIGN

Q. Staff supports the Company's proposed low income pilot rate design. What is OPC's position?

A. OPC supports the Company's proposed low-income rate design pilot and would suggest that the discount be set at the approved residential customer charge level set by the Commission in this case.

Q. Does OPC have a position on Staff's proposed consolidation of the Company's commercial customer classes?

A. OPC is still evaluating this proposal and reserves the right to adjust and comment accordingly based on information included from parties in surrebuttal if this specific issue goes to hearing.

VI. ENERGY EFFICIENCY

Q. Please provide some context, from OPC's point-of-view, for the historical justification of ratepayer-funded natural gas energy efficiency programs.

A. The following items are generally considered policy or regulatory justifications for ratepayer-funded natural gas energy efficiency programs:

- Hedge Value:
  Reduces consumer exposure to seasonal volatility in gas commodity costs;
- Demand reduction in price effect ("DRIPE"):
  Aggregate supply-demand relationship can produce price reductions;
- Defer supply-side investment (long-run marginal cost):
  Local capital distribution system upgrades minimized;

- Environmental benefits:
  Reductions in fossil fuel emissions;
- Energy and/or cost savings opportunities:
  Direct monetary savings for participants;
- Economic development:
  Helps support local contractors;
- Carbon tax and/or compliance regulation:
  Serves as a complement to all-in compliance targets (e.g., Energy Efficiency Resource Standards) and/or regulatory laws (e.g., Clean Power Plan);
- Sunk costs (if programs already in place):
  Suspending programs loses administrative and marketing costs of program activity to date; and
- Fuel selection (natural gas utility-specific):
  Provides an "equal" opportunity for natural gas utility to "competitively" attract new customers.

Q. Please provide some context why these justifications have been minimized.

A. Stable, reduced natural gas fuel prices have been a blessing for consumers but have, in turn, decreased the cost effectiveness of natural gas energy efficiency ("EE") programs. Moreover, the near certain, erasure of sweeping regulatory environmental regulation in the form of the Clean Power Plan has minimized justification of natural gas EE programs as an emission-reduction complement to electric demand-side-management programs. Finally, equity issues persist regarding high numbers of free ridership (i.e., customers who would still purchase efficient natural gas appliances regardless of whether there was a rebate) making it more difficult to justify additional rate increases for these programs in the face of potential cuts to low-income programs such as state-funded Utilicare and federally-funded LIHEAP.

Q. Does OPC have concerns if energy efficiency funding is approved without policy objectives or parameters?

A. Yes. Historically, the collaborative members[22] have successfully worked together to provide a reasonable allocation of funds and marketing to "cost-effective" measures for all customer classes. The Company, in particular, has consistently produced a transparent record of activity for members and facilitated a productive collaborative environment in which, to my memory, there have been minimal disagreements. That being said, the collaborative has also operated with a degree of uncertainty and clear lack of regulatory guidance as to how to function that has since come to light as a result of this rate case. No doubt, if funding were continued, the collaborative would benefit from having greater certainty.

As it stands, if the Commission approves funding in this case without clear policy objectives or parameters, OPC has concerns that this funding would amount to a blank check with minimal regulatory oversight or any reasonable prudency standard.

The Commission should also be cognizant that the results of the Company's third-party evaluation, measurement and verification ("EM&V") have not been formally submitted to the existing collaborative and is not scheduled to be ready until after the hearing in this case concludes. All parties are basing testimony and making recommendations in this case on limited contextual support, without clear policy objectives or appropriate parameters. All of which underscore the uncertainty of these programs and heightens the possibility of future litigation when parties are demanding that funding levels be doubled, measures be added, and carve-out programs be included while natural gas fuel prices remain low and supply is abundant.

[22] Historical participants have included (but not limited to) the Missouri Division of Energy: John Buchanan, Mary Ann Young, Sharlet Kroll and Erin Kohl; the Missouri Public Service Commission Staff: Henry Warren, Kory Boustead and Tammy Huber; the Missouri Office of Public Counsel: Ryan Kind and Geoff Marke; Laclede/MGE: Jim Travis, Jim Hearing, Mike Noack, Shaylyn Dean, Rae Lewis and Jonathan Schniper; and the Midwest Gas Users' Association: Stu Conrad.

To illustrate the current predicament stakeholders find themselves in: presently there is not an agreed-to Commission approved cost-effective test or any guidance on whether the test should be applied at the measure, program or portfolio level let alone an agreed-to budget or what would happen if that budget is exceeded or unspent. In fact, historically, the budget has never been fully spent, and OPC worries about implementing non-evidence based spending floors.

With that in mind, and based on discussions arising from settlement, OPC has drafted the following questions to help facilitate dialogue around appropriate parameters and as a bridge to clear policy objectives if the Commission approves program funding.

<u>Figure 1: OPC's outstanding questions related to natural gas energy efficiency programs</u>

1. What is the goal?
    - Is the goal to spend money? If no, what measurable deliverable should be used to gauge success?
    - What is the time frame to achieve success as determined by the measurable deliverables?
    - What happens if the program fails to accomplish those measurable deliverables within the time frame?

2. How should the budget be set and allocated?
    - Should there be a floor or cap?
    - How should it be allocated across customer classes?
    - How much should be budgeted for administrative? Marketing? Other (membership, etc…)?
    - Should the budget focus on the "most cost effective" measures?
    - Should the budget focus on the "the most diverse" set of measures?
    - Should the budget favor "measures or programs" with minimal free ridership?
    - How much of the budget should be reserved for low-income programs?
    - How should low-income landlords be classified (for purposes of future cost allocation recovery)? How much budget should be allocated for programs that target low-income landlords?
    - How much of the budget should be allocated for EM&V?

- How much of the budget for cost-effective tests?
- How much for co-delivery with an electric utility(s)?
- How should rebate incentives be set? How often can they be changed?
    - Should there be an explicit carve-out for low-income landlords? Other "programs?"
- How often should the budget be updated?

3. What cost-effective test is appropriate?
    - Should it be applied at the measure, program or portfolio level?
    - Should co-delivery be considered?
    - How often should assumptions be examined?

4. Should the measures, programs, and portfolio contain an EM&V component?
    - Should net savings be considered?
    - Process evaluation? Impact evaluation? Deemed TRM savings?
    - How often should EM&V be conducted?

VII. ECONOMIC DEVELOPMENT RIDER: COMBINED HEAT AND POWER PILOT

Q. Please summarize DE's proposal as it relates to the combined heat and power ("CHP") pilot and the potential to marry it with a discounted commercial/industrial rate to attract new load.

A. DE witness Epperson has proposed a $5.1 million CHP pilot project as well as suggestions related to Economic Development Rider and Special Contracts. Additionally, Ms. Epperson has argued that an Economic Development Rider/Special Contract could be designed around the inclusion of future CHP projects.

Q. Does OPC agree?

A. In part. If a future customer met the predetermined qualifications for a special contract and elected to finance the construction of CHP through its own funding this would be acceptable. The business case for CHP is already well-established as evidence by the number of nonratepayer subsidized CHP projects already in existence in Missouri and included in Ms. Epperson's testimony and referenced in OPC witness John Robinett's testimony. The inclusion of CHP in an Economic Development Rider or Special Contract is without merit if the CHP provision means an additional (and unnecessary) financial subsidy by ratepayers.

Q. Do you have any additional concerns or comments the Commission should be aware of?

A. OPC witness Robinett and Staff witness Eubanks have already addressed many of the concerns surrounding this proposal as it relates to promotional practice issues and unwarranted subsidization of an already proven technology. The Commission should also be aware that historically, larger CHP projects have not been dependent on local natural gas distribution companies for service but have instead relied on wholesale interstate gas pipelines. According to the American Council for an Energy-Efficient Economy ("ACEEE") 2013 Report, "How Natural Gas Utilities Can Find Value in CHP" the paper notes that:

> One challenge facing LDC's [local distribution companies] is that much of the CHP installed today is connected directly to interstate natural gas pipelines rather than the distribution infrastructure maintained by gas distribution companies (Noll et al. 2012). A recent analysis of existing CHP by the American Gas Association and ICF International showed that, of systems larger than 100 MW, about 40 to 50 percent have a direct connection to an "inter or intrastate pipelines," and for systems between 50MW and 100MW, only about 20 to 30 percent are connected to such pipelines. These systems convey no direct benefit to the local natural gas distribution systems because the revenue associated with the related gas sales is earned directly by the wholesaler of gas with which the CHP system owner maintains a contract (ICF and AGA 2013). Thus, LDCs will benefit more directly by encouraging CHP deployment at facilities like schools and hospitals rather than very large industrial operations.[23]

[23] Chittum, A. & K. Farley (2013) How natural gas utilities can find value in CHP. ACEEE. https://aceee.org/files/pdf/white-paper/chp-and-gas-utilities.pdf

Ms. Epperson had already acknowledged this point in a roundabout way by suggesting that the CHP pilot projects could be targeted at universities and hospitals.

However, even this narrowly defined demographic (universities and hospitals) has already either independently shown that CHP does not require special promotion (university) or would merely offset existing standby generation investments before the end of its useful life (hospital).

Q. Please explain.

A. As the Commission is well aware, Washington University ("Wash U.") in St. Louis has already invested in a CHP system on its campus as it works to meet its self-imposed emission reduction goals for 2020.[24] In fact, Wash U.'s Assistant Vice Chancellor for Sustainability, Phil Valko, presented the universities sustainability milestones and spoke at length to the Commission and various stakeholders of its achievements at the 2016 MEEIA Statewide Collaborative at the Governor's Office Building (see GM-8).

Wash U. did not require Spire ratepayers to subsidize its CHP investment. That investment was based on an informed financial decision by its sustainability board. Clearly it would be inappropriate to suggest that there should be any sort of cash transfer from captive natural gas ratepayers to a private institution whose endowment approaches $6.5 billion *and* has already financed one CHP investment. This is especially true given the plethora of customer comments from low income and fixed income customers who have expressed concern at being able to shoulder the additional burden of Spire's large rate request. If Ms. Epperson were envisioning other universities, no doubt, Wash U. could serve as viable case study for those schools interested in examining the cost and benefits of CHP. And of course, existing channels of financial incentives already exist, in part, through Ameren Missouri's or KCPL and GMO's Commission-approved MEEIA commercial/industrial custom programs.

[24] Washington University in St. Louis. (2017) Office of Sustainability: 2020 Emissions Goal https://sustainability.wustl.edu/vision-progress/energy-emissions/greenhouse-gas-emissions/

Regarding hospitals, it would surprise OPC if there were any hospitals in Spire's service territory that have not already invested heavily in back-up standby electric power in case of power interruptions.[25] These existing investments for standby generation minimize the attractiveness of deploying CHP at facilities under the pretense of reliability and no doubt raise cost-benefit concerns by prematurely retiring existing assets.

CHP does not need special promotion nor does it need to be included in any tariff revision regarding future Economic Development Rider's or Special Contracts for Spire moving forward.

Q. Does this conclude your testimony?

A. Yes.

[25] See also Rules of Missouri Department of Health and Senior Services 19 CSR 30-20.030(25)(E): Standby Emergency Electric Service.