

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

In the matter of Laclede Gas Company's)
application to establish depreciation rates for) **Case No. GO-2012-0363**
Enterprise Computer Software Systems)

POST-HEARING BRIEF

OF

LACLEDE GAS COMPANY

September 14, 2012

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LACLEDE GAS COMPANY'S POST-HEARING BRIEF

COMES NOW Laclede Gas Company (“Laclede” or “Company”), and files this Post-Hearing Brief, and in support thereof, states as follows:

INTRODUCTION

Since early 2011, Laclede has been involved in the planning, design, and preliminary implementation of a new enterprise information management system (“EIMS”). The Company is implementing EIMS so that it can continue to provide high quality utility service to its customers. As a result of this initiative, the Company will, for the first time in its history, have a fully integrated and comprehensive information management system that will be capable of providing enhanced accounting tools, cross-functional communication, data tracking and analyses, and other essential business processes in the areas of customer service, billing and information, financial performance, supply chain/inventory, human resources and asset management. The transformative nature of this undertaking to Laclede and how it operates is such that the Company and its employees refer to it as the Company’s “newBLUE” project. (Direct Testimony of Glenn W. Buck, Exh. 2, pp. 2-3)

As the Company begins to implement the various components of EIMS, it is critical that Laclede have an authorized, Commission-approved depreciation rate effective for the beginning of the Company's next fiscal year (October 1, 2012) that can be applied to this kind of transformative information management asset. Currently,

Laclede has only one depreciation account in effect for software, and it is wholly inapplicable to the kind of fundamental restructuring of information management assets represented by EIMS. Indeed, given their cost and complexity, it has been the Company's experience that such wholesale changes to its information management systems for core functional areas only occur over intervals spanning from 15 to 25 years. (Exh. 2, p. 6, ll. 1-9) Accordingly, in this case, Laclede is asking the Commission to establish and approve a new depreciation subaccount and rate for EIMS.

Laclede's request for a new subaccount and rate for EIMS is a fairly simple and straightforward matter. Accordingly, Laclede and Staff were easily able to reach an accord that EIMS should be assigned to new subaccount 391.5, and depreciated over 15 years at annual rate of 7%.

Seeking a new subaccount and depreciation rate for an information management system asset that is not properly assignable to other asset accounts is also very similar to other requests the Commission has approved in the recent past. For example, in August 2009, the Commission approved a new transportation subaccount for MGE, because its large trucks did not fit into the same category as its cars and small trucks. In February 2012, in a Missouri American Water Company ("MAWC") case, the Commission approved a depreciation rate for an information management asset virtually identical to EIMS. Finally, in June 2012, the Commission issued a depreciation authority order in a Kansas City Power & Light ("KCPL") case for new assets that were not properly assignable to other asset accounts.

However, this case has been subjected to a motion for summary determination, three rounds of testimony, more than a half day hearing, and now briefing, apparently all because the Office of the Public Counsel ("OPC") lost a depreciation issue in an

AmerenUE case that is inapplicable to the matter raised here by Laclede.¹ This case, Case No. ER-2008-0318, will be referred to herein as the “Ameren Case.” As will be explained in more detail below, the differences between Laclede’s case and the depreciation issue in the Ameren Case are legion. (See Exh. 3, Schedule 1)

In effect, even though Laclede’s request is closely analogous to other requests approved by the Commission, OPC asks the Commission to rule against Laclede in order to avenge a loss that OPC suffered in an inapplicable case. Laclede agrees with OPC that the Commission should make a decision “consistent with its treatment of depreciation expense” in other cases. (Tr. 35, ll. 21-23) In doing so, the Commission should apply the rationales from the MGE, Missouri American Water and KCPL cases referenced above, and approve the positions agreed to by Staff and Laclede in this case. In fact, even OPC conceded during the hearing that there would be no basis for the Commission to reject the relief requested by the Company in this case should the Commission determine that there is no existing depreciation rate that fits the EIMS investment (Tr. 134, l. 22 to 135, l. 5). Laclede respectfully submits that such a conclusion is inescapable based on what the undisputed record says about the unique cost, enterprise-wide scope, complexity, and integrated nature of this new and unprecedented system.

In addition to running afoul of basic principles of sound depreciation accounting, acceptance of OPC’s position that a 20% rate should be applied to this asset would also result in an outcome that is contrary to the interests of Laclede’s customers. In effect, such a result would force current customers over the next five years to pay for an

¹ In his opening statement, counsel for OPC lamented that the outcome of the Ameren Case “was a big loss for my office.” (Tr. 35, l. 1) He pointed out that OPC had gambled its limited resources on hiring a consultant to testify that the Callaway Plant’s extended useful life should result in a decrease to its depreciation rate. He claimed that the Commission decided not to change the rate because OPC’s request was “analogous” to single issue ratemaking.

investment that is likely to provide service for at least fifteen years, would artificially increase Laclede's rates in its next rate case by millions of dollars more than is necessary at a time when the Commission is seeking to help vulnerable customers afford their utility service, and would send Missouri utilities the counterproductive message that they will be penalized financially if they make the mistake of making new investments aimed at maintaining and enhancing the quality of the services they provide to their customers. None of these results serve the interests of Missouri consumers.

ISSUES

Laclede sets forth below the two issues in this case, and will address its argument to each issue in turn.

Issue No. 1: Should the Commission grant Laclede's request for authority to establish a new depreciation rate for its Enterprise Information Management System ("EIMS")?

Issue No. 2 If the answer to 1 is yes, what depreciation rate should the Commission order for EIMS?

ARGUMENT

Issue No. 1: Should the Commission grant Laclede's request for authority to establish a new depreciation rate for its Enterprise Information Management System ("EIMS")?

The Commission should grant Laclede's request, as reflected in its surrebuttal testimony and Position Statement, to allow Laclede to book the costs of EIMS to a new subaccount, account 391.5, and to establish a new 7% rate for that account. First, the Commission has unquestioned authority to establish a depreciation rate in this proceeding for a new asset that doesn't fit into any current account – a point that even OPC has

conceded. Second, the evidence clearly demonstrated that Laclede has conducted a study to determine the expected useful life of EIMS, that an expected useful life of 15 years for the EIMS is appropriate, and that none of Laclede's existing depreciation rates or accounts accommodate such an investment. Third, despite OPC's stated concerns, setting a depreciation rate for EIMS will not affect rates, and does not constitute prohibited single issue ratemaking. Fourth, contrary to OPC's argument, a full depreciation study is not needed to establish a depreciation rate for EIMS. Finally, seeking a new subaccount and depreciation rate for the new EIMS asset does not violate the stipulation and agreement in Laclede's 2010 rate case.

The Commission has the authority to establish a new rate for EIMS.

There is no question that the Commission has the authority to establish a depreciation rate for a new type of asset or for an asset that doesn't fit into any current account. Section 393.240 of the Revised Statutes of Missouri authorizes the Commission to ascertain and determine and by order fix proper and adequate depreciation rates. The Commission acknowledged this authority in its order granting accounting and depreciation authority orders for certain KCPL assets that were not properly includible in other accounts. *See re: KCPL*, File No. EO-2012-0340 (the "KCPL Bridge Case"), Order Granting Application, dated June 27, 2012, pp. 2,4. Further, at hearing, OPC Witness Ted Robertson also agreed that if EIMS was a new investment for which there was no depreciation rate, then the Commission could order a depreciation rate in this case. (Tr. 134, l. 22 to 135, l. 5)

The evidence clearly demonstrated that EIMS is a new asset that does not fit into any of Laclede's current asset accounts. EIMS consists of a number of systems that cover the large majority of Laclede's business. This includes:

- Oracle Enterprise Business Systems – core system functionality including accounting, reporting, payment processing and supply chain functionality (targeted implementation: Q4, calendar 2012)
- PowerPlant – a utility-focused suite of applications supporting fixed asset and tax accounting (Target - Q4, calendar 2012)
- Oracle Customer Care and Billing – supporting all customer-facing functionality including billing, collections, and customer service functions (Target Q3, calendar 2013)
- IBM Maximo - Enterprise asset management and workflow system (two phased implementation targeted for Q1 and Q3 2013)

(Exh. 2, Schedule GWB-D1)

As Laclede witness Glenn Buck testified, Laclede is seeking to establish a new depreciation rate for its brand new investment, because there simply isn't a class with a currently applicable depreciation rate. (Exh 2, p. 12, ll. 14-16) That is because Laclede currently has only one depreciation account in effect for software (an account with a five year life), and it is wholly inapplicable to the kind of fundamental restructuring of information management assets represented by EIMS. (*Id.*, p. 6, ll. 4-6) Mr. Buck added that there is no simply no factual basis that would support applying the existing 20% depreciation rate for computer software to the kind of enterprise-wide integrated replacement of the Company's information management system represented by EIMS. While a five year service life may be appropriate for a desktop software upgrade from say Microsoft Office 2003 to Microsoft Office 2007, it doesn't begin to reflect the service life that can be expected for a massive upgrade affecting over 80% of the Company's information systems functions. (*Id.*, p. 12, l. 22 to p. 13, l. 5)

Mr. Buck noted that although the Company has never implemented information systems upgrades as comprehensive and massive as EIMS, other large system upgrades that the Company has made in the past three decades have experienced service lives far in excess of 5 years. (*Id.*, p. 13, ll. 10-12) For example, the Company's current Customer

Information System was first placed in service in 1987 or approximately 25 years ago. Other major information systems, including the Company's Walker Accounting and MMS (accounts payable and materials management) systems, have been in service for 15 to 20 years. Given this history and the basic purpose of depreciation (which is to match cost recovery with the period over which an asset is likely to be in service and provide customer benefits), the current five year service life for computer software is plainly inapplicable to this new investment based on any reasonable assessment of the new system's probable service life. (*Id.*, p. 13, ll. 13-23; Exh. 3, p. 4)

Laclede witness John Spanos is a depreciation expert with extensive experience in depreciation-related matters. (Exh. 1, pp. 1-6) Mr. Spanos testified that EIMS is quite different from other software applications that Laclede currently has in plant in service. Because assets should be classified with homogeneous assets with similar life characteristics, EIMS should therefore not be classified in the five year software account, but should be in a separate account. He agreed that subaccount 391.5 was appropriate for this purpose. He also testified that other utilities that have implemented EIMS-like assets have all depreciated them in a separate subaccount, as no other existing assets were comparable. (Exh. 1, p. 7, l. 24 to p. 8, l. 18)

Staff witness John Robinett also testified that the EIMS asset differed significantly from other computer assets in Laclede accounts, and that EIMS will have a substantially longer life expectancy than the five-year life in Laclede's current computer software account. (Exh. 4, p. 4) His view was based on Staff's site visits of five other enterprise information management systems and review of assets similar to EIMS in other companies' FERC Form 2 documents. (Exh. 5, p. 2, l. 12 to p. 3, l. 2) Mr. Robinett

considered the technology upgrade to be comparable to a change from an 8-track tape player to an MP3 player. (*Id.*, p. 2, l. 1-2)

OPC has argued that this is not a new type of asset, but simply a technological upgrade that replaces an existing computer system. OPC says that EIMS performs the same functions (e.g., customer service, billing, asset management, accounting) that are already being performed by legacy systems; EIMS just performs them better and more efficiently. However, the evidence showed that the breadth and scope of EIMS, along with the way its components are integrated render it different from any software Laclede has previously acquired. It is not just the technological improvement, but the integration of business processes across the organization that will transform Laclede's operations and really sets EIMS apart from the stand-alone components in the legacy system. (Exh. 3, p. 8, ll. 1-8; Exh. 1, p. 6, ll. 16-21, p. 9, ll. 17-20; Tr. 44, ll. 11-14)

A major flaw in OPC's argument is that EIMS does not just perform a similar function to a legacy asset, it performs an *enhanced* function to a *host* of legacy core system components. So it cannot be compared to any particular asset the Company has, or has ever had – EIMS is truly unique. (Exh. 5, pp. 3-4; Tr. 59, ll. 9-11; Exh. 2, p. 13, ll. 10-23; Exh. 3, p. 4; Exh. 7, p. 11, l. 12 to p. 12, l. 10.) As demonstrated at the hearing, once upon a time the mule and cart transported Laclede service technicians and their tools and equipment to work sites.² Later, one asset, the service truck, was introduced to replace two assets, the mule and cart. The truck performed the same function of transporting service technicians and their tools and equipment to work sites, but it is undisputed that the truck is a different asset with a potentially different useful life than either the mule or the cart or both. (Tr. 132-34; Exh. 3, p. 8, ll. 10-12) Likewise, EIMS

² The mule was sometimes inaccurately referred to as a horse.

is a different asset with a different service life than any of the software components it replaced.

Another flaw in OPC's argument is that, even assuming, *arguendo*, that EIMS replaced an asset that was performing the same function, that does not mean that the assets are the same or belong in the same asset account. There are a variety of assets that may fall under the same general category, but are categorized in different subaccounts because they have significantly different service lives. An example is Laclede's transportation equipment. Transportation Equipment – automobiles (392.1) are simpler, less expensive vehicles that have been assigned a 6 year life. Transportation Equipment – trucks (392.2) are also vehicles, but are more complex, more expensive and more time consuming to construct. These trucks have been assigned an 11 year life. EIMS is like the truck version of software; it is much more expensive and complex than simpler software assets, such as desktop software. However, where Laclede has two subaccounts for vehicles, it currently only has one for software. In effect, Laclede has the automobile version of software, but not the truck version. In this case, Laclede is simply asking the Commission to approve a new subaccount for an asset that clearly does not fit in the only account that might apply. (Exh. 2, p. 13, l. 21 to p. 14, l. 10)

Another good example of two similar assets that don't belong in the same account can be seen in Cowboys Stadium in Arlington, Texas. There are numerous televisions in that stadium. Most are small TVs that likely have service lives of several years. However, there is also a TV that stretches more than 50 yards over the middle of the field at a cost of \$40 Million. It is not reasonable to believe that the Dallas Cowboys would replace a \$40 million TV on the same schedule that it replaces the smaller TVs around the concession stands. (Exh. 3, p. 8, l. 22 to p. 9, l. 4) Likewise, it is unreasonable to

expect that Laclede would replace a \$60 million integrated suite of computer systems on the same schedule that it replaces desktop software and the like.

Perhaps the most significant flaw in OPC's position, however, is the glaring gap between OPC's advocacy of a 5 year service life for the EIMS investments in this case and its representation to the Commission just a few months ago that it was reasonable and appropriate to establish a 5% depreciation rate and 20 year service life for a nearly identical system being implemented by MAWC. OPC tries to obscure this glaring inconsistency by claiming that this depreciation treatment was part of a negotiated settlement that may have involved certain trade-offs and that it is inappropriate in any event for Laclede to even reference this depreciation result since it is the byproduct of a settlement. Taking the latter argument first, the Commission should not give any credence to OPC's argument that there is something untoward about Laclede mentioning the depreciation result in the MAWC case. From the outset of this proceeding, OPC itself has repeatedly supported its arguments by referencing the inapplicable 20% depreciation rate that was established as a direct result of the Commission's approval of prior Laclede settlements. Needless to say, OPC should not be permitted to use settlement results as both a sword and a shield, depending on which tactic is most favorable to its position. Instead, both results may be considered by the Commission and since the result in the MAWC case is, by its own terms, clearly applicable to the kind of investment under consideration, it is clearly more relevant. (Exh. 3, p. 6, 1.16 to p. 7, 1.12)

In terms of OPC's first argument that the MAWC depreciation result should be ignored because it was part of a "black box" settlement involving trade-offs of various issues, such a position fails to give any recognition to the Commission's inherent duty to

determine that the terms of a settlement are just and reasonable – a duty that exists regardless of what the parties may have agreed to. Given this duty, it is very difficult to believe that any party, or the Commission itself, could have found it reasonable, even as a matter of settlement, to endorse a depreciation rate for that utility’s enterprise information management system that was only one-fourth of what they believed it should have been (i.e. 5% vs. 20%), let alone a service life that was four times longer than what they thought was appropriate (i.e. 20 years vs. 5 years). That is the highly unlikely conclusion, however, that one would have to accept to reconcile the MAWC decision with OPC’s current position in this case. As Laclede witness Buck testified, the far more plausible explanation is that the parties and the Commission simply endorsed an outcome in the MAWC case that was within the range of a realistic assessment of the probable service life of this kind of an asset – a result that can also be achieved here by adopting the depreciation recommendations of the Company and Staff in this case. (Ex. 3, p. 5, l. 20 to p. 6, l. 15).

Laclede has conducted a study and proved the expected useful life of EIMS.

The evidence clearly demonstrates that a study has been conducted on the expected useful life of EIMS. Laclede’s expert depreciation witness, Mr. John Spanos, performed the same analysis of the EIMS asset that he would perform if he was doing a full depreciation study.. He obtained an understanding of the nature of the EIMS asset being acquired by Laclede, and compared it to industry treatment of similar enterprise-wide software systems across the country. In doing so, Mr. Spanos was able to determine a reasonable service life characteristic that was appropriate for this asset. He found that the most commonly used life for this type of system is 12-15 years, although a few companies, including Missouri American Water, have used lives as long as 20 years.

(Exh. 1, ll. 12-23; Tr. 45, ll. 3-23) Mr. Spanos added that when he re-evaluates EIMS as part of a full depreciation study in a rate case, he will simply update the same information he has already acquired to see if there is any reason to change his determination. (Tr. 45, l. 24 to 46, l. 5) Given the fact that such depreciation study will be performed only a few months after the study done in this case, there is no reason to believe that his view will change.

Mr. Spanos' testimony agreed with the useful life of 15 years arrived at by Staff witness John Robinett, a Utility Engineering Specialist in Staff's Engineering and Management Services Unit. Mr. Robinett performed research, including review of Staff's site visits of other similar computer systems and of FERC Form 2 information. (Ex. 5, p. 2) Laclede witness Glenn Buck also agreed that a 15 year life is appropriate for EIMS, based on his extensive experience with the Company and its legacy systems. (Exh. 2, pp. 1-5; Exh. 3, p. 2, l. 12 to p. 3, l. 12)

Establishing a depreciation rate for EIMS is not single-issue ratemaking.

Customer rates will not change as a result of the Commission setting a depreciation rate for EIMS. Establishing such a rate will simply allow the Company to book depreciation expense at an approved rate as EIMS begins to be placed in service. Laclede has not asked for permission to recover these booked expenses; rather the costs of EIMS will not begin to be recovered from customers until a decision is made in Laclede's next rate case based on a review of all relevant factors, including depreciation expense. So setting a useful life and depreciation rate in this case is not ratemaking at all, single-issue or otherwise, because customer rates will not be affected. Rather, as discussed above, it is simply the exercise of the Commission's authorized function of fixing proper and adequate depreciation rates where current asset accounts do not apply.

OPC argues that Laclede should be forced to use the clearly inapplicable 20% rate based on a data processing software account (391.3) that carries a five year life. OPC's point is that using a 15 year-7% rate now will cause less of the asset to depreciate prior to the time Laclede begins to recover the asset in rates. OPC is clearly attempting to "game" the Company by forcing it to depreciate more of the asset than is reasonably justified, so customers can avoid paying for a larger portion of the asset than they would otherwise avoid paying for.

Laclede has addressed this argument by agreeing that if, in Laclede's rate case, the Commission approves a different depreciation rate for EIMS than it reaches in this case, the effect of that decision can be applied retroactively to correct the amount depreciated between the October 1, 2012 introduction of EIMS and the effective date of new rates in the rate case. In other words, customers will have the benefit of being placed in the same position they would have been had the correct depreciation rate for EIMS been in effect the entire time. Certainly, Laclede's commitment to absorb the effect of such an adjustment satisfies any concerns. And yet it did not satisfy OPC, which prefers to use the preposterously inaccurate 5 year-20% rate rather than any different, albeit appropriate, rate arrived at in either this case or in the rate case. Laclede's offer and OPC's response exposes the motivation behind OPC's position in this case. OPC is not concerned with arriving at a proper or adequate depreciation rate, as the Commission is required to do under Section 393.240 RSMo. Rather, OPC is asking the Commission to ignore the facts regarding the unique nature and expected useful life of EIMS, to ignore the law regarding the Commission's authority to fix depreciation rates and its obligation to act in a just and reasonable manner, and to take an action that will gratuitously penalize a utility for its efforts to make the kind of investments necessary to

maintain and enhance the quality of service it provides to its customers. . Laclede submits that the Commission cannot and should not act in such an arbitrary, capricious and ultimately counter-productive manner.

The Commission can and has set depreciation rates outside of rate cases.

Public Counsel may argue that the Commission is prohibited from setting depreciation rates outside of rate cases on the grounds that it would constitute single issue ratemaking. However, the Commission has disproven this argument by taking those very actions, and by doing so with either OPC's assent or non-objection. In Case No. GE-2010-0030, OPC participated in a case in which the Commission approved a transportation subaccount for MGE outside of a rate case (the "MGE Case"). (Order Granting Waiver, dated August 12, 2009) Although the matter was not in a rate case, and although MGE already had a transportation account for cars, the Commission approved another transportation subaccount for trucks, because they differed enough to justify a separate account. Similarly, in this case, Laclede seeks a new subaccount for EIMS because it differs significantly enough from other software to justify a separate account.

In the KCPL Bridge Case, discussed above, the Commission also approved new depreciation and amortization rates outside of a rate case for new assets paid for by KCPL. Finally, in case No. GO-81-62, the Commission specifically established a case to consider a utility's depreciation rates outside a rate case. (*re: Gas Service Company*, 24 Mo.P.S.C. (N.S.) 535, Report and Order, dated September 21, 1981)

OPC is also mistaken in believing that, if the Commission finds that EIMS is not a new type of asset, then the Commission is prohibited from approving an accounting or depreciation authority order establishing a new subaccount and rate for EIMS. Notwithstanding the fact that the Commission did just that in the MGE Case, OPC's

position is directly contrary to the law regarding AAOs, as decided in the seminal 1993 case, *State ex rel. Public Counsel v. Public Service Comm’n.*, 858 S.W. 2d 906 (W.D. App. 1993) (the “Sibley AAO Case”). In that case, the court approved the Commission’s action in allowing an electric utility to defer the depreciation expense and carrying cost of upgrading an existing generating facility to its next rate case in which the recovery of such costs would be considered with all other relevant factors. That is exactly the relief Laclede is requesting in this case, albeit on a more modest scale since Laclede is only asking for the Commission to establish a new and appropriate depreciation rate for a large investment, rather than actual recovery of the return of and on that investment. The Commission can simply plug in the EIMS asset from Laclede’s case in place of the Sibley generating station in the Sibley AAO Case to determine the veracity of this argument.

The Ameren Case is not applicable to Laclede’s case.

In the Ameren Case, OPC requested that the Commission lengthen the useful life of the Callaway Nuclear Plant, permitting depreciation expense to be spread over a longer period. In the previous Ameren rate case, the parties had addressed this issue and the Commission had agreed with Staff to monitor the depreciation reserve imbalance caused by the difference in life expectancy, rather than make an adjustment. In response to OPC’s request to diverge from this path, Ameren and Staff argued that it was improper for OPC to single out one depreciation rate for change without looking at all relevant depreciation rates. The Commission ruled against OPC. OPC claims that it lost the Ameren Case on single issue ratemaking grounds and that those grounds should now be applied to deny Laclede’s request to establish a depreciation rate for EIMS. OPC is mistaken.

First, while the Commission did note that singling out one depreciation rate for review was analogous to single issue ratemaking, the Commission did not end the inquiry there. Instead, the Commission acknowledged that the Callaway issue was unique and considered OPC 's evidence on the topic. Ultimately, the Commission decided on the merits to continue to monitor the Callaway asset. (Ameren Case, Report and Order, dated January 27, 2009, pp. 92-98)

Even if the Commission had ruled solely on the grounds of single issue ratemaking, the Ameren Case is still inapplicable because OPC was trying to change the depreciation life on an existing asset that had an existing rate, while Laclede is trying to establish a new depreciation rate for a new asset of unprecedented nature and scope. In addition, Laclede has committed to performing a full depreciation study in its upcoming rate case, before rates go into effect for EIMS, so the single issue ratemaking issue is eliminated. For a side-by-side comparison of all of the key differences between the Ameren and Laclede cases, see Exhibit 3, Schedule 1 on page 16.

A full depreciation study is not necessary to establish a depreciation rate for EIMS.

OPC has argued that a full depreciation study of all assets is necessary before the Commission can or should fix a depreciation rate for EIMS. However, neither OPC nor the Commission have insisted on full depreciation studies before approving depreciation rates in other cases. In a MAWC case, the Commission did not require a full depreciation study before approving an agreement, to which OPC was a party, that established depreciation rates for virtually the same asset as EIMS. (*re Missouri-American Water Company*, Case No. WR-2011-0337, Order Approving Non-Unanimous Stipulation and Agreement, dated March 7, 2012). In the KCPL Bridge Case, the Commission did not require a full depreciation study before granting a request, to which OPC did not object,

that established depreciation rates for a new bridge and various power plant equipment that was not properly assignable to other asset accounts. In the MGE Case, the Commission specifically did not require a full depreciation study before granting a waiver, again with no objection from OPC, that established a new transportation subaccount.

OPC's insistence on a full depreciation study is a red herring. As explained by Laclede witness Spanos, a depreciation study for the EIMS asset has been done in this case, and will merely be refreshed in the upcoming rate case to see if there is any reason to make a change. (Tr. 45, ll. 3-23) Unless circumstances regarding enterprise information systems somehow undergo a significant change in the next few months, the currently recommended depreciation rate will remain the same.

Nevertheless, to assuage Public Counsel's stated concerns, Laclede has agreed to conduct a full depreciation study in its next rate case, so there will be a complete study before EIMS goes into rates. This also fully eliminates OPC's concern regarding the Ameren Case, since a full depreciation study will be performed before new rates go into effect for Laclede.

Seeking a new subaccount and depreciation rate for EIMS does not violate the stipulation and agreement in Laclede's 2010 rate case.

In its Position Statement and opening statement, OPC expressed a new theory that, by asking for a depreciation rate for EIMS, Laclede was violating the Stipulation and Agreement that resolved Laclede's 2010 rate case, Case No. GR-2010-0171. In addition to being added at the last minute, this argument is misguided and seriously flawed.

First, there was no agreement at all regarding the EIMS asset because, as OPC witness Ted Robertson conceded, that asset was not even contemplated at the time of the stipulation. (Tr. 137, ll. 15-19) In addition, Laclede never agreed to refrain from asking for a new account or subaccount on any asset that, in the Company's opinion, did not fit into one of its current accounts.

While the Company agreed in its 2010 rate case to depreciation rates and customer rates, and has been accounting for and charging those rates, neither the Company nor OPC nor any other party agreed that all of those rates were permanent for some specified period of time and could never be changed. In fact, as OPC is well aware, the Company plans to file a rate case by the end of this year to establish new rates. OPC has not, and could not, argue that this is a violation of the stipulation, because no party committed that it could never respond to changing circumstances going forward.

By claiming that Laclede's request for a depreciation rate for EIMS violates the rate case stipulation, OPC is effectively asserting that there is some kind of moratorium on depreciation rates when no such moratorium exists. Therefore, it is OPC that is dishonoring the stipulation by inserting a new term, a moratorium, that OPC knows is neither explicitly nor implicitly in the contract. While Laclede views OPC's violation as misguided rather than purposeful, it is still disturbing that OPC would try to leverage its willingness to enter into settlements as a threat to dissuade the Commission from authorizing relief that Laclede is fully entitled to request. (See OPC's Position Statement in this case, filed August 8, 2012, p.3)

In summary, the Commission should authorize Laclede to book the costs of EIMS to a new subaccount, account 391.5, and should establish a new rate for that account. The Commission has unquestioned authority to do so. The evidence clearly supports the

fact that a study to determine the expected useful life of EIMS has been completed, and that both Laclede and Staff agree on that expected useful life.

At the same time, the obstacles raised by OPC in opposition to the relief requested are either inaccurate or have been addressed, or both. Despite OPC's stated concern, setting a depreciation rate for EIMS will not affect rates, and does not constitute prohibited single issue ratemaking. Nevertheless, Laclede has agreed that a different rate decided in the rate case may be applied retroactively to the pre-rate case period. Contrary to OPC's argument, a full depreciation study is not needed to establish a depreciation rate for EIMS. Nevertheless, Laclede has agreed to conduct such a study for its upcoming rate case. Finally, seeking a new subaccount and depreciation rate for the new EIMS asset in no way violates the stipulation and agreement in Laclede's 2010 rate case.

Issue No. 2 If the answer to 1 is yes, what depreciation rate should the Commission order for EIMS?

The Commission should order a depreciation rate of 7%, based on a 15 year life.

Staff witness Robinett reviewed the EIMS asset and recommended a rate of 7% and a useful life of 15 years. Laclede witness Spanos, an unquestioned expert in depreciation, also reviewed the depreciation lives of EIMS-type assets across the utility industry and found that such lives range from 10-20 years, with the greatest number of companies using a 15 year life, demonstrating a clear preference for that term.³ (Tr. 165 to 166, l. 2) Mr. Spanos therefore recommended 15 years as the most realistic and appropriate period. (Exh. 1, p. 8, l. 19 to p. 9, l. 3) He added that the five year-20% life

³ Companies using a 15 year life include Equitable Gas, National Fuel Gas Distribution (New York and Pennsylvania Divisions), Northwest Natural Gas (customer information system), North Star Electric and Gas Company, Peoples Natural Gas, and Dominion Virginia Power.

advocated by OPC violates the concepts of depreciation accounting and the systematic and rational recovery of costs. (*Id.* at p. 10, ll. 3-5) Laclede witness Buck also agreed that 7%/15 years satisfies this basic depreciation criteria.⁴ Ted Robertson is a Chief Public Utility Accountant for OPC. (Exh. 7, p. 1) He is not a depreciation expert and has never performed a depreciation study. (Tr. 130) Mr. Robertson was a clear outlier in advocating a 20%/5 year life for EIMS, as demonstrated in the chart attached hereto. In fact, it was difficult to even determine where he actually stood on the appropriate depreciation life. In his rebuttal testimony, Mr. Robertson opined that 5 years was about right, based on his review of Laclede's more recently acquired computer system applications. (Exh. 7, p. 10, ll. 1-17) Laclede's surrebuttal testimony indicated that these more recent applications were workarounds and not the core components being replaced by EIMS, which core components have been in service from 10-25 years. (Exh. 3, p. 5, ll. 1-11) Nevertheless, at hearing, Mr. Robertson initially clung to his position that 5 years was an appropriate life for this \$60+ million asset. (Tr. 135, l. 22 to 136, l. 8) However, he proceeded to contradict his testimony by admitting that major system changes like Laclede was making with EIMS can be expected to last many years. (Tr. 145, l. 24 to 146, l. 5)

As previously noted, OPC's claim that EIMS should have a 5 year life was further belied by OPC's agreement to a stipulation in the MAWC Case in which MAWC received a 20 year life for its business transformation (BT) asset, an asset nearly identical to EIMS. (Exh. 2, pp. 7, 14; Tr. 145) Of course, OPC objected to giving effect in this case to that term in the MAWC settlement, claiming that it was a "black box" settlement

⁴Originally, Mr. Buck had advocated for a 5%/20 year life to match the initial authority given to MAWC in March, but he later testified that 7% was an acceptable alternative and a more conservative life estimate. (Exh. 3, p. 2, l. 18 to p. 3, l. 5)

in which trade-offs were made on various terms. Of course, the 20-year life for the computer system is not itself “black-boxed” as it is clearly stated in the stipulation, and approved by the Commission. But notwithstanding the black box excuse, Mr. Robertson had to admit that, before the settlement, when MAWC submitted written testimony seeking a long life for its BT asset, OPC did not submit rebuttal testimony opposing it. (Tr. 144, l. 4 to 145, l. 4)

In the face of the mountain of evidence, including his own testimony, supporting a longer life, Mr. Robertson’s half-hearted attempt to argue for a 5 year life is simply not credible. In dealing with this problem, Mr. Robertson’s primary tactic was to ignore the evidence by claiming that it didn’t exist. (Exh. 8, p. 4, ll. 1-4) In the end, however, he was forced to abandon this position by conceding that evidence entered into the record by other witnesses, such as Mr. Spanos and Mr. Buck, did, in fact, exist. (Tr. 168, l. 22 to 169, l. 12)

In summary, the overwhelming weight of the evidence in this case supports a 15 year life for EIMS with a 7% depreciation rate. This rate has the assent of three of the four witnesses in the case, including the only depreciation expert. The 20% rate advocated by OPC is inaccurate, unreasonable and punitive. It is being promoted as part of a game that OPC is playing to reduce the amount of the EIMS asset that Laclede may recover in rates. Approving such a clearly inappropriate rate for EIMS would send the wrong policy message to utilities - that their efforts to upgrade technology to improve customer service will be met with financial penalties. (Tr. 70, ll. 9-14) The Commission should approve the 7% depreciation rate for EIMS recommended by Laclede and Staff, and reject the 20% rate sought by OPC.

CONCLUSION

Laclede expects to begin placing EIMS in service on October 1, 2012, and to begin to depreciate the asset effective as of that date. Laclede will not begin to recover the costs of EIMS until it obtains new rates in its rate case. In contrast to other cases where accounting authority orders have been approved, Laclede is not seeking to defer the lost depreciation expense for later recovery in the rate case. Nor is Laclede seeking to defer and recover a return on the investment for the period prior to when new rates will be effective. Both of these will be absorbed by the Company. Rather, Laclede is merely seeking a reasonable depreciation rate for a new, unusual and very expensive asset. Laclede is willing to live with this depreciation rate for the periods occurring both before and after the asset is placed into rates. Laclede is even willing to go one step further, and apply the rate approved by the Commission in the upcoming rate case to both of those periods. By granting Laclede's application, as amended in its rebuttal testimony, the Commission will say NO to OPC's effort to game the system in a counterproductive way, and YES to timely customer service improvements and reasonable depreciation rates.

WHEREFORE, Laclede Gas Company respectfully requests that the Commission accept the Company's Brief and grant the relief requested in the form of a new subaccount 391.5 for its EIMS asset, with a 15 year life and a depreciation rate of 7%.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of the Public Counsel, on this 14th day of September, 2012 by hand-delivery, fax, electronic mail or by regular mail, postage prepaid.

/s/Rick Zucker

Components' Years In Service vs. Recommended Recovery Period

