BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Laclede Gas Company's	)	
Application to Establish Depreciation Rates	)	**Case No. GO-2012-0363**
for Enterprise Computer Software Systems	)	

STAFF'S POST-HEARING BRIEF

Submitted By:

Lera L. Shemwell
Deputy Counsel
Missouri Bar No. 43792

Goldie Tompkins
Legal Counsel
Missouri Bar No. 58759

Attorneys for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751- 7431 (Telephone)
(573) 751-9285 (Fax)

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COMES NOW the Staff of the Missouri Public Service Commission (Staff) and submits its Post-Hearing Brief to the Missouri Public Service Commission (Commission), recommending the Commission approve Laclede Gas Company's (Laclede or Company) Application to establish depreciation rates. In support of its brief, Staff states as follows:

Executive Summary

In Laclede's Application to establish depreciation rates, Laclede asks the Commission for authorization to establish a new Federal Energy Regulatory Commission - Uniform System of Accounts (USOA)[1] sub-account to record the software associated with its new Enterprise Information Management System (EIMS). Laclede asserts a new account is necessary for the EIMS software because the EIMS assets are significantly different from the assets in its currently established accounts. Laclede currently has "USOA Accounts 391.1 Data Processing System and 391.3 Data Processing Software [each have] an annual depreciation rate of twenty percent (20%), [and] a five (5) year service life." (Ex. 5, 3:18-20.) In Account 391.3, "Laclede maintains data related to personal computers [software] which are replaced on a semi-regular schedule typically between five (5) to seven (7) years . . . ." (Ex. 4, 3:20-22.) Staff agrees that Laclede's EIMS assets are unlike the software in

[1] By rulemaking, the Commission has adopted the FERC Uniform System of Accounts (4 CSR 240-40.040). The purpose of the rule is to: direct gas companies within the Commission's jurisdiction to use the uniform system of accounts prescribed by the Federal Energy Regulatory Commission for major natural gas companies, as modified herein. Requirements regarding the submission of depreciation studies, databases and property unit catalogs are found at 4 CSR 240-3.235 and 4 CSR 240-3.275.

> (1) Beginning January 1, 1994, every gas company subject to the commission's jurisdiction shall keep all accounts in conformity with the Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, as prescribed by the Federal Energy Regulatory Commission (FERC) . . . . This uniform system of accounts provides instruction for recording financial information about gas corporations.

Laclede's currently established accounts and thus warrant a new account. Staff recommends the Commission authorize Laclede to establish USOA sub-account 391.5 to record depreciation for its new EIMS. Staff supports its position by demonstrating below that the Commission has statutory authority to grant Laclede's Application. In this Brief, Staff also responds to the Office of the Public Counsel's (OPC) accusation that Staff's testimony is false and explains why OPC's objections should be rejected.

I. Background and Procedural History

For the past year Laclede has been – and currently still is - in the process of implementing its new EIMS that, throughout the next year, will result in the addition of approximately $60.8 million to Laclede's rate base. (Ex. 4, 3:15-16.) Laclede has requested Commission authority to establish a separate USOA account for this investment because the current account in which it records computer software, Account 391.3 Software Processing System, contains primarily desktop software with an annual depreciation rate of 20% (5 year service life). (Ex. 4, 2:10 – 3:5.) As such, if it uses Account 391.3, Laclede would record this new software asset, into an account containing dissimilar software assets. (Ex. 4, 3: 14 - 4:16.)

To address the accounting issues associated with the recording of its EIMS assets, on May 4, 2012,[2] the Company filed with the Commission a *Notice of Intended Case Filing and Request for Waiver of 60-Day Notice*. On May 17, the Commission granted Laclede's request for a waiver and on, May 18, Laclede filed its Application to Establish Depreciation Rates for its EIMS. The Company described the EIMS as a "fully integrated and comprehensive information management system . . .

[2] Unless otherwise noted, all calendar references are to the year 2012.

capable of providing . . . cross-functional communication, data tracking and analyses, and other essential business processes . . . .” (Laclede App. 5.) In its Application Laclede requested that the Commission issue an order establishing a five percent (5%) depreciation rate for its EIMS assets and stated that the Company hoped to have a Commission-approved depreciation rate set before October 1. (Laclede App. ¶9.)

On June 6, the Commission held a prehearing conference for the Parties to discuss settlement or the setting of a procedural schedule. On June 13, OPC filed *a Motion for Summary Determination* and *Suggestions in Support of Motion for Summary Determination*, moving the Commission to deny Laclede’s request, stating, among other things, that depreciation rates “should be supported by a depreciation study filed in the context of a general rate case.” (Mot. for Summ. Det. 1.) On June 18, the Parties filed a recommended procedural schedule. Laclede filed Direct testimony on June 20. Staff and OPC filed Rebuttal testimony and Laclede responded to OPC’s Motion on July 13, and all parties filed Surrebuttal on July 30. On August 1, the Commission issued an order denying OPC’s Motion for Summary Determination. On August 16, Laclede, Staff, and OPC participated in an evidentiary hearing.

II. Staff’s Response to the Issues Raised.

Issue 1. ***Should the Commission grant Laclede’s request for accounting authority to establish a new depreciation rate for its Enterprise Information Management System (“EIMS”)?***

Issue 2. ***If the answer to 1 is yes, what depreciation rate should the Commission order for EIMS?***

Yes, the Commission should authorize Laclede to establish a new USOA sub-account for its EIMS and establish a depreciation rate of seven percent (7%) for the software assets recorded in that account .

The Commission has the statutory authority to grant Laclede's request. Further, granting the request does not constitute single issue ratemaking as a Commission decision in this case will not change current customer rates. This depreciation rate reflects the estimated use life for these assets, and is in line with the theory behind depreciation. The purpose of depreciation is to return the shareholders investment made on behalf of ratepayers at a rate equivalent to the asset's service life. (Ex. 5, 2:4-6.) Granting the request conforms with the matching principle and is in the public interest. In support of its position Staff states:

A. The Commission has statutory authority to issue accounting authority orders.

Section 393.140(4), RSMo (2000)[3] states the Commission shall: "[h]ave power in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations …. It may also, in its discretion, prescribe by order, forms of accounts, records and memoranda to be kept." These types of orders have been referred to by the Commission as accounting authority orders.[4]

Section 393.240 gives the Commission authority to require depreciation accounts and set adequate rates by order:

> 1. The commission shall have power, after hearing, to require any or all gas corporations, electrical corporations, water corporations and sewer corporations to carry a proper and adequate depreciation account in accordance with such rules, regulations and forms of account as the commission may prescribe.
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> 2. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rates of depreciation of the several

[3] Unless otherwise noted, all references to statute refer to the Missouri Revised Statutes (2000), as currently supplemented.

[4] *Order Granting Application* issued June 27, 2012, *In the Matter of the Application of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company for the Issuance of a Depreciation Authority Order relating to their Electrical Operations, Order Granting Application*, Case No. EO-2012-0340.

> classes of property of such corporation, person or public utility. Each gas corporation, electrical corporation, water corporation and sewer corporation shall conform its depreciation accounts to the rates so ascertained, determined and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund and expend such fund only for such purposes and under such rules and regulations, both as to original expenditure and subsequent replacement, as the commission may prescribe. The income from investments of moneys in such fund shall likewise be carried in such fund.

In Laclede witness, Glen Buck's Direct testimony, Buck outlines the "accounting authorizations" (Ex. 2, 5:21 –7:6.) requested by Laclede in its Application. The Commission has referred to this type of accounting request as a request for a Depreciation Authority Order.[5] Staff supports the accounting authorizations requested by Laclede because Laclede does not have an account in which it is appropriate to book its EIMS assets.

B. The Commission should grant Laclede's Application.

As demonstrated above, the Commission has statutory authority to grant Laclede's Application. The next issue, then, is whether the Commission should authorize Laclede to establish a USOA sub-account to record depreciation of its EIMS. Staff recommends the Commission do so for several reasons:

1. Depreciation is the accounting method through which a Company recovers its investment in infrastructure from its customers.

In this case the infrastructure is a new business management computer system with a cost of about $60 million. (Tr. 68:2-9) The rate at which customers pay the company back for this investment is determined by estimating the expected useful life of the asset. (Ex. 7, 5:9-11.) By collecting from customers over the useful life of an asset, customers pay for the asset as they receive the benefit from its use. If the Commission

[5] *Id.*

agrees with OPC that these assets should be depreciated over a five year use life "the financial burden on the customer would be for the next four and a half years until such time as the assets have become fully amortized, at which point the customer five years from now is going to pay nothing for a system that's going to hopefully serve them for another ten years or more" (Tr. 71:10-15). Based on Staff's investigation of the difference in the functionality of the EIMS and Laclede's current core systems, and its experience with similar systems developed by other Missouri utility companies, Staff concludes that the EIMS assets should be depreciated at a rate of seven percent (7%) over a fifteen (15) year period.

2. Depreciation accounting requires similar assets be booked in the same account.

The Commission sets a single depreciation rate for all assets in a particular account. Laclede currently books computer software assets in Account 391.3. Notably the legacy system software assets, which Laclede is in the process of eliminating are not in Account 391.3, and never were. (Tr. 54: 7-12.) Laclede explains that the newer software used to "workaround" the old system are in this account but these "workarounds" do not replace any of the core information management system. (Tr. 51:1-19.) Mr. Buck testified at hearing that the workarounds "sort of layers on top of the core systems" (Tr. 51:3-4). What is currently booked into Account 391.3 is primarily desktop software assets. (Tr. 42; 15-17.)

The primary type of asset in this account is desktop software, which has a twenty percent (20%) depreciation rate and a five (5) year useful life. (Tr. 43; 3-11.) It is appropriate for the Commission to establish a different sub-account for the EIMS for two main reasons. First, a depreciation rate of twenty percent (20%) (5-year life) is not reasonable for this type of computer system because the EIMS assets and desktop computers differ significantly. (Ex. 5, 2:2 - 3:2.) It is highly unrealistic to assume an investment of the magnitude of Laclede's new EIMS system will last only five (5) years. In contrast to desktop software, the EIMS is specifically designed to meet Laclede's business management needs. (Ex. 5, 3:3-9.) The EIMS goes well beyond maintaining basic customer information such as location, contact information, usage and payments that have been part of the data collected since the inception of the utility industry. (Ex. 5, 3:15-23.) Staff's recommendation that a new sub-account be established is based on the differences in the business management functions associated with the EIMS. (Ex. 5, 2:3-8.) There are three primary functional areas the EIMS controls: (1) customer billing and accounting, (2) asset management, and (3) payroll. EIMS systems contain and provide not only data acquisition and maintenance, but also cross-functional analytical and tracking tools. (Ex. 5, 3:20-23.)

Second, the purpose of setting a new depreciation sub-account is to separate data related to the two different types of systems and "to recognize, in the immediate time period, that the EIMS assets differ enough from traditional technological assets that they warrant a separate depreciation rate and account" (Ex. 4, 4:19-21). Staff recommends maintaining a separate account for the EIMS assets until a new depreciation study is performed, to avoid changing the composition of the entire pool of assets in Account 391.3. "Setting up a separate account allows the dollars for the new EIMS to be tracked separately and analyzed as part of a future comprehensive depreciation study to determine if the correct depreciation rate has been set for this type of equipment." (Ex. 4, 4:21-23.)

3. The EIMS has a significantly longer expected useful life than personal computer software.

The EIMS software assets have a significantly longer life expectancy than a desktop computer based on its customization to a particular business and the functions that the EIMS will be required to perform. (Ex. 5, 2: 10-16.) This determination is “based on Staff’s review and site visits this year of five enterprise information management systems currently in service or transitioning to new systems…” (Ex. 5, 2:12-14; See also Tr. 110; 9-10.) “Staff’s recommendation is also based on the functions associated with the EIMS [as the] EIMS goes beyond maintaining basic customer information…” (Ex. 4, 5:9-16.) The use life of the EIMS is in the range of fifteen to twenty years which is significantly longer than the five year expected use life assigned to the personal computers and software currently booked to Account 391.3. (Ex. 5, 2:11-12.)

In contrast, to OPC’s argument the EIMS is the same as Laclede’s current software in 393.1, and should have a five year use life, the record evidence shows that a significantly longer use life is appropriate for a system such as the EIMS., The EIMS is unlike any other asset Laclede has invested in, as it exceeds Laclede’s current system in functionality and in cost. (Tr. 67:15 - 68: 22.) The cost of the EIMS system is Laclede’s single most expensive asset to date, costing over $60 million. (Tr. 68: 2-5). Laclede’s new system is not a mere upgrade or workaround or a personal computer – items suited for a five year use life; the implementation of Laclede’s new core system is such that its implementation is in separate phases spaced months apart, and the functionality of the EIMS facilitates what the old system cannot (Ex. 5, 3: 20).

4. Staff's recommendation avoids altering the composition of an existing account.

Staff's recommendation that Laclede be allowed to establish a new USOA sub-account for its new EIMS does not change the composition of an existing account for which a previous depreciation study was conducted and for which previous depreciation rates were determined.

As it has done in the past, it is reasonable for the Commission to issue an order authorizing a utility to establish a new sub-account for different assets and order a depreciation rate, based upon an appropriate life for those assets.

5. The depreciation rate set for these assets will be reviewed regularly for accuracy and reasonableness.

It is reasonable for the Commission to establish a seven percent (7%) depreciation rate for Laclede's EIMS at this time. Staff bases its recommendation, in part, on the "matching principle" which means that the cost of providing services to ratepayers should be matched with the revenues that those costs generate." (Ex. 7, 5:17-20.) Further the reasonableness of this rate and all of Laclede's depreciation rates will be reviewed in Laclede's next rate case which is expected to be filed in December 2012. (Tr. 67:5.) "The establishment of this sub-account and its corresponding depreciation rate in this case will be reviewed in the Company's next general rate proceeding when all of the Company's plant accounting and depreciation rates will be studied and examined in their totality." (Ex. 4, 1:20-23.)

C. Staff's Response to OPC's Arguments

1. Mr. Robinett's testimony is not false or inaccurate.

Mr. Robinett states in his Rebuttal Testimony that Laclede is asking for an accounting authority order. (Ex. 5, 2:15.) Mr. Robertson responds to this in his Surrebuttal Testimony by claiming that Mr. Robinett's testimony that Laclede is requesting an AAO is, "a false and completely absurd mischaracterization of Laclede's Application . . . " (Ex. 8, 4:9-10.) Review of Commission Case No. EO-2012-0340 proves Mr. Robertson's allegation to be wrong. Recently, in Case No. EO-2012-0340 the Commission issued a Depreciation Accounting Order (DAO) to Kansas City Power & Light (KCP&L). Just as KCP&L requested depreciation rates for certain accounts in its application, in this case, Laclede has requested a single additional depreciation rate for the new EIMS.[6]

Notably, in its June 27, 2012 *Order Granting Application*, the Commission specifically referred to a DAO as an Accounting Authority Order.[7] In its Order Granting

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[6] In its *Verified Application for an Order Establishing a Depreciation Rate for the Company's New Enterprise Information Management System* on page 5, "Laclede respectfully requests that the Commission issue its Order:

(a) establishing a new subaccount (Account 391.4 Enterprise Information Management System (EIMS)) for Laclede applicable to the assets identified on Schedule 1, hereto;
(b) assigning a 5% (five percent) depreciation rate for the EIMS investments expected to be placed in-service in 2012 and 2013, as identified on Schedule 1, effective October 1, 2012, which is the beginning of Laclede's new fiscal year;
(c) requiring Laclede to conduct and file a depreciation study in consultation with Staff in the next general rate case proceeding filed by Laclede after it completes implementation of the new system;
(d) specifying that subaccount 391.4 will accrue depreciation expense for the EIMS system at a 5% depreciation rate until the Commission orders a different depreciation or amortization treatment for these assets.
(e) specifying that no party shall be bound to recommend this rate in a future proceeding and that this Order does not address the prudence of investment or amount of investment.

[7] *In the Matter of the Application of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company for the Issuance of an Depreciation Authority Order Relating to their Electrical Operations*. EO-2012-0340,(2012).

Application, the Commission explained KCP&L's request: "[t]he application seeks an order setting depreciation rates for certain accounts." The Commission further describes KCP&L's request saying: "In Commission practice, such an order is called an accounting authority order." On that same page of its *Order* the commission explains that : "[i]n commission practice, that species of accounting authority orders is called a depreciation order." (Ex. 9, 2.)

Mr. Robertson's sworn testimony is false. When questioned under oath at hearing about the Commission's statements and rulings in EO-2012-0340, Mr. Robertson answered ". . . this is the first time I've ever seen it referred to or seen a depreciation authority order as an accounting order, an AAO order . . . So I'm not sure the judge or whoever wrote that order fully understood that – the differences between the two . . . I don't believe it's accurate." (Tr. 171:15-172:5.)

2. Granting the Application would not constitute single issue ratemaking, nor does the Commission require a full depreciation study to decide this matter.

First, a Commission order in this case will not change any customer rates. Secondly, in deciding this matter, the Commission is exercising its authority under §393.140(8), which provides that the Commission shall:

> Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person and have power, after hearing to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.

This statute does not contain any express standard for the Commission's exercise of this authority so it is, therefore, committed to the Commission's sound discretion. The Commission has broad discretion and in reviewing its exercise of that discretion the courts consider whether the Commission had a rational basis,[8] or was impulsive, or unpredictable.[9] In this case the Commission has a full record on which to rationally and reasonably base its decision.

3. The EIMS does not replace software assets that currently reside in USOA Account 391.3.

OPC argues that Laclede's new (EIMS) software replaces existing software that currently provides Laclede's core enterprise software functions. (Tr. 137, 15-19.) In response to a question asking if Laclede was still using the "old legacy systems" (Tr. 53: 23-24) Mr. Buck testified that they were. (Tr. 53:25.) When asked if these legacy systems were still in Accounts 391.1 and 391.3 (Tr. 54:1-2) Mr. Buck stated these assets were never actually in either of those accounts. "So [the] long and short of it is that our CIS system was not capitalized through a gas plant in service account." (Tr. 54: 20-22.) So there was no software from Laclede's legacy system in Account 391.3 to be replaced by the EIMS. OPC's argument is incorrect.

4. The Stipulation and Agreement in Case No. GR-2010-0171 did not address a depreciation rate for the EIMS.

Laclede's request is not a violation of the Stipulation and Agreement entered into in Case No. GR-2010-0171 because the EIMS software was not contemplated at the time the parties entered into the Stipulation and Agreement, so no depreciation rate was set for these assets.

CONCLUSION

By statute, the Commission may inspect the books and records of Laclede and may prescribe the way Laclede keeps those records. The Commission has control over

8 *State ex rel. Division of Transportation v. Sure-Way Transp., Inc.* 948 S.W. 2d 651, 655 n. 4 (Mo.App. 1997.)
9 *Id.*

the entry of certain utility assets into those records. This is one of the ways in which the Commission exercises its statutory duty to set just and reasonable rates. Utility accounting matters are particularly within the Commission's jurisdiction as the regulator of investor owned Missouri utilities. Pursuant to this authority the Commission has adopted the FERC USOA.

Not only is it lawful, it is reasonable for the Commission, based on the record evidence, to authorize Laclede to establish a USOA sub-account 391.5 to record its EIMS assets. It is in the public interest, in conformance with the matching principle and the evidence presented in this case, for the Commission to approve a seven percent (7%) depreciation rate for these software assets to be recorded in this account.

Respectfully submitted,

/s/ Lera L. Shemwell
Lera L. Shemwell
Deputy Counsel
Missouri Bar No. 43792

/s/Goldie Tompkins
Goldie Tompkins
Legal Counsel
Missouri Bar No. 58759

Attorneys for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751- 7431 (Telephone)
(573) 751-9285 (Fax)
lera.shemwell@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, e-mailed or transmitted by facsimile to all counsel and parties of record this 14th day of September, 2012.

/s/ Lera L. Shemwell