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October 30, 2002

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

FILED³
OCT 30 2002

Re: Case No. GR-2002-356

**Missouri Public
Service Commission**

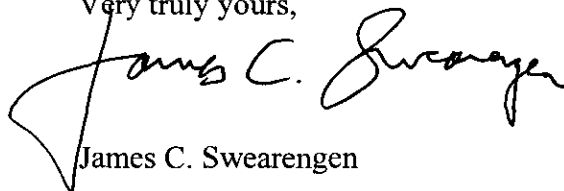
Dear Mr. Roberts:

Enclosed for filing on behalf of Laclede Gas Company, please find an original and eight (8) copies of a Response to Staff's Reply and Request for Hearing.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Very truly yours,


James C. Swearengen

JCS/lar

Enclosure

cc: All Parties of Record

FILED³
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Missouri Public
Service Commission
2-356

LACLEDE GAS COMPANY'S RESPONSE
TO STAFF'S REPLY AND REQUEST FOR HEARING

1. On October 22, 2002, the Company filed tariffs to implement the terms of the Stipulations and Agreements that had been approved by the Commission in its October 3, 2002 Order in this proceeding. On October 24, 2002 the Staff filed a Motion to Suspend the tariffs, alleging that they were not in compliance with the Commission's Order. In its Motion, the Staff also requested that the Commission consider its Motion at its Agenda Meeting on Tuesday, October 29, 2002. According to the Staff, addressing its Motion by this date would still enable the Company to file and have tariffs approved close to the November 1, 2002 effective date that, as Laclede has previously pointed out, had been affirmatively recommended by all of the parties to the case and that, from the Company's perspective, was a key financial element of the settlement. (*See* paragraph 3 of the Second Amended Stipulation and Agreement, as approved by the Commission in this case).

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Commission's Order and the Stipulations and Agreements approved thereby, including Staff's assertion that the tariffs would permit the Company to receive revenues in excess of the \$14 million amount authorized by the Commission in its Order.¹ Although the Company explained in detail why it disagreed with Staff's assertions and why it believed its tariffs were, in fact, in compliance with the Commission's Order, it nevertheless presented three options for the Commission's consideration that would accommodate Staff's concerns while still permitting the tariffs to go into effect on November 1, 2002, the date recommended by all the parties in the Stipulations approved by the Commission. The Company also requested that the Staff respond to its recommended options by October 28, 2002, so that the Commission would have the benefit of Staff's views by the October 29, 2002 Agenda Meeting.

3. The Staff did not accommodate the Commission. Instead, the Staff filed its Reply sometime after the Agenda Meeting had commenced. And in contrast to its previous Motion, which contemplated the Commission deciding this matter on an expeditious basis based on the parties' pleadings, the Staff now suggests in its Reply that a hearing is required to resolve this matter. The Staff further suggests that the Company not only be precluded from having tariffs become effective by the parties' recommended effective date of November 1, 2002, but that such tariffs be suspended beyond November 22, 2002, presumably so that some hearing can be held at some point in the future. In short, because the Company did not fully and completely acquiesce in Staff's view and

¹ Inexplicably, the Staff states at page 3 of its October 29, 2002 Reply in this case that Laclede never asserted in its Response that the rates in its compliance filing are designed to collect only the \$14 million authorized by the Commission. Laclede would direct the Commission's attention to the bottom of page 2 and top of page 3 of its Response in which it expresses its strong disagreement with Staff's assertion that the Company's compliance rates would produce an additional \$1 million above the \$14 million level authorized by the Commission.

only that view of what complies with the Commission's Order and the Stipulations and Agreements in this case, the Staff now seeks to deprive the Company indefinitely of the benefit of any rate increase whatsoever, as well as the benefit of all of the other elements of the Stipulations and Agreements that the Company bargained for and made significant concessions to achieve. Moreover, the Staff seeks to do so, even though the Company has gone out of its way to develop and propose options that would permit its tariffs to go into effect while still providing an avenue for accommodating Staff's concerns.

4. Laclede does not believe it is either fair or appropriate to suggest that the only remedy a utility has in a situation where it disagrees with Staff as to whether tariffs are in compliance with a Commission Order is to "buckle under" to Staff's view of the world or face losing millions of dollars in revenues that it bargained for and is entitled to receive pursuant to Agreements approved by the Commission. Given that belief, the Company very much appreciates the Commission's willingness to consider at its next agenda meeting the various options that Company has proposed in an effort to accommodate Staff's concerns while still permitting Laclede's tariffs to become effective on the November 1, 2002 effective date that was recommended by all the parties. Laclede also appreciates the Commission's prompt scheduling of an on-the-record presentation for Monday, November 4, 2002 to address any remaining matters that may need to be decided.

5. As the Commission goes about that task, Laclede would simply request that it consider whether Staff has presented anything substantive in its Reply to support its claim that the tariffs filed by the Company are not in compliance with the Commission's Order and that each and every one of the options proposed by the

Company for permitting the tariffs to go into effect by November 1 should be rejected by the Commission. Laclede respectfully submits that the Staff has not offered anything substantive to support its position on these two critical matters.

Response to Compliance Arguments

6. As to the compliance issue, it is important to note that in neither its Reply or the Memorandum attached thereto, does the Staff dispute the Company's assertion that the 2,520,000 therms which Staff seeks to add to block one were *never* included by the Company in either its direct filing in this case or in the derivation of the weather mitigation rate design and rates that were proposed by Laclede witness Michael T. Cline in his rebuttal testimony and ultimately adopted by both the parties and the Commission in this case. In fact, the Staff specifically states at page 1 of its Memorandum that it "agrees that the Company never included in block one any of the therms in question in block one." Instead, Staff's only criticism seems to be that the Company included *more* therms in block one for purposes of its compliance tariffs than what the Company had previously used in developing its rate design. (Staff Memorandum, pages 1 and 2). According to Staff, these additional therms (which it should be noted resulted in a lower rate) reflected Staff's calculations for customer growth and the normal annualized heating degree days agreed upon by the parties, but did not include the 2,520,000 therms that Staff asserts should be included in block one. What Staff ignores, however, is that unlike the 2,520,000 therms in dispute, the therms included by the Company were necessary to comply with other elements of the Stipulation and Agreement and did not operate to diminish the level of weather mitigation protection that the Company had bargained for

and received when its rate design was adopted by the parties and the Commission.² Under such circumstances, Laclede is at a loss to understand how these observations in any way invalidate the Company's assertion that inclusion of the 2,520,000 therms in block one is contrary to the parties' and the Commission's adoption of weather mitigation rate design as proposed and described by the Company.

7. Even more perplexing, however, is Staff's failure to deal with the fact that the block one therms used in the Company's compliance filing were submitted to Staff and the other parties to this case less than a week after the final Stipulation and Agreement in this case was executed and before the on-the-record presentation in this case was held and the stipulations were approved by the Commission. The Staff does not deny that such information was presented to it or that it was conveyed by the Company with representations that it reflected the billing determinants and rates agreed upon by the parties for the residential class. Instead, Staff simply claims that the block one therms for the Residential Class were submitted with 24 sheets of information and rate calculations that made it difficult for Staff to locate or concentrate on the therms that were being included in block one. (Staff Memorandum, p. 2). The fact is, however, that the block

² The Staff cannot and does not dispute the Company's contention that the effect of Staff's allocation of an additional 2,520,000 to the first block is to reduce the level of weather mitigation protection produced by the rate design that Laclede proposed and that the parties adopted. Instead, Staff simply asserts that "no specific level of weather mitigation was specified in the stipulation." Staff Memorandum, p. 2. This is nothing less than a wholesale repudiation of paragraph 2 of the First Amended Partial Stipulation and Agreement that explicitly adopted the "weather mitigation rate design as set forth and described in the rebuttal testimony of Michael T. Cline." In both his rebuttal and surrebuttal testimony – testimony that was available to the parties at the time the rate design agreement was reached -- Mr. Cline had repeatedly quantified the level of additional weather mitigation protection that would be achieved by his rate design. For example, at page 3 of his surrebuttal testimony, Mr. Cline presented a table showing that the Company's rate design would eliminate 85% of weather related losses compared to the existing structure. That overall number for residential and C&I customers was premised on achieving 88% protection for the Residential Class, a figure that would be reduced to 80% in the event Staff's therm allocation was used. That is not what Laclede bargained for, what the parties agreed to, or what the Commission approved when they all adopted Mr. Cline's weather mitigation rate design.

one therms for the Residential Class were clearly set out on the *first* page or “tab” in the analysis presented by the Company on September 13, 2002. Indeed, it was the *second* number presented on that *first* page. Accordingly, if the Staff looked at anything in the analysis sent by the Company, it is difficult to see how it could have missed this item.

8. Moreover, what Staff doesn’t address at all is the fact that the September 13, 2002, analysis, with its 24 pages, was a follow-up to information that had been conveyed to Staff previously on September 11, 2002. Contrary to the implication left by Staff, the information e-mailed to Staff on September 11, 2002, consisted of only three pages and once again included the specific block one therms that the Company used in its compliance filing. As shown in Attachment 1 hereto, these three pages of information can be perused in a matter of minutes and is hardly the kind of “needle in a haystack” presentation of information “slipped in among thousands of figures” that Staff has complained of in its Reply. Moreover, as indicated by the circled number on the second page of Attachment 1, the information provided by the Company on September 11, 2002, contained the identical 212,988,388 therms for the winter block one of the Residential Class that Staff states at page 1 of its October 29, 2002 Memorandum were used by Laclede to calculate the rates in its compliance filing. Notably, it was only after Staff had received this clear and concise September 11 information and communicated to the Company that it was fine with the billing determinants developed by the Company, that Laclede prepared and sent the more extensive billing and rate calculations set forth in its September 13, 2002 analysis.

9. In view of this background, there is simply no basis for Staff’s suggestion that the Staff’s proposed allocation of therms to block one for the Residential Class

represents what the parties agreed to or what is required to comply with the Commission's Order and the Stipulations and Agreements in this case. The fact is that from the 33 day period commencing several days after the final Stipulation and Agreement was filed in this case to the October 15, 2002 date when the Company first received Staff's proposed billing determinants for the Residential Class, Laclede was the only party that had developed, memorialized and conveyed to all of the other parties a comprehensive and complete set of calculations showing billing determinants and block one terms for the Residential Class, with adjustments designed to comply with all elements of the Stipulations and Agreements reached in this case. At a minimum, had Staff contemplated a different set of billing determinants and block one terms for the Residential Class, it should have registered its disapproval of the Company's analysis and presented its own billing determinants sometime well in advance of the very day when the Company had advised the Commission that it intended to file its compliance tariffs.

Response to Arguments Relating to Options

10. In addition to its failure to support its contention that the Company's tariffs are not in compliance with the Commission's Order and the Stipulations and Agreements in this case, the Staff has also failed to provide a plausible explanation as to why the options proposed by the Company for accommodating Staff's concerns and allowing the tariffs to go into effect by November 1, 2002 are inappropriate.

11. With respect to the "split the difference" option proposed by the Company, the Staff's only stated objection is that the amount quantified by the Company in its pleading is not an exact "50/50" split. Laclede does not object, however, to an

exact 50/50 split and, in fact, intended its option to produce such a result.³ Given that an exact 50/50 split of the 2,520,000 therms at issue (i.e. moving 1,260,000 of the 2,520,000 therms into block one) resolves the Staff's stated objection, the Company would recommend that the Commission adopt this option. Certainly, such an approach seems reasonable given Staff's statement in paragraph 14 of its Reply, that it "does not believe that its calculations are the only numbers that could be used ..." and Staff's failure to take issue with the Company's contention that such a slight adjustment would produce a result that falls within or very close to the margin of error in both parties' analyses.

12. As to Staff's arguments regarding the Company's second option, under which any November cycle billing therms in excess of the 54 average therms assumed by the Company would be treated as gas cost revenues, the Company would simply note that Staff does not dispute that such an approach would fully accommodate both Staff's concerns regarding whether the rates are designed to produce more than \$14 million as well as the Company's concern regarding realization of the level of weather mitigation protection that it had bargained for. In fact, Staff's sole objection seems to be that under such an approach, any gas cost revenues generated by usage above the 54 average would go to all firm sales customers rather than only residential customers. As part of the settlement in this case, however, it was the Staff that insisted that the Company drop that feature of its weather mitigation proposal that, if adopted, would have established the very kind of separate ACA factors for each customer class that would have enabled all gas cost revenues produced by each class to stay within the class. (See pages 4 and 5 of

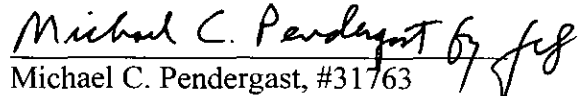
³The Company's quantification of something slightly different than an exact 50/50 split, was due to an inadvertent transposition error made in the haste of preparing its Response to Staff's Motion in less than a day. The Company apologizes for any confusion caused by its error.

the surrebuttal testimony of Staff witness David Sommerer and paragraph 2 of the First Amended Partial Stipulation and Agreement). In view of this fact, Staff's objection is particularly misplaced.

13. Finally, Staff has provided absolutely no valid reason as to why the Commission should not adopt the Company's third option under which Laclede would agree to tariff language making any Commission determination of this issue retroactive to November 1, 2002. In attempting to explain why adoption of such a proposal was appropriate in the AmerenUE complaint case but would not be appropriate in this case, the Staff throws out a variety of illusory distinctions that have nothing to do with the workability, legality and basic fairness of such an approach. Contrary to Staff's assertions, it matters not whether one proceeding was a complaint case while the other is a rate case, whether one involved a change in the procedural schedule while the other involves an effort to accommodate the effective date that all of the parties recommended to the Commission. In both cases, the interests of justice and fairness are served in an appropriate manner. Accordingly, the Commission should not hesitate to adopt such an option.

WHEREFORE, for the foregoing reasons, Laclede Gas Company respectfully renews its requests that the Commission issue its Order approving the compliance tariffs for service rendered on and after November 1, 2002, subject, if the Commission deems it necessary, to one of the options presented by the Company.

Respectfully Submitted,

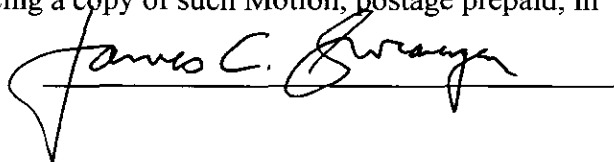


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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Response was served on the General Counsel of the Staff of the Missouri Public Service Commission and the remaining parties to Case No. GR-2002-356 on this 30th day of October 2002 by hand-delivery or by placing a copy of such Motion, postage prepaid, in the United States mail.



Patricia A Krieger
Sent by: Patricia A
Krieger

To: aross01@mail.state.mo.us, dbeck01@mail.state.mo.us
cc: (bcc: Michael T Cline/LACLEDE NOTES)
Subject: Billing Determinants GR-2002-356

09/11/2002 02:35 PM

Attached are billing determinants and a summary of the adjustments that have been added to the determinants prepared by Anne back in July. Please review and call to discuss. Thanks.



GR-2002-356 Billing Det..1 Summary Billing Determinants

Billing Determinants	GR 2002-356				Billing Demand	Unauthorized
	Bills	Blocked Thms	S/T Thms	Total Thms	Therms	Overrun
GS - Residential Gen						Therms
Nov-April: First Block	7,152,133	212,988,388				
Second Block		265,888,081				
Total			478,876,469			
May-Oct: First Block		85,546,786				
Second Block		5,862,226				
Total			91,409,012			
				570,285,481		
GS - Comm/Indust						
Nov-April: First Block	482,306	16,959,126				
Second Block		172,191,775				
Total			189,150,901			
May-Oct: First Block		8,200,023				
Second Block		31,127,112				
Total			39,327,135			
				228,478,036		
A/C - Residential						
Nov-April: First Block	2,488	91,223				
Second Block		236,237				
Total			327,460			
May-Oct: First Block		50,993				
Second Block		75,919				
Total			126,912			
				454,372		
A/C - Comm/Indust						
Nov-April: First Block	593	29,208				
Second Block		1,813,544				
Total			1,842,752			
May-Oct: First Block		27,111				
Second Block		1,115,606				
Total			1,142,717			
				2,985,469		
Propane - Resid	2,061			107,825		
Propane - Comm/Ind	24			1,420		
Vehicular Fuel	47			50,493		
Unmetered Gas Lights	1,378			127,805		
Large Volume Sales						
First Block	1,224	19,244,934				
Second Block		2,221,519				
Total				21,466,453	2,090,541	
Interruptible Sales						
First Block	156	3,483,538				
Second Block		429,208				
Total				3,912,746		
Basic Transportation						
First Block	1,140	35,388,422				
Second Block		84,969,673				
Second Block - Auth OR		301,486				
Total				120,659,581		
Firm Transportation						
First Block	696	19,950,314				
Second Block		46,789,423				
Second Block - Auth OR		39,174				
Total				66,778,911	11,991,380	93,851
Total	7,644,246			1,015,308,592	14,081,921	93,851

GR-2002-356 Billing Determinant Summary

	Bills	Therms	Demand Therms
Billing Determinants (Per Anne Ross 7/16/02)	7,647,339	1,020,389,395	14,869,367
Adjustments:			
Correct double count on air conditioning bills:			
Residential	(2,488)	0	0
Commercial & Industrial	(593)	0	0
Add Load Change Adjustments thru 7/31/02	(12)	(880,805)	(162,446)
Adjust transportation demand therms by \$300,000 *	0	0	(625,000)
Adjust normal degree days to 4,718**	0	(4,200,000)	0
Final Billing Determinants	7,644,246	1,015,308,590	14,081,921

*Adjustment to reduce billing demand for transportation service customers by \$300,000 divided by \$.48 per therm equals 625,000 demand therms.

**Reduction of 35 degree days based on Staff's weather calculated value of 120,000 therms per degree day variation.