

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

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| In the Matter of the Verified Application and |) | |
| Petition of Laclede Gas Company to Change its |) | File No. GO-2012-0356 |
| Infrastructure System Replacement Surcharge |) | |

**STAFF RESPONSE TO LACLEDE'S
REPLY TO STAFF RESPONSE REGARDING
SUSPENSION OF TARIFF**

COMES NOW the Staff of the Commission and responds *to Laclede Gas Company's Reply to Staff Response Regarding Suspension of Tariff* and states that, while it is not entirely clear, Laclede seems to be asking the Commission to alter the provisions of the July 23, 2010 Partial Stipulation and Agreement (Stipulation) in Case No. GR-2010-0171. In support of its objection to any alteration of the terms and conditions of the approved Stipulation in Case No. GR-2010-0171, without proper notice to the parties to that case Staff states:

1. On April 27, 2012, Laclede Gas Company (Laclede) filed a Verified Application with the Commission, requesting authorization to establish an Infrastructure System Replacement Surcharge (ISRS) pursuant to Sections 393.1009, 393.1012 and 393.1015.¹ In its Application, Laclede scheduled the tariff to become effective on July 9, 2012, around 73 days after filing. Laclede also requested that the Commission and parties work toward this implementation date instead of further suspending the tariff.

2. On May 31, 2012, Staff filed *Staff's Response to Laclede's Proposed Effective Date and Motion to Suspend Tariff Filing*. In the Response Staff expressed its concern that Laclede's request could result in the tariff accidentally going into effect by

¹ All statutory references are to the Revised Statutes of Missouri (2000 as currently supplemented).

operation of law, especially in the event of complications that could extend the amount of time the Staff or the Commission need to process the case. Staff sought to avoid this inadvertent tariff implementation by asking the Commission to suspend the tariff for the full 120 days permitted by statute.²

3. On June 11, Laclede filed its Reply to Staff Response Regarding Suspension of Tariff. In the Reply, Laclede claims that it has scheduled tariff effective dates of about 10 weeks in past cases. (Laclede Reply para. 5). Laclede also “seeks to continue to establish tariff effective dates of about 10 weeks” alleging that the procedure is “convenient and assures compliance with the parties approved agreement to implement ISRS cases as soon as reasonably possible.” (Laclede Reply para. 7.)

4. In filing its ISRS tariff with the extended effective date, Laclede has departed from the standard 30 day file and suspend process. Further, it seems Laclede may be attempting to establish its unilateral action as a regular procedure for future ISRS tariff filings.

5. Laclede indicates its unilateral action is designed to “assure compliance” with the Stipulation and Agreement (Stipulation) in Case No. GR-2010-0171.

6. While Staff does agree that the Stipulation provides for the implementation of the ISRS filings “as soon as reasonably possible,” there is no agreement Laclede may adopt any sort of provision to “assure compliance.”

7. Not only does Laclede’s action affect Staff, it also attempts to induce Commission action within a time frame not intended or required by Statute. The statute

² Section 393.1015(3)(RSMo 2000 as currently supplemented).

requires the Commission to issue its order to become effective within 120 days after filing of the Application.³

8. While Laclede has made its request to continue with its 10-week effective date process in a subtle way in paragraph 7 (and the request does not appear in the “WHEREFORE” section of its filing), Staff, nonetheless wants to make clear that it opposes Commission approval of this procedure.⁴

9. Staff urges the Commission to avoid any appearance of approving an unusual tariff filing process for several reasons. First, any request to alter the terms of an approved Stipulation and Agreement should be made in a pleading that gives all parties to a Stipulation notice of the request. Secondly, Laclede does not and cannot claim Staff has failed to meet its obligations under the Stipulation, so there is no need for Laclede to be permitted to adopt a procedure to “assure compliance” with the Stipulation. Further, the Stipulation does not contain any agreement that Laclede may adopt a procedure in order to “assure compliance” with the Stipulation. Finally, compliance with the Stipulation may mean the Commission acts within 120 days if 120 days is “as soon as reasonably possible” given the facts and circumstances of any specific case.

10. As noted, the terms of the Stipulation do provide for implementation of the ISRS “as soon as reasonably possible,” however this provision is *contingent* on “the Company’s timely provision of data and information, including response to discovery, and *the availability of the parties’ resources to process the surcharge.*” (Partial Stipulation para. 16.)

³ Section 393.1015(4).

⁴ Commission procedures not governed by statute should be adopted in a rulemaking and not on an individual company basis.

11. Staff does agree with Laclede that it would be “inappropriate to have the tariff go into effect by operation of law if there are actual complications in the ISRS case.” The safest way to assure this does not happen is for the Commission to suspend the tariff until at least July 26, and preferably for 120 days from the filing of the Application, or until August 26, 2012.

12. By doing so the Commission will not delay Staff’s processing of the case, which is progressing as quickly as reasonably possible.

WHEREFORE Staff notifies the Commission it objects to any request by Laclede to alter the terms and conditions of the approved Stipulation in Case No. GR-2010-0171. While Staff does not doubt Laclede’s commitment to further suspend the tariff as necessary, as a precaution, Staff further recommends the Commission suspend the tariff for a minimum of an additional 30 days to assure the tariff does not inadvertently go into effect by operation of law.

Respectfully submitted,

/s/ Lera L. Shemwell_____

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 20th day of June 2012.

/s/ Lera L. Shemwell_____