

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

In the Matter of Laclede Gas Company's Verified)
Application to Re-Establish and Extend the) Case No. GF-2015-0181
Financing Authority Previously Approved by the)
Commission)

**LACLEDE GAS COMPANY'S
APPLICATION FOR REHEARING AND RECONSIDERATION**

COMES NOW Laclede Gas Company ("Laclede" or "Company"), and files this Application for Rehearing and Reconsideration of the Commission's February 10, 2016 Order in this case (the "2016 Order"), and in support thereof states as follows¹:

The 2016 Order departs from both Section 393.200.1 (the "Statute") and the Commission's June 16, 2010 Report and Order in Case No. GF-2009-0450 (the "2010 Order") without reason or rationale. In fact, this departure occurs even though the majority, in issuing the 2016 Order, clearly intended to follow the 2010 Order, and not deviate from it. The 2016 Order frustrates the stated intent of the majority and inadvertently reverses the 2010 Order, because it denies financing authority for capital clearly expended for the purposes of the Statute, and because it mistakes flexibility above current projected financing plans, which the 2010 Order allowed and even encouraged, for flexibility above those allowed purposes, which the 2010 Order denied. The undisputed evidence in this case demonstrated spending by Laclede of \$1.0 billion for past and projected capital expenditures and a refinancing, which are the purposes set forth in the Statute and identified in the 2010 Order.

THE 2010 ORDER

In the 2010 case, the Staff recommended that Laclede be authorized to issue \$100 million in debt, because that amount covered the Company's specific financing plans. Laclede requested

¹ Please see Exhibit A for information required to be submitted with applications.

\$600 million in total financing authority because Laclede believed that amount covered the amounts expended for the purposes delineated in the Statute, with an added buffer for emergencies.

The Commission brushed aside the Staff's position in 2010, finding that position to be at odds with the terms of the Statute. The Commission found that "Staff has simply misread the statute" (2010 Order, p. 13) and that "Staff's reading is contrary to the statute's plain language." (2010 Order, p. 15) Instead, the Commission found that the Statute makes financing authority available for expenditures made for the purposes outlined in the Statute. The Commission found that the Statute represents the General Assembly's policy decision "to allow long-term financing for property, plant and system." (2010 Order, p. 12) As a result, the Commission rejected Staff's argument because Laclede's financing estimates are not the basis for determining financing authority.

The 2010 Commission even opined that limiting the Company to an amount that only covered its planned financings (\$100 million) was unwise. The Commission made a finding of fact that flexibility above the minimum planned estimates was not only beneficial, but critical. The Commission's findings on this issue were as follows:

A business's capacity to quickly exercise business judgment about issuing long-term finance instruments ("instruments") in response to changing market conditions is called flexibility. Flexibility includes the type and timing of instruments issued. ***Flexibility is critical for procuring capital quickly and favorably, especially during market instability.***

During periods of market instability in gas and credit, flexibility has helped Laclede secure favorable long-term financing. For example, in 2008 Laclede issued \$80 million in First Mortgage Bonds just before the interest rate on such instruments increased by approximately 2.50 percent in less than a month. ***In that instance, Laclede's flexibility saved \$2 million per year, which ultimately benefitted Laclede's rate-payers.***

(2010 Order, p. 5, emphasis added)

At the same time, the 2010 Commission also rejected a portion of Laclede’s request for \$600 million. The Commission found that \$82 million of the \$600 million was inappropriate, because it represented flexibility to cover other unknown amounts over and above those amounts reasonably required for the purposes of the Statute. The Commission stated:

“In support of the \$82 million, Laclede cites flexibility. But flexibility is neither a purpose nor an amount. Flexibility is how fast Laclede uses its authorization to address market conditions. Staff argues that Laclede has not shown that such amount is, or has been, necessary or reasonably required for any of the allowed purposes. Staff reads the statute and the record correctly. Laclede has not carried its burden of proving that an allowed purpose supports the \$82 million. Therefore, the Commission will deny the application as \$82 million.” (2010 Order, p. 10)

Instead, the Commission approved financing authority of \$518 million based on its reading of the Statute. The Commission found that the Statute authorized Laclede financing authority for the following purposes:

| Purpose | Amount (\$millions) |
|--|--------------------------------|
| the acquisition of property, the construction, completion, extension or improvement of its plant or system | 189 |
| discharge or lawful refinancing of its obligations | 50 |
| reimbursement of moneys actually expended for any of the aforesaid purposes | 279 |
| <i>Total</i> | <i>518</i> |

FLEXIBILITY

In effect, the Commission identified two types of “flexibility” in the 2010 Order. The Commission avored the first type of flexibility, being the amount above Laclede’s planned financings. It denied Staff’s attempt to confine Laclede’s authority to only those estimates. The

Commission rejected the second type of flexibility, being flexibility over and above the amounts allowed under the Statute for the **purposes** identified in the Statute. It denied Laclede's attempt to obtain authority above the amounts specifically authorized by the Statute. Please see Exhibit B attached hereto for an illustration of the two types of flexibility.

THE 2016 ORDER

As it did in 2010, the Staff recommended in the 2016 case that Laclede be given financing authority in an amount that represented the Company's specific financing plans (\$300 million). Laclede requested \$550 million in total financing authority because Laclede believed that amount was not only well within the authority of \$1.0 billion granted by the Statute, but it also reflected substantial use of cash flow from operations, as desired by Staff.

The Commission recognized that the 2016 case presented the same issues as the 2010 case, and the Commission decided to "adopt its prior conclusion" in the 2010 Order, because it had no reason to depart from that ruling. (2016 Order, pp. 8-9) However, the decision reached in the 2016 Order does exactly the opposite of its stated intent. The 2016 Order fails to grant financing authority for the same purposes that were specifically approved by the 2010 Order and the Statute, and the 2016 Order rejects the flexibility favored in the 2010 Order. Instead, the 2016 Order approves authority at only the amount of estimated financings, the very position rejected by the 2010 Order as a mis-reading of the Statute. And it does so despite a request by Laclede that was substantially below the clear and unrefuted evidence of allowed purposes in the amount of \$1.0 billion. In so doing, the 2016 Order eliminates both the recognition of capital expenditures authorized in 2010, and the very flexibility it found to be beneficial, and even critical, in 2010.

In order to be consistent with the Statute and the 2010 Order that accurately interpreted the Statute, the 2016 Order would have to reject the Staff's recommendation of \$300 million as an unlawful denial of statutory authority for capital spent for the **purposes** dictated by the Statute, and as an unwise and imprudent restraint on allowed and favored flexibility.

In order to be consistent with the Statute and the 2010 Order that accurately interpreted the Statute, the 2016 Order would have had to reject any request by Laclede that exceeded the \$1.0 billion that Laclede justified under the Statute, as an inappropriate attempt to add rejected flexibility.

In order to be consistent with the Statute and the 2010 Order that accurately interpreted the Statute, the 2016 Order would have to approve Laclede's actual request of \$550 million in financing authority, as seeking less than the \$1.0 billion allowed by the Statute, and as seeking \$0 in rejected flexibility above that \$1.0 billion allowed by the Statute. In other words, Laclede's requested authority should be approved, because it does not include flexibility amounts rejected by the 2010 Order, and it does include flexibility amounts favored and encouraged by the 2010 Order.

Reviewing the 2010 Order and the present case side-by-side demonstrates this point:

| | 2010 | 2016 |
|--|------------------------|------------------------|
| Purpose | Amount (\$millions) | Amount (\$millions) |
| the acquisition of property, the construction, completion, extension or improvement of its plant or system | 189 | \$562 |
| discharge or lawful refinancing of its obligations | 50 | \$100 |
| reimbursement of moneys actually expended for any of the aforesaid purposes | 279 | 339 |
| <i>Total (2010 Order, p. 18)</i> | <i>518</i> | <i>1001</i> |
| Staff Recommendation | 100 | 300 |
| Laclede Request | 600 | 550 |
| Statutory Authorization Amount | 518 | 1001 |
| Commission Decision | 518 | 300 |

The discrepancy is readily illustrated in the chart above, and was recognized by the Commission in Finding of Fact 13 of the 2016 Order. (2016 Order, p. 6) Laclede's expenditures for Statutory purposes nearly doubled since 2010 (from \$518 million to \$1.0 billion), while the Commission decision allows Laclede barely half of its 2010 authority (from \$518 to \$300). Viewed another way, in 2010, the Commission found that Laclede spent \$518 million for the purposes of the Statute, and afforded Laclede that amount in financing authority. In 2016, a much larger Laclede spent \$1.0 billion for the purposes of the Statute, but was denied \$550 million in financing authority and afforded only \$300 million instead. Given this huge disparity between the financing authority amounts found appropriate in the 2010 Order versus the much smaller amount deemed proper in the 2016 Order, it is simply impossible – as a matter of pure

mathematics if nothing else – to conclude that the majority has in fact followed the approach charted by the Commission in that earlier order. Unless the Commission can explain and reconcile this obvious disparity in results, it should grant rehearing and issue an Order which actually effectuates the Commission’s stated intent not to depart from the approach set forth in the 2010 Order. As mentioned above, Exhibit B depicts this disparity via a bar chart.

Perhaps Laclede is at fault for trying to accommodate Staff by requesting substantially less than the authority allowed under the Statute. Perhaps Laclede’s failure to request the full \$1.0 billion confused matters. Regardless, it is not too late to correct this unintentional error and issue a ruling consistent with the 2010 Order, as the majority intended.

CONCLUSION

In the first paragraph of the Decision portion of the 2016 Order, the Commission correctly notes that its role is “to protect ratepayers by limiting a utility’s financing authority to purposes specified in the financing statute.” (2016 Order, p. 8) Conversely, the Commission also concludes, as a matter of law that Laclede may issue long-term financings to procure or pay for capital (money, property or labor) that is or has been reasonably required for the purposes of the order approved by the Commission in carrying out the Statute. (2016 Order, pp. 7-8) The Commission should approve Laclede’s application for \$550 million in financing authority, because the clear evidence in this case demonstrated that such amount is less than the amount of \$1.0 billion in capital to be procured or paid for by Laclede for the purposes of the Statute and the order enforcing the Statute. Laclede’s requested authority is consistent with the Statute and the 2010 Order, and is lawful, reasonable and beneficial to consumers. Finally, we would note that the 2016 Order mistakenly reflects a vote of 4-1 with only Commissioner Kenney dissenting, but should be 3-2 with both Commissioners Kenney and Rupp dissenting.

WHEREFORE, for the foregoing reasons, Laclede respectfully requests that the Commission reconsider its decision and rehear this case.

Respectfully submitted,

LACLEDE GAS COMPANY

By: **/s/ Rick Zucker**

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on all parties of record on this 11th day of February, 2016 by hand-delivery, e-mail, fax, or by placing a copy of such document, postage prepaid, in the United States mail.

/s/ Marcia Spangler

EXHIBIT A

THE APPLICANT

1. Laclede is a public utility and gas corporation incorporated under the laws of the State of Missouri, with its principal office located at 700 Market Street, St. Louis, Missouri 63101. A Certificate of Good Standing evidencing Laclede's standing to do business in Missouri was submitted in Case No. GF-2013-0085 and is incorporated by reference herein for all purposes. The information in such Certificate is current and correct.

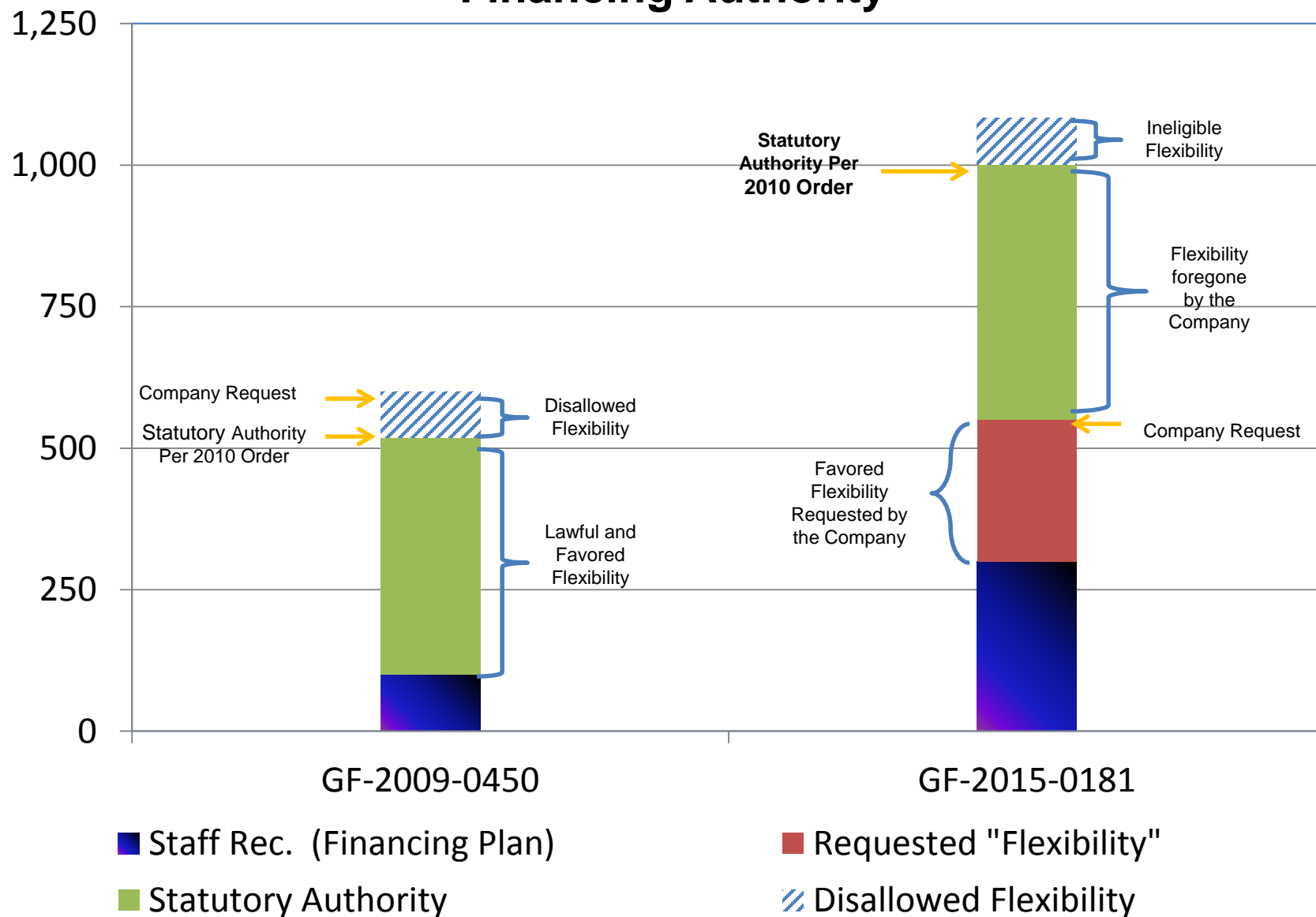
2. In its Laclede Gas service territory, Laclede is engaged in the business of distributing and transporting natural gas to customers in the City of St. Louis and the Counties of St. Louis, St. Charles, Crawford, Jefferson, Franklin, Iron, St. Genevieve, St. Francois, Madison, and Butler in Eastern Missouri, as a gas corporation subject to the jurisdiction of the Commission.

3. Communications in regard to this Application should be sent to the Laclede Gas Company's legal counsel who signed this Application.

4. Other than cases that have been docketed at the Commission, Laclede has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates within three years of the date of this application.

5. Laclede is current on its annual report and assessment fee obligations to the Commission; no such report or assessment fee is overdue.

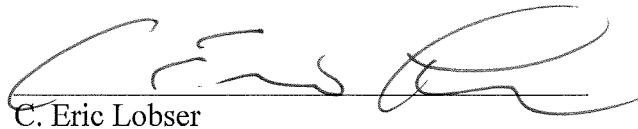
Financing Authority



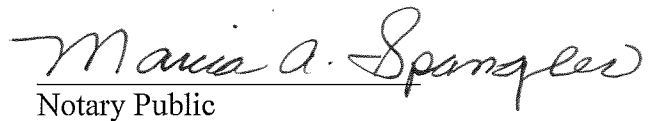
VERIFICATION

State of Missouri)
) ss
City of St. Louis)

I, C. Eric Lobser, being of lawful age state: that I am Vice President, Rates and Regulatory Affairs of Laclede Gas Company; that I have read the foregoing Application and that the statements and information set forth herein are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Laclede Gas Company.


C. Eric Lobser

Subscribed and sworn to before me this 11th day of February, 2016.


Notary Public

My Commission Expires: 9-24-18

