

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

ST. LOUIS NATURAL GAS PIPELINE LLC,))	
)	
Complainant,)	
)	
vs.)	File No: GC-2011-0294
)	
LACLEDE GAS COMPANY,)	
)	
Respondent.)	

**ST. LOUIS NATURAL GAS PIPELINE LLC’S RESPONSE
IN OPPOSITION TO MOTION OF LACLEDE GAS COMPANY
FOR RECONSIDERATION AND/OR CLARIFICATION**

COMES NOW Complainant St. Louis Natural Gas Pipeline LLC (“SLNGP”), pursuant to 4 CSR 240-2.080(15) and makes this response in opposition to *Motion of Laclede Gas Company for Reconsideration and/or Clarification* filed June 6, 2011.

INTRODUCTION

Disappointed by the Commission’s ruling denying its Motion to Dismiss for failure to state a claim, Laclede re-argues its positions and asserts that “**the Commission is crossing the line.**” (Laclede Motion for Reconsideration, p. 3) (hereinafter “LMFR”). Laclede continues to argue and imply that this Commission lacks jurisdiction to regulate Laclede’s regional gas distribution monopoly and to consider and determine violations under 4 CSR 240-40.015, .016 & .018, § 393.130.1 & .3 and § 393.140(5) & (11), RSMo.

Laclede makes only two arguments its Motion for Reconsideration. First, Laclede asserts that the Commission lacks statutory authority to order Laclede to interconnect. This issue was already briefed by the parties. The Commission’s statutory authority is restated herein. Second, Laclede levies a new argument that Laclede is subject to exclusive federal jurisdiction with respect to its decision to refuse interconnection. Laclede failed to assert this argument in its original motion or extensive prior briefing. Laclede suggests that only the Federal Energy

Regulatory Commission (FERC) has jurisdiction to order this interconnection.

Laclede's Motion for Reconsideration should be denied because it provides no basis for reversal or modification of the Commission's Order Denying Laclede's Motion to Dismiss and Directing Staff to Investigate of May 26, 2011.

ARGUMENT

1. Standard of Review

Pursuant to 4 CSR 240-2.160, the Commission may reconsider its Order Denying Motion to Dismiss if it is "unlawful, unjust, or unreasonable." The Commission determined that SLNGP stated a claim for relief and is not precluded as a matter of law from proceeding. Nothing about the Commission's Order was unlawful, unjust or unreasonable. On this basis alone, Laclede's Motion for Reconsideration should be denied.

2. The Commission has statutory authority to order interconnection.

Laclede offers no new argument about the Commission's statutory authority to order interconnection.

Section 393.140, RSMo, gives the Commission broad power and authority to supervise and regulate natural gas companies like Laclede. This includes the power to investigate Laclede's gas supply and distribution methods and the express power to:

order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas . . . system, . . . **and . . . to order reasonable improvements and extensions of the works**, wires, poles, pipes, lines, conduits, ducts and other reasonable devices, apparatus and property of gas corporations

MO. REV. STAT. § 393.140(2) (2000) (emphasis added). Ordering establishment of interconnection access and interconnection with a new interstate gas transporter qualify as "reasonable improvements and extensions of the works" contemplated by this statute.

The Commission’s powers also extend expressly to examination of Laclede as to its “methods, practices, regulations and property employed by them in the transaction of their business,” and to determine after hearing that Laclede’s instrumentalities of service are “unsafe, insufficient or inadequate” and to thereafter “**prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used**, maintained and operated for the security and accommodation of the public.” MO. REV. STAT. § 393.140(5) (2000) (emphasis added). Prescribing the establishment of interconnection access for SLNGP falls within the Commission’s power and available remedies in Chapter 393, RSMo.

The Commission’s authority is express. Ordering the establishment of interconnection access and interconnection with an interstate pipeline falls easily within the above-stated provisions.

Whether or not the Commission will ultimately exercise this authority is a separate question. Laclede’s motion seems designed to elicit a preemptive advisory opinion from the Commission as to whether or not it would ever exercise its express power in this case. Such a pronouncement at this state of the proceedings would be a premature advisory opinion and unnecessary prejudgment of the merits.

3. Federal regulation does not preempt review of Laclede’s decision to deny interconnection.

Laclede asserts, as a completely new argument raised for the first time in its Motion for Reconsideration, that the question of whether it should be required to interconnect with SLNGP is exclusively within the jurisdiction of the FERC. As support for the premise that Laclede is subject to FERC jurisdiction on this question, it cites to 15 U.S.C. § 717c(c) requiring FERC-regulated natural gas companies to file their interstate transport rates and charges with the FERC and all related contracts. (LMFR, p. 5). Notably, this provision would not apply to Laclede.

A requirement that FERC-regulated transport companies file interconnection agreements with the FERC for approval does not equate to exclusive FERC jurisdiction over all matters relating to interconnection with a local distribution company, like Laclede. The present complaint proceeding concerns violations of Missouri law for which the Commission is expressly tasked to examine and determine. Its potential remedies are numerous. None of this proceeding is within the exclusive FERC jurisdiction.

The FERC order attached to Laclede's motion seems related to a FERC-regulated company's filing of an interconnection agreement with what Laclede claims to be a local distribution company. The purported FERC order has nothing to do with the facts of this case, specifically, a state-regulated local distribution company refusing interconnection to a gas transporter and Missouri state law violations.

Laclede references a Commission Report and Order in case no. GO-85-264 (*In the matter of developments in the transportation of natural gas*) in which the Commission found federal jurisdiction preempted its contemplated regulation of transportation bypass (interstate pipelines selling directly to local consumers, thus bypassing the local distribution company). (LMFR, p. 5). The present case does not concern jurisdiction over an interstate pipeline's transportation bypass. It concerns the actions of a local distribution company directly subject to Commission regulation.

Nothing cited by Laclede indicates that FERC has exclusive jurisdiction over a local distribution company's construction of an interconnection access (LMFR, p. 5) (point asserted by Laclede without citation to authority).

Laclede cites authority concerning "concurrent jurisdiction." This does not apply. SLNGP believes that only this Commission has authority to review Laclede's denial of interconnection and its other violations of Missouri statute and regulation described in the

Complaint.

FERC jurisdiction does not extend to local distribution companies or local distribution facilities. 15 U.S.C. § 717(b). Laclede does not assert that the FERC has jurisdiction over it to order interconnection. SLNGP expects that Laclede would disclaim such federal jurisdiction. This Commission, however, has express statutory authority to decide the matters in SLNGP's Complaint and to order reasonable improvements and extension of Laclede's works as one potential remedy. Laclede cites no FERC order or proceeding wherein the FERC exercised jurisdiction over a local distribution company to order interconnection.

4. The Commission need not decide the issue of interconnection authority immediately.

While the Commission's power to order interconnection is express and apparent under Missouri statute, the Commission may elect to postpone decision on that question. There are a number of reasons indicating that a ruling on the remedy of ordering interconnection can wait.

First, ordering interconnection is not the only relief sought and is not the only relief available to the Commission to remedy Laclede's violations. The violations asserted in the Complaint concern Missouri statutes and regulations expressly referencing enforcement and determination by the Commission. Specifically, SLNGP seeks relief for violations of 4 CSR 240-40.015, .016 & .018, § 393.130.1 & .3 and § 393.140(5) & (11), RSMo. All of these provisions expressly empower the Commission to investigate the claims, determine violations and fashion the appropriate remedy. The Commission's remedies are not limited to ordering interconnection. *See* sections 386.266, .570 & .600, RSMo.

A lack of authority to order interconnection (which SLNGP denies) would not deprive the Commission of jurisdiction to determine other relief. It does not indicate a need to reverse its decision on Laclede's Motion to Dismiss.

Second, discovery and factual development may bear both on the fact of jurisdiction and upon the Commission's decision to exercise its various available remedies. In this respect, SLNGP has submitted detailed data requests to Laclede to obtain information to develop and examine the issues under consideration.

Third, Laclede's contention that interconnection cannot be ordered would be better suited and framed within the procedures for summary determination under 4 CSR 240-2.117 after completion of discovery.

The Commission should reject Laclede's suggestion that its arguments should be reconsidered by the Commission on a rolling basis -- next after issuance of the Staff's investigation report. This approach to determination of relevant issues taxes the Commission's valuable resources. The Commission should not enter an unnecessary order, as requested by Laclede, indicating that Laclede's arguments will be reconsidered periodically as the case progresses.

CONCLUSION

The Commission duly considered and rejected Laclede's Motion to Dismiss and ordered investigation. Laclede cites no valid reason for the Commission to reverse itself.

WHEREFORE, Complainant SLNGP prays the Commission for its Order denying Laclede's Motion for Reconsideration and all relief sought therein and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was sent via e-mail and via first-class mail, postage prepaid, on this 16th day of June, 2011, to the following:

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