

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

St. Louis Natural Gas Pipeline LLC)	
)	
Complainant,)	
v.)	Case No. GC-2011-0294
)	
Laclede Gas Company,)	
Respondent.)	

**REPLY OF LACLEDE GAS COMPANY
TO RESPONSES OF SLNGP, STAFF AND OPC**

COMES NOW Respondent, Laclede Gas Company (“Laclede” or Company) and submits this Supplemental Reply to the Response filed by the Staff of the Commission (“Staff”) in this case on May 13, 2011. In support thereof, Laclede states as follows:

1. In paragraph 6 of its Response, Staff concurs that the Commission does not have the authority to take over the management of a utility company. The Staff also recommends a number of options that the Commission could consider in determining how to proceed in this matter. One of them includes the option of declining jurisdiction so that a record could be made in circuit court for potential use by the Staff in the future. Laclede believes that this approach has merit insofar as it would permit the Court to provide guidance on whether Laclede is correct that the Complainant is effectively seeking to have the Commission involve itself in matters that are properly reserved to utility management or whether the Complainant is correct that its requested relief, and the reasons set forth in support of it, are sufficient to state of cause of action that may be considered by the Commission without offending this long-standing legal principle.

2. Laclede would also note that while this matter is under judicial review – assuming SLNGP appeals a Commission Order declining jurisdiction – the Staff would still be free to evaluate the prudence of Laclede’s actions in declining the arrangement

proposed by SLNGP in a proper ACA proceeding. Although the Staff states in paragraph 7 of its Response that it could not identify the ACA period in which to conduct a prudence review of Laclede's decision not to pursue the SLNGP proposal, Laclede would note that both SLNGP's proposal and Laclede's decision were made during the 2010-2011 ACA period. If the Staff deems that decision to be in need of review, it seems obvious that such review should be made during the audit of that ACA period and the Commission should certainly so clarify in its order dismissing this Complaint.

3. Reviewing Laclede's decision for prudence in an ACA case would also be consistent with the Commission's very recent decision in the MEEIA rulemaking docket that the "commission certainly is not interested in managing the utility companies" and that it "does not wish to move down the path toward pre-approval of projects." (*Missouri Register*, Volume 36, No. 10, Orders of Rulemaking, p. 1355, May 16, 2011). Indeed, the efficient use of regulatory resources dictates that Laclede's decision be reviewed, if necessary, in the upcoming ACA case, along with its other gas supply decisions. Numerous gas and pipeline transportation suppliers vie for a share of Laclede's business. It is likely that most, if not all of them, would prefer that Laclede use more of their product or service. SLNGP should not be afforded special status, and have its own case, simply because it has postured its disappointment at Laclede's decision as a formal complaint.

4. Conversely, Staff's optional suggestion in paragraph 9 of its Response that investigating the key economic facts in dispute might allow Staff to determine whether or not SLNGP can deliver natural gas to the St. Louis area at lower costs is not consistent with the principles enunciated by the Staff in the MEEIA rulemaking. In that

rulemaking, the Staff stated that it lacked the resources to review and conduct “benefit-to-Missouri-retail-ratepayers level analysis” of all the resources necessary early in the planning stages of a large project. (*Id.*) That is precisely what the Staff would have to do in this instance, however, to determine what the “key economic facts” are relating to the timing, cost and operational impacts and considerations of not only the proposed SLNGP project, but also other potential pipeline suppliers that might wish to serve Laclede.

5. Moreover, assuming that Staff could complete this analysis, then what? If, after investigating the “key economic facts,” as Staff sees them, Staff decides that SLNGP cannot provide lower natural gas costs, then Staff has effectively decided that Laclede should not subscribe to SLNGP’s capacity. On the other hand, if Staff decides that SLNGP can provide lower natural gas costs, then Staff has effectively decided that Laclede should subscribe to SLNGP’s capacity. In any event, Staff will have taken over Laclede’s management by choosing what facts to review and what decision to make. Presumably, Staff would communicate that decision to the Commission and recommend that the Commission order Laclede to adhere to that decision.

6. Laclede respectfully submits that this is not Staff’s role. It is not Staff’s duty to decide whether Laclede should enter into an interconnection agreement, nor with whom it should do so. Instead Staff’s role is to review decisions made by Laclede after the fact for prudence in the decision making process. This is the process Staff appropriately follows in its annual ACA audits. Just like the kind of electric resource decisions discussed in the MEEIA rulemaking docket, Laclede’s decision in this case with respect to SLNGP is not distinguishable from other decisions the Company makes

relating to gas supply, and is properly considered in a prudence review conducted by Staff as part of its ACA audit.

7 In summary, the Commission already has a process in place to review Laclede's gas supply decisions: the ACA audit process. By allowing that process to take its natural course, the Commission appropriately protects utility customers, and avoids exceeding its authority by usurping management decisions or arbitrating pipeline interconnections. Moreover, by declining jurisdiction, as Staff says the Commission could, the Commission could also obtain additional judicial guidance on the issue of whether a direct order instructing an LDC to pick a particular pipeline supplier does or does not violate the long-standing legal prohibition against usurping the business prerogatives of utility management.

WHEREFORE, Respondent Laclede Gas Company respectfully renews its request that the Commission dismiss the Complaint, deny the Request for Investigation, and defer the matter to the ACA audit process.

Respectfully submitted,

/s/Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Answer was served on the Staff and on the Office of Public Counsel on this 24th day of May, 2011 by United States mail, hand-delivery, email, or facsimile.

/s/ Gerry Lynch