



Missouri Public Service Commission

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August 1, 2001

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FILED²
AUG 1 2001
Missouri Public
Service Commission

RE: Case No. GT-2001-329 - In the matter of Laclede Gas Company's Tariff Filing to Implement an Experimental Fixed Price Plan and Other Modifications to Its Gas Supply Incentive Plan.

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Thomas R. Schwarz, Jr.
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Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

AUG 1 2001

Missouri Public
Service Commission

In the Matter of Laclede Gas Company's)
Tariff Filing to Implement an)
Experimental Fixed Price Plan and Other)
Modifications to Its Gas Supply Incentive)
Plan.)

Case No. GT-2001-329

STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the Commission's order of June 24, 2001, the Staff proposes the Commission enter the following findings of fact and conclusions of law in this matter:

Summary

Laclede Gas Company's Gas Supply Incentive Program expired of its own terms on September 30, 2001, and Laclede filed new tariffs to maintain a program in the future. The Commission determines that Laclede's proposed GSIP plans do not strike the proper balance between ratepayer and shareholder, unduly favoring shareholders, and should be terminated in favor of the balanced, mutually beneficial solution proposed by the Commission's Staff.

Procedural History

1. On November 17, 2000, Laclede Gas Company (Laclede) filed a tariff proposing modifications to and extending the duration of its Gas Supply Incentive Program (GSIP). Under the existing tariff, the GSIP expires on September 30, 2001, unless the Commission takes action to renew it.

2. On December 11, 2000, Staff of the Missouri Public Service Commission (Staff) filed a motion to suspend Laclede's tariff filing. The Commission granted Staff's motion and

established a case to address the GSIP provisions. At the time of trial, the Missouri Industrial Energy Consumers and Union Electric Company d/b/a AmerenUE (Ameren) remained as intervenors.

3. Leading up to the time of hearing, Laclede filed Direct and Surrebuttal Testimony of Kenneth J. Neises and Scott E. Jaskowiak, and Surrebuttal Testimony of Bruce B. Henning, John Moten, Jr., and Glenn W. Buck. The Office of the Public Counsel (OPC) filed Rebuttal Testimony of James A. Busch and Rebuttal and Surrebuttal Testimony of Barbara A. Meisenheimer. Staff filed Rebuttal Testimony of David M. Sommerer, Thomas M. Imhoff and Robert E. Schallenberg. Staff, OPC and Laclede jointly filed a Proposed List of Issues on June 11, 2001, supported by Ameren. The parties filed their respective Statements of Position on June 12, 2001. The Commission conducted an evidentiary hearing during the week of June 18, 2001.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

1. In fiscal years 1997 to 2000, GSIP earnings comprise between 14% and 22.9% of Laclede's total net income, after taxes. (Tr. 218-19). Laclede has incorporated the earnings into its overall earnings program. (Tr. 234, 247, Ex. 45HC).

2. This reliance on GSIP earnings has caused Laclede to take actions that benefit its shareholders at the expense of its customers, to ensure its avoidance of prudence reviews.

3. Discounts, such as transportation discounts, can be expected to remain a part of the purchasing process for some time to come. (Tr. 193). Laclede will continue to have the opportunity to make profits through off system sales and temporary releases of pipeline capacity.

4. Laclede calculated the unrecovered value of its merchant function, incorporating financing costs associated with underground storage and propane inventories, Cash Working Capital effects of natural gas purchases, the gas cost portion of customer deposits, carrying costs associated with deferred gas costs outside the GSIP and PSP programs, gas cost related portion of payment plan arrangements under the Cold Weather Rule, and the gas cost component of uncollectible accounts. The calculation overstates the value because it disregards the effects of tax deductions for losses, recovery provisions contained in Laclede's tariff, and additional profits Laclede obtains through increased consumption, as well as the fact that Laclede may in fact recover some of its costs either from the ratepayer or through its pending rate case. (Tr. 523-24, 572-74, 589-90, 592, 611-12).

5. Laclede's current GSIP has not created any significant savings on the demand cost of gas, but has generated over \$8,000,000 in profits for Laclede in some years. (Ex. 18HC, Sommerer Rebuttal, Sched. 2). The gas procurement mechanism impact on consumers is approximately 2 cents per dollar spent on gas. (Ex. 35, p. 7, lines 6-12). This amount is not significant.

6. Allowing Laclede to shift discounts into years where benchmarks are more difficult to meet, at the expense of lowering customers' rates, is not in the ratepayers' interest. Ratepayers are worse off with respect to transportation discounts under the GSIP than they would have been without the GSIP. (Ex. 18HC, Sommerer Rebuttal, Sched. 5).

7. Rewarding Laclede for merely tracking the highly volatile index cost of gas has not served the ratepayers' interest. Providing an incentive to Laclede to buy gas according to index, rather than taking a broader view and considering fixed price instruments, effectively limits

Laclede's options, potentially causes ratepayers to pay higher costs than necessary, and is not in the public interest. (Tr. 1201-02).

8. *Laclede has failed to document its decisions in the procurement process. (Tr. 351, 375-76, 383).*

9. *The process of finding in year after year (GT-99-303, GO-2000-395, GT-2001-329) that the GSIP principles must be modified, does not serve or promote the public interest or permit Laclede to properly plan its commodity purchasing.*

10. *The preapproval process is not appropriate. A company's management personnel, who have the best and most timely access to information, should make decisions about a particular gas supply portfolio, and can take into account unforeseeable circumstances and current market conditions, if not forced to abide by preset parameters. Preapproval could discourage Laclede from taking opportunities to secure fixed price contracts that would produce reasonable price protection for customers.*

11. *The Commission cannot approve Laclede's proposal to donate 5% of the GSIP earnings to the Dollar Help Program, as this is tantamount to directing the Company in how to conduct its business. The Commission does not involve itself in business decisions of regulated companies.*

12. *The public will benefit more from a comprehensive reward program that focuses on the delivered cost of gas and reliability, rather than a program driven by individual, compartmentalized benchmarks. A comprehensive program defines and measures how ratepayers are benefited, incorporates weather risk into the purchasing provisions, and establishes measurements that encourage proper actions and discourage inaction or ineffective actions. A comprehensive program also incorporates the effects of purchasing decisions,*

transportation availability, transportation costs, supply availability, supply costs, and the costs of hedging mechanisms.

Conclusions of Law

The Commission must protect the public interest, ensure that Laclede's rates are just and reasonable, and ensure that Laclede provides safe and adequate service to the public. Sections 393.130 and 393.140 RSMo (2000).

The GSIP was established to permit Laclede and its customers to share in specified savings and revenues realized by Laclede in acquiring, utilizing and managing its system gas supply assets. *In the matter of Laclede Gas Company*, 5 Mo.P.S.C. 3d 108, 130 (1996).

A decision to reinstitute or incorporate minor revisions to the GSIP is not supported by competent and substantial evidence before the Commission.

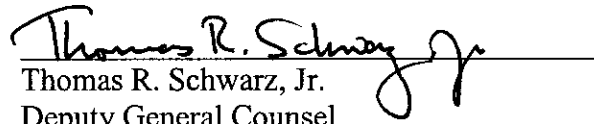
It would be unlawful for the Commission to consider only a few non-gas cost elements outside of a rate case. *Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W. 2d 41 (Mo. 1979); *State ex rel. Midwest Gas Users' Association v. Public Service Commission*, 976 S.W.2d 470 (Mo. App. 1998).

It is therefore ordered:

1. That the GSIP will expire by its own terms on September 30, 2001.
2. That competent and substantial evidence upon the record as a whole does not support an extension of the GSIP.
3. That the evidence in the record supports Staff's proposal.
4. Laclede shall file tariffs consistent with Staff's proposal in this case.

Respectfully submitted,

DANA K. JOYCE
General Counsel

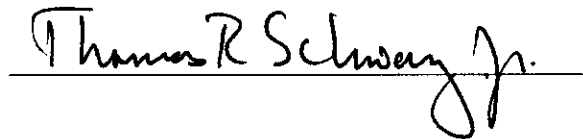

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 1st day of August, 2001.



**Service List for
Case No. GT-2001-329
Verified: July 23, 2001 (SW)**

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