

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Laclede Pipeline Company

Docket No. IS06-201-001

ORDER ON REHEARING

(Issued June 5, 2007)

1. On May 1, 2006, the Missouri Public Service Commission (MoPSC) filed a request for rehearing and for clarification of the Commission's order accepting tariffs of Laclede Pipeline Company (Laclede).<sup>1</sup> For the reasons appearing below, the request for rehearing and clarification is denied.

**Background and the March 31 Order**

2. In accordance with the requirements of the Interstate Commerce Act (ICA), Laclede submitted an initial tariff filing in this proceeding proposing terms and conditions of service and initial rates for the transportation of Liquid Petroleum Gas (propane) on its pipeline system, to become effective April 1, 2006.<sup>2</sup> Laclede primarily serves as a common carrier to supply its affiliate, Laclede Gas Company (Laclede Gas), for its design peaking service. Laclede provided a cost-of-service justification for its proposed initial rates. Laclede Gas is an entity regulated by MoPSC. MoPSC protested Laclede's filing.

3. In the March 31 Order, the Commission recited that Laclede is a seasonal small common carrier propane products pipeline established in the 1960's to acquire and supply propane for peaking service to its affiliate, Laclede Gas. The source of the propane is in Illinois and the movement of the propane via the pipeline is to Missouri. It has in the past provided commodity exchanges for third parties. Those third parties had expressed a desire to obtain transportation, which imposed on Laclede an obligation to file a tariff.<sup>3</sup>

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<sup>1</sup> *Laclede Pipeline Company*, 114 FERC ¶ 61,135 (2006) (March 31 Order).

<sup>2</sup> *Laclede Pipeline Company FERC Tariff No. 1 and FERC Tariff No. 2*.

<sup>3</sup> *Response of Laclede Pipeline Company to Motion to Intervene and Protest of Missouri Public Service Commission*, at 2.

As of the date of the instant filing, Laclede certified that it had no shippers or subscribers. Until the instant filing by Laclede, there had never been a rate on file with the Commission for any of these movements. Laclede provided justification for its initial rate in the form of a cost of service.

4. MoPSC, in its protest to Laclede's tariff filing, questioned whether Laclede: (1) should file a FERC tariff if it only transports products for its own uses; (2) would over collect its costs; (3) transported petroleum products in interstate commerce without a tariff; (4) demonstrated that a 12 percent return on equity is just and reasonable; and, (5) supported its discounted volume incentive rates of \$0.10 and \$0.15 per barrel charged to others as contrasted with the \$5.19 per barrel rate charged to Laclede Gas.

5. In the March 31 Order, the Commission denied the protest of MoPSC and accepted the tariffs of Laclede as filed. The Commission stated that there was sufficient evidence presented that would require Laclede to file a FERC Tariff and rates given the anticipated operating environment of Laclede. The Commission further rejected MoPSC's contention that Laclede would over-collect its costs, based on the cost of service information provided by Laclede. Further, the Commission found that Laclede's proposed initial rates were just and reasonable because they were derived on a cost of service basis consistent with the Commission's regulations at 18 C.F.R. 346.2 (2006). Finally, the Commission found that MoPSC's contention that Laclede should be required to disgorge revenues collected in the absence of an FERC tariff being on file in the past to be beyond the scope of this proceeding.

6. MoPSC requested rehearing of the March 31 Order. On May 16, 2006, Laclede filed a motion for leave to file an answer and an answer to MoPSC's request for rehearing. On May 30, 2006, MoPSC filed a motion for leave to file an answer to Laclede's answer filed May 16, 2006. Laclede, on June 30, 2006, filed a motion for leave to file an answer to MoPSC's May 30, 2006, pleading. The Commission's Rules of Practice and Procedure specifically prohibit the filing of answers to requests for rehearing.<sup>4</sup> Laclede states that the Commission, however, has accepted such answers when they would lead to a more complete record, help the Commission understand the issues, respond to new issues, or provide useful and relevant information that would assist in the decision-making process. That is not the case with these pleadings. The motions are denied and the answers are rejected. The request for rehearing is discussed below.

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<sup>4</sup> Rule 713(d)(1) provides: "The Commission will not permit answers to requests for rehearing." 18 U.S.C. Section 385.713(d)(1) (2006).

## **Discussion**

7. In its request for rehearing, MoPSC alleges that the Commission erred by failing to address MoPSC's concern that Laclede's discounted rates are unduly preferential. Citing and quoting Laclede's FERC Tariff No. 2, which provides that, for each shipper tendering at least 1,000 barrels per day during any thirty day period between certain points, the applicable rate shall be a discounted rate of 15.0 cents per barrel for the first 700,000 barrels tendered in each 12-month period ending March 31, and 10.0 cents per barrel for each barrel tendered in excess of 700,000. MoPSC states that Laclede excludes quantity discounts for certain volumes traveling from Hartford to Lange and Cahokia to Lange. The tariff provides that the discounts are available, "provided that the use of such barrels is not at Lange or Catalan and such volumes represent an offset to a prior or subsequent shipment of product from Lange to a point other than Catalan." MoPSC states that Laclede's witness, Robert A. Glossier, by affidavit, states that the discounts are necessary to compete with other pipelines and to "produce a sufficient economic incentive for third party shippers to use the Pipeline." MoPSC then contends that Laclede has provided no explanation or justification for denying discounts for offset volumes or volumes for ultimate use along the specified routes – that is, from Hartford to Lange, and from Cahokia to Lange. MoPSC concludes that these exclusionary terms and conditions appear to be unduly preferential and discriminatory.

8. There has been no showing of discrimination here. Laclede is not obligated to offer discounts at all. The only requirement is that any discounts it does offer be provided equally to all similarly situated shippers. MoPSC has not shown that any other shippers who would fit the exclusionary terms would be similarly situated to those who would receive the volume discounts. MoPSC has provided no evidence other than a bald assertion that there is a potential for undue preferential treatment or discrimination. As set forth in our March 31 Order, Laclede established that the discounts it offers are for competitive reasons and that absent the discounts proposed by Laclede for third-party shippers, the rates charged Laclede Gas Company would be substantially higher than the cost-of-service rates to be charged Laclede Gas Company. MoPSC thus has not shown that the exclusions contained in the Laclede tariff would be unduly preferential or discriminatory. Its rehearing request on this issue is denied.

9. MoPSC next contends that the Commission erred in failing to recognize that because of the affiliation of Laclede and Laclede Gas, the implementation of a FERC tariff for LPG transmission will create an over-recovery when viewed in conjunction with Laclede Gas Company's recovery of costs in its local distribution rates. It states that unless and until Laclede Gas Company appears before the MoPSC and makes appropriate adjustments to the calculation of its LDC rates, Laclede Gas Company will be recovering the cost of transmission of LPG via its currently effective base rates, which were calculated and approved by the MoPSC with the LPG facility costs included, and again in the inclusion and pass through of FERC-regulated rates in its cost of service. MoPSC

asks that the Commission “clarify that its conclusion that Laclede will not over-recover its cost of service, and its dismissal of MoPSC’s concern regarding double recovery of costs, relate only to FERC jurisdictional Laclede Pipeline and not Laclede Gas.”

10. It is unclear what MoPSC seeks by this requested clarification. If it is seeking some kind of declaration regarding the rates of Laclede Gas Company, we decline to do so. Laclede Gas Company is not before us and its rates for local distribution are not subject to our jurisdiction under the Natural Gas Act. MoPSC contended in its protest that “The filing of the instant tariffs creates a potential for *Laclede* [emphasis supplied] to over-recover its costs by continuing to recover the propane costs in the local distribution rates, plus recovering revenues from third parties under newly filed tariffs.” (Protest at 3, para. 2) This is *all* that is said in the protest about possible over-recovery. In the March 31 Order, we addressed what we perceived to be MoPSC’s stated concern -- that Laclede, the transporter of propane, would somehow be over-recovering its costs,-- and we concluded that it would not be doing so.<sup>5</sup> The question of whether Laclede Gas would be doing so, as MoPSC seems to be questioning on rehearing, was not and is not before us. That is an issue that would be MoPSC’s to consider. Our order is clear and requires no further clarification.

The Commission orders:

The request for rehearing and clarification is denied.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>5</sup> March 31 Order at P10.