

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**IN THE MATTER OF THE VERIFIED
APPLICATION AND PETITION OF
LACLEDE GAS COMPANY TO CHANGE
ITS INFRASTRUCTURE SYSTEM
REPLACEMENT SURCHARGE IN ITS
LACLEDE GAS SERVICE TERRITORY;**

MISSOURI GAS ENERGY;

USW LOCAL 11-6;

MISSOURI PUBLIC SERVICE COMMISSION

**v.
OFFICE OF PUBLIC COUNSEL**

RESPONDENTS,

APPELLANT.

DOCKET NUMBER WD79349

DATE: September 27, 2016

Appeal From:
Public Service Commission

Appellate Judges:
Division Two: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt,
Judge

Attorneys:
Jennifer L. Heintz, Jefferson City, MO, for respondent Missouri Public Service Commission.
Rick Zucker, St. Louis, MO, for respondents Laclede Gas Company and MGE

Marc D. Poston, Jefferson City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

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No. WD79349

Public Service Commission

Before Division Two: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Gary D. Witt, Judge

The Office of Public Counsel ("OPC") appeals the Missouri Public Service Commission's ("Commission") order approving the petition of Laclede Gas Company ("Laclede Gas") to change its Infrastructure System Replacement Surcharge ("ISRS"). Laclede Gas submitted two ISRS petitions on August 3, 2015, one for Laclede Gas and one for its operating unit, Missouri Gas Energy ("MGE"), (collectively "Laclede"). The petitions contained proposed rate schedules and supporting documentation for eligible infrastructure investments for March 1, 2015 through June 30, 2015. The petitions also contained requests for rate increases based on estimated expenditures for July and August 2015 with no supporting documentation. The OPC contends that the Commission's order granting the petitions was unlawful because it could not award Laclede recovery for the July and August expenditures because the required documentation was not provided at the time the petitions were filed.

WE AFFIRM

Division Two holds:

(1) The Commission is not statutorily barred from accepting budgeted or estimated costs with an ISRS petition, it may do so in its discretion. The Commission did not err in exercising its discretion to accept such information in this case because it was supplemented with proper materials with sufficient time for the Commission's Staff and the OPC to conduct a full review.

(2) The Commission did not err in its finding that accepting two months of budgeted costs with the ISRS petitions did not violate OPC's due process rights where the OPC failed to establish the reduction in time denied OPC an ability to protect the public's interests.

(3) The Commission did not err in finding the July and August reimbursements were supported by competent and substantial evidence despite the fact that the supplemented and updated information may not have been "filed." The supplemented information was provided to all parties, it was relied on by the Commission's Staff which filed the verified Staff Report and Recommendation, entered into the record, and the respective affiants that contributed to the report were subject to cross examination. The supplemental information was referred to and relied on in the Commission's Report and Order and became part of the official record.

Opinion by Gary D. Witt, Judge

September 27, 2016

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