

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

IN THE MATTER OF THE APPLICATION OF LACLEDE GAS COMPANY D/B/A  
MISSOURI GAS ENERGY, FOR APPROVAL TO CHANGE ITS INFRASTRUCTURE  
SYSTEM REPLACEMENT SURCHARGE;

PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI,

Respondent

v.

Respondent

THE OFFICE OF PUBLIC COUNSEL,

Appellant

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DOCKET NUMBER WD76509

DATE: January 14, 2014

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Appeal From:

Circuit Court of County, MO  
The Public Service Commission

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Appellate Judges:

Division Four  
James Edward Welsh, C.J., Cynthia L. Martin, J., and Patrick Robb, Sp. J.

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Attorneys:

Marc Poston, Jefferson City, MO

Counsel for Appellant

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Attorneys:

Kevin Thompson, Jefferson City, MO  
Shelley Brueggemann, Jefferson City, MO  
Public Service Todd Jacobs, Kansas City, MO  
Dean Cooper, Jefferson City, MO

Counsel for Resp., Public Service  
Co-Counsel for Resp., Public Service  
Counsel for Resp, Laclede Gas Co.  
Co-Counsel for Resp., Laclede Gas Co.

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**IN THE MATTER OF THE APPLICATION OF LACLEDE GAS COMPANY D/B/A MISSOURI GAS ENERGY, FOR APPROVAL TO CHANGE ITS INFRASTRUCTURE SYSTEM REPLACEMENT SURCHARGE, RESPONDENT; PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI, RESPONDENT, V. THE OFFICE OF PUBLIC COUNSEL, APPELLANT.**

**WD76509**

**Public Service Commission**

**Before Division Four Judges:** Welsh, C.J., Martin, J., and Robb, Sp. J.

Laclede Gas Company filed a petition to change its "Infrastructure System Replacement Surcharge" ("ISRS"). The Missouri Public Service Commission issued an order approving Laclede's petition. The Office of Public Counsel appealed on the basis that the Commission's order was unlawful because it approved an increase in the ISRS more than three years after Laclede's most recent general rate case, in violation of its statutory authority in section 393.1012.2, RSMo.

**AFFIRMED.**

**Division Four holds:**

The Commission's interpretation of the statute -- *i.e.*, that the three-year limitation on its authority to approve "an ISRS" applies only to the establishment of the initial ISRS, and not to subsequent changes to the ISRS -- is reasonable and is consistent with the clear legislative intent, which is to permit the gas company to timely recover its costs for government-mandated infrastructure system replacement projects via a rate adjustment outside of a general rate case for a limited period of time. The Commission acted within its statutory authority in approving the change to Laclede's existing ISRS because it had not been three years since the ISRS was established. Thus, the Commission's order is not unlawful.

Opinion by James Edward Welsh, Chief Judge

January 14, 2014

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