

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 11th day
of April, 2006.

USW Local 11-6,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2006-0060</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DENYING MOTION FOR IMMEDIATE RELIEF

Issue Date: April 11, 2006

Effective Date: April 11, 2006

On February 9, 2006, USW Local 11-6 (the Union) filed a request for expedited relief pending a final decision in this case. The Union argued that safety concerns make it necessary to reinstitute inspections that Laclede Gas Company discontinued in July 2005 as a result of an amendment to its tariff.

Laclede amended its tariff on June 10, 2005. One of the amendments discontinued service initiation inspections where a new account is established, but the flow of gas to the customer's premises is not interrupted. The Union first tried to attack the tariff after it had become effective and that case was dismissed.¹ The Union then filed this

¹ *In the Matter of Laclede Gas Company's Request to Revise Tariffs*, Case No. GT-2005-0496, Order Denying Motion for Reconsideration and Closing Case (June 28, 2005).

complaint alleging that Laclede will not be providing safe and adequate service under its tariff.

Neither the Commission's Staff nor the Office of the Public Counsel responded to the Union's motion.

The Union's Request for Relief

The Union requests that Laclede be ordered to reinstitute full inspections when transferring gas service at residences and to conduct full inspections at all the residences that missed those inspections since the tariffs went into effect. The Union requests this relief under Section 386.310.1, RSMo, which allows the Commission to grant immediate relief without a hearing if the failure to do so would result in the "likelihood of imminent threat of serious harm to life or property." The Union filed the Affidavit of Joe Schulte as support for its motion.

According to Mr. Schulte, the following hazards have been discovered during past inspections of this type:

- Fire hazards that can lead to an explosion from carbonized heat exchangers caused by burning the wrong mixture of gas and air, which blocks the chambers of the heat exchanger, causing flames to float or roll out of the front of the furnace.
- A hole in a vent pipe or an improperly fitted vent or flue pipe which can allow carbon monoxide to leak into a house.
- Appliance connector hazards that allow gas or carbon monoxide to leak into a house and may lead to an explosion, a fire, or carbon monoxide poisoning.
- Delayed ignition ovens caused by white carbon build up that could cause the oven to fill up with gas and explode.
- Irregularities in the gas line going into and out of the meter due to poor installation or normal erosion, which can cause gas to seep into the residence.

The Union also included resolutions of the City of St. Peters, the St. Louis County Council, the Jefferson County Commission, the City of O'Fallon, the City of Florissant, the City of St. Louis, the City of St. Peters, the City of St. John, the City of Ballwin, and the St. Charles County Council as support for its motion.

Laclede's Opposition

Laclede argues that the performance of these inspections is not a matter of public safety because they have never been required by the state or federal safety rules, including 4 CSR 240-40.030. Laclede further argues that no other gas utility in Missouri currently performs such inspections. Laclede argues that since no other gas operators are required to perform the inspections and have not been doing so for decades, the inspections cannot be so critical to public safety as to justify relief without an evidentiary hearing.

Laclede also argues that if there was a safety reason for the inspections, then maintaining and establishing consistent standards for all gas utilities would be required in order to avoid confusion about whether it is the customer's or the utility's responsibility to order the inspection when customers move from one service territory to another. Laclede argues that the absence of these inspections has not created any threat, imminent or otherwise, to public safety. Laclede includes the Affidavit of Thomas A. Reitz as support for its position and to demonstrate that many of the items identified by Mr. Schulte were not found as the result of this type of inspection, that other items are duplicates, and that others are associated with unknown addresses.

Laclede also alleges that the Union did not file this motion out of safety concerns but rather in an effort to involve the Commission in a labor dispute. Laclede claims that it

uses Union labor to a greater extent than most other utilities. Laclede states that the Union is attempting to intimidate Laclede into perpetuating work that serves no purpose other than to impose additional cost and inconvenience on the Company's customers.

Laclede argues that the requested relief is prohibited by the statute prohibiting the Commission from adjudicating labor matters that are governed by a collective bargaining agreement.² Finally, Laclede argues that the relief is against the case law barring the Commission from usurping management's right to direct the fundamental business affairs of the utility.³

Decision

The Union has not shown that Laclede is in direct violation of any law pertaining to gas safety. The Union has not shown that Laclede is in violation of any of the Commission's rules or of any federal safety rules. Furthermore, the Union has not shown that it is the general practice of any other local distribution company to perform such inspections or that Laclede has a special circumstance which requires different treatment from that of other local distribution companies.

The Commission has twice denied Laclede's motions to dismiss for failure to state a cause of action so that it may hear all of the Union's evidence and Laclede's rebuttal. However, the Commission determines that the Union's evidence supporting its motion is not sufficient for the Commission to take interim action without granting Laclede a hearing. The parties have been directed to file a proposed procedural schedule, including

² Section 386.315, RSMo.

³ *State ex rel. City of St. Joseph v. PSC*, 30 S.W. 2d 8, 36 (Mo. 1930); *State ex rel. Kansas City Transit, Inc. v. PSC*, 406 S.W. 2d 5 (Mo. 1966).

an evidentiary hearing to be held on or before May 19, 2006. Therefore, the Commission will promptly hear this case and make its findings regarding whether Laclede has violated Section 393.130.

The motion of the Union is denied.

IT IS ORDERED THAT:

1. The Motion for Immediate Relief filed by the USW Local 11-6 is denied.
2. This order shall become effective on April 11, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton,
and Appling, CC., concur.

Dippell, Deputy Chief Regulatory Law Judge