

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

United Steelworkers of America Local)	
No. 11-6, AFL-CIO,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2006-0060
)	
Laclede Gas Company,)	
)	
Respondent.)	

STAFF’S PREHEARING BRIEF

I. Background

In this complaint the United Steelworkers of America, Local 11-6 (Local 11-6) allege that current Laclede Gas Company (Laclede or Company) practices pose threats to residential customer safety. Laclede’s practices, in turn, are specified by Commission rules and Laclede’s tariff provisions.

On June 10, 2005, changes to Laclede’s tariffs (Revised Sheets R-11 and R-14) became effective. The change in P.S.C. MO. No.5 Consolidated, Fifth Revised Sheet R-11 provided that meters read by automated meter reading devices (AMRs) would constitute actual reads, in satisfaction of Commission rule requiring an annual read of each residential customer’s meter (4 CSR 240-13.020(4)). The change in P.S.C. MO. No.5 Consolidated, Fifth Revised Sheet R-14 eliminated the then-existing tariff requirement that Laclede inspect customer-owned piping and appliances when service is transferred from one customer to another, with no interruption in the flow of gas. No Commission gas safety or billing standard rule required such inspections.

Local 11-6 alleges (Amended Complaint, paragraphs 9 and 11) that the amended tariff provisions “have or will adversely impact public safety” and “the tariff revision preclude[s] Laclede from fulfilling its statutory obligation.” These allegations have no merit, as Staff believes the evidence in this case will amply demonstrate.

A. Commission Safety Rules

1. Company-owned property

The Commission has promulgated extensive rules governing safe operation and maintenance of company-owned property used for delivery of natural gas to customers (4 CSR 240-40.030). These requirements comprise some forty pages of the fine print of the CSR. Particularly, paragraph 4 CSR 240-40.030(9)(Q) requires Laclede to inspect, at least every three years, company-owned pipe that is exposed to atmospheric corrosion. Also, 4 CSR 240-40.030(13)(M)2 requires instrument leak detection surveys to be conducted on company-owned piping annually in business districts and every three years for all other locations. This includes Laclede’s pipe, upstream of the meter, that is within a residential customer’s home. These are the only safety rules that require inspection of company-owned property inside a customer’s house (excluding leak calls).

2. Customer-owned property

The customer is responsible for maintaining her own piping and equipment in safe operating condition. Rule 4 CSR 240-40.030(1)(K) requires the utility to specifically inform a new customer of his responsibility to maintain his own buried piping. Rule 4 CSR 240-40.030.12(S)2.C requires the utility, at the time it turns on the flow of gas, to inform the customer of his/her responsibility to maintain his/her piping and equipment.

Commission rules normally require the utility to inspect customer property, but only at the time that the utility turns on the flow of gas to a customer’s premises. Rule 4 CSR 240-

40.030(12)(S)1.A requires the utility to test the customer-owned fuel piping to at least the delivery pressure, and Rule 4 CSR 240-40.030(12)(S)1.B requires the utility to inspect exposed, accessible customer gas piping, interior and exterior, and all connected equipment to determine that requirements of applicable safety standards are met. These are the only Commission safety rule that require Company to test or inspect customer-owned property, to make sure that a Company action (introducing flowing natural gas into the customer's premises) does not create a hazard in the structure.

B. Commission Billing Rules

Commission billing rules for residential customers require that Laclede obtain at least one actual meter read per year for each of its residential customers. 4 CSR 240- 13.020(4). For customers with inside meters, this rule in the past has required Laclede to enter the customer's home to read the meter. The tariff provision challenged here, as a safety matter, permits Laclede to treat an AMR read as an actual read for purposes of 4 CSR 240-13.020(4).

C. Laclede Tariff Provisions

1. Annual Meter Reads

Annual meter reads are required by Laclede's tariff, P.S.C. MO. No. 5 Consolidated, Fifth Revised Sheet No. R-11. That tariff sheet now provides that reads from a remote reading attachment shall constitute actual reads. Thus, Laclede in theory will be able to fulfill its tariff obligation every month through the newly-installed remote meter reading devices.

2. Interruption of Gas Flows

When the flow of natural gas has been interrupted, Laclede's tariff requires it to test for leakage and inspect customer premises to determine that they are in a safe condition before reestablishing service. P.S.C. MO. No. 5 Consolidated, Sixth Revised Sheet No. R-14 . This provision is complies with Commission rule 4 CSR 240-40.030. 12 (S)1.A. and B.

a. TFTOs – read-out/read-in without interruption of gas flow

Laclede's former tariff required Laclede to inspect customer premises every time a new occupant requested service, without regard to whether the flow of gas had been interrupted. P.S.C. MO. No. 5 Consolidated, Fifth Revised Sheet No. R-14 (now cancelled).

II. Issues for Resolution

A. Does any gas safety law, rule, order, or decision of the Commission require Laclede to perform TFTO inspections and annual inside meter reads?

No. Staff's review of Commission rules does not reveal such a requirement, and Local 11-6 has not cited one.

B. If not, is there nevertheless a sufficient safety justification for considering a requirement to perform TFTO inspections and annual inside meter reads with its attendant costs?

There is no dispute that maintenance of the customer's premises is the customer's responsibility. The Staff does not believe that reviving TFTO inspections or requiring physical, interior, annual meter reads of inside meters constitute a reasoned approach to insuring the safe condition and operation of customer-owned facilities.

The TFTO inspections are haphazard, entirely dependent upon the frequency of customer changes in residence. The evidence will show that some residential properties may be inspected more than once a year, while other properties may go years or decades without such an inspection. As such, TFTO inspections cannot serve as a basic, reliable element in a program to insure that residential customers' equipment is safe.

A safety program for customer-owned property must be regular and systematic. That is, normal operating conditions, as well as accidents, structural changes, or the intervention of outside agents (e.g., birds, squirrels) may at any time affect the safe operation of customer piping

or equipment. Thus, premises and property that are safe today may become unsafe tomorrow. An effective safety program must address changing conditions by regularly reviewing them. TFTOs, by their sporadic nature, cannot and will not provide the basis for a good customer safety program.

Inside meter reads would not require the inspection of customer-owned property for safety. The procedure under the old tariff provision permitted Laclede to comply with the Commission requirement to inspect its own property for corrosion, 4 CSR 240-030(9)(Q). Further, a requirement to inspect customer-owned property in such circumstances addresses only one-third of Laclede's residential customers – those with inside meters. Is there good reason for all customers to pay for safety inspections for only one-third of the customer base.

III.

If there is such a safety justification, who can or should be responsible for performing TFTO inspections and annual inside meter reads and under what circumstances?

Customer safety is a principal concern of the Commission, regulated Missouri utilities, and their customers and employees. Although there are a number of steps that the Commission and utilities can do to promote the safe maintenance and operation of customer facilities, mandating utility inspection of customer property at the time of TFTOs is not an effective tool. First, such inspections are not regular and systematic, because customer moves are not regular and systematic. Second, the need for scheduling and making interior meter reads is no longer an economic necessity on to which inspection of customer-owned property can be piggy-backed. That is, neither the utility, the old customer, nor the new customer require utility access to the inside meter to change over service as partial justification for the expense involved in gaining access to customer premises.

Nor is there reason to believe that the Commission is best positioned to secure safety of customer premises. Counties and municipalities exercise the police power to these very ends through building codes, building inspections, and occupancy regulations. Local government may have a better feel for the condition of the housing stock in their area, the availability of licensed qualified, individuals to make safety inspections, the need to inspect for conditions other than gas safety, and the willingness of owners to pay for inspections. The General Assembly has already enacted legislation enabling such local controls, and, within the strictures of the Hancock amendment, can enact mandatory requirements if it finds that course advisable. The *ex parte* contacts in this case are evidence of concern of both state and local officials, and the Commission should encourage their fellow public servants to act directly in this matter.

IV.

If gas utilities can and should be responsible for performing TFTO inspections and annual inside meter reads, should this be established through a complaint procedure or procedure or through a rulemaking?

Staff asserts that Laclede's tariffs comply with all Commission safety and billing rules. It appears, therefore, that Local 11-6's complaint is in fact a challenge to the adequacy of the Commission's rules. The Staff does not agree that the Commission's current gas safety rules are in any way deficient. Staff does concede that if the Commission concludes that current safety practice can be improved, that the practices of all natural gas utilities should be addressed through a rulemaking.

V. Conclusion

Staff asks the Commission to consider the evidence and to find that Laclede's tariffs comply with Commission gas safety rules. The Commission should dismiss the complaint as unfounded.

Respectfully,

/s/ Thomas R. Schwarz, Jr.

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18th day of May, 2006.

/s/ Thomas R. Schwarz, Jr.