

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 28th day of
November, 2006.

USW Local 11-6,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2006-0390</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

**ORDER DENYING MOTION TO SUBSTITUTE DEPOSITION FOR LIVE
TESTIMONY BUT PERMITTING TESTIMONY TO BE OFFERED BY
TELEPHONE**

Issue Date: November 28, 2006

Effective Date: November 28, 2006

On November 13, 2006, USW Local 11-6 filed a motion asking leave to substitute the deposition testimony of one of its witnesses – Claire Donnelly – for her live testimony at the evidentiary hearing scheduled for December 11 and 12, 2006. The Commission’s Staff filed a response to the Union’s motion on November 17, indicating that it does not oppose that motion. Laclede Gas Company filed a response on November 17, opposing the Union’s motion because Ms. Donnelly’s testimony would be repetitive of similar testimony offered by other witnesses for the Union.

The Union prefiled Claire Donnelly's direct testimony on September 26.¹ Ms. Donnelly is a customer of Laclede Gas Company, and her testimony relates her experience with the installation of an AMR device on the gas meter in her home. The Union's motion indicates that Ms. Donnelly will be eight-months pregnant at the time of the hearing and, furthermore, must stay in St. Louis to care for her two-year-old child. As a result, she will be unable to travel to Jefferson City to attend the hearing in person. The Union asks that rather than requiring Ms. Donnelly to travel to Jefferson City to testify, the Commission allow the Union to substitute her deposition for her live testimony. That deposition has not yet been taken, but the Union indicates that Ms. Donnelly would be available to give her deposition between December 1 and the date of the hearing.

Ms. Donnelly's prefiled testimony is not extensive; her affidavit is only two pages long. Requiring the Union to take her deposition to preserve her testimony, and requiring the other parties to attend her deposition if they want to cross-examine, would be a waste of resources for all concerned. Furthermore, the substitution of a deposition for her live testimony would deny the Commissioners their opportunity to question Ms. Donnelly. Fortunately, there is a much simpler and less costly alternative available. Ms. Donnelly can give her testimony and be cross-examined on that testimony by telephone.

Although the Commission prefers that witnesses appear in person, an exception to that requirement can be made in appropriate circumstances. The fact that Ms. Donnelly is pregnant and unable to travel from St. Louis to Jefferson City is certainly an appropriate reason to allow her to testify by telephone. Therefore, the Union's motion to substitute a

¹ Ms. Donnelly's testimony is in the form of an affidavit rather than the question and answer format on line-numbered pages required by Commission Rule 4 CSR 240-2.130(6).

deposition for the live testimony of Ms. Donnelly will be denied, but that witness will be allowed to testify at the hearing by telephone.²

IT IS ORDERED THAT:

1. USW Local 11-6's Motion to Substitute Deposition for Live Testimony is denied.
2. Claire Donnelly may offer her testimony by telephone.
3. This order shall become effective on November 28, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Woodruff, Deputy Chief Regulatory Law Judge

² At the appropriate time, the presiding officer will call Ms. Donnelly at the phone number provided before the hearing by counsel for the Union.