

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

USW Local 11-6)	
)	
)	
v.)	Case No. GC-2006-0390
)	
Laclede Gas Company,)	
)	
Respondent.)	

STAFF'S PREHEARING BRIEF

COMES NOW the Staff of the Missouri Public Service Commission and states:

INTRODUCTION

In March 2005, Laclede Gas Company (Laclede) entered into a contract with CellNet Technology, Inc. (CellNet) to implement an automated meter reading (AMR) program. Under the contract, CellNet is responsible for installing AMR modules on virtually all of the meters in Laclede's service territory. CellNet subcontracted the hiring and training of personnel to install AMR units to Honeywell, Inc. The personnel installing the AMR units were trained by Honeywell using training materials jointly prepared by Laclede and CellNet.

A careful review of the pleadings and other evidence in this case confirms the findings of Staff Witness Robert Leonberger - that there is no cohesion or explanation, as well as no merit, to USW Local 11-6's case (Leonberger Rebuttal, p. 4, line 17 through p. 9, line 6). It also confirms that USW Local 11-6 only produced information about its allegations when it absolutely had to even though it had been in possession of this information prior to the filing of its complaint on April 10, 2006 (Leonberger Rebuttal, p. 14, lines 9-16).

THE INITIAL COMPLAINT

On April 10, 2006, USW Local 11-6, filed a formal complaint against Laclede (Initial Complaint). This Initial Complaint contained unsupported accusations that subcontractors were not adequately trained to install AMR devices on residential meters (Initial Complaint, p. 2, paragraph 7) and installation of AMR devices resulted in damaged meters and gas leaks (Initial Complaint, p. 2, paragraph 8). The Initial Complaint stated that the unilateral change in the method of installing remote meter reading devices on meters significantly impairs Laclede's ability to provide safe and adequate service (Initial Complaint, p. 2, paragraph 12). USW Local 11-6 also asserted that it had conversed with Laclede about these matters but no resolution was reached (Initial Complaint, p. 2, paragraph 8).

USW Local 11-6 sought a Commission Order requiring Laclede to continue the installation of the AMR devices but that Laclede must use its "own, trained non-managerial personnel" to ensure that the devices were installed without damaging the meters or causing gas leaks (Initial Complaint, p. 3, paragraph 15).

On May 11, 2006, Laclede filed its Motion to Dismiss Complaint or, in the Alternative, Motion for a More Definite Statement and Motion to Strike Request for Relief and, in the Alternative, Answer to Complaint (Answer). Laclede pointed out that in January 2006, prior to the filing of the Initial Complaint, USW Local 11-6 alleged to Laclede that numerous instances of gas leaks were being caused by AMR installations (Answer at 1, paragraph 1). Laclede denied this allegation and requested details from USW Local 11-6 to support this allegation, but none were provided (Answer at 1, paragraph 1). The next time that Laclede heard about this matter was when the Initial complaint was filed by USW Local 11-6 at the PSC (Answer at 1, paragraph 1).

Laclede sought more definite information to enable it to respond to the Complaint (Answer at p. 2, paragraphs 2-6). Laclede sought to strike a portion of the relief sought by the Union (Answer at p. 3-5, paragraph 7-12). Laclede stated that the Commission could not dictate which specific personnel Laclede must use to install AMR units (Answer at p. 5, paragraph 12).

Laclede denied the allegations of AMR installations causing leaks (Answer at p. 6, paragraph 15). Laclede also denied that installation of AMR devices resulted in unsafe and inadequate service (Answer at p. 6, paragraph 18).

On May 30, 2006, USW Local 11-6 filed its Opposition to Laclede's Motion. In its Motion at paragraph 2, USW Local 11-6 stated:

2. Laclede's insistence that it has not been shown any factual basis for the Union's complaint is premature and disingenuous. Laclede will have ample opportunity in this proceeding to conduct discovery about the Union's knowledge of leaks caused by AMR installation. Indeed, the Union has previously produced information of numerous leaks caused in this manner in the course of discovery and testimony in another case before the Commission, *USW Local 11-6 v. Laclede Gas Company*, GC-2006-0060.

USW Local 11-6's pleading notably lacked the name of a specific witness or page reference to support this allegation.

On June 8, 2006, Laclede filed its Response. Laclede emphasized that the Union had not provided specific information about gas leaks caused by installation of AMR units. Laclede disputed USW Local 11-6's assertion that evidence of gas leaks, allegedly caused by AMR installation, was produced by USW Local 11-6 in case no. GC-2006-0060 (Response at 1-4).

A review of the testimony and affidavits filed by USW Local 11-6 in Case No. GC-2006-0060 shows that the only reference to gas leaks allegedly caused by AMR installation is in the

“Declaration of Kevin Stewart.” This document contains no specific details such as addresses or other specific details of gas leaks allegedly caused by AMR installation.¹

On August 10, 2006, the Commission issued its Order Denying Laclede’s Motion to Dismiss. The Commission found that USW Local 11-6 had alleged that Laclede’s AMR implementation is not being done in a safe manner (Order at p. 2) and that USW Local 11-6 also alleged that the installers are causing damage to meters and causing gas leaks (Order at p. 2).

However, in this order the Commission granted Laclede’s Motion for a more definite statement. The Commission expressly found that USW Local 11-6 failed to specifically state such facts even though it claims to know such specific facts (Order at 3).

On August 21, 2006, USW Local 11-6 filed its First Amended Complaint. For the first time, USW Local 11-6 provided details of its allegations that improper installation of AMR devices caused gas leaks. USW Local 11-6 provided specific addresses: some where gas leaks allegedly occurred; others without an allegation of any event; and, still others alleging improper installation. In a specific allegation, USW Local 11-6 alleged that one installer drilled through a meter while installing an AMR.

Laclede filed its Answer to the First Amended Complaint on September 20, 2006. Laclede denied most of the allegations of USW Local 11-6 but admitted the specific isolated allegation of an installer drilling through a meter while installing an AMR. Laclede explained that the damage was promptly called in and the meter was replaced and that the limited use of a drill to extract stripped index screws was ended (Answer at p. 2-3).

On September 26, 2006, USW Local 11-6 filed the testimony, affidavits, statements or deposition segments of approximately 29 people. The testimony includes several Laclede

¹ Per EFIS on May 5, 2006, in case no. GC-2006-0060, USW Local filed the testimony, affidavit or declaration of Steven Hendricks, Kevin Stewart, Joe Schulte and Robert Peterson. There is no other reference, besides by Kevin Stewart, to alleged leaks caused by AMR installation.

customers who wanted only a USW Local 11-6 member to install their AMR due to their support of the Union, some allegations of leaks at specific addresses and some complaints about AMR accuracy.

BURDEN OF PROOF

USW Local 11-6 has the burden of proof since it filed this Complaint (Section 386.310 RSMo 2000). Staff did not find any cases on the burden of proof standard regarding a complaint before the Commission but suggests that preponderance of the evidence would be the appropriate standard.

ISSUE A

A. Has the installation of AMR modules by Laclede violated Section 393.130.1 RSMo (safety and/or adequacy) or any gas safety law, rule, order, or decision of the Commission?

Staff's answer is no. The installation of AMR modules by Laclede has not violated Section 393.130.1 or any other gas safety law, rule, order or decision of the Commission. Staff further submits that there is no credible evidence to support such an allegation.

STAFF'S EVIDENCE

Mr. Robert Leonberger is the Utility Regulatory Engineering Supervisor of the Gas Safety/Engineering section of the Commission's Energy Department. Mr. Leonberger is a recognized expert on natural gas and pipeline safety.

Mr. Leonberger presented several undisputed facts about AMRs:

1) Approximately 500,000 AMR devices have been installed in Missouri and several million of these devices have been installed in other states;

2) Installation of AMR devices is relatively simple and adequate training was provided to Cellnet contractors;

3) The failure rate of the AMR devices being installed in Laclede's program is not unusually high;

4) Of the AMR device failures, an extremely low percentage of them relate to any type of a leak, and

5) The AMR related leaks observed were not caused by the AMR itself; in fact they were likely identified as a result of the AMR installation.

(Leonberger Rebuttal, p. 3, lines 10-22).

Over 500,000 AMR devices had been installed on natural gas meters by Missouri Gas Energy and AmerenUE prior to Laclede's AMR project (Leonberger Rebuttal, p. 9, lines 8-15). There have been no known safety-related problems with these programs (Leonberger, p. 9, lines 16-18). The failure rate for these projects was about 2% (Leonberger Rebuttal, p. 10, lines 1-3).

As of October 22, 2006, Laclede had installed approximately 592,500 AMR devices with about 73,000 installations yet to be done and had about a 1.9% failure rate which is in line with the industry average of 1-3% (Leonberger Rebuttal, p. 10, lines 6-16).

The installation of an AMR device requires the removal of a few bolts or screws (usually four) to remove the index cover and dials (Leonberger, p. 11, lines 4-7). Basic AMR installation is done on the outside of the meter and does not penetrate the gas carrying portion of the meter (Leonberger, page 11, lines 7-9). AMR installation is a simple process of removing screws or bolts, installing the AMR device and reinserting screws or bolts. The persons installing AMRs for Laclede were adequately trained (Leonberger, p. 11, lines 3-22).

Staff first received USW Local 11-6's specific information regarding its allegations on August 21, 2006, the same day USW Local 11-6 filed its First Amended Complaint (Leonberger Rebuttal, p. 13, lines 3-7). This information contained over 300 Laclede customer addresses and consisted of approximately 66 copied pages containing handwritten addresses (Leonberger Rebuttal, p. 13, lines 3-12). Mr. Leonberger only found one address where he believed that the installation of the AMR device caused a leak (Leonberger Rebuttal, p. 14, lines 17-21, p. 15, lines 10-17). This was at the same address previously mentioned where the installer was using a drill in an attempt to remove a stripped screw. Mr. Leonberger also provided an analysis, based on his investigation, of the addresses contained in USW Local's First Amended Complaint where USW Local 11-6 claimed a leak occurred due to an improper AMR installation and found no evidence to support the allegations (Leonberger Rebuttal, p. 15, line 5 through p. 17, line 10).

Staff submits that this evidence shows that USW Local 11-6 has failed to prove that Laclede has violated Section 393.130.1 RSMo regarding safety and adequacy of service or any other gas safety law, rule, order, or decision of the Commission.

B. If so, what is the appropriate remedy?

Assuming the Commission finds a violation by Laclede, then the issue becomes what is the appropriate remedy? The Commission, as it noted in its August 10, 2006 Order has broad jurisdiction to order Laclede to provide safe and adequate service to its customers (Order at p. 3). However, the Commission noted that it cannot dictate how Laclede manages its business and thus could not order that specific personnel perform any remedial measures that the Commission might order (Order at 3-4).

Accordingly, any remedy should be carefully crafted by the Commission to remedy any problems with AMRs that the Commission determines to exist. However, per above, the

Commission cannot order that specific personnel perform any remedial measures. Thus, USW Local 11-6's proposed remedy that Laclede use its "own trained personnel" is not a viable or legal option. That would be a management decision for Laclede.

WHEREFORE, Staff respectfully requests that the Commission overrule USW Local 11-6's Complaint.

Respectfully submitted,

/s/ Robert V. Franson

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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 30th day of November, 2006.

/s/ Robert V. Franson