

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Gwenda Allen,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2007-0007</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DIRECTING STAFF TO INVESTIGATE AND FILE A REPORT

Issue Date: November 28, 2006

Effective Date: November 28, 2006

On July 5, 2006,¹ Gwenda Allen filed a complaint with the Commission against Laclede Gas Company. On July 6, the Commission issued a Notice of Deficiency advising Ms. Allen's that her complaint was deficient for not having fully complied with Commission Regulations 4 CSR 240.070(5)(C), (D), and (E). In particular, Ms. Allen failed to state: (1) the nature of her complaint and her interest in the complaint in a clear and concise manner; (2) the relief requested; and (3) whether she has directly contacted the person, corporation or public utility about which complaint is being made. The Commission advised Ms. Allen that no action would be taken on this complaint until it was brought into compliance with all Commission regulatory requirements.

On August 31, the Commission issued notice to Ms. Allen stating that fifty-six days had passed since the Commission issued its Notice of Deficiency and that

¹ All dates throughout this order refer to the year 2006 unless otherwise noted.

Ms. Allen had not yet brought her complaint into compliance with Commission Rules. Ms. Allen was advised that Commission Rule 4 CSR 240-2.116(2) states: "Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time." The Commission cautioned Ms. Allen that failure to bring her complaint into compliance by October 4, or failure to request a continuance, could result in the possible dismissal of her complaint.

On September 26, the Staff of the Missouri Public Service Commission requested that it be allowed to investigate this complaint and that Laclede be ordered to respond. Staff based its motion on the fact that Ms. Allen attached documents to her complaint that Staff believes are sufficient "to alert the Commission that this matter involves a low-income ratepayer that is unable to obtain heating service, a matter of great public interest in view of the potential danger to the health and welfare of Complainant and her family, if any, of a winter without heat." Staff argued that it would be contrary to the public interest, and in derogation of Section 386.610 requiring liberal construction of Chapter 386, to apply a stringent application of the Commission's pleading rules to this *pro se* complainant.

On October 3, Laclede responded to Staff's motion. Laclede acknowledged that Staff "based its request on the fact that Ms. Allen appears to be a low-income customer who received a heating assistance grant pledge in the amount of \$329.21 from the Great Things Incorporated Foundation, and had a balance in 2003 of \$1574.70." However, Laclede noted that Ms. Allen had availed herself of adequate resources for assistance in maintaining her gas service, that once the assistance was received her

current account balance would be in the \$400 range, and that the same sources of assistance would be available to Ms. Allen this winter. Laclede also pointed out that Ms. Allen would be able to take advantage of the recently amended Cold Weather Rule. Laclede believes that Ms. Allen should be permitted to decide whether she wished to further pursue a complaint and called attention to the fact that Ms. Allen had recently changed her billing address.

On October 4, because Ms. Allen had changed her address, the Commission re-issued its notice of deficiency, instructing the Commission's Data Center to direct notice to both Ms. Allen's current address on record with the Commission as well as her new billing address. Ms. Allen was given until November 6 to bring her complaint into compliance with Commission rules and was specifically directed to make clear to the Commission if she was still interested in further pursuing her complaint.

On November 6, the deadline for Ms. Allen's response passed and she failed to bring her complaint into compliance. She did not request a continuance and did not file a pleading, as ordered, indicating any intention to further prosecute her complaint with the Commission. Consequently, on November 7, the Commission directed Ms. Allen to show cause why her complaint against Laclede Gas Company should not be dismissed. In that same order, Staff was directed to renew its September 26 motion to investigate Ms. Allen's complaint if it was still interested in pursuing the complaint on Ms. Allen's behalf. Staff was instructed that failure to renew its motion could result in its denial. Staff did not renew its former motion.

Ms. Allen failed to respond to the Commission's November 7 order within the deadline prescribed. As previously noted in this order, Commission Rule 4 CSR 240-

2.116(2) provides that: “Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time.” Additionally, Commission Rule 4 CSR 240-2.116(3) provides that any party may be dismissed from a case for failure to comply with any Commission order.

One hundred and forty-six days have now elapsed since Ms. Allen filed her complaint and she has pursued no further action to prosecute the complaint. She has not brought her complaint into compliance with Commission rules. She has not requested a continuance. She failed to comply with the Commission’s October 4 and November 7 orders. Staff also did not renew its motion to investigate as directed in the Commission November 7 order.

IT IS ORDERED THAT:

1. No later than December 7, 2006, the Staff of the Missouri Public Service Commission shall contact Gwenda Allen and ascertain if she wishes to further prosecute her complaint.

2. Should Gwenda Allen affirmatively confirm that she wishes to further prosecute her complaint, then no later than December 7, 2006, the Staff of the Missouri Public Service Commission shall file a report stating Gwenda Allen’s position in this matter and shall renew its September 26 motion to investigate her complaint.

3. Should Gwenda Allen confirm that she no longer wishes to further prosecute her complaint, then no later than December 7, 2006, the Staff of the Missouri Public Service Commission shall file a report stating Gwenda Allen’s position in this matter and shall also state if the Staff of the Missouri Public Service Commission wishes

to investigate Gwenda Allen's complaint despite her intention not to further prosecute her complaint.

4. In the event that the Staff of the Missouri Public Service Commission is unable to contact Gwenda Allen, then no later than December 7, 2006, it shall file a report delineating its attempts to contact Gwenda Allen, and shall also state if the Staff of the Missouri Public Service Commission wishes to investigate Gwenda Allen's complaint despite being unable to contact Gwenda Allen.

5. Should the Staff of the Missouri Public Service Commission wish to further investigate Gwenda Allen's complaint, regardless of Gwenda Allen's position with regard to further prosecuting the complaint, or regardless of its ability to contact Gwenda Allen, then no later than December 7, 2006, the Staff of the Missouri Public Service Commission shall renew its September 26 motion to investigate her complaint.

6. This order shall become effective on November 28, 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)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 28th day of November, 2006.