

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

R. J. Liebe Athletic Lettering Company, )

Complainant, )

v. )

**Case No. GC-2007-0192**

Laclede Gas Company, )

Respondent. )

**ORDER DIRECTING COMPLAINANT TO SEEK LEAVE TO AMEND ITS  
COMPLAINT**

Issue Date: April 3, 2007

Effective Date: April 3, 2007

On April 2, 2007, Complainant complied with the Commission's March 23, 2007 order and filed its "Pleading Identifying Material Facts in Dispute." It would appear to the Commission that Complainant has added a new allegation in this pleading that did not appear in its original complaint filed on November 17, 2006.

In the original complaint, Complainant stated:

Complainant bases its complaint on Respondent's violation of the Service and Billing Practice Rules for Commercial Customers (4 CSR 240-10 .040). Section (2) of that Rule clearly states that all bills rendered should be actual readings describing "the dates of the readings, the number of units of service supplied and the basis of charge. . ."

There is no provision for Respondent to issue an estimated bill to a commercial customer other than in the narrow circumstance described in Section (1) of the Rule ; namely, if the Respondent is denied access to the meter. In the instant case, the meter is on the exterior of the building and Respondent has open access to it at all times.

Respondent's own refusal to either fix its meter or to make actual readings, does not warrant issuing estimated bills. Complainant, although having paid all estimated bills, is unable to verify if it has been overcharged and has paid for services not received. Complainant believes that the burden to prove actual services lies with Respondent, and further believes that Respondent may have engaged in such unauthorized estimated billing with other commercial customers.

In its current filing, Complainant alleges:

In Complainant's initial pleading and in its response to Laclede's Answer, Complainant pointed out that the "malfunctioning meter" involved in the instant case was not a matter of a random mechanical failure, but was rather a result of the actions of Laclede's personnel disabling the meter. Whether by intent or by neglecting to take reasonably available means to check its work, the nature of the rendering the functioning meter inoperable is material to whether or not Laclede Tariff Rule 10A should apply. It has yet to be established or stipulated that the stoppage was an unforeseeable mechanical stoppage or failure (as addressed by the Tariff language) or whether it was caused by a willful or negligent act of Laclede. Complainant believes that the Tariff provisions of Rule 10A do not apply to situations where Laclede unilaterally disables the meter. While this issue may ultimately be one of law, the underlying facts giving rise to the question have not yet been established.

Complainant has plead [sic] that Laclede has willfully acted in a manner which potentially benefits the company to the disadvantage of the consumer and that the Complainant's [sic] issue was part of a pattern of behavior amongst many customers. Complainant made that assertion based upon hearing of other customers' experiences, and on the unexplainable refusal of Laclede to timely address the situation for six months. Whether or not the present issue is part of a pattern of customer-abuse is relevant to the degree of remedy sought. The underlying facts of Laclede's business practices have not yet been established.

Commission Rule 4 CSR 240-2.080(20) provides: "Any pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission." Complainant did not amend its complaint prior to Laclede filing its answer and has not sought leave to amend its complaint with the Commission to add an allegation of willful neglect or intentional disabling of a meter. Before the Commission can determine the course of this proceeding, Complainant will have

to seek appropriate leave to amend its complaint. Should leave be granted, Laclede will be given an appropriate opportunity to respond.

**IT IS ORDERED THAT:**

1. No later than April 10, 2007, R. J. Liebe Athletic Lettering Company shall file with the Commission an appropriate pleading seeking leave to amend its complaint in compliance with Commission Rule 4 CSR 240-2.080(20).

2. This order shall become effective on April 3, 2007.

**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 3rd day of April, 2007.