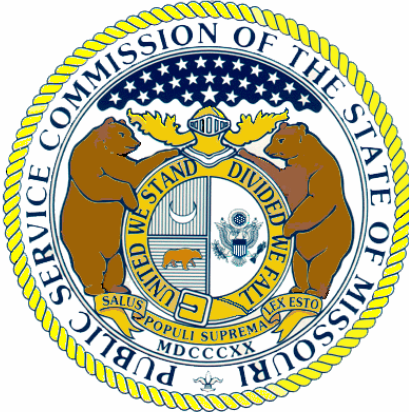


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



Marlyn Young,

Complainant,

v.

Laclede Gas Company,

Respondent.

Case No. GC-2007-0211

REPORT AND ORDER

Issue Date: **March 13, 2008**

Effective Date: **March 23, 2008**

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

Marlyn Young,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2007-0211</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

APPEARANCES

Marlyn Young, Post Office Box 2487, Florissant, Missouri 63032, Complainant acting
Pro Se

Rick Zucker, Laclede Gas Company, 720 Olive Street, Room 1516, St. Louis, Missouri
63101, Attorney for Laclede Gas Company

Kevin Thompson, Missouri Public Service commission, Post Office Box 360,
Jefferson City Missouri, 65102, Attorney for the Staff of the Missouri Public Service
Commission

REGULATORY LAW JUDGE: **Kennard L. Jones, Judge**

REPORT AND ORDER

Background

Marlyn Young filed a complaint against Laclede Gas Company alleging that the company “disconnected [his] gas service for failure to pay for service from other metered locations.” In his complaint, Complainant points out that he provided proof to Laclede that he resided at 2629 Terrace Lane, in St. Louis. He further states that Laclede has wrongfully charged him for services at 9414 Eastchester Dr. and 8831 May Ave. because those accounts were under someone else’s name; Rosemary Jackson. For his relief, Complaint request that the Commission: (1) vacate all service charges against him; (2) restore gas service to Complainant without penalty; and (3) any other remedy the Commission deems proper. On his complaint, Mr. Young shows his address as P.O. Box 2487, Florissant, Mo.

For its answer, Laclede states that it has charged Mr. Young for service under accounts that are either in his name or in the name of Rosemary Jackson at the following addresses over a seven-year period: 914 Eastchester, 2629 Terrace and 8831 May. The company further notes that Mr. Young currently resides at 2437 Wieck. Laclede points out that during the course of trying to resolve this matter, Mr. Young has presented himself as three different people with several different social security numbers. Laclede alleges that a review of Mr. Young’s credit records for the purposes of establishing his identification places him at all of these premises during the time that the billings were incurred. In its posthearing brief, Laclede contends that Mr. Young owes the following amounts from the corresponding addresses:

1/00 – 2/04	2629 Terrace	(under benefit of service)	\$660.10
11/04 – 9/05	8831 May	(Named account party)	\$162.53
7/05 – 10/06	2437 Wieck	(Named account party)	<u>\$526.55</u>
			\$1,349.18

The Staff of the Commission filed its Investigative Report and concludes that after a review of the documentation and facts provided, Mr. Young owes Laclede \$1,349.18. This amount includes a transferred amount of \$660.10 for 2629 Terrace and an arrearage of \$689.08 at Complainant's current address of 2437 Wieck. The issue that has become the focus of this matter is whether Complainant resided at the Terrace address during the time the delinquent bill accumulated. If he did, then he received the benefit of gas service and is responsible for any delinquent amount.

After an extended period of settlement negotiations, an evidentiary hearing was held and posthearing briefs were filed. Based on the record and the evidence submitted, the Commission makes the following findings of fact and conclusion of law.

Findings of Fact

Having review the record in this matter, the Commission makes the following findings of fact.

1. Morlyne Brett Young married Rosemary Belinda Jackson on July 14, 1989.¹
2. Marlyn Young is the complainant in this matter.²
3. Marlyn Young married Rosemary Jackson on July 14, 1989.³
4. Morlyne Brett Young and Marlyn Young are the same person.

¹ Ex. 2; Tr. page 18, line 2 – page 19, line 4.

² Tr. page 15.

³ Tr. page 18, line 2 – page 19, line 4

5. Drivers Licenses, issued by the State of Missouri to persons between the ages of 21 – 69, expire 6 years from the date of issuance on the persons birthday.⁴
6. Complainant was born on February 24, 1940 and is between the ages of 21-69.⁵
7. The expiration date on Complainant's driver's license is 2010.⁶
8. Complainant's driver's license was issued in 2004.
9. Complainant's address at the time his driver's license was issued was 2629 Terrace.⁷
10. Complainant resided at 2629 Terrace in 2004.
11. Complaint also resided at 2629 Terrace from November of 1999 to November of 2003.⁸
12. Rosemary Jackson had an account with Laclede at 2629 Terrace with the first billing date as February of 2000.⁹
13. From February 2000 to May 28, 2004, Rosemary Jackson accumulated a balance of \$660.10 on the account at 2629 Terrace.¹⁰
14. The last payment on the account at 2629 Terrace was in February of 2004.
15. A balance of \$660.10 still remains on the Terrace account.¹¹
16. Complainant attempted to get gas service connected at 8831 May in November of 2004.¹²

⁴ The Commission takes official notice of information posted on the Department of Revenue's website showing this fact to be true.

⁵ Tr. page 23, lines 2-5.

⁶ Tr. page 23, line 16-17.

⁷ Tr. page 23, lines 20-22.

⁸ Tr. page 25, line 23 – page 26, line 9.

⁹ Ex. 4; Tr. page 74, lines 3-24.

¹⁰ Tr. page 104, lines 17-18; Ex. 4.

¹¹ Tr. page 149, lines 13-22.

¹² Tr. page 30 – 32; Ex. 5.

17. An amount of \$162.53 was transferred from the May account to 2437 Wieck.¹³
18. Complainant's account balance at 8831 May as of November 9, 2006 was \$0.¹⁴
19. Complainant's account balance at 2437 Wieck as of November 9, 2006 was \$689.08.¹⁵
20. Rosemary Jackson's mailing address is P.O. Box 2487, Florissant, Mo.¹⁶
21. Complainant shares a P.O. Box with Rosemary Jackson.¹⁷

Conclusions of Law

The Commission makes the following conclusions of law:

1. Laclede Gas Company is a "public utility" and "gas corporation" as those terms are defined at Section 386.020 (18) and (42). RSMo Supp 2007.
2. Under Section 386.390.1, RSMo 2000, the Commission has authority to hear a complaint alleging "any act or thing done or omitted to be done . . . by any public utility . . . in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission."
3. As the party bringing this complaint, Marlyn Young has the burden of proving the allegations made in his complaint.¹⁸
4. Commission rule 4 CSR 240-13.050(2)(A) states that it shall not constitute sufficient cause for a utility to disconnect service for the failure of a customer to pay for merchandise, appliances or service not subject to commission jurisdiction as an integral part of the utility service provided by a utility.
5. Commission rule 4 CSR 240-13.050(2)(D) states that it shall not constitute sufficient cause for a utility to disconnect service for the failure to pay the bill of another customer, unless the customer whose service is sought to be discontinued received substantial benefit and use of the service.

¹³ Tr. page 103, lines 14-15.

¹⁴ Ex. 6.

¹⁵ Ex. B.

¹⁶ Tr. page 153, line 18 – page 154, line 2.

¹⁷ Tr. page 154, lines 15-24.

¹⁸ *State ex rel GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n*, 116 S.W.3d 680 (Mo. App. W.D. 2003).

6. Commission rule 4 CSR 240-13.050(2)(E) states that it shall not constitute sufficient cause for a utility to disconnect service for the failure of a previous owner or occupant of the premises to pay an unpaid or delinquent bill except when the previous occupant remains an occupant or user.

Discussion

In his complaint, Complainant alleges that Laclede has violated those Commission rules listed above. Complainant's claim that Laclede has disconnected his service for failure to pay for a service that is not subject to the Commission's jurisdiction is without any factual basis. That his services were disconnected for nonpayment due to anything other than receiving the benefit of natural gas was not contemplated during the hearing, nor was there any argument made on this point. Complainant's allegation on this point fails.

With regard to subsection (E) above, Complainant has simply misread this Commission rule. This rule addresses a scenario where person "A" has a delinquent bill and moves out of a premises, then person "B" moves in. Through the rule, the Commission is stating that a utility cannot disconnect services to that premises unless person "A" remains. Again, the facts surrounding this case do not contemplate the facts applicable to that rule.

Subsection (D) under this rule is the appropriate Commission rule for discussion. Laclede alleges that Complainant resided at the address on Terrace during the time the delinquent bill accumulated. Although the service was in the name of Rosemary Jackson, Laclede asserts that Complainant received substantial benefit and can therefore be held accountable for the delinquent bill. Complainant counters that he did not reside at the address.

The evidence in this case proves that Complainant did reside at the Terrace address during the time in question. The period in question is from February 22, 2000 through

February 2004. Complainant admitted that he lived at the address from 1999 through November of 2003. Laclede's witness testified that a trace of Complainant's social security number through credit bureaus placed him at the address.¹⁹ Further, as set out in the facts above, his driver's license places him at the address during the time in question.

Weighing heaviest against Complainant, however, is his lack of credibility. At the beginning of the hearing, Complainant lied about whether he was married to Rosemary Jackson.²⁰ Also, at the beginning of the hearing, Complainant stated that he has never used the middle initial "B."²¹ This testimony conflicts with the document evidencing his marriage to Rosemary Jackson.²² Again, Complainant has lied. Further, Complainant testified that he filed a document in this case showing that he lived at the Terrace address from July of 1999 to June of 2005.²³

Complainant carries the burden of proof in this matter. Other than Complainant's testimony, which the Commission finds lacks credibility, he has presented nothing to show he did not reside at the Terrace address during the relevant time period. Further, he has not shown that Laclede has violated any laws, rules or orders of the Commission.

Conclusion

The Commission concludes that Laclede has violated no statute, Commission rule or order. Complainant's allegations fail and he is responsible for the past-due amount of \$1,349.18.

¹⁹ Tr. page 131, lines

²⁰ Tr. page 16, line 16 – page 19, line 13.

²¹ Tr. page 16, lines 2-7.

²² Ex. 2.

²³ Tr. page 43, line 14 – page 44, line 14. Although both Complainant and Respondent agree that such a document was filed, no such document exists in the record. Both parties, however, on the telephone together read from the purported document and Complainant testified that the document exists.

IT IS ORDERED THAT:

1. Marlyn Young's complaint is without merit and his request for relief against Laclede Gas Company is denied.
2. This order shall become effective on March 23, 2008.
3. This case may be closed on March 24, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
Appling, and Jarrett, CC., concur
and certify compliance with the
provisions of Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 13th day of March, 2008.