

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 18th day of September, 2007.

Paula Gianella,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2008-0009</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DISMISSING PORTION OF COMPLAINT SEEKING MONETARY DAMAGES AND SCHEDULING A PREHEARING CONFERENCE

Issue Date: September 18, 2007

Effective Date: September 18, 2007

Paula Gianella filed a complaint against Laclede Gas Company on July 10, 2007. That complaint had two aspects. First, Ms. Gianella alleged that the gas bills she received from Laclede last winter were unduly high when compared to the bills received by her friends and neighbors with larger homes. That portion of the complaint alleged that there was something wrong with Laclede’s meter causing it to register more gas usage than could actually be used given her installation of a high-efficiency furnace and other efforts to reduce her use of gas.

The second portion of Ms. Gianella’s complaint alleges that when she first bought her house, Laclede conducted an inspection of the furnace but failed to discover damage to the furnace that caused her to suffer from carbon monoxide poisoning. With regard to this second portion of her complaint, Ms. Gianella requested “personal and monetary damage

sustained due to negligence regarding safety inspection of furnace at or before home closing.”

Laclede filed its answer and a motion to dismiss on August 13. With regard to the first portion of the complaint, Laclede denied that Ms. Gianella’s gas bill were unduly high. With regard to the second portion of the complaint, which alleges an incomplete or incompetent home sale inspection, Laclede filed a motion to dismiss. Laclede indicates that the home inspection took place in 1996 and was conducted by Laclede as an unregulated service paid for by the home seller. More importantly, Laclede points out that the Commission does not have authority to grant monetary relief for damages. On that basis, Laclede asks the Commission to dismiss the portion of the complaint that seeks such relief.

The Commission ordered its Staff to investigate Ms. Gianella’s complaint, and on September 11, Staff filed its report concerning that investigation. Staff concurs with Laclede’s contention that the portion of the complaint seeking the award of damages must be dismissed.

Ms. Gianella filed a reply to Laclede’s answer and motion to dismiss on August 27. In that reply, Ms. Gianella presented additional facts and argument to counter Laclede’s answer regarding the amount of recent gas bills. She also explained that she included information about the 1996 home sale inspection as part of her complaint to “show the complainant’s view of the utility’s credibility and their previous treatment of her.”

The positions of the parties regarding the first part of Ms. Gianella’s complaint have now been established and the portion of the complaint regarding allegedly high recent gas bills is ready to move toward an evidentiary hearing. The Commission will schedule a

prehearing conference for the purpose of discussing any discovery issues and choosing a date for the hearing.

However, the Commission must grant Laclede's motion to dismiss the second portion of the complaint that seeks damages relating to the 1996 home inspection. This Commission is not a court and has only the authority granted to it by the legislature. The Commission does not have the authority to award damages to Ms. Gianella, or any other claimant, for wrongdoing by a public utility.¹ Since the Commission cannot grant the relief requested in the second part of the complaint, the Commission will dismiss the request for damages.²

IT IS ORDERED THAT:

1. The portion of Paula Gianella's Complaint seeking the award of personal and monetary damages is dismissed.

2. A prehearing conference shall be held on October 2, 2007, beginning at 2:00 p.m., in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This conference will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference. The parties are allowed to participate in the prehearing conference by telephone. To participate by telephone, a

¹ *State ex rel. Laundry, Inc. v. Pub. Serv. Comm'n.*, 327 Mo 93, 112, 34 S.W.2d 37, 46 (Mo. 1931)

² Ms. Gianella's reply to Laclede's motion to dismiss suggests that she is raising the events surrounding the home sale inspection as a means of impeaching Laclede's credibility. Today's order does not preclude her from offering testimony for that purpose. The admission of such testimony is an evidentiary issue that may be resolved later in this proceeding.

party may call (573) 522-8023 or if long distance call (866) 324-7550 at the time set for the beginning of the hearing.

3. This order shall become effective on September 18, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale
Secretary

(S E A L)

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

Woodruff, Deputy Chief Regulatory Law Judge