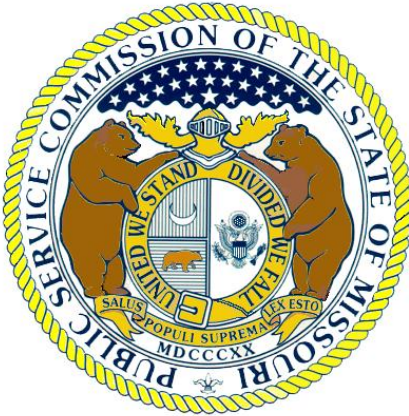


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



Bridgette Young,

Complainant,

v.

Laclede Gas Company,

Respondent.

File No. GC-2010-0248

REPORT AND ORDER

Issue Date: October 13, 2010

Effective Date: October 23, 2010

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Bridgette Young,)	
)	
Complainant,)	
)	
v.)	<u>File No. GC-2010-0248</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

Appearances

Bridgette Young, *pro se*.

Rick Zucker, Assistant General Counsel, Laclede Gas Company, 720 Olive Street, Room 1516, Saint Louis, Missouri 63101, for Laclede Gas Company.

Samuel D. Ritchie, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

SENIOR REGULATORY LAW JUDGE: Ronald D. Pridgin

REPORT AND ORDER

Procedural History

On March 3, 2010, Bridgette Young (“Ms. Young”) filed a complaint against Laclede Gas Company (hereafter “Laclede”), alleging that Laclede overbilled her for her gas usage due to a leak in her service line. Laclede denied the allegations. The Staff of the Commission (hereafter “Staff”) filed a Recommendation concurring with Laclede’s position. The Commission convened an evidentiary hearing on August 18, 2010, and received post-hearing briefs from Laclede and Staff on September 23.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. When making findings of fact based upon witness testimony, the Commission will assign the appropriate weight to the testimony of each witness based upon their qualifications, expertise and credibility with regard to the attested to subject matter.¹

1. Ms. Young is a natural person and was, at all pertinent times, a customer of Laclede.²

2. Laclede is a Missouri corporation engaged in the sale of natural gas at retail to persons in the region of St. Louis, Missouri.

3. Staff is represented by the Commission's Staff Counsel's Office, acting independently of the Commission.

4. The Public Counsel is an official of the State of Missouri, appointed by the Director of the Missouri Department of Economic Development, and is authorized to "represent and protect the interests of the public in any proceeding before or appeal from the public service commission[.]"³

5. Ms. Young has no experience in gas service.⁴

6. Ms. Young has no training in reading gas meters.⁵

¹ Witness credibility is solely within the discretion of the Commission, who is free to believe all, some, or none of a witness' testimony. *State ex. rel. Missouri Gas Energy v. Public Service Comm'n*, 186 S.W.3d 376, 389 (Mo. App. 2005).

² Petitioner's complaint.

³ Section 386.700, .710(2) RSMo 2000.

⁴ Tr. 21.

⁵ Id.

7. Laclede repaired a gas leak in front of Ms. Young's residence in August, 2008.⁶

8. The leak was in the street at the joint on the main pipe where her service line was connected, and the leak was not connected to any one customer.⁷

9. The leak could not affect her bill, as it was between the main and her meter.⁸

10. From August 10, 2007 to August 8, 2008, Ms. Young used 632 Ccf (one hundred cubic feet) of natural gas.⁹

11. From August 8, 2008 to August 10, 2009, Ms. Young used 615 Ccf of natural gas.¹⁰

12. From August 10, 2009 to August 9, 2010, Ms. Young used 676 Ccf of natural gas.¹¹

13. Ms. Young's usage history before and after the August, 2008 service line replacement is consistent.¹²

Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law.

⁶ Tr. 34, 55.

⁷ Tr. 55.

⁸ Tr. 57, 82.

⁹ Ex. 2.

¹⁰ Id.

¹¹ Id.

¹² Tr. 59, Ex. 1, 2, 6.

Jurisdiction:

Respondent is engaged in owning, controlling, managing, and operating gas plant for public use under a franchise granted by the state of Missouri or a political subdivision thereof, and is thus a gas corporation and a public utility within the intendments of Chapter 386, RSMo, and is subject to the jurisdiction of this Commission.

The Commission is authorized to hear and determine complaints made by customers against public utilities by § 386.390.1, which states:

Complaint may be made by ... any ... person ... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation ... or public utility, including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or 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[.]

However, authority to hear and determine the complaint does not necessarily equal authority to grant the relief therein requested. The Public Service Commission “is purely a creature of statute” and its “powers are limited to those conferred by the [Missouri] statutes, either expressly, or by clear implication as necessary to carry out the powers specifically granted.”¹³ While the Commission properly exercises “quasi judicial powers” that are “incidental and necessary to the proper discharge” of its administrative functions, its adjudicative authority is not plenary.¹⁴ Further, the Commission cannot award pecuniary damages.¹⁵

¹³ *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 47 (Mo. banc 1979); *State ex rel. City of West Plains v. Public Service Commission*, 310 S.W.2d 925, 928 (Mo. banc 1958).

¹⁴ *State Tax Commission v. Administrative Hearing Commission*, 641 S.W.2d 69, 75 (Mo. 1982), quoting *Liechty v. Kansas City Bridge Co.*, 162 S.W.2d 275, 279 (Mo. 1942).

¹⁵ *May Dept. Stores Co. v. Union Electric*, 107 S.W.2d 41, 58 (Mo. 1937).

Burden of Proof:

Ms. Young bears the burden of proof in a case such as this one in which the complainant alleges that a regulated utility has engaged in unjust or unreasonable actions.¹⁶ Thus, she must establish all facts necessary to support the relief she seeks by a preponderance of the credible evidence.

Decision

Ms. Young asks for credit of an uncertain amount, but in the thousands, due to a belief that Laclede has overcharged her.¹⁷ Ms. Young believes she was overcharged because Laclede repaired a leak in a gas main in front of her house in August, 2008. She believes she must have been paying for leaking gas before that repair was made.

However, the evidence expressly indicates that the leak was a “street leak”, and, thus, the gas leaked **before** it could go through Ms. Young’s meter.¹⁸ If the leak had been on the “customer” side of the meter; in other words, in between the meter and the residence, Ms. Young would be billed for gas she could not use. But the leak was on the “street” side of the meter; in other words, in between the street and the meter. As a result, the gas escaping the pipe never reached Ms. Young’s meter, and she was not billed for the leaking gas.

Furthermore, Ms. Young’s gas usage was consistent before and after the leak. It follows that the leak was outside the meter and, therefore, did not affect Ms. Young’s bill.

Laclede did not overcharge Ms. Young for her gas service. Her complaint is denied.

¹⁶ *Ahlstrom v. Empire District Electric Company*, 4 Mo.P.S.C.3d 187, 202 (1995); *Margulis v. Union Electric Company*, 30 Mo.P.S.C. (N.S.) 517, 523 (1991); *State ex. rel. GS Technologies Operating Co., Inc. v. Public Service Comm’n*, 116 S.W.3d 680, 693 (Mo. App. 2003).

¹⁷ Tr. 52, 76.

¹⁸ Ex. 6HC, App. A; Ex. 6HC, Sch. 1, p. 1; Ex. 6HC, Sch. 6, p. 2; Tr. 57, 82.

THE COMMISSION ORDERS THAT:

1. The complaint is denied.
2. All objections not ruled on are overruled and all motions or other requests for relief not specifically granted herein are denied.
3. This order shall become effective on October 23, 2010.
4. This case shall be closed on October 24, 2010.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

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

Dated at Jefferson City, Missouri,
on this 13th day of October, 2010.