

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 21st day
of December, 2011.

Myron Lockhart,)	
)	
Complainant,)	
)	
v.)	
)	
Laclede Gas Company)	
)	
and)	
)	
Union Electric Company d/b/a Ameren)	
Missouri)	
)	
Respondents.)	

File No. GC-2012-0078

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

Issue Date: December 21, 2011

Effective Date: January 20, 2012

Background

On September 12, 2011,¹ Myron Lockhart (“Complainant”) filed a complaint against Laclede Gas Company (“Laclede”) and Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) (Laclede and Ameren Missouri collectively “Respondents”). Laclede answered the complaint on September 28 and Ameren Missouri answered on October 3. Respondents moved to dismiss the complaint for failure to state a claim upon which relief can be granted, or, in the alternative, to direct Complainant to amend his complaint or file a more definite statement.

¹ All dates throughout this order refer the calendar year 2011.

Indeed, it is very difficult to decipher the nature of Mr. Lockhart's complaint. After a rendition of allegations of connections between First Boston Corporation, IPC Information Systems, Inc., the New York Stock Exchange and the Respondents, Complainant references some type of stock transfer occurring in 1971 that he believes was improper that Complainant alleges allowed the Respondents to become public companies. Mr. Lockhart then states:

Question who authorized Laclede gas, union electric to change from private to public companies as well First Boston Corporation to be change. Then had to be a will or trust involved. P.S. Ownership need to be establish.

In the Commission's formatted complaint form, where it asks the Complainant to state the relief he is requesting Mr. Lockhart writes:

Bonds stock shares and trust compensation inform of payments current value.

In addition to Respondents being unable to understand the nature of the complaint, they both document multiple deficiencies with the complaint not complying with the Commission's complaint rules. While the Commission grants a great deal of latitude to *pro se* complainants, the Commission and the Respondents must have a fundamental understanding of the nature of the complaint in order to respond and grant the Complainant proper process. To assist with determining the nature of the complaint, the Commission directed Mr. Lockhart to file a more definite statement.

On October 11, Complainant made another filing wherein he states:

Bonds were cashout before maturity date, stocks were cashout before schedule date. With a Laclede Gas Company Annual Report dated September 30, 1969. Stating a specific instruction that 100% ownership should remain hold of the two companies. So with the sale of these Bonds Shares and Stocks allowed the change of ownership without proper authority. The actual documents of the bonds, shares, stocks should be produced to

verify ownership and the trust registration for the bonds, shares and stock. So compensation of current value can take place.

Respondents again attempted to answer and again moved to dismiss for failure to state a claim upon which relief may be granted. Similarly to the Respondents, the Commission's Staff noted numerous deficiencies with the complaint and was initially unable to adequately investigate it. Consequently, the Commission directed Staff to meet with Complainant, determine the nature of the complaint, and file a report of its investigation.

On November 8, Mr. Lockhart filed a second revised statement of his complaint. In this revision Mr. Lockhart States, in pertinent part:

I Myron Lockhart is requesting current value of the bonds, shares and stocks cashed in before maturity date. . .

I feel the investigation should continue in this matter so my interest can be proven. So IRS Records, trust Registration and court proceeding held by the Commission Missouri citizens should have fair rates and knowing they are paying there hard earn money to the Proper and legal Companies that is the authority of the commission to make sure the public safety well being and interest. Se we need to verify ownership of these Companies.²

Staff's Investigation

On November 22, Staff filed its report after having the opportunity to visit with Complainant.

Staff explains its findings as follows:

Mr. Lockhart explained to Staff that he believes his grandfather owned certain stocks or bonds of Union Electric Company and/or Laclede Gas Company that should have passed to Mr. Lockhart in 1969 when he was a child. Mr. Lockhart believes those securities may either have been "cashed out before maturity" in 1971 during a transfer of ownership or that they were reissued at that time. Mr. Lockhart has implied that actions of certain private parties may have contributed to the loss of the securities in question.

² Mr. Lockhart cites the following as the basis for the Commission's jurisdiction over this matter: "4 CSR 240-40 (A) records required under this rule shall be maintained by each regulated gas corporation for a period of not less than six years. (11) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws." Mr. Lockhart is citing to the Commission's Affiliate Transactions Rule, the first section regarding records retention is 4 CSR 240-40.015(7)(A). The second section is 4 CSR 240-40.015(11).

However, he was not specific about this claim and seemed reluctant to elaborate on his theory. Either way, Mr. Lockhart is not in possession of those securities or of any dividends from those securities but believes he is entitled to such. He is interested in discovering what happened to those securities and recovering them or recovering their value. Mr. Lockhart asserts that the events of 1971 he is disputing took place before the Missouri Public Service Commission and were approved by the Commission. Based on this assertion, he expects the Commission to open an investigation into the events in question and determine whether all transfers of ownership, particularly issuance of stocks and bonds, were done according to the law and per the rules and regulations of the Commission.

In support of his claim, Mr. Lockhart has provided documents referencing various Commission decisions. Staff Counsel has spent considerable time with Mr. Lockhart in the Data Center attempting to help him identify the information he believes he needs. Staff has separately attempted to identify the events about which Mr. Lockhart has questions. It remains unclear which Commission cases might be applicable, as there were numerous published and unpublished cases in 1971 regarding the sale of stocks and bonds from or to Union Electric Company or Laclede Gas Company. In an effort to help Mr. Lockhart find the answers to his questions, Staff has identified for Mr. Lockhart the resources where he might find the details of past Commission cases, shown him how to access and use these resources, and been available to him for additional instruction in the use of Commission resources.

Mr. Lockhart has raised issues that fall under the Commission's jurisdiction over a gas, electric, water, or sewer company's issuance of stocks and bonds and the transfer, merger, consolidation, and sale of those companies. These matters come under Sections 393.180, 393.190, and 393.200, RSMo 2000. However, none of Mr. Lockhart's allegations describe a violation of any of these statutes. Collectively, the statutes direct that Commission-regulated utility companies secure Commission authorization prior to issuance of stocks and bonds, all transfers, mergers, assignments, and consolidations, and acquisition of stocks and bonds of these companies. Mr. Lockhart has not alleged that the events of 1971 were done without the approval of the Commission. On the contrary, Mr. Lockhart has explained that he believes the events in question took place before the Commission and were approved by the Commission, and he is now requesting an investigation into the legality of those events.

Any private sale or transfer of stocks and bonds outside the limited, statutorily-granted authority cited above would fall outside the jurisdiction of the Commission. If private parties affected the sale or transfer of Mr. Lockhart's securities, the Commission has no jurisdiction to entertain a claim against those parties.

Mr. Lockhart's complaint, as it applies to the legality of past Commission actions, is an improper collateral attack on decisions that are final. It is understandable that Mr. Lockhart would be interested in an explanation of those proceedings given his personal interest in discovering what happened to his inherited investments when he was a child. However, Section 386.550, RSMo 2000, dictates that "the orders and decisions of the Commission which have become final shall be conclusive." Therefore, the relief Mr. Lockhart requests – that the Commission open an investigation into its previous actions for the purpose of correcting an alleged impropriety – is not relief the Commission has the authority to grant. Furthermore, as to any claims of improper sale of stocks and bonds Mr. Lockhart wishes to make against private parties, the Commission may grant no relief in such matters. Any remedy Mr. Lockhart may have against a private party could be available through a civil action rather than through the Commission.

Based upon its investigation, Staff has recommended the Commission dismiss this case.

In response to Staff's recommendation, Respondents have renewed their motions to dismiss for failure to state a claim upon which relief may be granted.

Analysis and Decision

Section 386.390, RSMo 2000, governs complaints before the Commission. The statute requires complainants to "set forth in writing any act or thing done or omitted to be done by any corporation, person, or public utility . . . in violation, or claimed to be in violation, of any provision of law, or any rule or order or decision of the commission." Even discarding the Commission's procedural requirements for filing a complaint, Mr. Lockhart does not allege any violation by the Respondents of any provision of law, or any rule or order or decision of the Commission. Mr. Lockhart apparently believes he has an ownership interest in stocks and bonds, which are not in his possession or control, and which is speculative in nature. While Mr. Lockhart is certainly free to seek some relief with the circuit court to have misappropriated securities returned to his possession, that authority is not vested with this Commission.

Additionally, as Staff correctly notes, to the extent any Commission order is potentially involved with regard to approving any stock or bond transfers of these companies in 1971, Complainant admits that the events he is addressing were done with Commission approval, and not in violation of a Commission statute, rule, order, decision or Commission-approved tariff. Staff is correct that any challenge to those prior orders of the Commission, a challenge which so far has not been raised by Complainant, would be an improper collateral attack on decisions that are final.

Staff, Laclede, and Ameren Missouri are all in agreement that Mr. Lockhart has failed to state a claim upon which relief may be granted. Indeed, upon the Commission's independent and impartial review of all of the case filings, no complaint of any violation has been made pursuant to the basic requirements of the Commission's complaint statute. Consequently, the Commission will dismiss the complaint.

THE COMMISSION ORDERS THAT:

1. Myron Lockhart's complaint is dismissed without prejudice.
2. This order shall become effective on January 20, 2012.
3. This file shall be closed on January 21, 2012.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

Gunn, Chm., Davis, Jarrett, and
Kenney, CC., concur.
Stoll, C., not participating.

Stearley, Deputy Chief Regulatory Law Judge