

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 27<sup>th</sup> day of July, 2011.

The Staff of the Missouri Public Service Commission, )  
)  
)  
Complainant, )  
)  
v. )  
)  
Laclede Gas Company, )  
)  
Respondent. )

**File No. GC-2011-0098**

**ORDER REGARDING SHEMWELL'S  
APPLICATION TO INTERVENE**

Issue Date: July 27, 2011

Effective Date: July 27, 2011

The Commission's Staff filed its second amended complaint against Laclede Gas Company on November 22, 2010. Laclede answered that complaint on December 10 and at the same time asserted a counter-claim against Staff alleging that in various Laclede ACA cases, Staff has made recommendations, asserted disallowances, and sought discovery that directly conflict with the Commission's affiliate transaction rules and the company's Cost Allocation Manual. Laclede asserts that Staff does not have a good faith, non-frivolous argument for its positions and therefore is in violation of Commission Rule 4 CSR 240-2.080.

Lera Shemwell, an attorney for the Commission's Staff, signed Staff's second amended complaint, as did two other attorneys for Staff, Annette Slack, and Kevin

Thompson. On July 8, 2011, Shemwell withdrew as counsel for Staff in this case. On July 11, she filed an application to intervene as a party arguing that Laclede's counter-claim alleges that she, as one of the attorneys who signed the compliant, acted unethically, thereby subjecting her to possible disciplinary action before the Missouri Bar. Shemwell asks to be permitted to intervene to protect her individual professional interests.

Commission Rule 4 CSR 240-2.075(1) requires that applications to intervene be filed within thirty days after the Commission gives notice of the case unless a different date is set by the Commission. That thirty-day intervention window has long since passed and the evidentiary hearing on Staff's complaint and Laclede's counter-claim is set to begin on August 10. Shemwell recognizes that her application to intervene is late, but along with that application, she filed a motion requesting leave to intervene out of time.

Laclede responded to Shemwell's application to intervene on July 21. Laclede asks the Commission to deny Shemwell's application to intervene as unnecessary, explaining that its counter-claim does not make any specific allegations against Shemwell that would reasonably put her at risk of an ethics complaint before the Missouri Bar. Laclede instead states that its counter-claim seeks to establish that the Commission's Staff, as opposed to Staff's Legal Counsel, does not have a good faith basis for the positions it has taken in various complaint and actual cost adjustment (ACA) cases affecting Laclede.

Shemwell replied to Laclede's response on July 25. Shemwell repeats her assertion that she has a right to intervene to defend her reputation and professional standing. She also suggests that any confusion regarding her intervention into the case could be alleviated if the hearing on Laclede's counter-claim is bifurcated from the hearing on Staff's complaint.

Commission rule 4 CSR 240-2.075(4), the rule regarding intervention, provides that the Commission may grant intervention upon a finding that the intervenor has an interest that is different than that of the general public, and that may be adversely affected by a final order arising from the case, or upon a finding that granting intervention will serve the public interest. Furthermore, the rule authorizes the Commission to grant late applications to intervene upon a showing of good cause.

The Commission finds that Shemwell's interest in this case is certainly different than that of the general public. The question of whether her interest may be adversely affected by a final order arising from this case is less clear. Laclede claims that Shemwell is "virtually unexposed to any allegation of professional misconduct" that would possibly subject her to an ethics complaint because of this case. The Commission agrees that the risk to Shemwell's professional standing is very slight. Laclede's counter-claim does not make any specific allegations against Shemwell and she did not sign most of the documents to which Laclede raised specific concerns. Furthermore, no one has indicated any intention to pursue an ethics complaint against her no matter how Staff's complaint and Laclede's counter-claim are decided. As a result, the Commission concludes that Shemwell's individual interest will not be adversely affected by any ruling in this case. Therefore, in accordance with Commission Rule 4 CSR 240-2.075(4), the Commission will deny her application to intervene.

**THE COMMISSION ORDERS THAT:**

1. Lera Shemwell's Application to Intervene is denied.
2. This order shall become effective immediately upon issuance.

( S E A L )

**BY THE COMMISSION**



Steven C. Reed  
Secretary

Davis, Jarrett, and Kenney CC., concur.  
Gunn, Chm., dissents with separate dissenting opinion to follow.  
Clayton, C., dissents.

Woodruff, Chief Regulatory Law Judge