

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Evidentiary Hearing
8 January 23, 2008
9 Jefferson City, Missouri
Volume 3
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12 Norman Harrold,)
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13 Petitioner,)
)
14 v.) Case No. GC-2007-0311
)
15 Laclede Gas Company,)
)
16 Respondent.)
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19 BENJAMIN H. LANE, Presiding,
20 REGULATORY LAW JUDGE
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23 REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE LANE: Well, good morning, ladies
3 and gentlemen. My name is Benjamin Lane. I'm the
4 regulatory law judge assigned to this case which is
5 Case Number GC-2007-0311, and that case is styled
6 Norman Harrold versus Laclede Gas Company. It's
7 about 8:40 a.m. on Wednesday, January 23rd, 2008.

8 We're here today for an evidentiary
9 hearing on Mr. Harrold's original complaint of
10 February 2007. That hearing was scheduled by
11 Commission order dated January 3rd, 2008. Before we
12 go any further, I'm gonna go ahead and take entries
13 of appearance for everyone who is present and note
14 who is -- who is not present. So let's begin with
15 the Staff of the Commission

16 MS. SHEMWELL: Good morning, and thank
17 you. Lera Shemwell representing the Staff of the
18 Missouri Public Service Commission, Post Office Box
19 360, Jefferson City, Missouri 65102.

20 JUDGE LANE: Thank you, Ms. Shemwell.
21 For Laclede.

22 MR. ZUCKER: Rick Zucker, Z-u-c-k-e-r,
23 here on behalf of Laclede Gas Company, 720 Olive
24 Street, Room 1516, St. Louis, Missouri 63101.

25 JUDGE LANE: Thank you, Mr. Zucker. And

1 I just want the record to reflect that he is
2 participating by phone pursuant to a request to do
3 that.

4 Is there anybody here from the Office of
5 Public Counsel?

6 (NO RESPONSE.)

7 JUDGE LANE: Nobody here that I can see,
8 so no appearance by the Office of Public Counsel.
9 And the complainant, Mr. Harrold, I do not see him in
10 the audience and he did not file a request to
11 participate by phone, although he's been notified.
12 All right. So no appearance by Mr. Harrold.

13 I just want to state, I guess, for the
14 record here that that completes all the parties to
15 this matter. I just want to state for the record
16 here that the Commission's order setting this -- or
17 resetting this complaint for a hearing specified that
18 the parties were required to appear at this -- at
19 this hearing and failure to appear under the
20 Commission's rules of course can be sanctioned by
21 dismissal of the complaint if no -- if there is not a
22 showing of good cause for the complainant's failure
23 to appear, or, indeed, any parties' failure to appear
24 could result in the striking of their pleadings
25 and/or the entry of an order of dismissal of the

1 party or their complaint.

2 This is the second evidentiary hearing
3 that's been scheduled in this matter as the -- as the
4 pleadings and orders of the Commission in this case
5 will indicate. The first one was back on November
6 the 6th, and at that time Mr. Harrold indicated -- we
7 got him by phone and he indicated that he wished to
8 reject the settlement offer that had been offered by
9 Laclede on the record which would have offered him
10 all the relief that he requested in his original
11 complaint.

12 At that time he indicated that he would
13 like to file an amended complaint going well beyond
14 the allegations of his original complaint. That
15 request was -- the Commission at that point from the
16 bench issued an order requiring him to file a first
17 amended complaint no later than December the 6th.

18 On December the 6th, Mr. Harrold filed a
19 request for an -- a two-week extension of time to
20 file his first amended complaint. That request was
21 granted. However, he did not do so, and at this
22 point still has not filed a first amended complaint.

23 Therefore, the Commission scheduled this
24 matter for an evidentiary hearing on his original
25 complaint since he had not filed -- not complied with

1 the Commission's order to file a first amended
2 complaint. So that's what we're here for, and we
3 can't proceed, of course, because -- because
4 Mr. Harrold is not here.

5 As I indicated, the appropriate action
6 at this point for the Commission to take is to -- is
7 to issue a show cause order requiring Mr. Harrold to
8 show cause why he did not appear at the evidentiary
9 hearing on his complaint, and that's going to be done
10 fairly shortly, and I think it's going to be done on
11 an expedited timeline, given how long this case has
12 been pending.

13 However, there is one additional matter
14 that is still pending at this moment, and that is
15 Laclede Gas Company's motion renewing its original
16 motion to cancel the hearing and dismiss the
17 complaint as having been satisfied and that --
18 that -- that motion, the renewal of that motion and
19 amendment to the original motion was filed on January
20 21st, which was Monday, and I know, judging from the
21 e-mails that I was forwarded, that Mr. Harrold
22 received a copy of that pleading both by -- or was
23 sent a copy of that pleading both by mail and by
24 e-mail.

25 And Ms. Shemwell, you -- Staff also

1 filed a pleading in response to Laclede's Motion to
2 Dismiss which generally concurred in the relief
3 sought by Laclede. And what I'd like to do at this
4 point -- I mean, the pleadings speak for themselves,
5 of course, but Mr. Zucker, could you just -- just for
6 the benefit, you know, for the benefit of the record,
7 explain kind of what's happened in this case since
8 November the 6th?

9 I know the motion makes certain
10 representations as to discussions that you had with
11 Mr. Harrold and some of the issues that you
12 discussed, but could you please explain for the
13 record kind of the nature of those conversations,
14 what was offered, what was agreed to, et cetera?

15 MR. ZUCKER: Well, after the November 6th
16 hearing, we talked with Mr. Harrold and he stated --
17 stated that when -- his wife talked to us to take
18 over the account, they did not intend -- they
19 intended that to be only forward-looking, not -- not
20 backward looking. And I believe she said something
21 to us along the lines of assuming the account, or
22 assuming responsibility, and we take that to mean
23 assuming responsibility for the open account.

24 But his -- his point was that he
25 never -- they never intended to assume responsibility

1 going backward, only going forward. And so given
2 that and given the fact that we have offered the --
3 and -- and asked the -- the -- that the case be
4 dismissed based on, in effect, a full-price offer,
5 an offer of all the relief that Mr. Harrold has
6 asked for, we then said that if he would like his
7 daughter, Kenya Grimmatt, to be the responsible
8 party, we would be glad to switch the account back to
9 her name, and then she would receive the benefits of
10 his argument regarding the vacancy of the property
11 and the adjustment of the account.

12 He indicated that that was fine with
13 him. And so we -- we said that -- I felt like we
14 should contact Ms. Grimmatt before we just switched
15 the account to her name. I asked Mr. Harrold for --
16 just to confirm her phone number. She is a -- a
17 customer of ours at a different address, so I thought
18 I would have the phone number anyway, but I just
19 asked him while I had him on the line, and he
20 declined to give it to me, which I didn't think at
21 the time was meaningful, but when I tried to find her
22 phone number, I could not and still cannot today find
23 a working number for her.

24 So we will just write her correspondence
25 because I believe she is still a customer, and we

1 know what address she's a customer at. So we'll send
2 her some correspondence and -- offering -- offering
3 her the billing adjustment.

4 JUDGE LANE: All right. So --

5 MR. ZUCKER: And that -- I think that
6 brings us up to date.

7 JUDGE LANE: All right. So just to
8 clarify, let me ask you a couple questions.

9 Basically you're wanting to put the parties in
10 exactly the same position they were in when Laclede
11 filed its settlement offer back on October 30th with
12 the sole exception -- the only difference in the
13 offer being that the account -- the responsible party
14 on the account would be transferred to Mr. Harrold's
15 daughter instead of Mr. Harrold and his wife, and
16 that she would receive the credit on that account
17 rather than Mr. Harrold receiving the credit on his
18 account.

19 MR. ZUCKER: Right, that's correct. In
20 effect, we would act as if Mr. Harrold had never been
21 the customer on that account for the period September
22 2004 to April 2006.

23 JUDGE LANE: Yes. And that period
24 was -- the disputed period here in terms of the -- in
25 terms of the bill is a period during which

1 Mr. Harrold indicates that Kenya Grimmiett was
2 actually the responsible party and that there had
3 been a misunderstanding during the June 29th, 2006
4 telephone call from Mr. Harrold regarding whether he
5 should be responsible for the account on a
6 going-forward basis or whether that would be
7 retroactive?

8 MR. ZUCKER: That's exactly right.

9 JUDGE LANE: Okay. Great. That clears
10 that up for me. Ms. Shemwell, do you have any
11 independent -- does Staff have any independent
12 knowledge or participated in any of these
13 conversations that Mr. Zucker just talked about?

14 MS. SHEMWELL: I believe the conversation
15 involving Kenya Grimmiett -- and I believe her name is
16 spelled G-r-i-m-m-e-t-t -- occurred during a
17 conversation after the last scheduled hearing in
18 which Mr. Harrold had indicated that she should be
19 the party responsible for this bill, and Mr. Harrold
20 agreed with that, and he did decline to mention her
21 telephone number, but he agreed that she was the
22 responsible party.

23 JUDGE LANE: Okay. And I just want to
24 make clear, the offer that's been extended would
25 result in a credit balance on the account and -- in

1 either the issuance of a refund check or to apply
2 that credit balance to perhaps Kenya Grimmett's other
3 account with Laclede; is that correct?

4 MR. ZUCKER: That would be correct.

5 MS. SHEMWELL: That's my understanding,
6 yes.

7 JUDGE LANE: All right. And do you know
8 just offhand what that -- how much that credit
9 balance would be?

10 MR. ZUCKER: What -- what the credit --
11 what the credit would be?

12 JUDGE LANE: Yes, what the credit
13 balance on that account would be after applying the
14 credit that Laclede is willing to offer.

15 MR. ZUCKER: Not off the top of my head,
16 but let me -- I could probably get that answer for
17 you shortly.

18 JUDGE LANE: All right. That's a good
19 deal. But what I hear you saying is that -- and
20 again, I'm just trying to get this information on the
21 record. I realize you're not under oath, but I am
22 gonna take these representations -- the Commission is
23 gonna take these representations seriously since you,
24 you know, all have ethical obligations, and, you
25 know, unfortunately we have not heard from

1 Mr. Harrold, but I expect to hear from him one way or
2 the other. Well, either -- either we'll hear from
3 him or we won't.

4 MS. SHEMWELL: And Judge, if you'd let
5 me note for the record, I'm going to ask Ms. Doerhoff
6 to go back to the lobby of this building to check to
7 see if Mr. Harrold might be in the building and
8 looking for the room.

9 JUDGE LANE: Sure.

10 MS. SHEMWELL: So she's going to step
11 out and do that just in case he happens to be out
12 there.

13 MR. ZUCKER: For the record, I would
14 just give you a ball park figure, it's gonna be
15 several hundred dollars would be the credit.

16 JUDGE LANE: All right. Thank you very
17 much. That's -- I think that's helpful in helping
18 the Commission understand what situation we've got
19 here. And as -- as -- as Ms. Grimmett is already a
20 customer of Laclede with another account of her own,
21 it probably wouldn't be too much of a problem to
22 apply the credit to her current -- or to her other
23 account for any amounts that may be due and owing on
24 that account; is that right?

25 MR. ZUCKER: That's correct.

1 JUDGE LANE: All right. Well, we're
2 just gonna wait on Ms. Doerhoff to return and see --
3 we also -- I just want to say for the record,
4 Ms. Doerhoff and -- did go outside before the
5 scheduled time for this hearing, which was 8:30, to
6 check and see if -- if Mr. Harrold might have been
7 outside looking for the room.

8 MS. SHEMWELL: There was another matter
9 that Laclede has already resolved that was part of
10 this complaint as well, and that was back billing in
11 excess of 12 months, and as part of settlement in
12 another case, Mr. Harrold was refunded any amount
13 that was in excess of the 12 months, so he has
14 already received some relief based upon his complaint
15 in GC-2006-0318.

16 JUDGE LANE: That was the case that was
17 settled by Stipulation and Agreement?

18 MS. SHEMWELL: That's correct.

19 JUDGE LANE: Okay. Great. All right.
20 I take it, Ms. Doerhoff, you did not see Mr. Harrold
21 out there.

22 MS. DOERHOFF: No, Judge, I did not.

23 JUDGE LANE: All righty. Well, let me
24 just say, I think I've got enough information here
25 for the Commission to make an informed decision on a

1 going-forward basis. I'm going to say this: As I
2 mentioned before, very shortly the Commission will be
3 issuing a show cause order for Mr. Harrold to show
4 cause why his complaint shouldn't be dismissed for
5 failing to appear at this evidentiary hearing.

6 I also except the Commission to take up
7 on relatively short -- on a relatively quick time
8 frame Laclede -- Laclede's motion for renewal --
9 renewing its motion to cancel the evidentiary hearing
10 and dismiss the complaint as having been satisfied.

11 And that action might be taken whether
12 we hear back from Mr. Harrold or not. I mean,
13 hopefully we will, but I know numerous -- I made
14 numerous attempts to contact him yesterday at both
15 phone numbers that I had for him, and I was unable to
16 receive an answer and never got to voice mail. It
17 just kept ringing and ringing and ringing.

18 So I do know that he did receive a copy
19 of the -- of all the pleadings in this case,
20 including the Motion to Dismiss by either U.S. mail
21 or by e-mail, so I do know that.

22 I think that probably takes care of it.
23 Do -- does anybody have any questions about the
24 procedural -- procedural posture of this case on a
25 going-forward basis?

1 MR. ZUCKER: This is Rick Zucker. Let
2 me make one more statement on behalf of Laclede. I
3 just wanted to assure the judge and the Commission
4 that regardless of whether Mr. Harrold's case gets
5 dismissed on the basis that he's -- he's failed to
6 prosecute and failed to show up to the hearing,
7 Laclede will proceed with the credits that we have
8 offered because we believe that there -- they have
9 good basis in fact and it's the right thing to do.

10 JUDGE LANE: Well, thank you very much,
11 Mr. Zucker. I'm -- I'm sure the Commission will
12 really appreciate that and that you're willing to
13 provide the relief that you've offered
14 notwithstanding that his complaint may be dismissed
15 for failure to comply with the Commission's order.
16 So I'm sure the Commission and -- is gonna be very
17 appreciative of your willingness to do that.

18 MS. SHEMWELL: One matter, Judge Lane.
19 Staff filed Staff's report along with an affidavit.
20 Staff would offer that as its testimony in this case.
21 It, again, was presented with an affidavit so we
22 believe that it might be accepted by the Commission
23 or it may be accepted as evidence in the case.

24 JUDGE LANE: And that's perfectly fine.
25 I think that's perfectly fine with me. One thing I

1 neglected to do is just to make sure for the record
2 that both Staff and Laclede Gas Company are prepared,
3 are fully prepared today to try this matter?

4 MS. SHEMWELL: Yes, we are.

5 JUDGE LANE: Is that correct,
6 Mr. Zucker?

7 MR. ZUCKER: Yes, sir.

8 JUDGE LANE: All right. So I just
9 wanted to make sure of that. And that will be done.
10 I think there was an affidavit of verification there
11 on that particular item, so that will be received
12 into evidence at this time.

13 MS. SHEMWELL: I assume Laclede doesn't
14 object.

15 JUDGE LANE: And I was going to --

16 MS. SHEMWELL: I'm sorry.

17 THE COURT: I was just going to say,
18 Mr. Zucker, if you have any objection to that
19 procedure, please let me know.

20 MR. ZUCKER: Are we talking about the
21 report of the Staff --

22 MS. SHEMWELL: That's correct.

23 MR. ZUCKER: -- that was sponsored by
24 Marilyn?

25 MS. SHEMWELL: Doerhoff, correct.

1 MR. ZUCKER: Dated June 26th?

2 MS. SHEMWELL: Correct.

3 MR. ZUCKER: I guess I don't object.

4 JUDGE LANE: All right. As I said
5 before, that would only become relevant if -- if the
6 complaint was not dismissed for one or more of the
7 reasons that we've talked about today.

8 In any case, I want to thank you all for
9 your participation this morning. I'm sorry that
10 after all this time, this complaint has been pending
11 for about 11 months now, that we were unable to
12 actually have an evidentiary hearing, but it sounds,
13 based on everything I've heard today, that everyone's
14 walking away from this in -- in a real positive
15 light, and I really like to see the cooperation that
16 existed in the attempts to get together with
17 Mr. Harrold, and there's been numerous attempts as
18 reflected in the pleadings today.

19 I want to thank everyone for trying to
20 work with him on -- you know, over and over again in
21 an attempt to bring this matter to a fair and just
22 resolution, conclusion.

23 So unless anyone else has any further
24 matters that they believe are pending before the
25 Commission in this case at this time, I'm gonna go

1 ahead and adjourn the hearing and take us off the
2 record. Thank you very much.

3 MR. ZUCKER: Thank you, your Honor.

4 MS. SHEMWELL: Thank you, Judge.

5 (WHEREUPON, the hearing in this case was
6 concluded.)

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1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)
5

6 I, PAMELA FICK, RMR, RPR, CSR, CCR #447,
7 within and for the State of Missouri, do hereby
8 certify that the foregoing proceedings were taken by
9 me to the best of my ability and thereafter reduced
10 to typewriting under my direction; that I am neither
11 counsel for, related to, nor employed by any of the
12 parties to the action to which this hearing was
13 conducted, and further that I am not a relative or
14 employee of any attorney or counsel employed by the
15 parties thereto, nor financially or otherwise
16 interested in the outcome of the action.

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PAMELA FICK, RMR, RPR, CSR, CCR #447
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