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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Prehearing Conference
August 26, 2011
St. Louis, Missouri
Volume 1
George Poole,)
)
Complainant) File No. GC-2011-0405
vs.)
)
Laclede Gas Company,)
)
Respondent)

KENNARD JONES, Presiding
SENIOR REGULATORY LAW JUDGE

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE JONES: This is a prehearing
3 conference for Case No. GC-2011-0405. My name is
4 Kennard Jones. I am the regulatory law judge
5 presiding over this matter. At this time we will take
6 entries of appearances beginning with the complainant.
7 If you could just state your name.

8 MR. POOLE: George Poole.

9 JUDGE JONES: Can you all hear him okay?
10 Say your name again, sir?

11 MR. POOLE: George Poole.

12 MS. MCCLOWRY: Yes.

13 MS. SHEMWELL: Yes.

14 JUDGE JONES: And from Laclede Gas Company?

15 MR. ZUCKER: Rick Zucker, Z-U-C-K-E-R. Here
16 on behalf of Laclede Gas Company, 720 Olive Street,
17 St. Louis, Missouri 63101.

18 JUDGE JONES: And the Staff of the
19 Commission?

20 MS. MCCLOWRY: Meghan McClowry and Lera
21 Shemwell for the Staff of the Commission, our address
22 is P.O. Box 360, Jefferson City, Missouri 65102.

23 JUDGE JONES: Okay. The purpose of this
24 prehearing conference, mostly for your benefit,
25 Mr. Poole, because all of these attorneys have all

1 participated in these conferences in different cases,
2 is to get the parties together and see if a resolution
3 can be reached and if not, then to set up a procedural
4 schedule to go toward an evidentiary hearing. This on
5 the record portion is going to be very brief. Unless
6 issues come up that I need to resolve on the record, I
7 primarily am just going to get you guys started. We
8 will go off the record and then you, Mr. Zucker and
9 Staff of the Commission attorneys -- is there a staff
10 member there also Meghan?

11 MS. MCCLOWRY: Yes, Gay Fred and Mary
12 Schierman-Duncan are here.

13 JUDGE JONES: You all will discuss your case
14 and see what you can agree on and what you can't agree
15 on. And that all will be off the record, so you can
16 talk freely between each other. Now, the one thing I
17 do want to bring up is there are a lot of facts in
18 this case that go back years. I would like you all to
19 try to focus on establishing some facts that are not
20 in dispute. That may clear the air on whether or not
21 there is even a dispute here or not. Maybe there
22 isn't a dispute and it just looks that way. And if
23 after doing that, you realize there is a dispute and I
24 eventually will have someone file something that
25 points out the facts that are in dispute, so that I

1 can know where to focus my efforts in the event of an
2 evidentiary hearing. Mr. Poole, do you have any
3 questions about the whole process?

4 MR. POOLE: No, I don't.

5 JUDGE JONES: You don't. Have you ever
6 participated in a prehearing conference with the PSC
7 before?

8 MR. POOLE: No, I haven't.

9 JUDGE JONES: Okay. And the way I gather
10 it, a certain amount of money has been transferred
11 from one address to another and you're disputing the
12 amount that was transferred?

13 MR. POOLE: Correct.

14 JUDGE JONES: Okay. Ms. Shemwell or
15 Ms. McClowry, do either of you have any questions for
16 me?

17 MS. SHEMWELL: I don't.

18 MS. MCCLOWRY: No.

19 JUDGE JONES: Mr. Zucker?

20 MR. ZUCKER: I guess we have a motion to
21 dismiss a portion of the complaint, is that something
22 you will rule on later?

23 JUDGE JONES: I'm glad you brought that up.
24 That dealt with the HVAC?

25 MR. ZUCKER: Right, exactly.

1 JUDGE JONES: Mr. Poole, did you see that
2 motion that was filed?

3 MR. POOLE: The what?

4 JUDGE JONES: That was filed, a motion to
5 dismiss.

6 MR. POOLE: Yeah, I have it.

7 JUDGE JONES: Do you have any thoughts on
8 that? Normally what I would do because you're not an
9 attorney, of course I am not going to hold you to
10 rules that I would hold attorneys to but my practice
11 is that when someone files a motion, under our rules,
12 the respondent to that motion will have ten days to
13 respond. And I am not going to tell them that and if
14 they don't respond, then the motion is granted. It is
15 just like it would be in circuit court, you know,
16 nonresponses lead to losses basically. But, of
17 course, I am not going to dismiss that portion of your
18 complaint without the benefit of your response. The
19 Commissioners I don't think would allow that either.
20 Did you get a chance to read the motion and think
21 about it?

22 MR. POOLE: I read it, I didn't give it much
23 thought based on the conversation me and Mr. Zucker
24 had two or three weeks prior to him filing this
25 motion.

1 JUDGE JONES: I get the feeling the
2 conversation you and Mr. Zucker had didn't go well?

3 MR. POOLE: No, it didn't.

4 JUDGE JONES: Okay.

5 MR. POOLE: He wanted to dismiss the whole
6 complaint if I help him be an investigator and I am
7 not going to do that because I don't know, I don't know.

8 JUDGE JONES: Help him be an investigator, I
9 don't understand what you mean.

10 MR. POOLE: He explained to me on the phone,
11 he is willing to drop the whole \$342.55 if I help them
12 find out who is responsible for the bill.

13 JUDGE JONES: Oh, okay.

14 MR. POOLE: And I did enough investigation
15 on my own trying to prove that I didn't own it. And
16 it costs me \$5.00 to get a police report because I
17 recall I lost my state ID back in 2005 and I figured
18 he could check that out himself without me having to
19 spend money to present it here at this hearing.

20 JUDGE JONES: So you all are just not
21 getting along is what it sounds like?

22 MR. POOLE: No.

23 MR. ZUCKER: I think we are getting along
24 okay, we just don't agree on the dollars and the terms
25 I guess.

1 JUDGE JONES: So you don't agree to \$342.55?

2 MR. ZUCKER: Well, I mean, that was my
3 settlement offer to him.

4 JUDGE JONES: That is not the amount that is
5 actually in dispute than?

6 MR. ZUCKER: Well, that's the amount we
7 transferred.

8 JUDGE JONES: That's the amount you
9 transferred, so you do agree on a dollar amount?

10 MR. ZUCKER: I don't know, do we?

11 MR. POOLE: I agree on the dollar amount
12 that is supposed to be owed, which is \$342.55.

13 JUDGE JONES: Okay. All right.

14 MR. ZUCKER: And I am willing to -- and I am
15 willing to say that he doesn't owe that amount, that
16 would be acceptable to him.

17 JUDGE JONES: But you're wanting help in
18 finding out who owes the money from that address?

19 MR. ZUCKER: Well, in case we go after
20 someone else for the money, I want his cooperation
21 because he has indicated that it is likely to be his
22 brother.

23 JUDGE JONES: Okay. All right. Well, you
24 guys can work that out. Probably the less I know
25 about that, what goes on behind the scenes, is better.

1 The reason I brought up the motion issue is I am
2 thinking your lack of response is because you're upset
3 about the whole situation.

4 MR. POOLE: Yeah.

5 JUDGE JONES: Okay. But that as a side
6 note, that is a disadvantage to a person who is
7 representing themselves. Mr. Zucker, this is not his
8 money, this is Laclede's money. So he's, in a way, he
9 is disconnected from the case, he is an attorney, so
10 he thinks in a different mind-set. Because you're in
11 the case -- kind of like if you get divorced you don't
12 want to represent yourself because you're too
13 emotionally involved in what is going on, so you can't
14 proceed in a rational way, so you get a lawyer to take
15 care of all that stuff while you deal with what you're
16 feeling. Now, because you feel the way you feel is
17 not a reason to not respond to the motion. So I want
18 you to think about that. He is basically saying that
19 there was some work done on the HVAC system or
20 something.

21 MR. ZUCKER: Right. Part of the amount owed
22 is from some service work done on a furnace. Part of
23 the amount is from just gas and utilities, so what I'm
24 saying is the H-V-A-C service work is not regulated by
25 the Commission.

1 JUDGE JONES: Okay. Do you understand what
2 he is saying?

3 MR. POOLE: I understand that to an extent.

4 JUDGE JONES: Okay.

5 MR. POOLE: And then but what I was telling
6 him, okay, you tell me one thing verbal, then you put
7 something else in writing. You're telling me verbal,
8 well, I'm willing to dismiss all of this and you don't
9 owe nothing if you help us out. Help you out, how?
10 That means I got to stop what I'm doing to talk to
11 you, to run up minutes on my phone or I got to go here
12 or go there or call this person or get this or that, I
13 am not an investigator, okay. And I am not going to
14 help you entrap somebody. He works for Laclede Gas,
15 whether he is their attorney or not, okay. Then
16 you're saying a lot of the technicalities about what
17 the Commission don't have the authority to act upon,
18 okay, which is understandable because I didn't know
19 that. At the same time, you know, you sent me a
20 letter saying I owe from this address but when I get
21 down into it, you said, oh, this is from back over on
22 Page, okay. If I didn't sign off on work orders,
23 which it has been proven it is not my signature but
24 then you're going to hold me to \$58 on the gas. You
25 know, I don't have it and I didn't live there.

1 JUDGE JONES: Well, I am not speaking in
2 defense of Mr. Zucker but part of his offering is just
3 part of the settlement process.

4 MR. POOLE: Yeah, I understand that.

5 JUDGE JONES: All right.

6 MR. POOLE: But to me there is nothing to
7 settle.

8 JUDGE JONES: Okay. But we do have to
9 dispose of this motion because what he is basically
10 saying is that the service done on the HVAC system,
11 I'm assuming Laclede performed that service, is not
12 under our jurisdiction. That is a strictly legal
13 question, actually. And you are at a disadvantage
14 when it comes to something like that.

15 MR. POOLE: Okay.

16 JUDGE JONES: Because you're not an
17 attorney.

18 MR. POOLE: Mm-hmm.

19 JUDGE JONES: I mean jurisdiction probably
20 means something to you in a general kind of way.

21 MR. POOLE: Okay. Well, he is saying I owe
22 \$58 for gas and I don't from that address.

23 JUDGE JONES: You're talking about gas
24 service?

25 MR. POOLE: Gas service.

1 JUDGE JONES: Not the HVAC system?

2 MR. POOLE: Right.

3 JUDGE JONES: Let's stick with the HVAC
4 system because the motion is what I want to talk about
5 right now. Not what you're in dispute about, just
6 this issue about the motion. Now, did they perform
7 service on the HVAC system?

8 MR. POOLE: I don't know.

9 JUDGE JONES: Is that the address that's
10 even in dispute?

11 MR. ZUCKER: Yes, all of this is at the same
12 address.

13 JUDGE JONES: Okay. So do you -- I mean, I
14 will offer it to you, I don't know if it will help or
15 not but I think it is fair because you didn't take a
16 look at it at the time because of your feelings about
17 how your all's conversation went. Do you want an
18 opportunity to look at that motion and respond to it?

19 MR. POOLE: This motion that you sent me?

20 MR. ZUCKER: Yeah.

21 JUDGE JONES: The motion to dismiss that
22 portion over which we don't have jurisdiction.

23 MR. ZUCKER: The top of the second page.

24 JUDGE JONES: You don't have to do that now.

25 MR. POOLE: Okay.

1 JUDGE JONES: I'm not going to make you sit
2 here on the record and read it and respond. I want
3 you to take time to reflect and think about it and I
4 will give you time to file something in a response.
5 If you don't -- I will tell you what, how about you
6 take ten days from today --

7 MR. POOLE: Just to answer this motion?

8 JUDGE JONES: Just to respond.

9 MR. POOLE: I don't need that. Okay.

10 (Mr. Poole reads over the motion)

11 JUDGE JONES: The result would be one of two
12 things, either we deny the motion, saying that the
13 Commission denies the motion, not we, I am not the
14 Commission. There are five members of a Commission
15 that will actually vote this in the order I write with
16 regard to this dismissal. It will be a public meeting
17 held on a Wednesday, more than likely and they will
18 vote and the majority vote will determine how that
19 motion gets settled. What that motion is saying is
20 that portion of that debt, that has to do with the
21 services on that system, is not something the
22 Commission can hear. The practical effect of that
23 will be for that portion of the debt more than likely
24 to go straight into circuit court. The portion of the
25 complaint that is under our jurisdiction has to be

1 completed or exhausted by the Commission and if
2 Laclede doesn't get satisfaction from the Commission,
3 then it can go to circuit court. So if we don't have
4 jurisdiction and we can't hear it, it goes straight to
5 circuit court.

6 MR. POOLE: You don't have jurisdiction over
7 the \$238?

8 JUDGE JONES: I don't know. The reason I
9 was wanting to know if you want to respond is because
10 I can take his motion and then I can consider your
11 response together.

12 MR. POOLE: Mm-hmm.

13 JUDGE JONES: And with that information,
14 gather whatever information I need in order to make a
15 legal determination. If you don't want to respond, I
16 am still going to make a legal determination. Just
17 because you have not responded doesn't mean I am going
18 to come down on his side. Either we have jurisdiction
19 or we don't, you know, I just need to look at our
20 statutes. And he probably refers to the statutes and
21 things in there that point me in the direction of
22 something. So, you say you don't need ten days to
23 respond to --

24 MR. POOLE: I agree with his motion.

25 JUDGE JONES: Okay.

1 MR. ZUCKER: In part.

2 JUDGE JONES: You mean the part about the
3 HVAC services?

4 MR. POOLE: Mm-hmm.

5 JUDGE JONES: Okay. All right. Well, I
6 will work on something on that motion soon and get it
7 out. Is there anything else Mr. Zucker?

8 MR. ZUCKER: I didn't think so.

9 JUDGE JONES: Mr. Poole?

10 MR. POOLE: No, there is not.

11 JUDGE JONES: Ms. Shemwell, do you have
12 anything to add?

13 MS. SHEMWELL: I don't believe so, Judge,
14 thank you.

15 JUDGE JONES: Ms. McClowry?

16 MS. MCCLOWRY: No.

17 JUDGE JONES: Okay. Well, I will leave you
18 all. I am going to go off the record here, then you
19 all can talk and see whatever you -- what you can come
20 up with. Okay. I will remind you Mr. Zucker is not
21 your friend in this case, I mean, he is not
22 necessarily your enemy but he is on the other side and
23 you're on this side. Ms. Shemwell, Ms. McClowry, they
24 are Staff of the Commission, they are with the Staff.
25 They are attorneys and they have persons who are

1 technical staff that are there with them and they are
2 neutral. Okay. I just want you to know who the
3 players are.

4 MR. POOLE: Mm-hmm.

5 JUDGE JONES: Okay. So with that said, we
6 can go ahead and go off the record and good luck.

7 (Prehearing conference concluded at 10:18)

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CERTIFICATE OF REPORTER

I, Suzanne M. Zes, Certified Court Reporter,
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