

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

USW Local 11-6	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	
Laclede Gas Company,	)	Case No. GC-2006-0390
	)	
	)	
Respondent.	)	

**STAFF RESPONSE TO USW LOCAL 11-6’S MOTION FOR IMMEDIATE INTERIM  
RELIEF**

Comes now the Staff of the Missouri Public Service Commission (Staff) and respectfully submits as follows:

1. The Hearing in this case commenced on December 11, 2006 and continued on December 12, 2006. The hearing is currently set to resume on February 14, 2007.
2. On January 8, 2007, USW Local 11-6 filed its Motion for Immediate Relief Pursuant to R.S.M.O. Section 386.310.1 (Motion). The Filing of the Motion coincided with Commission authorization for USW Local 11-6 to file additional testimony.
3. USW Local 11-6 seeks “immediate interim relief” pursuant Section 386.310.1 RSMo. Staff first notes that USW Local 11-6 failed to seek expedited treatment pursuant to 4 CSR 240-2.080(16).

4. Section 386.310.1 RSMo provides as follows:

The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every person, corporation, municipal gas system and public utility to maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block and other systems of signaling, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules. The commission may waive the requirements for notice and hearing and provide for expeditious issuance of an order in any case in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, provided that the commission shall include in such an order an opportunity for hearing as soon as practicable after the issuance of such order. (Emphasis added).

5. USW Local 11-6, in its Motion, wants Laclede, without benefit of any hearing whatsoever prior to the Commission's Report and Order in this case, to undertake an onerous and unnecessary program to rectify a "problem" that has not been proven by USW Local 11-6. Laclede, via evidence adduced at the hearing so far, has installed approximately 600,000 AMRs on gas meters. Out of this number, USW Local 11-6 cites two incidents which it attributes to incorrectly installed AMRs (Motion at p. 2-3). USW Local 11-6, through its most recently filed testimony filed on January 8, 2007, alleges that two incidents as well as "evidence" adduced by USW Local 11-6 at the hearing on December 13 and 14 justify the extreme remedy which it seeks (Motion at 2-3, 4).

6. Staff takes any alleged gas safety concerns seriously. Staff is actively investigating these latest two matters raised by USW Local 11-6. Staff has already been in contact with

Laclede regarding this matter and would welcome and encourage information from USW Local 11-6 regarding this matter above and beyond its January 8, 2007 filed testimony. However, other than the filing of this Motion and its additional testimony filed on January 8, 2007, USW Local 11-6 has provided no information to the Staff.

7. USW Local 11-6's Motion is flawed due to the lack of credible evidence adduced to support its case and such circumstantial evidence certainly does not rise to the level of granting USW Local 11-6's requested relief without any type of hearing as requested by USW Local 11-6.

8. Staff also notes that USW Local 11-6 provides no discussion or argument of how the situation raised by USW Local 11-6 meets the "...likelihood of imminent threat of serious harm to life or property." Staff is not aware of any case in which the Commission actually has issued such an Order without a hearing. Furthermore, Section 386.310.1 requires a hearing as soon as practicable after the issuance of such an Order. If the Commission were to issue such an Order, then Staff suggests that the Commission's Report and Order in this case and the hearing on February 14, 2007 would be insufficient to comply with Section 386.310.1 since the hearing on February 14, 2007 is on USW Local 11-6's complaint, not on this Motion.

9. While Staff did not find any cases under Section 386.310.1 RSMo, Staff suggests that Rule 92.02 on Temporary Restraining Orders is informative. The party seeking a Temporary Restraining Order must show that immediate and irreparable injury, loss, or damage will result in the absence of relief. Supreme Court Rule 92.02 (1). Furthermore, Temporary Restraining Orders are valid for a maximum of fifteen days. Supreme Court Rule 92.02(5). Staff suggests that USW Local 11-6, other than accumulating additional isolated incidents that may or may not show improperly installed AMRs, has not proven that it is entitled to the extraordinary remedy

that it seeks by this additional testimony or its evidence previously adduced at the hearing or with the combination thereof.

10. As a remedy, USW Local 11-6 seeks:

1. Laclede shall promptly create a special internal control number for all AMR problems that occur between the granting of this Motion and the final decision in this matter;

2. Laclede shall use trained gasworkers to inspect every meter that is equipped with an AMR device at the rate of 80,000 meters per month. This inspection will include at a minimum, a hazard survey that covers the following: leak inspection, check for DR, check for erratic dial, and visual corrosion inspection. This inspection can be combined with any work order for a meter, any corrosion inspection or any leak inspection. Laclede will commit to fixing any leaks, DRs, erratic dials. This inspection shall begin as soon as this Motion is granted and end when a final decision in this matter is reached.

3. For each of the above inspections that are performed, Laclede will compile a hazard analysis schedule which identifies the address, date of inspection, inspector, results of inspection and corrective activity. Laclede will send a complete copy of the survey to the PSC and to USW 11-6.

4. To address the damages associated with erratic dials on AMR meters, Laclede service employees shall pressure test lines any time they have to shut the lock cock off or turn it on.

(Motion at 4).

11. USW Local 11-6 again seeks a Commission Order directing Laclede to use USW Local 11-6 members perform work. The Commission, as it noted in its August 10, 2006 Order has broad jurisdiction to order Laclede to provide safe and adequate service to its customers (Order at p. 3). However, the Commission noted that it cannot dictate how Laclede manages its business and thus could not order that specific personnel perform any remedial measures that the Commission might order (Order at 3-4).

WHEREFORE, Staff respectfully requests that the Commission issue an Order overruling USW Local 11-6's Motion.

Respectfully submitted,

/s/ Robert V. Franson

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 16<sup>th</sup> day of January 2007.

/s/ Robert V. Franson