

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

Paula Gianella,	)	
	)	
Complainant,	)	
v.	)	Case No. GC-2008-0009
	)	
Laclede Gas Company,	)	
Respondent.	)	

**LACLEDE GAS COMPANY’S ANSWER  
AND MOTION TO DISMISS**

COMES NOW Laclede Gas Company (“Laclede” or “Company”), pursuant to the Commission’s July 12, 2007 Notice of Complaint in the above captioned case, and submits its Answer and Motion to Dismiss the complaint filed against Laclede by Paula Gianella (“Ms. Gianella” or the “Customer”). In support thereof, Laclede states as follows:

1. Ms. Gianella has two main complaints. First, she believes that some of the gas usage that was billed to her was unreasonably high. She does not specify which months’ bills are objectionable. Ms. Gianella bases this complaint on her belief that she has an efficient furnace and that two other customers that she knows have larger homes and smaller bills. Her second complaint is that, when she bought her home, Laclede failed to identify furnace damage in performing a home sale inspection. Ms. Gianella does not mention that this home sale inspection took place in March 1996.

2. In her request for relief, Ms. Gianella seeks reimbursement of out-of-pocket costs, credit on her account to adjust the unreasonably high bills, and personal and monetary damages in connection with the home sale inspection.

3. In response, Laclede states that the gas usage billed to Ms. Gianella is appropriate, given her home and furnace. In fact, her usage is not only consistently **below** that of Laclede's typical customer, but also significantly below that of her neighbors who have homes of the size she described in the complaint. Regarding the home sale inspection, Ms. Gianella had an opportunity to, and did, register a complaint over this matter in 1996. The Commission should simply not entertain a complaint over an eleven year-old non-regulated service for which the Commission cannot issue the monetary relief requested.

4. Ms. Gianella bought the property at 339 Quails Hill Court in Ballwin, Missouri (the "Property" or "Home") in 1996. According to real estate records, the Property is a one-story ranch home built in 1977, with about 2200 square feet of living space plus a full basement, which adds about another 2000 square feet. The total of 4200 square feet makes this ranch home equivalent in area to a 2800 square foot two-story home with a full basement.

5. Between 2001 and 2004, Ms. Gianella averaged gas usage of 1039 CCF (hundred cubic feet) per year. In the past three years (July 2004 to July 2007), Ms. Gianella's annual use in CCF has been 783, 713 and 715, respectively, for a three-year average of 737 CCF. This is an impressive 29% reduction over the three previous years. Laclede's typical customer uses just under 900 CCF per year. So despite the fact that the Home is 30 years old and fairly roomy, Ms. Gianella's gas usage is now more than 16% below average. These facts are likely due, in part, to the high efficiency furnace she has installed in her home and, as can be seen from her complaint, other efforts on her part to minimize her gas usage, such as by lowering her thermostat setting.

6. A sampling of some of the larger homes in her neighborhood does not support Ms. Gianella's position that larger nearby homes have lower usage. In fact, it supports just the opposite. These homes with more than 2900 square feet of living space all averaged more than 1000 CCF per year of gas usage over the past three years, while Ms. Gianella never even used 800 CCF in any one year during this period. Indeed, the sampled homes averaged 1127 CCF per year, or over 50% more than Ms. Gianella's use.

7. In the complaint, Ms. Gianella claims that Laclede's high-bill inspector (in a March 2007 inspection) could find nothing wrong with her furnace or insulation. She further alleges that, also in March 2007, an independent HVAC contractor found her furnace to be in good working order. Laclede's records showing Ms. Gianella's conservative gas usage confirms these findings. In fact, during the coldest billing period of this past winter, the month ended February 26, 2007, Ms. Gianella used .1722 CCF/HDD (heating degree day), while her usage per heating degree day during the coldest billing period of the two previous winters was .1828 and .2128, respectively.

8. In summary, over the past three years, Ms. Gianella has successfully reduced her gas usage, which is now significantly below her previous usage, below her neighbors' usage, and even below the typical customer's usage. She has done this during a time when it counted most, when gas prices had increased to historic levels, and have remained high relative to past prices. Rather than complain, Ms. Gianella should celebrate her success.

9. Regarding the 1996 home sale inspection she complains of, as stated above, Laclede's records show that Ms. Gianella registered a complaint over this issue at the time it occurred. Because this event took place 11 years ago, Laclede's records do

not indicate the outcome of the complaint. Regardless, since Ms. Gianella already timely complained about the 1996 home sale inspection, since it represents a non-regulated service that was performed very remotely in time, and since the Commission cannot grant the relief sought by the Complainant, Laclede moves to dismiss this portion of the complaint.

10. Ms. Gianella's current complaint concerns her gas usage. It is not proper when filing a complaint to include any complaint ever experienced no matter the age of the complaint or whether that complaint was previously raised and resolved. Neither the Commission nor the Company should expend their limited resources tilting after 11 year-old non-regulated windmills. Moreover, it is well settled that the Commission cannot grant monetary relief for damages or order a pecuniary reparation or refund. *May Department Stores Co. v. Union Electric Light & Power Co.*, 107 S.W. 2<sup>nd</sup> 41, 58 (Mo. 1937); *State ex rel. Laundry, Inc. v. Public Service Comm'n.*, 34 S.W. 2d 37, 46 (Mo. 1931). Based on the foregoing, this portion of the complaint should be dismissed.

11. In the event that this portion of the complaint is not dismissed, Laclede hereby denies each and every allegation made therein. Laclede specifically denies that its representative claimed that, as a utility, Laclede cannot be sued.

WHEREFORE, Laclede respectfully requests that the Commission accept Laclede's Answer to the first part of the complaint, dismiss the second part of the complaint, and in any event find that the Company has violated no laws, or rules, decisions or orders of the Commission in this case.

Respectfully submitted,

**/s/ Rick Zucker**

Rick Zucker  
Assistant General Counsel  
Laclede Gas Company  
720 Olive Street, Room 1516  
St. Louis, MO 63101  
(314) 342-0533 Phone  
(314) 421-1979 Fax  
rzucker@lacledegas.com

**Certificate of Service**

The undersigned certifies that a true and correct copy of the foregoing Answer was served on the Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 13th day of August, 2007 by United States mail, hand-delivery, email, or facsimile.

**/s/ Gerry Lynch**