

LACLEDE GAS COMPANY  
720 OLIVE STREET  
ST. LOUIS, MISSOURI 63101  
(314) 342-0533

RICK ZUCKER  
ASSISTANT GENERAL COUNSEL-REGULATORY

September 18, 2002

VIA FEDERAL EXPRESS

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
Governor Office Building  
200 Madison Street  
P. O. Box 360  
Jefferson City, MO 65102-0360

**FILED<sup>3</sup>**  
SEP 19 2002

Missouri Public  
Service Commission

RE: Case No. GC-2003-0009

Dear Mr. Roberts:

Enclosed for filing, please find the original and eight copies of the Answer and Motion to Dismiss in the above-referenced case. Please file-stamp the additional copy of this Answer and return the same in the pre-addressed, stamped envelope provided.

Thank you for your consideration in this matter.

Sincerely,

  
Rick Zucker

RZ:kz

cc: All parties of record

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

Aaron Anderson,

Complainant,

v.

Laclede Gas Company

Respondent.

)  
)  
)  
) Case No. GC-2003-0009  
)  
)  
)

**FILED<sup>3</sup>**

SEP 19 2002

**ANSWER AND MOTION TO DISMISS  
OF LACLEDE GAS COMPANY**

Missouri Public  
Service Commission

**COMES NOW** Laclede Gas Company ("Laclede" or "Company"), pursuant to the Commission's August 20, 2002 Notice of Complaint in the above captioned case, and submits its Answer and Motion to Dismiss the Complaint filed against Laclede by Aaron Anderson ("Mr. Anderson" or the "Customer") on or about July 11, 2002. In support of its Answer and Motion to Dismiss, Laclede states as follows:

**BACKGROUND**

1. From December 6, 2001, until March 6, 2002, Laclede provided gas service to both the first and second floor residences at 4017 Lafayette Avenue in St. Louis<sup>1</sup>. The customer listed for residential service at both of these locations was Mr. Aaron Anderson. Following disconnection of service at the locations, Laclede transferred the balances owing of \$822.67 (\$304.75 for 4017-1, and \$521.92 for 4017-2) to Mr. Anderson's account at 1215 Astoria Drive in St. Louis, in accordance with Rule 14 of Laclede's tariff, Sheet No. R-12-a.

---

<sup>1</sup> Laclede will refer to the first floor residence as 4017-1, and will refer to the second floor residence as 4017-2.

2. St. Louis County property records reflect that Mr. Anderson and Ms. Cassandra Ware own the property at 1215 Astoria as husband and wife. Upon information and belief, it appears that Mr. Anderson and his wife have resided at the Astoria residence. According to Mr. Anderson, his wife owns the property at 4017 Lafayette, which appears to be used as rental property.

3. In his Complaint, Mr. Anderson claims that he should not be liable for the unpaid gas service at 4017-1 and 4017-2 Lafayette because his wife, Cassandra Ware, called Laclede and subscribed for gas service in his name. Further, Ms. Ware owns the property at 4017 Lafayette in her name only, and Mr. Anderson and his wife are currently separated and in the process of a divorce.

4. In effect, Mr. Anderson's complaint is that his wife's request for gas service in his name at 4017 Lafayette was unauthorized and that he should not be responsible for the service rendered there from December 2001 – March 2002.

5. In response, Laclede will show that Mr. Anderson is responsible for the service rendered at 4017 Lafayette because (1) the service was in fact rendered at his request, not at his wife's request; and (2) even if his wife had requested the service in his name, Mr. Anderson by his actions ratified his responsibility for the service, and further, it was reasonable and logical for Laclede to infer that Mr. Anderson's wife had authority to request service in his name because of the facts and circumstances surrounding the history of this account.

#### **MOTION TO DISMISS**

6. Pursuant to 4 CSR 240-2.070(6), Laclede moves to dismiss the Complaint for failure to comply with the section of the rules governing formal complaints (4 CSR

240-2.070(5)). On July 15, 2002, the Commission issued a Notice of Deficiency and Order Directing Filing based upon several deficiencies in the Complaint. Mr. Anderson was afforded until August 14 to correct such deficiencies, including among other things, a statement of what measures he has taken to resolve the complaint.

7. It is not clear from the Notice of Complaint issued by the Commission on August 20, 2002, whether these deficiencies have been remedied. To the extent they have not been remedied, Laclede moves for dismissal of the Complaint, as stated in paragraph 6 above.

### **ANSWER**

8. Laclede denies that Mr. Anderson's wife called Laclede to initiate service in Mr. Anderson's name at 4017 Lafayette. On the contrary, Laclede alleges that Mr. Anderson himself requested such service and that he should be responsible for it.

9. Laclede is without information or belief sufficient to enable Laclede to respond to Mr. Anderson's allegations that he and his wife are separated, or that they are going through divorce proceedings, or that Ms. Ware does not live in St. Louis.

10. Upon information and belief, Laclede agrees that at one time Ms. Ware was the owner of the property at 4015 and 4017 Lafayette, which consists of a four family unit in one building. St. Louis City Property Records now show that, as of August 2, 2002, OCWEN Federal Bank is the owner of 4015 Lafayette.

#### **Mr. Anderson Ordered the Service.**

11. Gas service at 4017-1 was in the name of a Ms. Rogers from September 25, 2000 until August 3, 2001. Gas service at 4017-2 was in the name of a Ms. Owens from February 16, 2001 until August 24, 2001. On December 4, 2001, at about 10:16

a.m., Mr. Anderson called to have service turned on in his name for both 4017-1 and 4017-2. Attached as Exhibit A are the Review Order Reasons (“RoRs”) for both 4017-2 (Acct. No. 442780) and 4017-1 (Acct. No. 442779). The RoR for 4017-2 is more formally completed. It clearly shows under the line “Ordered By” the name “Aaron Anderson.” As a result of requesting service, Mr. Anderson is, for both residences of 4017 Lafayette, a “customer” as defined in Rule 1 of Laclede’s tariff and in 4 CSR 240-13.015(1)(D), that is, a person legally responsible for payment for service.

**Even if Mr. Anderson Did Not Originally Order the Service, He Ratified it.**

12. Spouses are not generally agents and principals for each other. However, one spouse's action will bind the other spouse if the non-acting spouse cloaked the acting spouse with apparent authority to act on his or her behalf or if the non-acting spouse later ratifies the agreement. In the husband-wife context, one spouse cloaks the other with apparent authority to act on his or her behalf if the facts and circumstances surrounding the transaction give rise to a reasonable and logical inference that the non-acting spouse empowered the acting spouse to act for him or her. Cohn v. Dwyer, 959 S.W.2d 839, 843 (Mo. App. 1997); Holtmeier v. Dayani, 862 S.W.2d 391, 403 (Mo. App. 1993).

13. Both of the RoRs in Exhibit A show that on December 4, 2001, Mr. Anderson gave a special instruction for Laclede to “Bill I.C.-1” meaning that Laclede should send the bills for 4017-1 and 4017-2 to Mr. Anderson’s primary billing address, being 1215 Astoria Drive. Even if we assume that Mr. Anderson’s wife gave the December 4 instructions, Laclede’s records show that on December 19, 2001, Mr. Anderson called Laclede and requested that Laclede revoke the instruction that the bills for 4017 Lafayette be mailed to the Astoria Drive address. Thus, Mr. Anderson’s new

direction was that the bills for 4017 Lafayette be mailed to the respective units at 4017 Lafayette. He made no mention of removing or changing the name on the account.

14. Had Mr. Anderson desired to avoid responsibility for gas service at 4017 Lafayette, he could have easily raised that issue on his December 19 call. His request to merely make a change to where the bills were sent is confirmation that (i) he was aware of the service activations at 4017 Lafayette; and (ii) he knew that he had authority to call and make a change to the accounts. Therefore, by not requesting to remove his name as the customer, he effectively ratified the initiation of service in his name and his status as a responsible party on the accounts.

**Even if Mr. Anderson Did Not Originally Order the Service, His Wife Had Apparent Authority to Order it in His Name.**

15. Mr. Anderson's allegation that his wife initiated service at 4017 Lafayette is mistaken. However, even if true, based on the recent history of service at that address, Laclede was entitled to infer that Mr. Anderson's wife had apparent authority to initiate service in his name.

16. In the past, in between renters, it was a normal occurrence that service would be listed in Mr. Anderson's name. For example, for 4017-2, Mr. Anderson was the customer listed for the period from September 28, 2000 to October 30, 2000. Then from October 30, 2000 to December 1, 2000, the listed customer was a Mr. McCray, presumably a renter. Next, the service reverted to Mr. Anderson again from December 1, 2000 to February 16, 2001, at which time the aforementioned Ms. Owens succeeded to service at that address. Thus, on December 4, 2001, whether the service request came from Mr. Anderson (which it did) or his wife, the fact that Mr. Anderson had twice

secured gas service at that address in the past 15 months justifies a reasonable and logical inference that he wished to be the customer there again.

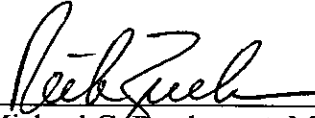
17. Further, the 2001 Southwestern Bell White Pages Telephone Book lists A. Anderson as the customer of record at 4015 Lafayette, which is the other side of the four family unit alleged to have been owned by Mr. Anderson's wife. This evidence is further confirmation that it was common practice for Mr. Anderson to take utility service in his name at the Lafayette property.

### **CONCLUSION**

18. Mr. Anderson contacted Laclede on December 4, 2001, and ordered gas service for 4017-1 and 4017-2. He is therefore the customer for these accounts and is responsible for the service billed to those accounts. Even if Mr. Anderson's allegation is true that his wife, without authorization, placed service in his name, he should still be responsible for such service for two reasons: first, because he subsequently ratified his wife's authority to initiate service in his name, and second, because it was logical and reasonable for Laclede to infer that Mr. Anderson's wife had authority to place service in his name.

WHEREFORE, the Company requests that the Commission deny the relief requested by the Complainant, and dismiss this case.

Respectfully submitted,



Michael C. Pendergast MB #31763  
Vice President - Associate General Counsel  
Laclede Gas Company  
720 Olive Street, Room 1520  
St. Louis, MO 63101  
(314) 342-0532 Phone  
(314) 421-1979 Fax  
mpendergast@lacledegas.com

Rick Zucker MB#49211  
Assistant General Counsel  
Laclede Gas Company  
720 Olive Street, Room 1524  
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 and Motion to Dismiss was served on the Complainant and on the General Counsel of the Staff of the Missouri Public Service Commission on this 18<sup>th</sup> day of September 2002 by hand-delivery or by placing a copy of such Response, postage prepaid, in the United States mail.





# REVIEW ORDER REASON

442780-014

(F)ield (R)outed R (D)ispatched:

Grid No. H125543

Date Scheduled 12/06/01

AM PM X AL

Office Located

LACLEDE

Order No.

010716866

Dist.

C

Area 04

Account No.

442780-014

Exhibit A

Meter No.

000910689

Page 1 of 2

Meter Size

175

Loc: RE-INSIDE

A. CRITES

SERVICE INFORMATION: Tee 08 EWHL Main 08 NNCL

Curb Box 08 NNCL Riser 00

Service 08 EWHL

Material COPPER

Branch Service N

Leak Information NO MATCH FOUND

Leak #

Class

Location

Detected Gas:

Source of Gas:

REQUIRED INSPECTIONS:

\*SPECIAL S.E.I.\*\*C/B SURV-LK REP\*

Name

ANDERSON, AARON

REVIEW ORDR N DATE MOVED IN 12/06/01

Service Address

4017 LAFAYETTE AVE 2FL

Cust Phone

314-867-4867

Township

ST LOUIS, MO

63110

Owner/Tenant

RENTER

Special Inst:

12-5 RING/KNOCK ON DOOR

Special Inst:

BILL I.C.-1

JOB DESCR. TONN 01 \*\*\* TURN ON SERVICE ORDER \*\*\*

MTR STAT INACTIVE

Ordered By AARON ANDERSON

OFFICE USE ONLY: Date Taken 12/04/01 Time Taken 10.18.02 Operator 00208 WILLIAMS, GIG I

Mailing Address

City

ST

ZIP

Meter Sets:

Town Code 001-ST LOUIS

Route 1998

Rate 2RL

Revenue Class 001

Norm

1.7852 Add

.0346

Tax Code T

SVC Press MEDIUM

Geographic Location

( ) CHECK IF EXTRA FIELD WORK DONE. SEE REVERSE FOR COMPLETED INFORMATION

Main Meter 000910689

COMPLETION INFORMATION

Old Meter No.

000910689

New Meter No.

Device Number

Device Number

No. of Dials: 4

No. of Dials:

Location: INSIDE

Size: 175

Location:

Size:

D.R. METER

Meter Found DR

Not DR

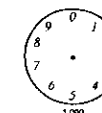
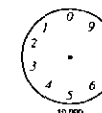
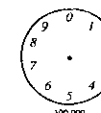
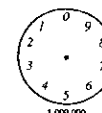
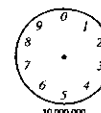
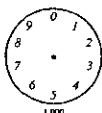
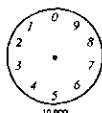
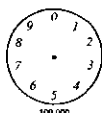
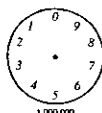
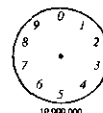
REPORT

Device Found DR

Not DR

CURRENT METER READING:

NEW METER READING:



READINGS ==>

2150

LAST READ DATE 08/29/01

INDEX READING

Mult

INDEX READING

Mult

Top/Front/Meter

Bot/Rear/Device

Veeder

HIGH/LOW READINGS FROM SYSTEM:

Low 2366

High 2511

Verified

ORDER

EMPLOYEE

DATE

TIME START

TIME COMPLETE

STATUS

NUMBER

COMPLETED 12-6-01

Service Person Signature

Comment

N/R Called back BGL

APPLIANCES	LIT	OK	VENT
RANGE			
WATER HTR			
<b>TEMP. SETTING</b>	LOW <input type="checkbox"/>	NORMAL <input type="checkbox"/>	HOT <input type="checkbox"/>
SPACE HTR			
CENTRAL HH			
DRYER			
AIR COND			
GAS LIGHT			
GRILL			
OTHER			

METER FOUND: On \_\_\_\_\_ Off \_\_\_\_\_  
 Locked \_\_\_\_\_ Off At Curb \_\_\_\_\_  
 No Access \_\_\_\_\_

METER LEFT: On Same Customer \_\_\_\_\_  
On New Customer \_\_\_\_\_ Off \_\_\_\_\_  
Locked \_\_\_\_\_ Off At Curb \_\_\_\_\_  
Removed \_\_\_\_\_ No Access \_\_\_\_\_

SPOTTED METER \_\_\_\_\_ No Access \_\_\_\_\_

Inside \_\_\_\_\_ %  
Outside \_\_\_\_\_ % Control No. \_\_\_\_\_  
Exbh \_\_\_\_\_ %

Inside Set Inspection (Circle One):  
Inspected Accessible Gas Piping-OK:  
Or Explain \_\_\_\_\_

Not Required \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 A B C D E No Access \_\_\_\_\_  
 Yes \_\_\_\_\_ No Access \_\_\_\_\_

ADDRESS	WORK	START	END	DATE
SERVICE	CODE	TIME	TIME	COMP.
CHARGE				

CUST. SIGNATURE\_\_\_\_\_

MARK APPLIANCES YES=Y NO=NO

The Liability, if any, of Laclede Gas Company for any and all property damages in connection with the performance of the inspection referred to herein (including, but not limited to, any assertion that anyone is required to pay for any new appliances because of Laclede Gas Company's alleged improper or negligent performance of such inspection) shall in every case be limited to an amount equal to the charges made by Laclede Gas Company for such inspection.

UNITS USED	STOCK NO.	DESCRIPTION OF MATERIAL	COST AMT
ADDITIONAL MATERIAL Y/N		TOTAL COST OF MATERIAL	
LABOR MEN _____ HRS _____ MIN _____			
DATE _____ TOTAL			

SERVICEMAN'S REMARKS AND HSI OTHER COMMENTS \_\_\_\_\_

CHG MTL ONLY \_\_\_\_\_ CHG PER MIN \_\_\_\_\_ SPEC. CHG. \_\_\_\_\_ FOREMAN APPROVAL \_\_\_\_\_

☐ **(FOR TURN-ONS ONLY):** The undersigned applies for gas to be served to this address and agrees to use same in accordance with authorized rate schedules, rules and regulations. This contract to remain in force until the customer revokes it by written or verbal notice, given three days in advance of date to be discontinued.

☐ **(FOR TURN-OFFS ONLY):** I hereby request the gas company not to discontinue the supply of gas in my name at the premises mentioned on the reverse side of this order. I also certify that I am or represent the same person who previously applied for service, and whose name appears on the face of this order.

Customer Signature \_\_\_\_\_ Date Moved In \_\_\_\_\_  
Date \_\_\_\_\_ SS # \_\_\_\_\_

# REVIEW ORDER REASON

**E MCGAIN**

(F)ield (R)outed (D)ispatched:

Grid No. 12554  
Date Scheduled 12-6-01  
AM (PM) AL

DEC 13 2001

Office Located

Order No. 010716860

Dist. C Area 4

Account No. 442779-013

Exhibit A

Meter No. 1333179

Page 2 of 2

Meter Size 250A

Loc. T1

## SERVICE INFORMATION:

Tee 8EHL

Main 8NNCL

Curb Box 8NNCL

Riser

Service

Material Copper

Branch Service

## Leak Information

Leak #

Class

Location

Detected Gas: NONE

Source of Gas:

## REQUIRED INSPECTIONS:

SP Sei

Name Adron Anderson

Service Address 4017 Lafayette 1FL

Township

Special Inst:

Special Inst:

Soc. Sec. No.

Cust Phone

Owner/Tenant

## JOB DESCR.

Tonn

0101

Bill IC.-1

Ordered By fax

OFFICE USE ONLY: Date Taken 12-4 Time Taken Operator

Mailing Address City ST ZIP

Meter Sets: Town Code Route ZIP

Rate Revenue Class Norm Add Tax Code

SVC Press Geographic Location

MTR Press DEL Press Demand Branch Service

( ) CHECK IF EXTRA FIELD WORK DONE. SEE REVERSE FOR COMPLETED INFORMATION.

## Main Meter COMPLETION INFORMATION

Old Meter No. New Meter No.

Device Number Device Number

No. of Dials: No. of Dials:

Location: Size: Location: Size:

D.R. METER REPORT Meter Found DR Not DR

Device Found DR Not DR

CURRENT METER READING: NEW METER READING:

10,000,000 1,000,000 100,000 10,000 1,000

10,000,000 1,000,000 100,000 10,000 1,000

INDEX READING Mult INDEX READING Mult

Top/Front/Meter Bot/Rear/Device

Veeder

HIGH/LOW READINGS FROM SYSTEM: Low High Verified

ORDER STATUS C EMPLOYEE NUMBER 0053 DATE COMPLETED 12-6-01

TIME START 1645 TIME COMPLETE 1720

Service Person Signature

Comment

APPLIANCE INSPECTION			
APPLIANCES	LIT	OK	VENT
RANGE	X	X	
WATER HTR	X	X	X
TEMP. SETTING	LOW <input type="checkbox"/>	NORMAL <input checked="" type="checkbox"/>	HOT <input type="checkbox"/>
SPACE HTR			
CENTRAL HH	won't come on		
DRYER			
AIR COND			
GAS LIGHT			
GRILL			
OTHER			

**GAS METER INSPECTION**

METER FOUND:                      On \_\_\_\_\_ Off \_\_\_\_\_  
Locked \_\_\_\_\_ Off At Curb \_\_\_\_\_ ~~\_\_\_\_\_~~  
No Access \_\_\_\_\_

METER LEFT: On Same Customer \_\_\_\_\_  
On New Customer \_\_\_\_\_ ~~\_\_\_\_\_~~ Off \_\_\_\_\_  
Locked \_\_\_\_\_ Off At Curb \_\_\_\_\_  
Removed \_\_\_\_\_ No Access \_\_\_\_\_

SPOTTED METER \_\_\_\_\_ ~~\_\_\_\_\_~~ No Access \_\_\_\_\_

Not Required \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 Or Reason Not Taken \_\_\_\_\_  
 A B C D E No Access \_\_\_\_\_  
 Yes X No Access \_\_\_\_\_

Date \_\_\_\_\_ SS # \_\_\_\_\_