

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

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

**LACLEDE GAS COMPANY’S MOTION FOR RECONSIDERATION OF
ORDER REGARDING MOTION TO COMPEL DISCOVERY
AND TO LIMIT EVIDENCE**

COMES NOW Laclede Gas Company (“Laclede” or “Company”) and files this motion seeking the Commission’s reconsideration of its Order Regarding Motion to Compel Discovery and to Limit Evidence (the “Order”), and in support thereof, states as follows:

1. In the Order, the Commission stated that Laclede had not provided an adequate explanation for why it has not provided the Union with the underlying documentation that it seeks. In this motion for reconsideration, Laclede seeks to address that point, and to demonstrate that it made a good faith effort to provide such documents to the best of its understanding. Further, as set forth in its response to the motion to compel, Laclede has provided or created substantive documentation relevant to the Union’s complaint, and not just summary reports.

2. In its motion to compel discovery, the Union sought additional information on damaged meters, based on the following data requests:

Data Request 1: Identify and provide all damage reports or other documents relating to residential gas meters that were damaged in any way from January 1, 2005 to date.

Data Request 2: Identify and provide all documents relating to residential gas meters that were repaired in Laclede's meter shop from January 1, 2005 to date.

Laclede interpreted and fulfilled these requests as seeking reports of damaged meters. While Laclede does not regularly produce a document entitled “damage report,” Laclede’s meter shop does keep track of damaged meters and, from this information, Laclede compiled a list of meters damaged for the time period requested, including meter numbers, addresses and date of meter test. It should be noted that this list of damaged meters was not titled or otherwise identified except by reference in Laclede’s DR response. There are relatively few instances of damaged meters, on average less than one per day, and this is the extent of the information kept by Laclede in its meter shop. Laclede provided the Union this report, among other information, on August 10, 2006.¹

2. By letter dated August 24, the Union responded to a number of items sent by Laclede, but its complaints regarding the sufficiency of the Company’s response to DRs 1 and 2 was very vague and confusing. The Unions’ letter stated as follows:

DR 1 In this DR, we requested that Laclede “identify” and “provide” damage reports or other documents relating to damaged residential gas meters from January 1, 2005 on. However, in response, we received only a list of meters that Laclede identified as damaged during that period of time, which response is not responsive to the DR. Thus, we are again requesting that you identify the damage reports or other documents used to report damaged gas meters. I am attaching with this letter a copy of what is titled “CellNet Return from field Evaluation Form,” which we have been told by our members is filled out by them and returned to Laclede. This document seems to be responsive to this DR, and certainly represents the type of document we are requesting, yet it was neither identified nor provided to us in response to this DR. To ensure that we receive these documents, I will also make their production the subject of a 12th DR.

We also are again requesting that the damage reports/documents be provided; if they are too voluminous to be copied, please provide a date and time at which we may review them ourselves.

DR 2 Laclede’s response to DR 2 suffers from the same shortfalling as its response to DR1: we requested that the documents relating to residential gas meters that have been repaired be “identified” and that the documents then be provided. Again, if the documents are too voluminous to be copied, please provide a date and time at which we may review them ourselves.

¹ At this point, Laclede had still not received any information from the Union in support of its complaint.

3. As shown by Laclede's response to this letter, set forth in paragraph 4 below, Laclede had absolutely no idea based on its review of the Union's statements in that letter that the Union was actually seeking SAID (Service and Installation Department) hazard tickets, SAID work orders, or other records that the Union more clearly identified for the first time in a November 17 letter and in its December 1 motion to compel. None of these records are "damage reports" and none of them are prepared by meter shop personnel. Most importantly, if the Union wanted such reports it should have simply said so. The Union is not some distant, unrelated party that is completely unfamiliar with Laclede and the kind of documents it maintains. To the contrary, its members fill out those documents every day, know what they are called and know what they contain. Given these considerations, if the Union had actually wanted these documents it should have spoken up and asked for them. It was not until November 17, 2006, however, that the Union actually did. Instead, the Union simply complained in its letter that, in response to a request for "damage reports" on gas meters, Laclede provided "only a list of meters that Laclede identified as damaged during that period of time, which response is not responsive to the DR." The Union added: "Thus, we are again requesting that you identify the damage reports or other documents used to report damaged gas meters. Given that the Union had placed the word "identify" in quotes in the first line of its response, and that Laclede had not titled the damaged meter report, Laclede read this sentence as follows: "Thus, we are again requesting that you *identify* the damage reports or other documents used to report damaged gas meters." (emphasis added).

4. In response to the issues on DRs 1 and 2 identified in the Union's letter, Laclede responded on November 10, as follows:

In your letter, you claim that Laclede failed to respond to the request in DR1 to "identify" and "provide" reports or other documents relating to damaged residential gas meters. The basis of your claim is that we only provided a list of meters that were identified as damaged by Laclede's meter shop, but did not identify the list. This letter shall clarify that Laclede is identifying such list compiled by its meter shop as its document on damaged residential gas meters.

Your letter also attached a form entitled "CellNet Return from field Evaluation Form," which you claim to be responsive to DR 1. However, if you review this form you will note that it does not address damaged gas meters, and so is not responsive to DR1. Nevertheless, at your request, in September, we provided you copies of the completed forms. These forms simply formed the basis for the portion of the Meter Shop Comparison document (provided to you on or about August 10, 2006) entitled Meters With AMR Units.

5. It was not until November 17 that the Union sent a follow-up letter that for the first time specifically identified the records that the Union actually wanted and, of course, which the Union knew the Company had, since the Union's members create or populate those records on a daily basis. And yet in neither its original data request, nor in its follow-up letter did the Union manage to describe or even mention any of these records. Instead, the Union referred only to "damage reports or other documents," indicating to Laclede that it sought damage reports, or other documents that might be similar to or a substitute for a damage report. Laclede accordingly and in good faith produced a report capturing all damaged meters that were brought to Laclede's meter shop. Further, in response to the document that the Union did specifically identify, the "CellNet Return from field Evaluation Form," Laclede pointed out that this document did not contain information on damaged meters, and so was not responsive to DR1, but

nevertheless produced all of these forms, and has since updated the production. Thus, in Laclede's view, the Company effectively responded to DRs 1 and 2.

6. Laclede wishes to assure the Commission that Laclede's attempts to respond to these data requests were not done to parse words in a sharp manner, but were a good faith effort to answer the questions asked. By the time that it became apparent on the Friday afternoon before Thanksgiving that, in DR 1, the Union was not seeking reports of damaged meters, as it requested, but instead individual records filled out by Union members when they replace a damaged meter, it was too late to provide or expect a full response. Nevertheless, Laclede has retrieved and provided the Union all such records that are readily available on-site at Laclede.

7. As indicated in the briefs of Laclede and Staff, and in the evidence, the Union provided absolutely no support for its complaint for more than four months after it was filed, and then dumped on the parties a bunch of scribbled addresses with very little context. Although the Union couldn't be bothered to even type these addresses on a document or make copies of the field tickets it would later demand, Laclede took these scribbles and populated a seven column document, complete with the Union members' self-serving remarks and the meter shop's analysis. Meanwhile, the Union has also demanded and received large amounts of documentation from Laclede, CellNet and Honeywell, and has deposed all of these parties. In the end, however, the following facts will speak for themselves:

- A. 600,000 AMR installations have been performed in Laclede service territory without a safety incident (i.e. a fire or explosion);
- B. Millions of other AMR installations have been performed by CellNet in Missouri and elsewhere without a safety incident;

- C. It is simply not possible for an AMR installation to cause a leak on a residential meter under prescribed installation procedures;
- D. The minute leaks that are experienced on meters are due to other reasons, are not considered hazardous and have not previously contributed to or resulted in a safety incident;
- E. AMR installers are appropriately trained regarding gas safety for the job they perform;
- F. Multiple safety programs at Laclede are unaffected by AMR installations, and will continue to provide any precautionary measures that are required by the Commission, and that remain more demanding than the federal counterparts.

8. In summary, Laclede did not refuse to disclose documentation responsive to DRs 1 and 2. Rather, Laclede provided the Union with the documents it originally requested and has supplemented this response with at least some of the documents that Union members created, and that the Union has only now specified that it wanted. Laclede asks that the Commission reconsider the Order and find that the underlying records that are readily available to Laclede, and that have been or are being provided to the Union, satisfy Laclede's obligation to respond to Union DRs 1 and 2 in this case.

WHEREFORE, for the foregoing reasons, Laclede respectfully requests that the Commission issue an order on reconsideration as set forth herein.

Respectfully Submitted,

/s/ Rick Zucker

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on all of the parties to this case on this 8th day of December, 2006 by United States mail, hand-delivery, email, or facsimile.

/s/ Rick Zucker