

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
December 28, 2000**

**CASE NO: GC-2000-771**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**Michael C. Pendergast**  
Laclede Gas Company  
720 Olive Street, Room 1520  
St. Louis, MO 63101

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Josh Davis**  
8502 Park Crestwood Drive, Apt. D  
St. Louis, MO 63126

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 28th  
day of December, 2000.

Josh Davis,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. GC-2000-771</u>
	)	
Laclede Gas Company,	)	
	)	
Respondent.	)	

**ORDER GRANTING MOTION TO DISMISS**

Josh Davis (Davis or Complainant) filed a formal complaint on May 22, 2000, seeking restitution in the amount of \$200 credit to his account based upon his allegations of poor customer service and alleged retaliation by the employees of Laclede Gas Company (Laclede). Laclede was served a notice of the complaint filed by Josh Davis on May 26, 2000. Laclede filed its answer and motion to dismiss on June 26, 2000. The certificate of service attached to Laclede's answer and motion to dismiss stated that a copy of Laclede's motion to dismiss was sent to Josh Davis on June 23, 2000, by United States mail, postage prepaid.

Laclede stated in its answer and motion to dismiss that the Complainant failed to allege that Laclede had violated any statute, rule, regulation, tariff provision or other legal requirement imposed on the company. Laclede stated that the Complainant has failed to

establish the legal prerequisites for a proper formal complaint citing Section 386.390, RSMo (1994).

Section 386.390 allows a complaint to be made by petition or complaint in writing setting forth any act or omission done by a corporation, person or public utility including any rule, regulation or charge in violation or claim to be in violation of any provision of law or any rule or order or decision of the Commission. Complaint cases filed with the Commission are also governed by Commission Rule 4 CSR 240-2.070.

After reviewing the pleadings filed, the Commission finds that the Complainant failed to state that Laclede has violated any statute, rule, regulation, tariff provision or other legal requirement imposed on the company, as required by Section 386.390, RSMo. The Commission also finds that the Complainant failed to set forth the Commission's authority by not including any statute, order or other authority, which would give the power to the Commission to grant restitution in the amount of \$200 credit on his account. The Commission is without jurisdiction to award the monetary restitution requested by the Complainant. *Wilshire Constr. Co. v. Union Electric Co.*, 463 S.W.2d 903, 905 (Mo. banc 1971). Therefore, the Commission shall grant Laclede's motion to dismiss and close this case.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Dismiss filed by Laclede Gas Company on June 26, 2000, is granted.
2. That this order shall become effective on January 7, 2001.

3. That this case may be closed on January 8, 2001.

**BY THE COMMISSION**

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Lumpe, Ch., Drainer, Murray, Schemenauer,  
and Simmons, CC., concur

Register, Regulatory Law Judge

ALJ/Sec'y:

*Register/Boyer*

Date Circulated

*12-21*

CASE NO. *EC-2000-771*

*JH*  
Lamp, Chair

*Boyer*  
Draier, Vice Chair

*Boyer*  
Murray, Commissioner

*KS*  
Scheunauer, Commissioner

*KS*  
Simmons, Commissioner

Agenda Date

*12-28*

Action taken:

*5-045*

Must Vote Not Later Than

STATE OF MISSOURI  
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 28<sup>th</sup> day of December 2000.

*Dale Hardy Roberts*

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

