

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Iacleda Gas
Company for a Variance From the Provisions of
4 CSR 240-10.030(19).

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) Case No. GO-95-320
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)

REPORT AND ORDER

Issue Date: May 13, 1997

Effective Date: May 31, 1997

OF THE STATE OF MISSOURI

Case No. GO-95-320

APPEARANCES

Michael C. Pendergast, Assistant General Counsel, and Thomas M. Byrne, Associate Counsel, Laclede Gas Company, 720 Olive Street, St. Louis, Missouri 63101, for Laclede Gas Company.

William M. Franz, Franz & Franz, 720 Olive Street, Suite 2100, St. Louis, Missouri 63101, for Gas Workers Local Union 5-6 of the Oil, Chemical & Atomic Workers International, AFL-CIO.

Lewis R. Mills, Jr., Deputy Public Counsel, and Douglas E. Micheel, Deputy Public Counsel, and Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Cherlyn D. McGowan, Assistant General Counsel, and John M. Himmelberg, Jr., Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

ADMINISTRATIVE

LAW JUDGE: Thomas H. Luckenbill, Deputy Chief.

REPORT AND ORDER

Procedural History

On April 18, 1995, Laclede Gas Company (Laclede) filed an application for a variance from 4 CSR 240-10.030(19) of the Commission's rules. This rule is designed to ensure the accuracy of gas meters. Laclede sought this variance so that it could implement a statistical sampling methodology with respect to the testing of gas meters.

On May 3, 1995, Gas Workers Local Union 5-6 of the Oil, Chemical & Atomic Workers International, AFL-CIO (Gas Workers) filed a verified application to intervene. On May 22, 1995, the Commission granted the Gas Workers' application to intervene.

On May 16, 1995, the Staff of the Missouri Public Service Commission (Staff) filed a memorandum recommending approval of Laclede's request for a variance from the metering rule so that the statistical sampling methodology could be implemented.

On June 20, 1995, the parties participated in a prehearing conference which was held at the Commission's offices. On June 28, 1995, the parties filed a unanimous Stipulation And Agreement. The parties agreed that Laclede's application for variance should be granted subject to certain conditions. The parties agreed that the application should be granted on an interim basis, commencing with the effective date of the Commission order approving the Stipulation And Agreement and extending through the end of calendar year 1996, and that such agreement would be reflected by an interim tariff sheet which was attached to the Stipulation And Agreement. Furthermore, the parties reserved the right under the agreement to recommend that an evidentiary hearing be held prior to a Commission determination as to a permanent waiver and related tariff sheet.

On June 12, 1995, the Commission issued an order approving the Stipulation And Agreement, and directed Laclede to file tariff sheets implementing the variance on an interim basis. On July 26, 1995, Laclede filed interim tariff sheets in accordance with the Stipulation And Agreement, which the Commission approved on July 27, 1995.

On May 30, 1996, Laclede filed results of the meter sample testing program. On October 3, 1996, Laclede filed permanent tariff sheets to

implement the statistical meter testing methodology in lieu of the methodology required by 4 CSR 240-10.030(19).

On October 31, 1996, the Gas Workers responded to Laclede's request for a permanent variance and related tariff sheets. The Gas Workers allege that Laclede's proposal could result in meters with an accuracy rate of only 90 percent being left in service for as long as thirty years, whereas under the Commission rule such meters could not be left in service without testing for more than ten years. The Gas Workers allege that allowance of the variance could reduce health and safety standards for customers and the general public while providing cost savings that are not commensurate with that risk. Furthermore, the Gas Workers state that Laclede employees make safety inspections of all gas appliances at a customer's premises in conjunction with the removal of meters. Since the gas is turned off at the time of meter removal, the employees relight and perform safety inspections on all the customer's gas appliances. The Gas Workers argue that gas leaks and other hazards are discovered on a regular basis as a result of these safety inspections and are immediately remedied. They conclude that the large reduction in the number of meters to be tested results in an unacceptable decrease in the health and safety of customers and the general public.

Laclede filed a reply to the Gas Workers' response, contending that it takes very seriously its responsibility to protect the health and safety of its customers, employees and the general public. Laclede further states that neither the Commission nor Laclede has ever found the inspection of each customer's premises every ten years to be either necessary, appropriate or cost-effective to protect public safety and health. It argues that the Commission's safety regulations rely on

systematic, targeted inspections rather than on incidental inspections that are simply the by-product of a rule designed to ensure meter accuracy. Laclede further notes that its workers who are freed by the meter sampling program from the duties associated with meter removal and testing are, and will be, available to perform additional service and safety-related work for customers. According to Laclede, this will afford the workers a greater opportunity to inspect customer premises than was provided by the preexisting meter replacement requirement. Laclede maintains that permitting it to continue the meter sampling program will have absolutely no adverse impact on public health and safety, but instead will promote these objectives by enabling workers to do other customer premises work.

The Staff filed a memorandum to the official case file on November 25, 1996, recommending that the Commission grant Laclede a permanent variance from 4 CSR 240-10.030(19). The Staff points out that Laclede's interim meter testing program for calendar year 1995 has identified two meter types where the accuracy rates were below 89 percent, and that as a result of this identification, Laclede is required to remove these meters within five years rather than remaining on the ten-year changeout schedule required under the Commission rule.

On December 23, 1996, the Commission suspended the tariff sheets which would have granted the variance on a permanent basis, and ordered Laclede to file a tariff sheet showing an extension of the interim variance until September 1, 1997. The Commission further stated that an evidentiary hearing was needed to allow the Commission an opportunity to consider whether implementation of a statistical meter testing methodology rather than strict compliance with 4 CSR 240-10.030(19) is appropriate.

Laclede, the Gas Workers and Staff filed testimony relating to this matter. On March 13, 1997, the Commission conducted an evidentiary hearing. The parties waived the filing of briefs, and made opening and closing statements in lieu of briefs. The Office of the Public Counsel did not participate in this case and asked to be excused after opening statements.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Gas Workers argue that the safety of customer facilities may be impaired if Laclede discontinues the practice of physically removing and testing each meter on a 120-month schedule. However, no party has presented evidence that the mere act of removing and testing the meter under 4 CSR 240-10.030(19) has any direct safety benefit. It is the *incidental* safety benefits that are in question. The evidence shows that when Laclede removes a meter at a residential structure, its employee turns off the gas. After the meter is replaced, the gas is turned back on. When Laclede turns the gas supply back on, the employee inspects customer piping and appliances pursuant to 4 CSR 240-40.030(12)(S)1. (Ex. 12). It is these incidental safety-related inspections that follow a gas turn-on after a meter changeout that the Gas Workers wish to preserve.

It is first important to recognize that these safety-related inspections are not required by 4 CSR 240-10.030(19) ["Section 19"], which is the subject of this proceeding and from which Laclede seeks a permanent variance. Section 19 falls within Chapter 10 of the Commission's rules which are applicable to all utilities and which deal with "standards of

quality," not safety. For example, Section 10.030(18), which immediately precedes Section 19, deals with mechanical defects in gas service meters. In contrast, the rule which requires Laclede's employees to inspect a customer's gas appliances and piping after a gas turn-on is found in Chapter 40 of the Commission's rules. **See** 4 CSR 240-40.030(12)(S)1. This chapter applies only to gas utilities, and contains Subchapter 40.030 which deals exclusively with "Safety Standards -- Transportation of Gas by Pipeline." These safety rules will be unaffected by any variance granted in this case.

The evidence shows that Staff witness Robert R. Leonberger contacted personnel from regulatory utility commissions in the six states surrounding Missouri. Leonberger found that local gas distribution companies (LDCs) in Illinois, Indiana, Iowa, Kansas and Oklahoma use statistical sampling meter accuracy programs, such as used here by Laclede. Personnel from Nebraska said that there was no statewide or commission requirement to remove natural gas meters, and that the gas LDCs change out and test meters according to their own procedures. Leonberger further testified that the Commission's Management Services Department recommended that Laclede consider implementation of a statistical sample testing program in Case No. GO-85-63. (Ex. 11, p. 4).

The Commission finds that the application for variance should be approved because the evidence shows that Laclede's statistical sampling methodology is a more effective way to ensure meter accuracy than a strict application of Section 19. Moreover, requiring strict compliance with Section 19 does not ensure effective safety inspections. The evidence shows that a majority of the time associated with the meter changeouts is not spent on inspections. (Ex. 4, pp. 13-14). At the same time the

Commission finds that the piping and appliance inspections conducted by Laclede when it turns on the gas supply to a residence provide important opportunities to observe and correct unsafe conditions. The Commission finds that from 1990 through 1994 an average of 58,500 meter changes occurred under the existing Section 19 procedure. Since the interim variance was granted, an average of 37,000 meter visits have occurred under the statistical sampling method. This decrease in meter changes will apparently result in the \$2.7 million savings cited by Laclede (or, \$1.8 million cited by the Gas Workers). The Commission finds that this decline of 20,000 visits will eliminate 20,000 opportunities to observe and remedy potentially unsafe conditions.

While it will grant the variance request, the Commission finds that the appropriate response by Laclede to this decision would be the implementation by the company of a program which recaptures those "lost" opportunities elsewhere in Laclede's safety inspection program.

The program should be set up so that the labor hours involved approximate the hours saved by implementation of the statistical meter sampling methodology. If Laclede desires Commission review of the program, Laclede should file a motion to establish a docket regarding the program, along with the proposed program. In developing the program, Laclede should bear in mind the need to inspect older homes on a regular basis whose occupants are more likely to benefit from piping and appliance inspections as compared to the occupants of newer homes. (Ex. 9, p. 6).

This program should reflect the spirit of the first sentence in the objective section of Laclede's *Turn-On Information* pamphlet which states:

"A Turn-On order presents one of the best opportunities to make a good impression on customers and to fulfill Laclede's primary objective - customer safety and satisfaction."

(Ex. 12, Section 10-1).

The Commission is confident that Laclede will work with interested parties to develop an effective program consistent with this statement.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

Laclede Gas Company is a gas corporation and a public utility under Section 386.020(18)¹ and 386.020(42), respectively. Laclede Gas Company is subject to the Commission's jurisdiction under Chapters 386 and 392.

Under 4 CSR 240-10.030(19) the Commission has authority to waive strict compliance by this order. The Commission finds that good cause exists to grant the waiver of the strict application of Section 19.

IT IS THEREFORE ORDERED:

1. That the application for a variance from 4 CSR 240-10.030(19) filed by Laclede Gas Company on April 18, 1995 is approved.

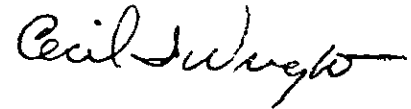
2. That Laclede Gas Company shall file appropriate changes to its tariff to reflect the implementation of a permanent variance and termination of the interim variance from 4 CSR 240-10.030(19) no later than May 14, 1997.

¹All statutory references are to the Revised Statutes of Missouri 1994 or 1996 Supplement.

3. That the Commission's Staff shall file a memorandum to the official case file no later than May 23, 1997 regarding whether the tariff sheets comply with this Report And Order.

4. That this Report And Order shall become effective on May 31, 1997.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., Crumpton and Drainer, CC., concur and certify compliance with the provisions of Section 536.080, RSMo 1994.

Dated at Jefferson City, Missouri, on this 13th day of May, 1997.