

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

Dr. Hortense Lucinda Harrison)	
)	
Complainant,)	
v.)	Case No. GC-2008-0041
)	
Laclede Gas Company,)	
Respondent.)	

STAFF’S POST-HEARING BRIEF

COMES NOW the Staff of the Missouri Public Service Commission (Staff), and submits the following Post-Hearing Brief to the Missouri Public Service Commission (Commission). For said brief, Staff respectfully states the following:

PROCEDURAL HISTORY SUMMARY

On August 10, 2007, Dr. Hortense Lucinda Harrison (Dr. Harrison) filed a Complaint with the Commission disputing her gas bill for the 2006-07 heating season. As relief, Dr. Harrison requests the Commission “dismiss the gross overcharge.” Complaint, pg. 2. On August 14, 2007, the Commission sent a Notice Of Complaint, and Laclede Gas Company (Laclede) filed its Answer To Complaint on September 12, 2007. On October 12, 2007, Staff filed its Investigation Report in response to the Commission’s August 14, 2007 Order Directing Filing. The prehearing conference was held on November 1, 2007, and the Commission issued its Order Setting Complaint For Hearing on November 14, 2007. The hearing was scheduled for April 23, 2008, to permit comparison of Dr. Harrison’s gas usage between the two winter heating seasons.

LIST OF ISSUES FILED BY STAFF

Staff filed its List Of Issues, Witnesses, And Order Of Cross-Examination on April 17, 2008. Such list presented four issues to be determined at the April 23 hearing:

1. In rendering the Adjusted Bill, did Laclede violate its tariffs, any law, or any Commission rule or order?
2. What should the amount of charges be for gas service covered by the Adjusted Bill, from November 17, 2006 to March 27, 2007?
3. What should be the start date for Dr. Harrison's billing account with Laclede?
4. If the Commission determined start date differs from Laclede's account billing information, what is the appropriate amount of adjustment?

After reviewing the evidence presented at hearing, Staff respectfully recommends the Commission follow Staff's August 14, 2007 recommendation, finding Laclede has not violated its tariffs, any law, or any Commission rule or order in rendering Dr. Harrison her adjusted bill. The adjusted bill was rendered to Dr. Harrison after the March 2007 billing cycle, adjusting for estimates billed in the December 2006, January 2007, and February 2007 billing cycles. Tr. at 62.

4 CSR 240-13.015 (1)(M) (2004) defines "estimated bill" as "a charge for utility service which is not based on an actual reading of the meter or other registering device by an authorized utility representative." Laclede's tariff provides "[t]he usage estimating procedure utilized by Laclede involves the development and periodic review of factors for each customer based on past usage for the premise *where possible, and upon system averages where this is not possible.*" Sheet No.5, Original Sheet No. R-40. Thus, while Dr. Harrison's home was a new construction and no past usage existed, other system averages were utilized to determine an estimate when the AMR failed to register. Tr. at 139.

4 CSR 240-13.025 (1)(B) (2004) allows a utility to render an adjustment "for the entire period that the undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods....calculated from the date of discovery, inquiry, or actual notification of the utility, whichever was first." Laclede estimated Dr. Harrison's bill for a total of three billing

periods due to a malfunction of the AMR reading device. Tr. at 106-8, 136. The billing periods estimated are all well within twelve (12) months of discovering the AMR malfunction. Nor did Laclede violate 4 CSR 240-13.020 (1) (2004), which provides that normally a utility shall “render a bill for each billing period to every residential customer in accordance with its tariff,” but, (2)(B) allows utilities to estimate customers’ bills provided “[a] utility shall not render a bill based on estimated usage for more than three (3) consecutive billing periods, except under conditions described in subsection (2)(A) of this rule.” Laclede has not estimated Dr. Harrison’s usage for more than three billing periods, and while Staff sympathizes with Dr. Harrison and the difficulties she had with AMR malfunctions and the bills going to an incorrect address, it remains Staff’s recommendation that Laclede has not violated its tariffs, any law, or any Commission rule or order in rendering Dr. Harrison her March 2007 adjusted bill.

Regarding issue two, the adjusted bill amount of \$803.19 is proper, minus the approximate \$90.00 that will be credited by an adjustment of the service start date discussed below. Tr. at 181. Despite the problems with the AMR and the incorrect mailing address, a principle in utility regulation is that rate payers pay the cost of their usage, so that the individual’s benefit is not absorbed by other rate payers. After disputing the bill, Dr. Harrison declined a special meter test because she felt the meter was operating properly. Tr. at 46. It remains Staff’s recommendation that the \$803.19 charge, minus the approximate \$90.00 credit is the correct charge for gas service covered by the adjusted bill, and Dr. Harrison remains responsible for that usage.

Regarding issue three, Laclede announced a voluntary adjustment of Dr. Harrison’s billing account start date from November 17, 2006, to December 6, 2006. December 6, 2006, is the date Dr. Harrison closed on her home and took occupancy. Tr. at 99. Staff supports

Laclede's voluntary adjustment and offers no additional recommendation on this issue. Laclede's adjustment suggests the question presented by issue four is now moot.

NEW ISSUES RAISED BY HEARING

At the April 23, 2008 hearing, two new issues arose; one, whether sending a disconnect notice to a customer, whose amount is being disputed in a pending complaint, is a violation of Commission rules, and two, whether posting a deposit on a customer's account while the amount is in dispute is a violation of Commission rules.

Regarding the disconnect notice, 4 CSR 240-13.045 (5) (2004) states that "[i]f a customer disputes a charge, s/he shall pay to the utility an amount equal to that part of the charge not in dispute." The disputed amount in this case is the entire \$803.19. Tr. at 76. Additionally, 4 CSR 240-13.050 provides an exclusive list of instances when gas service may be discontinued. 4 CSR 240-13.050(1)(A) provides [s]ervice may be disconnected for any of the following reasons: (A) Nonpayment of an undisputed delinquent charge." From this, one can infer nonpayment of a disputed charge is not a valid reason to disconnect service, and a violation on the part of Laclede.

However, nothing in the record indicates Dr. Harrison was ever disconnected. Generally speaking, a company with an automated billing system issues disconnect notices automatically, so while Dr. Harrison received disconnect notices, she was not disconnected. Complainant's Exhibit No. I.

The attorney for Laclede states he suppressed the disconnect notices manually three weeks prior to hearing. Additionally, Dr. Harrison testified that she would call and ask about the notices. Tr. at 78. Laclede's tariff does not indicate any specific procedures on how disconnect notices should be handled in disputed cases. Sheet No.5, Fourth Revised Sheet No. R-12.

While Staff sympathizes with the difficulties experienced by Dr. Harrison, it remains Staff's opinion that Laclede did not violate any Commission rule or order in issuing disconnect notices.

Regarding the deposit posted to Dr. Harrison's account, Laclede's operating system "automatically assesses a deposit if the bill isn't paid in full a number of times in a year." Tr. at 47. The attorney for Laclede withdrew the deposit amount from Dr. Harrison's account prior to the hearing. Tr. at 47. As the dispute was settled at hearing, Staff offers no additional recommendation on this issue.

WHEREFORE, Staff respectfully submits this Post-Hearing Brief to the Missouri Public Service Commission for consideration in the above stated case.

Respectfully submitted,

/s/Jennifer Hernandez

Jennifer Hernandez

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing instrument was sent via US Mail, electronic mail or facsimile to all parties of record on this 3rd day of June, 2008.

/s/ Dawn M. Carafeno