

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

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

**RESPONSE IN OPPOSITION TO
MOTION OF USW LOCAL 11-6 FOR IMMEDIATE INTERIM RELIEF**

COMES NOW Laclede Gas Company (“Laclede”) and for its Response in Opposition to Motion of USW Local 11-6 for Immediate Interim Relief Pursuant to R.S.Mo. §386.310.1, states as follows:

1. On January 8, 2007, USW Local 11-6 (“Union”) filed a Motion in the above-captioned proceeding in which it requested that the Commission immediately order Laclede to implement certain measures pending a final decision in this case, including: (a) a requirement to have “trained gasworkers” inspect 80,000 meters each month on which an AMR device has been installed, (b) to compile a hazard analysis for each such inspection, and (c) to have its “service employees” pressure test lines every time gas is turned off and back on at a lock cock. According to the Union, these measures purportedly are necessary because the AMR-related actions of Manpower, Honeywell and Cellnet subcontractors, including two recent situations where, allegedly, leaks were caused by such personnel, continue to endanger the safety of Laclede customers. In order to obtain such relief, the Union must demonstrate to the Commission that a failure to order such relief would result in the “likelihood of imminent threat of serious harm to life or property” (Section 386.310.1 RSMo.).

2. The Union's Motion fails to satisfy this standard. First, the two alleged incidents cited by the Union do not establish an imminent threat to public safety. Instead, based on the "relief" requested by the Union, it is abundantly clear that the Union's intent is not to avoid some imminent threat to public safety, but to once again attempt, without regard to the facts, to use this proceeding to create unnecessary Union work at the expense of Laclede's customers. Even if one were to take at face value the Union's allegations regarding the two situations cited in its Motion, neither of them would warrant the type of relief being requested in the Union's Motion. For example, while it is still unclear whether the actions of Cellnet's subcontractors even caused the two leaks cited by the Union, the fact remains that those leaks were identified by the customers and remedied by Laclede as a result of the most important safety feature Laclede or any other LDC has at its disposal: namely, the odorization of gas and the reporting of those odors when a leak causes them to occur. There is absolutely no reason to believe that a program aimed at inspecting 80,000 meters a month would have done anything to identify or remedy these leaks any sooner, absent the truly extraordinary coincidence of the leak occurring on the same day that the inspection was scheduled. To the contrary, by diverting massive resources to the make-work exercise of inspecting hundreds of thousands of meters that are perfectly fine, such a measure would, if anything, compromise Laclede's ability to remedy situations that actually do have a potential impact on public safety.

3. Second, even assuming that the Union has accurately and fully recounted the two events cited in its Motion (which it has not), there is no credible basis for suggesting that these two isolated situations require some wholesale change in the

procedures or personnel being used by Laclede in connection with its AMR program. Since Laclede began the deployment of AMR in 2005, over 600,000 devices have been installed by Cellnet personnel on well over 90% of Laclede's meters without any known injury to customers or damage to property. Millions of other devices have been successfully and safely installed under similar arrangements by other utilities over the years, including those serving the Kansas City area, large portions of Missouri, and even Jefferson City. In view of this record, alleging a few isolated instances where a few Cellnet employees supposedly created unsafe conditions hardly qualifies as meaningful or persuasive evidence that all such employees cannot be trusted to perform such work in a safe manner, thereby creating an imminent threat to the public.

4. Third, the disingenuous nature of the Union's request is further illustrated by its request that Laclede be required to pressure test lines every time service is turned off at the lock cock and then turned back on. Neither of the two situations cited by the Union in its Motion involved installation or maintenance work that required gas to be shut off at the lock cock. Accordingly, such a requirement would not have even been applicable to the circumstances cited by the Union and would have done nothing to identify or prevent any of the leaks. In fact, like the proposed meter inspection requirement, such a measure would only divert resources from tasks that actually are related to public safety while, at the same time, imposing unnecessary costs on Laclede's customers.

5. Thus, since there is no evidence of an imminent threat and since the measures proposed by the Union are in no way tailored to address the specific safety concerns it has raised, there is absolutely no basis for concluding that the Commission's

failure to act on the Union's request would pose any threat to public safety, imminent or otherwise.

6. Indeed, by making such a claim, the Union is effectively suggesting that the Commission establish a virtual standard of perfection whereby it should immediately order utilities to employ a different workforce whenever there is an indication that a member or two of the existing workforce has done something to create a potentially unsafe condition. Laclede would respectfully submit that such a standard is neither appropriate nor one that necessarily would warrant the use of Union personnel to perform such work were it ever to be adopted by the Commission. Indeed, for all of the Union's claims regarding the safety benefits of using experienced, trained gas personnel to perform various kinds of work, its members have also had their share of isolated instances where someone could claim that they had created a dangerous situation.¹ Indeed, the most notable example presented in this case of such an instance involves the recent actions of four Union members in replacing a copper service line. As the undisputed testimony shows, in the course of replacing the line and before the gas was shutoff at the curb, one of the Union employees placed a large, heavy wrench on what the employee now claims was an obviously corroded piece of inside piping, thereby causing the piping structure to collapse and gas to rush into the home. (See Transcript, pp. 593-630). The end result of these actions by Union personnel was to create a situation that, in its severity and potential for harm, exceeded any of the instances cited by the Union in its Motion.

¹ As the evidence in prior cases has shown, where such isolated instances do occur, the Union's typical response is to vigorously contest the Company's efforts to discipline those involved. On no occasion has the Union ever suggested that such instances raise doubts about the overall ability of Union members to perform their jobs safely.

7. Given these undisputed facts, it would be just as reasonable to argue that Laclede should be required to immediately replace its Union workforce with other personnel so as to ensure that this kind of work can be performed safely in the future, as it is for the Union to claim that Cellnet employees should be replaced or have their work augmented because of a few isolated instances in which an allegedly unsafe condition was created. Fortunately for the Union, decisions on the workforce to perform a particular kind of work in a safe and effective manner are not and never have been based on an anecdotal consideration of a few isolated events involving a few employees. Instead, such determinations are and must be based on a comprehensive evaluation of overall performance. When measured by such a standard, it is clear that Cellnet and its subcontractors have performed their tasks in a way that is fully consistent with public safety. By either standard, however, there is absolutely nothing in the record of this case to indicate that Laclede's customers would be safer if only Laclede's Union personnel were given more work to do. Nor is there any legal basis, as the Commission has previously determined in this case, upon which the Commission could direct Laclede to use Union personnel even if it were to conclude that some additional measures were necessary to protect public safety. (See Commission Order dated August 10, 2006, pp. 3-4)

8. Finally, Laclede continues to have significant reservations regarding the origins and circumstances surrounding the two events cited by the Union in its Motion. Now that the Union's Motion to submit testimony addressing these two situations has been granted, Laclede intends to file responsive testimony on the currently scheduled date. As the attached affidavit makes clear, however, Laclede's preliminary investigation

of these two events indicates a number of troubling facts, none of which support the Union's claim for relief.

9. With respect to the situation involving a commercial customer that occurred on November 9-10, 2006, Laclede agrees that the meter appears to have been drilled through. Laclede does not, however, believe that the drilling was done by the person who Cellnet had sent to the location to install an AMR device. Laclede has talked extensively with that person. He has more than twenty years of experience in the Automatic Test Equipment field which encompasses maintenance, maintenance supervision, and customer support of systems, computers, workstations, handlers, and power supplies in a test environment. He has not only performed installations and maintenance on numerous kinds of equipment, but has also taught maintenance procedures to technicians. He has an AA in mathematics from West Valley College in Saratoga, CA, took electronic and math courses from Cogswell College, and received an Electronics Technician "A" Radar certification while serving in the United States Navy. Consistent with Cellnet's policy, he says that he did not even carry, let alone use, a drill while installing AMR devices on commercial meters. Laclede is not aware of any evidence to the contrary and Laclede believes him. In fact, in tests performed by him and Laclede personnel with the hand tools that this person did carry and use to install such devices, it was simply not possible to replicate the drill holes that were found on the meter. At this point, Laclede does not know who drilled through the meter or when that drilling occurred. The evidence gathered by Laclede to date, however, casts substantial doubt on the Union's claim that such drilling was done by the person sent by Cellnet to install the AMR device.

10. Laclede also believes that the Union has exaggerated the severity of the situation to support its position in this proceeding. In his affidavit, Mr. Johnson, the Laclede employee and Union member who responded to the leak call at this location, states that he received a 20% to 25% gas in air reading above the meter, a factor that in his view was particularly dangerous given the fact that the leak was located close to a boiler. Despite these expressions of concern, however, Mr. Johnson did not shut off gas to the location so that the leak could be stopped even though he was fully trained to perform such a procedure. Instead, he made at least two phone calls in order to find someone who was qualified to work on a commercial meter. And when that person arrived shortly thereafter, Mr. Johnson was observed smoking a cigarette on the steps outside the open doors to the room where the meter leak and boiler were located. These actions hardly support the Union's position that the leak posed a serious or imminent a threat to public safety. Therefore, Laclede does not believe that this event provides a reliable basis for any Commission action, let alone any action that would seek to impose the kind of unrelated, make-work requirements that have been suggested by the Union.

11. With respect to the situation involving the residential customer that occurred on December 19, 2006, once again it is not clear whether or not the leak was caused by the Cellnet employee's work on the meter. Nevertheless, Laclede and Cellnet made sure that the employee was drug tested on the date that the work was done (the test came back negative) and that all persons working for Cellnet were immediately reminded of the procedures for reporting and assisting customers in reporting odors in connection with any work that they may perform.

12. That said, Laclede has serious reservations about the version of events set forth in the Union's Motion and the affidavit of Mark Boyle, the Union service technician who responded to the odor report at the address. It should be noted that Mr. Boyle is currently running for a Union leadership position in the elections that will be held in February of this year. In fact, Mr. Boyle allegedly was on a coffee break at the Union's offices immediately prior to responding to the odor call cited by the Union. Notably, once he arrived on the customer's premises, Mr. Boyle, by his own admission, significantly overestimated the concentration of gas that was in the air (by a factor of more than 20) and misidentified the source of the leak as coming from the face plate of the meter when, in fact, the leak was coming from the union joint on the piping leading to the meter. Mr. Boyle also took the unusual step of calling the Union leadership within minutes of arriving on the scene and inviting a Union official, rather than a Company employee, to talk to the customer and apparently advise the customer to go to the hospital. This conduct certainly creates the inference that the Union, through Mr. Boyle, was attempting to exaggerate and use this incident for its own purpose in this proceeding.

13. At a minimum, these considerations raise substantial questions about the circumstances surrounding the leaks that certainly do not justify the massive jobs program that the Union proposes in its Motion. The Commission has given the Union wide latitude to raise and litigate what Laclede believes are obviously specious claims regarding the public safety implications of installation practices that Laclede and other utilities have followed in performing virtually millions of jobs without incident or harm to anyone. To that end, Laclede respectfully submits that situations such as the ones identified in the Union's Motion should be not be relied upon by the Commission for any

purpose, let alone one that is so obviously directed at mandating unnecessary work at the expense of Laclede's customers.

14. As a final point, Laclede notes that the Commission's own safety rules already provide an aggressive safeguard for assessing the condition of not only meters, but also company piping exposed to the atmosphere. Specifically, the Commission's corrosion inspection rules already require, and will continue to require, Laclede personnel to inspect such equipment at an average pace of approximately 18,000 per month.

WHEREFORE, Laclede Gas Company respectfully requests that the Commission deny the Union's Motion to Immediate Interim Relief.

Respectfully submitted,

LACLEDE GAS COMPANY

/s/ Michael C. Pendergast

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the General Counsel of the Commission, the Office of the Public Counsel and USW Local No. 11-6, on this 16th day of January, 2007, by United States mail, hand-delivery, email, or facsimile.

/s/ Rick Zucker

AFFIDAVIT OF PATRICK A. SEAMANDS

State of Missouri)
)
 City of St. Louis) ss

I, Patrick A. Seamands, being of lawful age, state the following:

1. The Union has presented two instances in which they claim an individual working on CellNet's behalf created an unsafe situation. The first occurrence took place on November 9, 2006, at **_____** in St. Louis County. The second occurred on December 19, 2006, at **_____** also in St. Louis County. Under my supervision, Laclede personnel are conducting an audit of these instances, and have performed interviews of the individuals who performed AMR installations at these addresses on behalf of CellNet. Below are facts gathered on these two occurrences:

2. November 9 Occurrence. The meter at this commercial location is a large meter known as a "4IC," and is made of cast iron. The top of this meter, known as the "hand hole plate" is equipped with threaded holes where the index and AMR device can be attached. The bottom of the hand hole plate is reinforced in the area corresponding to the pre-tapped holes. The hand hole plate in this case has two punctures. One of the punctures is a clean, small round hole that, in my opinion, appears to have been made by a drill. The second hole is much smaller and is not easily visible. It could have also been made by a drill but if so, the bit barely punctured the surface of the hand hole plate, and did not break through completely.

3. The bolts that go in the threaded holes are flat-bottomed and rather wide (5/16"). These bolts are too short, too blunt, and too wide to have made the small, fine holes in the hand hole plate.

4. In installing the AMR device on the 4IC meter, the installer will first clean out these holes, which are open because they are not used by the pre-AMR index. The AMR installer in this case confirmed his method of cleaning out the holes which conforms to standard practice. This process consists of first, using a small screwdriver to dig debris out of the hole, and then using a tap tool to clean out the threads. The installer stated that he used a taper tap, which is a pointed tool. However, he stated that he screwed the taper tap in with a hand wrench, and he demonstrated his technique. He further stated that, not only did he not use a drill on any portion of the work, but he was not even carrying a drill.

5. In my opinion, the installer's approach to cleaning out the holes could not have resulted in the punctures that are evident in the hand hole plate. In fact, in tests performed by him and Laclede personnel with the hand tools similar to those used by the

installer, it was simply not possible to replicate the drill holes that were found on the meter.

6. I would also note that, upon puncturing the hand hole plate, gas would have issued from the hole directly toward the person doing the drilling. The AMR installer stated that, had that occurred, he would have immediately plugged the hole with the bolt to slow the flow of gas and called in the leak on his cell phone. Since there are two holes in the meter, whoever did the drilling had to drill the second hole while gas from the first hole leaked toward the driller. A check of the AMR installer's record shows no complaints with his work. A spot check of other AMR devices he installed on 4IC meters that month also reveals no issues. It seems highly improbable that this AMR installer drilled two holes in the meter and then with gas leaking directly on him, proceeded to complete the installation and move on to the next job without comment.

7. The AMR installer in this case has over 30 years of experience working with tools and equipment, including more than twenty years of experience in the Automatic Test Equipment field, which encompasses maintenance, maintenance supervision, and customer support of systems, computers, workstations, handlers, and power supplies in a test environment. He has not only performed installations and maintenance on numerous kinds of equipment, but has also taught maintenance procedures to technicians. He has an AA in mathematics from West Valley College in Saratoga, CA, took electronic and math courses from Cogswell College, and received an Electronics Technician "A" Radar certification while serving in the United States Navy.

8. Mr. Johnson, the Laclede employee and Union member who responded to the leak call at this location on the morning of November 10, 2006, appears to exaggerate the severity of the situation in his affidavit. Mr. Johnson states that he received a 20-25% gas in air reading above the meter, a factor that in his view was particularly dangerous given the fact that the leak was located close to a boiler. Despite these expressions of concern, however, Mr. Johnson made no effort to shut off the gas to the location so that the leak could be stopped even though he was fully trained to perform such a procedure. Instead, he made several calls in order to find someone who was qualified to work on a commercial meter. An interview of Mr. Manalang, the Meter Shop foreman who responded to Mr. Johnson's call, reveals that upon Mr. Manalang's arrival, he observed Mr. Johnson smoking a cigarette on the steps outside the open doors to the room where the meter leak and boiler were located.

9. December 19 Occurrence. In this case, Laclede employee and Union witness Mark Boyle, responding to an odor call, stated that he shut off the flow of gas, began venting the house, and called his supervisor. Mr. Sisak, the Laclede supervisor, states that Mr. Boyle reported a 30% gas-in-air reading, and that a leak was coming from the face plate of the AMR index. Mr. Sisak states that, upon arrival at the property, Mr. Boyle corrected his initial report from a 30% gas-in-air reading to the 1.3% reading set forth in his affidavit. At Mr. Sisak's direction, Mr. Boyle turned the gas back on, and Mr. Sisak immediately observed a whistling sound coming from a union located a few feet away from the meter. Upon tightening the union, the leak completely ceased.

10. An interview with the AMR installer who had performed a re-programming of the meter that morning confirms that he did notice a minor whiff of gas upon removing the index. In previous jobs, he had occasionally noticed this effect. During his work, he thought he heard a slight wisp, although it could have been any of the sounds normally heard in a home. Nevertheless, he immediately stopped his work and listened for the sound, but it was gone. He completed his work re-programming the meter and, upon completion, he heard no whistling, or even wisping. The customer did mention that she smelled gas, but he assumed it was from the original whiff he had experienced, and informed her of that. As he climbed the steps to depart the home, he smelled no gas, even after pausing on the landing at the top of the steps to receive some cookies offered to him by the customer. He left the home at approximately 9:12 am. Upon receiving information of the leak that day, CellNet called in the installer, who passed a drug test.

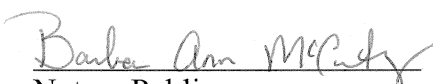
11. At 9:39 am, Laclede received a call of a gas odor at the property. Mr. Boyle was dispatched there and according to his records, arrived there at 10:10 am. He took the unusual step of calling the Union leadership at 10:15 a.m., within minutes of his arrival on the scene and inviting a Union official, rather than a Company employee, to talk to the customer and apparently advise the customer to go to the hospital, all while he should have been performing his job for Laclede.

12. In my opinion, it is not clear what directly caused the leak to occur at the union joint. It seems unlikely that the installer's work re-programming the AMR module was substantial enough to loosen an otherwise tight union joint. It is more likely that the joint was already slightly loose when the installer appeared that morning, and that his work on the meter may have further loosened the joint. It is not clear, however, whether anyone else at the premises may have subsequently taken some action that ultimately led to the union coming loose enough to leak gas and issue a whistling sound. Nevertheless, all persons working for CellNet were immediately reminded of the procedures for reporting and assisting customers in reporting odors in connection with any work that they may perform.

FURTHER AFFIANT SAYETH NOT.


Patrick A. Seamands

Subscribed and sworn to before me this 16th day of January, 2007.


Notary Public

My Commission Expires: February 16, 2007



BARBARA ANN MCCARTHY
My Commission Expires
February 16, 2007
Jefferson County