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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 2nd
day of July, 1998.

Lucille Johnson,)	
)	
Complainant,)	
)	
vs.)	<u>Case No. GC-98-284</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DISMISSING COMPLAINT

Statement of Facts

On Saturday, November 15, 1997 Lucille Johnson (Complainant) called Laclede because of an odor of gas at her residence located at 4129 N. Taylor in St. Louis, Missouri. Laclede sent its service personnel to Complainant's residence where they discovered a gas leak in the Complainant's customer-owned fuel line. Laclede's service personnel said that the leak could not be fixed until the following Monday but informed Complainant that she had the choice of calling another contractor to have her gas line repaired more quickly. Complainant chose to wait to have Laclede perform the repairs on Monday, November 17, so that she could have the repair cost placed on her gas bill.

On Monday, November 17, Laclede service personnel returned to the Complainant's home and repaired her leaking fuel line. During that repair visit, Laclede's service personnel did not turn on the gas to the Complainant's furnace because they believed that the furnace installation

constituted a safety hazard inasmuch as the Complainant's masonry chimney was not protected with a flue liner as they believed was required.

Laclede's services personnel, after discussions with technical training supervisors, subsequently realized that the Complainant's chimney did not require a flue liner because her furnace had been modified by the installation of a dilution air attachment. On either November 18 or 19, Mr. Robert J. Feldmann, Laclede's superintendent of Service & Installation, informed the Complainant that Laclede had made a mistake and that her masonry chimney did not need a flue liner. Mr. Feldmann apologized for the inconvenience the Complainant had experienced. Laclede also waived the charges for the repair work performed on her fuel line performed on November 17 to compensate her for any inconvenience she may have suffered. Laclede's records show that its service personnel reconnected service to Complainant's furnace on November 19. After talking to the Complainant, Staff determined that Laclede did restore Ms. Johnson's gas service on November 19, 1997 when it determined that the flue lining was not required. But Ms. Johnson refused to use her furnace until Laclede provided her with a letter confirming that it was safe to operate her furnace. Mr. Feldmann wrote a letter dated November 24 informing Complainant that the furnace was installed properly and operation was normal.

On November 22 Laclede sent two service technicians to Complainant's residence to check the operation of her furnace. The Complainant alleges that Laclede's two service personnel told her on that visit that the gas could be turned on. Laclede states that the gas had been turned on November 19 on the date the error was discovered.

Procedural History

On January 12, 1998, Complainant filed a complaint against Laclede Gas Company (Laclede or Respondent). As her remedy, Complainant requests to know what constitutes an emergency and asks for restitution on her gas bill because the natural gas was turned off longer than it should have been. On February 17, 1998, Laclede filed an Answer to Complaint and Motion to Dismiss. On March 12, 1998, the Commission issued its order directing the Staff of the Commission (Staff) to investigate the allegations set forth in the complaint, and report its findings to the Commission no later than April 13. The Staff filed its memorandum with the Commission regarding its investigation of the allegations on April 13.

Company's Argument

Respondent requests that the Commission dismiss the complaint because Complainant did not allege that Laclede violated any provision of law, or any rule or order or decision of the Commission as required under Section 386.390, RSMo 1994, and because Complainant has requested relief which is beyond the power of the Commission to grant under the applicable Missouri statutes. Laclede states that the request for relief based on the fact that Laclede was unable to repair her leaking fuel line until the Monday following the Saturday on which the leak was discovered clearly does not involve any alleged violation of law or rule, order or decision of the Commission. Although Laclede states that it regrets any inconvenience it may have caused Complainant, Laclede asserts that its good faith effort to protect a customer's safety does not constitute a violation of any law or Commission rule. Laclede believes that its

disconnection of Complainant's furnace was an isolated incident which resulted from the unusual circumstance that her furnace was retrofitted with a dilution air attachment. Laclede states it requires all of its service personnel to undergo an extensive training program designed to minimize this sort of occurrence. As a result of this incident, Laclede states it has informed all of its service personnel of the existence of dilution air attachment to avoid the future disconnection of furnaces similar to Complainant's. Under these circumstances, Laclede believes its actions in this case do not constitute a violation of law or the Commission's rules or orders.

Respondent argues that the complaint should also be dismissed because the Commission is not empowered to grant the relief requested. Laclede points out that the Commission does not have authority to grant restitution on Complainant's gas bill which is in the nature of civil damages pursuant to American Petroleum Exchange v. Public Service Commission, 172 S.W.2d 952, 955 (Mo. 1943).

Staff's Argument

Staff concluded that the remedy requested by the Complainant, "restitution on my gas bill," is not authorized by statute, regulation or tariff provision. Staff states that Laclede has taken measure to ensure that the same kind of mistake does not happen again. No violations of the Commission's regulations or Laclede's procedures were noted by the Staff. Staff recommends that the complaint be dismissed.

The Commission has reviewed the complaint, the Respondent's answer, Respondent's motion to dismiss, and the Staff's memorandum. The Commission finds the motion to dismiss the complaint should be granted

because relief for money damages is not within the jurisdiction of the Commission. Straube v. Bowling Green Gas Co., 227 S.W.2d 666, 668-69 (Mo. 1950); State ex rel. Fee Fee Trunk Sewer, Inc., 596 S.W.2d 466, 468 (Mo. App. 1980). Therefore, the Commission finds that this complaint should be dismissed.

IT IS THEREFORE ORDERED:

1. That the complaint filed by Lucille Johnson on January 12, 1998, is dismissed.
2. That this order shall become effective on July 14, 1998.
3. That this case may be closed any time after July 15, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

S. Register, Regulatory Law Judge

**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 2nd day of July, 1998.**

Dale Hardy Roberts

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

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 2, 1998

CASE NO: GC-98-284

Office of the Public Counsel

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(Lucille Johnson

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

Sincerely,



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

Uncertified Copy: