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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 30th  
day of May, 1997.

Mark Rice,	)	
	)	
Complainant,	)	
	)	
vs.	)	<u>CASE NO. GC-97-377</u>
	)	
Laclede Gas Company,	)	
	)	
Respondent.	)	

**ORDER DISMISSING COMPLAINT AND CLOSING CASE**

On March 13, 1997, Mark Rice (Rice or Complainant) filed a complaint against Laclede Gas Company (Laclede or Respondent) pursuant to the Commission's rule on complaints located at 4 CSR 240-2.070. On March 18, a Notice of Complaint was issued to Laclede which provided notice and a 30-day opportunity in which to resolve the issue or to file an answer. Also on March 18, the Complainant filed an amended complaint and, as a result, on March 19 the Commission issued a Notice of Amended Complaint to the respondent. On April 16 Laclede filed its Answer and a Motion to Dismiss, and on May 7 the Staff of the Public Service Commission (Staff) filed its recommendation regarding the complaint.

The Amended Complaint alleged that the Complainant was sent to take a random drug and alcohol screen test, and the Complainant subsequently raised several issues relating to the manner in which the drug and alcohol test was handled. Complainant alleges that he was required to undergo a "drug screen test" and that the report concerning the negative results were mailed to one of his fellow employees. For its relief, the

complaint requests that: (1) the strictest privacy be maintained in regard to the foregoing types of tests; (2) Laclede be held fully responsible for any breeches of such privacy; and, (3) Laclede be assessed a penalty in increasing dollar amounts for each violation. Such financial penalties would be shared equally by the respective complainant and the general revenue fund of the State of Missouri.

Although Laclede has filed an answer in which it respectively admits or denies each paragraph of the complaint, the more pertinent portion of its response comes under its Affirmative Response and Motion to Dismiss. Laclede submits that the Amended Complaint must be dismissed because the Complainant has not alleged that Laclede violated any provision of law, or any rule, order or decision of the Commission as required by Section 386.390, RSMo 1994. Laclede has asserted that even if *arguendo* one were to assume that the allegations contained in the Amended Complaint were true, the Complainant has failed to show an adverse effect of Laclede's alleged actions.

Irrespective of whether the Complainant's allegations are true, the Commission has no jurisdiction to proceed with this type of complaint. The Commission "has no power to declare or enforce any principle of law or equity." State ex rel. Jenkins v. Brown, 323 Mo. 382, 19 S.W.2d 484, 486 (Mo. 1929). As a result the Commission cannot determine damages or award pecuniary relief. State ex rel. Laundry, Inc. V. Public Service Commission, 327 Mo. 93, 34 S.W.2d 37, 46 (1931). As a matter of law, the Complainant has failed to state a claim upon which the Commission may grant any relief. Pursuant to 4 CSR 240-2.070(6), "[t]he commission, without argument and without a hearing, may dismiss a complaint for failure to state facts upon which relief may be granted or may strike irrelevant

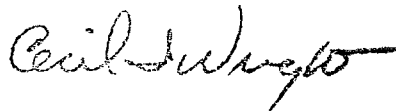
allegations."

Laclede alleges, and the Commission accepts, that the proper procedural mechanisms available to the Complainant for these types of complaints would be either a grievance procedure under the labor agreement between Laclede and its labor union or the filing of a civil action in the appropriate court. The Amended Complaint has requested relief which is beyond the Commission's power to grant.

**IT IS THEREFORE ORDERED:**

1. That the Complaint filed by Mark Rice against Laclede Gas Company on March 13, 1997, as amended on March 18, 1997, is hereby dismissed for failure to state a claim upon which relief may be granted.
2. That this case may be closed by the records department on or after June 30, 1997.
3. That this order shall be effective on June 10, 1997.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Cecil I. Wright", with a stylized flourish at the end.

Cecil I. Wright  
Executive Secretary

(S E A L)

Zobrist, Chm., Crumpton, Drainer,  
and Murray, CC., Concur.

ALJ: Roberts