

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Structural Glass Systems, Inc.)	
)	
Complainant,)	
)	
v.)	No. _____
)	
Spire)	
)	
Respondent.)	

SUGGESTIONS IN OPPOSITION TO RESPONDENT’S MOTION TO DISMISS

COMES NOW Complainant, by and through Counsel, and for its Suggestions in Opposition to the Respondent’s Motion to Dismiss states the following.

The Complainant’s Complaint, prepared on what was understood to be the Commission’s Form, states the following operative allegations:

6. Complainant now requests the following relief: **The complainant requests that the Commission enter an Order finding that (1) the Respondent’s present charge for natural gas of \$7,822.66 resulted from an “undercharge” for natural gas service allegedly provided to the Complainant between November 24, 2021 and April 12, 2022, which the Respondent is now billing the Complainant for; (2) that the said “undercharge” resulted solely from the negligence of the Respondent in that the Respondent admittedly set the meter at issue in October of 2021 with an incorrect PTZ corrector configuration which resulted in the meter registering six digits of usage while transmitting five digits of usage to the Respondent; and (3) that the said undercharge cannot be billed or assessed to the Complainant.**

7. The relief requested is appropriate because Respondent has violated a statute, tariff, or Commission regulation or order, as follows: **The bill at issue resulted from the negligence of the Respondent, which caused damage to the Plaintiff in the form of the bill for the alleged underusage and consequential damages to the Complainant. The Respondent’s negligence is actionable under *Laclede Gas Company v. Solon Gershman, Inc.*, 539 S.W.2d 574 (Mo. App. 1976).**

The key words within this allegation are “allegedly provided.” The Complainant disputes that the gas which it is being billed for was actually used because of the Respondent’s negligence in installing the meter. This alleges that the Respondent is billing for gas which was not provided, which would be a violation of numerous rules and regulations applicable to Spire. Further, the

Formal Complaint alleges that it has suffered consequential damages. The Complainant has supplemented that allegation with evidence that it is incurring \$20,000+ per month in overhead for its facility which it cannot recoup because that facility cannot be operated without heat and the Respondent has refused to enter into an interim payment plan and has kept its gas shut off. This is sufficient to state a formal complaint.

WHEREFORE, the Complainant moves the Commission to deny the Respondent's Motion and for such other relief as is just and proper.

Respectfully Submitted,
/s/Mark E. Meyer

Mark E. Meyer #51786
The Law Offices of Mark E. Meyer, L.L.C.
2528 SW Wintercreek Dr.
Lee's Summit, MO 64081
(816) 729-0866
(816) 642-2587 fax
ATTORNEY FOR PLAINTIFF
meyerlaw78@yahoo.com

Certificate of Mailing

A copy of this was served upon all persons receiving electronic notice in this matter.

/s/Mark E. Meyer
