

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

Renee Anderson	)	
	)	
Complainant,	)	
v.	)	Case No. GC-2008-0176
	)	
Laclede Gas Company,	)	
Respondent.	)	

**LACLEDE GAS COMPANY'S  
MOTION FOR SUMMARY DETERMINATION OR,  
ALTERNATIVELY, FOR DETERMINATION ON THE PLEADINGS**

COMES NOW Laclede Gas Company ("Laclede" or "Company"), pursuant to 4 CSR 240-2.117 and files this Motion for Summary Determination or, alternatively, for Determination on the Pleadings, and in support thereof, states as follows:

1. Laclede is entitled to summary determination or alternatively, to determination of this case on the pleadings based on the fact that there is no genuine issue of material fact in this case and that Laclede has agreed to, effected, and even exceeded all of the relief requested by the Complainant, so there is no remaining relief to grant in this case. Having received full satisfaction of all relief requested herein, the Complainant can no longer claim to be aggrieved and the case should be dismissed.

2. On November 21, 2007, Renee Anderson filed her complaint in the referenced case (the "Complaint"). Laclede filed its answer to the Complaint on December 20, 2007 (the "Answer").

3. The issues raised and relief requested in the Complaint involve (i) Laclede's obligation to pursue collection against the named party under an account; (ii) Laclede's obligation to establish service for Ms. Anderson at 5438 Gilmore Avenue in St.

Louis (the “Gilmore Property”); and (iii) whether Laclede is authorized to collect an advanced deposit from Ms. Anderson before activating service at the Gilmore Property.

4. Laclede provided gas service to 4946 Geraldine in St. Louis, Missouri (the “Geraldine Property”) between June 30, 2005 and September 13, 2007 (the “Subject Period”) pursuant to an account opened in the name of Kevin Jackson. (Complaint, par. 6a)

5. During the Subject Period, in which Mr. Jackson was the customer of record at the Geraldine Property, a debt was incurred in the sum of \$3,838.49. (Staff Report, p. 3)

6. In paragraph 2 of her Complaint, Ms. Anderson admitted living at the Geraldine Property until August 15, 2007, which covers virtually all of the Subject Period. Based on information available to Laclede, the Company also admitted that Ms. Anderson resided at the Geraldine Property during the Subject Period. (Laclede’s Answer, par. 4)

7. Section 13.035(2) of the Commission’s rules provides that a utility may refuse to provide service to an applicant if the applicant received substantial benefit and use of unpaid gas service provided to a different named customer. Based on this rule, Laclede determined that Ms. Anderson received substantial use and benefit of the service provided to the Geraldine Property and denied Ms. Anderson’s application for service at the Gilmore Property because it had not received payment of the Geraldine Property debt. The application of the Benefit of Service Rule is not contested by Complainant. Accordingly, in the Complainant’s request for relief she does not ask the Commission to make a finding that she does not owe the debt at the Geraldine Property under the Benefit

of Service Rule. (Complaint at par. 6g, Request for Relief at p. 3; Answer, par. 17; Staff Report, p. 2)

8. As set forth in Laclede's Answer, and in the attached Affidavit of Timothy Steinborn, Assistant Manager of Credit and Collection for Laclede, since the account was established at the Geraldine Property in 2005, Laclede sent monthly demands for payment addressed to Mr. Jackson at the Geraldine Property. Service to the Geraldine Property was terminated in September 2007, after which Laclede sent its final bill to Mr. Jackson demanding payment of the balance. When such payment was not received, Laclede sent a demand letter and turned the account over to a collection agency. Other than the Geraldine Property, Mr. Jackson has never been a named party on a Laclede account. Laclede had no forwarding address for Mr. Jackson, and he is not listed in the telephone directory. After receiving information through Ms. Anderson on Mr. Jackson's whereabouts in January 2008, Mr. Steinborn sent this information to Laclede's collection agency with instructions to use the new contact information to pursue Mr. Jackson. (Answer, par. 16; Steinborn Affidavit, pars. 3-4)

9. Meanwhile, as further set forth in Mr. Steinborn's Affidavit, Laclede initiated service for Ms. Anderson at the Gilmore Property on January 2, 2008. Ms. Anderson established service under the Cold Weather Rule and was not required to pay a deposit. At present, Ms. Anderson is current on her bills at the Gilmore Property and is not subject to a threat of disconnection. (Steinborn Affidavit, par. 5)

10. In the course of her application for service at the Gilmore Property, Ms. Anderson revealed that she had filed a bankruptcy case. Laclede originally responded to the bankruptcy filing in the normal manner as required by bankruptcy law, by ceasing

collection efforts on debts incurred prior to the filing of the bankruptcy petition and by requiring a deposit as adequate assurance of future payment pursuant to section 366 of the Bankruptcy Code. (11 U.S.C. §366) However, after Laclede discovered that the bankruptcy case had been concluded long before Ms. Anderson's application, it removed its demand for a section 366 deposit payment. By the time of the filing of the Complaint in November 2007, Ms. Anderson was entitled to obtain service via the Cold Weather Rule without paying any deposit, which she did. (Answer, par. 12; Steinborn Affidavit, par. 6)

11. In her request for relief, the Complainant requested that the Commission:

- A. Order Laclede to pursue collection against Mr. Jackson, the customer of record at the Geraldine Property;
- B. Order Laclede to establish service for Complainant at the Gilmore Property; and
- C. Determine whether Ms. Anderson is authorized to pay a deposit in installments at the Gilmore Property.

12. In its Answer and in subsequent actions, as attested to by Mr. Steinborn, Laclede has responded to, fulfilled, and in some cases exceeded, each of Ms. Anderson's request for relief. Specifically, Laclede:

- A. **Has, and will continue to, pursue collection efforts against Mr. Jackson;** (See paragraph 7 above)
- B. **Has established service for Ms. Anderson at the Gilmore Property;** (See paragraph 8 above)

**C. Waived its request for a deposit, in accordance with the terms of the Cold Weather Rule.** (See paragraph 9 above)

13. As described in the Steinborn Affidavit, in establishing service for Ms. Anderson at the Gilmore Property, Laclede has enrolled Ms. Anderson in Laclede's Low-Income Program. Pursuant to this Program, Laclede has established a levelized budget for billing purposes, will apply bill credits to her account in the amount of \$30 per month, and will match the payments she makes against the arrearages transferred from the Account. With respect to these arrearages, Ms. Anderson's compliance with the terms of the Low-Income Program will result in her elimination of the debt from the Geraldine Property in two years, by paying half of the amount owed, without interest or late fees, and receiving the other half in matching funds. Of course, any payments obtained from Mr. Jackson will also reduce such debt. In enrolling Ms. Anderson in the Low-Income Program, Laclede has exceeded Ms. Anderson's requests for relief by effectively cutting the debt in half and spreading repayment over two years. (Steinborn Affidavit, par. 7)

14. Laclede is entitled to a summary determination or, alternatively, to a determination on the pleadings, disposing of this case as having no remaining justiciable controversy and finding that Respondent has provided the relief requested by Complainant. There are no material facts at issue, and even if there were, Laclede has complied with and even exceeded the relief requested by the Complainant. Having satisfied her request for relief, there is nothing further to be gained by continuing to administer this case. As there is no purpose to continuing the case, doing so is contrary to the public interest, because it wastes the resources of all parties that must continue to apply their time to the case. Specifically, it wastes the taxpayer's money by requiring an

expenditure of pointless time and effort by public servants, including the Commissioners, the Regulatory Law Judge assigned to the case, Commission Staff counsel and witness(es), and the Office of the Public Counsel. Some of these taxpayers are also Laclede customers, and by expending the time and efforts of Company employees whose resources could better be used elsewhere, and whose compensation is included in the costs by which rates are set, these customers' resources are further wasted.

15. A separate legal memorandum is attached hereto.

WHEREFORE, for the reasons set forth herein, Laclede respectfully requests that the Commission dispose of this case by summary determination or a determination on the pleadings, finding that the Company has satisfied the relief requested and has violated no laws, or rules, decisions or orders of the Commission in this case.

Respectfully submitted,

**/s/ Rick Zucker**

Rick Zucker  
Assistant General Counsel  
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rzucker@lacledegas.com

**Certificate of Service**

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Attorney for Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 10th day of March, 2008 by United States mail, hand-delivery, email, or facsimile.

**/s/ Rick Zucker**

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OF THE STATE OF MISSOURI**

Renee Anderson	Complainant,	)	
		)	
v.		)	Case No. GC-2008-0176
		)	
Laclede Gas Company,		)	
	Respondent.	)	

**A F F I D A V I T**

STATE OF MISSOURI   )  
  )   SS.  
CITY OF ST. LOUIS     )

Timothy Steinborn, of lawful age, being first duly sworn, deposes and states:

1. My name is Timothy Steinborn. My business address is 720 Olive Street, St. Louis, Missouri 63101; and I am an Assistant Manager in the Credit and Collection Department of Laclede Gas Company ("Laclede"). I have been employed by Laclede for 18 years, the past 9 years as Assistant Manager of Credit and Collection.

2. I am familiar with Laclede Account 269037-007 (the "Account"), under the name of Kevin Jackson at 4946 Geraldine in St. Louis, Missouri. Service was established under the Account on June 30, 2005 and was terminated on September 13, 2007. Pursuant to Laclede's records, Ms. Anderson has stated that she also lived at 4946 Geraldine during virtually all of the period covered by the Account.

3. During the time service was rendered under the Account, Laclede sent monthly bills to 4946 Geraldine in Mr. Jackson's name demanding payment for service rendered. In September 2007, Laclede sent a final bill to 4946 Geraldine seeking payment of the entire balance due. Subsequent to the final bill, Laclede sent a demand letter again seeking payment of the full balance and, when no payment was received, turned the Account over to one of its collection agencies to further pursue debt collection.

4. On January 17, 2008, I received a note from Rick Zucker in Laclede's Legal Department providing me an updated address for Mr. Jackson and directing me to provide that address to our collection agency. I researched the telephone number for that address and, that same day, sent our collection agency the address and phone number to be used to further pursue Mr. Jackson for the debt accrued under the Account.

5. On January 2, 2008, Laclede activated gas service for Ms. Anderson at 5438 Gilmore under the Cold Weather Rule. As of today, gas service remains on for Ms. Anderson at that address and she is current on her Cold Weather Rule payments.

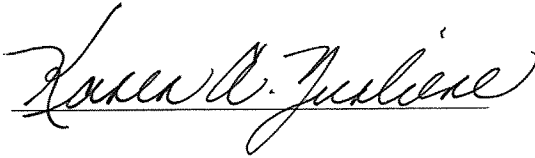
6. Pursuant to the terms of the Cold Weather Rule, Ms. Anderson was not required to pay a deposit when establishing service under the Cold Weather Rule. Prior to the Cold Weather Rule period, Laclede requested a deposit after Ms. Anderson notified Laclede that she had filed a petition in bankruptcy. However, Laclede withdrew the deposit request after discovering that the bankruptcy case had been dismissed.

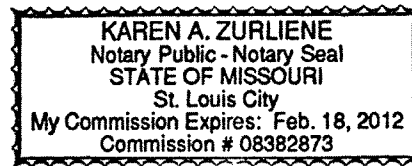
7. Laclede has enrolled Ms. Anderson in Laclede's Low-Income Program. Pursuant to this Program, Laclede has established a budget for billing purposes, will apply bill credits to her account in the amount of \$30 per month, and will match the payments she makes against the arrearages transferred from the Account.

8. I hereby swear and affirm that the foregoing is true and correct to the best of my knowledge and belief.

  
Timothy Steinborn

SUBSCRIBED AND SWORN TO before me, a Notary Public on this 10th day of March, 2008.





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	)	
	Complainant,	)
v.		) Case No. GC-2008-0176
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Laclede Gas Company,	)	
	Respondent.	)

**LEGAL MEMORANDUM IN SUPPORT OF  
MOTION FOR SUMMARY DETERMINATION OR,  
ALTERNATIVELY, DETERMINATION ON THE PLEADINGS**

COMES NOW Laclede Gas Company (“Laclede” or “Company”) and files this Legal Memorandum in Support of its Motion for Summary Determination or, alternatively, Determination on the Pleadings, stating as follows:

1. Laclede and Ms. Anderson are in agreement on the material facts set forth in the Complaint in this case. Those facts are:

(A) that Laclede provided gas service to 4946 Geraldine in St. Louis, Missouri (the “Geraldine Property”) between June 30, 2005 and September 13, 2007 (the “Subject Period”) pursuant to an account opened in the name of Kevin Jackson. (Complaint, par. 6a)

(B) that during the Subject Period, in which Mr. Jackson was the customer of record at the Geraldine Property, a debt was incurred in the sum of \$3,838.49. (Staff Report, p. 3)

(C) that Ms. Anderson lived at the Geraldine Property until August 15, 2007, which covers virtually all of the Subject Period. (Complaint, par. 6d; Laclede’s Answer, par. 4)

(D) that, based on the Benefit of Service Rule (4 CSR 240-13.035(2)), Laclede determined that Ms. Anderson received substantial use and benefit of the service provided to the Geraldine Property and denied Ms. Anderson's application for service at at 5438 Gilmore Avenue in St. Louis (the "Gilmore Property") because it had not received payment of the Geraldine Property debt.

(E) that Laclede sent monthly demands for payment addressed to Mr. Jackson at the Geraldine Property.

(F) that service to the Geraldine Property was terminated in September 2007, after which Laclede sent its final bill to Mr. Jackson demanding payment of the balance.

(G) that after receiving information through Ms. Anderson on Mr. Jackson's whereabouts in January 2008, Mr. Steinborn sent this information to Laclede's collection agency with instructions to use the new contact information to pursue Mr. Jackson. (Answer, par. 16; Steinborn Affidavit, pars. 3-4)

(H) that Laclede initiated service for Ms. Anderson at the Gilmore Property on January 2, 2008.

(I) that Ms. Anderson established service under the Cold Weather Rule and was not required to pay a deposit. (Steinborn Affidavit, par. 5)

(J) that Laclede originally required a deposit as adequate assurance of future payment pursuant to section 366 of the Bankruptcy Code, 11 U.S.C. §366, but that after Laclede discovered that the bankruptcy case had been concluded, it removed its demand for a section 366 deposit payment.

(K) that after November 1, 2007, Ms. Anderson was entitled to obtain service via the Cold Weather Rule without paying any deposit, which she did. (Answer, par. 12; Steinborn Affidavit, par. 6)

2. Laclede has further honored each request for relief made by the Complainant. Specifically, Laclede has:

- A. Pursued, and has agreed to continue to pursue, collection efforts against Mr. Jackson in satisfaction of Complainant's request that the Commission order Laclede to pursue collection against Mr. Jackson, the customer of record at the Geraldine Property;
- B. Established service for Ms. Anderson at the Gilmore Property in satisfaction of Complainant's request that the Commission order Laclede to establish service for Complainant at the Gilmore Property; and
- C. Waived in its entirety a request for a deposit, in accordance with the terms of the Cold Weather Rule, in satisfaction of Complainant's request that the Commission determine whether Ms. Anderson is authorized to pay a deposit in installments at the Gilmore Property.

3. Finally, as described in the Steinborn Affidavit, in establishing service for Ms. Anderson at the Gilmore Property, Laclede has enrolled Ms. Anderson in Laclede's Low-Income Program. Pursuant to this Program, Laclede has established a levelized budget for billing purposes, will apply bill credits to her account in the amount of \$30 per month, and will match the payments she makes against the arrearages transferred from

the Account. With respect to these arrearages, Ms. Anderson's compliance with the terms of the Low-Income Program will result in her elimination of the debt from the Geraldine Property in two years, by paying half of the amount owed, without interest or late fees, and receiving the other half in matching funds. (Steinborn Affidavit, par. 7)

4. Laclede is entitled to a summary determination or, alternatively, to a determination on the pleadings, disposing of this case because all material facts are agreed to, and there is no requested relief that has not been satisfied. Since there is no relief left to grant, this case is now equivalent to a complaint that has failed to state a claim on which relief may be granted. (See 4 CSR 240-2.070(6)) Accordingly, it is in the public interest to dismiss this case.

5. Moreover, by receiving all of the relief she requested in her complaint, Ms. Anderson can no longer claim that she is aggrieved under her complaint as required by 4 CSR 240-2.070(1). Maintaining a complaint under these circumstances is contrary to the public interest.

6. Pursuant to 4 CSR 240-2.117(E) the Commission should grant summary determination because there is no genuine issue as to any material fact, Laclede is entitled to relief as a matter of law, and summary determination is in the public interest. As stated repeatedly in the Motion and in this Memorandum, there is no genuine issue of material fact remaining in this case. Since the Complainant has received the relief she requested, no remaining fact can be material because resolving such a fact would not result in relief to the Complainant, who has already received all of the relief requested.

7. Laclede is entitled to relief as a matter of law. The Complainant has enjoyed the benefit of receiving all of the relief she requested. When a Respondent

satisfies the Complainant's complaint, the Respondent should receive, as a matter of law, the relief of having the controversy disposed of by dismissal or summary determination.

8. The Commission's granting of either summary determination or a determination on the pleadings is not contrary to the public interest, but is clearly in the public interest. The other parties to this case, and their witnesses, are entitled to avoid being subjected to preparing for a hearing to argue over relief that the Complainant has already received. Nor should the Commission waste its and the other parties' resources by continuing to entertain such a case. Indeed, conducting a hearing when there is no dispute about any material fact or controlling law would be a waste of resources of the Commission and the parties. (Staff of the Missouri Public Service Commission v. S.K. & M. Water and Sewer Company, Case No. WC-2006-0063, Determination on the Pleadings (Nov. 10, 2005))

9. In general, dismissal is viewed as a harsh remedy for the complainant. In this case, dismissal would have no effect on the Complainant, who has already received all of the relief requested. Rather, ***not*** dismissing the case would be an inequitable outcome and contrary to the public interest.

10. As the Commission has previously found, when there is no genuine issue of material fact, the public interest clearly favors the quick and efficient resolution of matters by summary disposition without incurring the time and cost to hold a hearing. (Application of Aquila, Inc. for an Accounting Authority Order Concerning Fuel Purchases, Case No. EU-2005-0041, Determination on the Pleadings and Order Denying Application at p. 7 (Oct. 7, 2004))

WHEREFORE, for the reasons set forth herein, Laclede respectfully requests that the Commission dispose of this case by summary determination or a determination on the pleadings, and find that the Company has satisfied the relief requested by the Complainant and has violated no laws, or rules, decisions or orders of the Commission in this case.

Respectfully submitted,

**/s/ Rick Zucker**

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**Certificate of Service**

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Attorney for Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 10th day of March, 2008 by United States mail, hand-delivery, email, or facsimile.

**/s/ Rick Zucker**