

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

Paper, Allied-Industrial, Chemical, and)	
Energy Workers Local No. 5-6,)	
)	
Complainant,)	
v.)	Case No. GC-2006-0060
)	
Laclede Gas Company,)	
Respondent.)	

**LACLEDE GAS COMPANY'S
ANSWER TO COMPLAINT AND MOTION TO DISMISS**

COMES NOW Laclede Gas Company ("Laclede" or "Company"), pursuant to the Commission's August 8, 2005 Notice of Complaint in the above captioned case, and submits its Answer and Motion to Dismiss the Complaint (herein so called) filed against Laclede by the Paper, Allied-Industrial, Chemical, and Energy Workers Local No. 5-6 ("PACE"). In support thereof, Laclede states as follows:

BACKGROUND

1. In March 2005, Laclede announced that it would implement an automated meter reading system ("AMR") throughout its service territory, covering approximately 650,000 customers. Because nearly 40% of Laclede's meters are located inside customers' homes, the AMR program would eliminate both the need to regularly gain entry to these homes to read those meters, and the need to estimate customer usage when Laclede is unable to enter the home. Unquestionably, this technology will provide a major benefit to Laclede's customers. Other major gas and electric utilities in Missouri have already adopted automated meter reading. In fact, Laclede has contracted with the same supplier of AMR units used by AmerenUE.

2. At the same time, implementation of AMR will also eliminate the need to physically obtain regular meter readings, functions currently performed by members of PACE. Despite the clear customer service benefits of AMR, PACE has opposed the Company's pleadings in two matters filed in connection with AMR.

3. In the first matter, Case No. GE-2005-0405, Laclede has requested a temporary variance from its statistical meter sampling program, so that the Company could focus its efforts on removing meters that it knows to be incompatible with the deployment of electronic AMR devices, rather than removing random samples of meters. Staff has recommended that Laclede's request be approved, just as it was for Missouri Gas Energy when that company implemented AMR. PACE has sought to intervene in Case No. GE-2005-0405, based on its concern over the impact that Laclede's request could have on PACE member's jobs and conditions of employment.¹ Laclede has responded to PACE's motion to intervene in this case.

4. In the second matter, Laclede filed revised tariffs on May 10, 2005 (i) to confirm that AMR meter readings will be considered actual meter readings, and (ii) to provide that service initiation inspections will not be required, and therefore need not be paid for by the customer, when a new account is being established, but gas flow to the customer's premises has not been interrupted. These tariffs became effective on June 10, 2005. PACE has now filed the Complaint in this case, alleging that these tariff changes will eliminate mandatory safety precautions and call into question whether Laclede will fulfill its statutory obligation to provide safe and adequate service.²

¹ See PACE's Verified Application to Intervene in Case No. GE-2005-0405, filed June 20, 2005, p. 3.

² See PACE Complaint in this case, paragraphs 6 and 11.

5. As discussed more fully below, these tariff changes will have no adverse impact on either Laclede's compliance with Commission safety rules, or on the Company's provision of safe and adequate service. Indeed, PACE has completely failed in its Complaint to allege any circumstances or facts that would even suggest a violation of any applicable safety law, or Commission rule, regulation or order. For these reasons, and those discussed below, the Complaint should be dismissed.

ANSWER

6. Upon information and belief, Laclede concurs with the assertions made in paragraphs 1-3 of the Complaint.

7. With respect to paragraph 4 of the Complaint, Laclede admits that it submitted proposed tariff revisions on May 10, 2005, under tracking no. JG-2005-0976, and that such tariffs became effective on June 10, 2005. Laclede is without sufficient knowledge to answer whether these tariff provisions became effective without comment from Staff, and so denies this allegation. If PACE means by this statement that Staff filed no formal pleading addressing these tariffs, then Laclede concurs. However, if PACE means to imply that Staff ignored such tariffs, this is likely untrue. Staff regularly reviews tariff filings, and if it finds a proposed tariff to be questionable or objectionable, Staff will recommend that such tariff be suspended or rejected. If Staff does not make such recommendation, the necessary presumption is that Staff found such proposed tariff to be acceptable.

8. With respect to paragraph 5 of the Complaint, Laclede admits that on June 20, 2005, PACE sought reconsideration of the effective tariffs. Laclede further admits

that PACE alleged public safety concerns, but Laclede denies that such concerns are warranted.

9. With respect to paragraph 6 of the Complaint, Laclede admits that it revised Tariff Sheet No. R-11 to provide that remote meter readings constitute actual meter readings. However, Laclede denies that acknowledging the obvious fact that a remote meter reading, such as one received through an AMR system, is an actual meter reading creates a public safety concern. Laclede further denies the allegations in paragraph 6 of the Complaint that having meter readers wear natural gas detection devices is a mandatory safety precaution, or that safety will be compromised when these physical reads are discontinued.

10. Laclede is required to meet the obligations set forth in the Commission's rule on Gas Safety Standards, 4 CSR 240-40.030. Under Section 12(M)2 of this rule, Laclede is generally required to perform a leak inspection survey of its lines in residential areas at least once every three years (once per year for unprotected steel lines). Laclede would further note that this requirement under the Commission's Safety Standards is already more stringent than its federal counterpart, which requires a leak survey only once every five years for lines in residential areas (once every three years for unprotected lines). *See* 49 CFR §192.723. Moreover, Missouri is one of 13 states that impose requirements for leak testing beyond the federal standard.³ Under Section 9(Q) of the Commission's rules on Safety Standards, Laclede is also required to perform a corrosion inspection, at least once every three years, of each pipeline that is exposed to the atmosphere.

³ *Assuring the Integrity of Gas Distribution Pipeline Systems; A Report to the Congress*, U.S. Dept. of Transportation, Office of Pipeline Safety, Attachment 1, pp.1-2 (May 2005)

11. The methods used to perform the required inspections described above are left to the discretion of the utility, and such methods may be changed from time to time, so long as the utility maintains compliance with the Safety Standards. In homes with inside meters, where meter readers are able to obtain access to perform annual meter reads, the Company has equipped these meter readers with natural gas detection devices, so that the meter reader can perform a leak inspection, along with a corrosion inspection, at the same time as the meter reading. With AMR, a physical yearly inside meter reading will no longer be necessary. However, Laclede will still be required to, and will, utilize inspection personnel to perform the leak and corrosion inspections in compliance with Sections 12(M)2 and 9(Q).

12. It cannot be seriously argued that Laclede's procedure in which meter readers jointly performed inside meter reads and leak and corrosion inspections is a safety requirement. First, there is no federal or state safety standard that requires a meter reader to either wear a gas detection device or periodically enter a customer's home. Second, nearly 400,000 Laclede customers have outside meters, such that the leak and corrosion inspections of these lines are not only accomplished by personnel other than meter readers, but are also accomplished without a Laclede employee ever entering the home. Third, since a customer reading his or her own meter constitutes an actual meter reading, even some of the annual inside meter reads have been, and are currently being, performed without a meter reader entering the customer's home. Fourth, no other gas utility in the State of Missouri with automated meter reading is required to obtain an additional "actual" inside meter reading annually. Surely, none of these four

circumstances would exist if the Commission believed that physical yearly meter readings should be a safety requirement.

13. With respect to paragraph 7 of the Complaint, Laclede admits that Tariff Sheet No. R-14 was revised in a manner that continues service initiation inspections when Laclede physically turns on the flow of gas for a customer, but that no longer requires customers to pay for a service initiation inspection when the physical flow of gas has not been turned off or on. Although the Complaint does not specifically aver that discontinuing this practice compromises safety, Laclede nevertheless denies that safety is compromised. Again, the Commission's approved Safety Standard rule addresses this issue. Under Section 12(S) of this rule, Laclede is required to perform a gas safe inspection of the customer's equipment *at the time it physically turns on the flow of gas to a customer*.⁴ There is no safety standard requiring a utility to inspect or test equipment when gas service is initiated without physically turning on the gas. Indeed, no other gas utility in Missouri is required to perform a gas safe inspection when service is transferred to a customer without affecting the flow of gas. Hence, requiring customers to pay for such inspections is not a true safety issue, but instead is an effort by PACE to have customers pay in perpetuity for work that is not necessary to provide them with safe and adequate service.

14. Laclede admits the allegations in paragraph 8 of the Complaint that Laclede and PACE have discussed this matter.

15. Laclede denies the allegations in paragraphs 9-11 of the Complaint, regarding whether Laclede's tariff changes: (i) justify an investigation of the impact to

⁴ Once again, it should be noted that the federal safety standards do not require utilities to inspect customer equipment, so Missouri's rule is again more stringent than its federal counterpart.

public safety, (ii) are the basis of a claim for which relief may be granted, or (iii) call into question whether Laclede will fulfill its statutory obligation to provide safe and adequate service. These points will be addressed more fully below under Laclede's Motion to Dismiss.

MOTION TO DISMISS

16. Laclede hereby moves to dismiss the Complaint for failing to state a claim upon which relief may be granted, as provided under 4 CSR 240-2.070(6). Section 386.390 of the Revised Statutes of Missouri authorizes the Commission to hear complaints. This section states: "Complaint may be made...setting forth any act or thing done or omitted to be done...in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission..." §386.390.1. The Complaint should be dismissed because PACE does not, and cannot, claim that Laclede has violated any law or Commission rule, order or decision. The two major claims by PACE, in paragraphs 6 and 7 of the Complaint, imply that Laclede will cease using meter readers to perform leak inspections and that Laclede will cease requiring unnecessary service initiation inspections when gas flow has not been interrupted. Neither of these claims forms the basis for a complaint under the law.

17. Regarding leak inspections, PACE has no basis to claim that, because meter readers will no longer perform these inspections, Laclede will not continue to cause such inspections to be performed as required by the Commission's Safety Standards. To the contrary, Laclede will perform the required inspections, and Laclede has informed PACE that, after AMR has been implemented, the Company plans to retain some of the meter readers to perform these inspections.

18. Regarding service initiation inspections, PACE again has no basis to claim that a tariff change that discontinues a practice that is not required by Federal or Commission Safety Standards, and is not required of any other gas utilities, violates any provision of law or Commission rule, order or decision. Indeed, it would be inappropriate for the Commission to label a practice as a safety standard, and then impose it solely on one utility.

19. In summary, implementation of AMR will provide direct benefits to customers with inside meters by reducing their inconvenience and cost in providing Laclede personnel regular access to their homes. At the same time, Laclede will continue to comply with the Commission's strict safety standards by performing required inspections to detect leaks and corrosion, and when initiating service by physically activating the flow of gas. Laclede is committed to following the same safety requirements that apply to all Missouri gas utilities. PACE's desire to obstruct technological progress does not justify singling out the Company for an investigation or calling into question whether it will fulfill its statutory obligation to provide safe and adequate service. PACE's claim should be dismissed for failing to state a claim for which relief may be granted.

WHEREFORE, Laclede respectfully requests that the Commission dismiss the Complaint filed by PACE in the above captioned case and grant the Company such other and further relief to which it may be entitled.

Respectfully Submitted,

/s/ Michael C. Pendergast

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing Answer and Motion to Dismiss was served on the Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 7th day of September, 2005 by United States mail, hand-delivery, email, or facsimile.

/s/ Rick Zucker