

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 24th day of
January, 2006.

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

**ORDER DENYING MOTION TO DISMISS AND SCHEDULING A
PROCEDURAL CONFERENCE**

Issue Date: January 24, 2006

Effective Date: February 3, 2006

Paper, Allied-Industrial, Chemical, and Energy Workers (PACE) Local No. 5-6 filed a Complaint in which it alleges that Laclede may not be providing safe and adequate service as required by Section 393.130, RSMo. The particular areas of safety concern stem from recent revisions to Laclede's tariff with regard to meter readings and inspections. Laclede filed a motion asking the Commission to dismiss the Complaint for failure to state a claim upon which relief may be granted.

Laclede's motion to dismiss argues that it has not violated any law because it will not necessarily cease doing the types of inspections that were once required in its tariff.

Laclede also argues that it cannot be considered in violation of the law because it is complying with both state and federal safety requirements.

The standard for review in consideration of motions to dismiss for failure to state a cause of action has been clearly established by Missouri's courts as follows:

A motion to dismiss for failure to state a cause of action is solely a test of the adequacy of the plaintiff's petition. It assumes that all of plaintiff's averments are true, and liberally grants to plaintiff all reasonable inferences therefrom. No attempt is made to weigh any facts alleged as to whether they are credible or persuasive. Instead, the petition is reviewed in an almost academic manner to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in that case.¹

If the allegations in PACE Local 5-6's petition are accepted as true, as they must be for purposes of considering the motion to dismiss, it is apparent that PACE Local 5-6 has stated a cause upon which the Commission can grant relief. Only after hearing the evidence and arguments of the parties will the Commission be able to determine whether PACE Local 5-6 has established that Laclede is in violation of the statute. On that basis, Laclede's motion to dismiss will be denied.

In order to begin moving this matter toward resolution, the Commission will schedule a procedural conference at which the parties will be expected to develop a procedural schedule.

IT IS THEREFORE ORDERED:

1. That Laclede Gas Company's motion to dismiss the Complaint is denied.
2. That a procedural conference will be held on February 6, 2006, beginning at 10:00 a.m., in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This conference will be held in a building that meets

¹ Eastwood v. North Central Missouri Drug Task Force, 15 S.W.3d 65, 67 (Mo. App. W.D. 2000).

accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this conference, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference.

3. That no later than February 14, 2006, the parties shall jointly or separately file a proposed procedural schedule.

4. That this order shall become effective on February 3, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is positioned above the printed name and title.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Dippell, Deputy Chief Regulatory Law Judge