

**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
January, 2007.

USW Local 11-6,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2006-0390</u>
)	
Laclede Gas Company,)	
)	
Respondent.)	

ORDER DENYING MOTIONS TO QUASH SUBPOENAS

Issue Date: January 30, 2007

Effective Date: January 30, 2007

On January 17, 2007, USW Local 11-6 filed a request asking the Commission to issue subpoenas directing two additional witnesses to appear when this hearing resumes on February 14. Local 11-6 indicated that it might ask those witnesses to offer testimony at the hearing rebutting the testimony that may be offered by other parties regarding the November and December gas leak incidents about which the Commission has allowed the parties to prefile additional testimony. The requested subpoenas were issued by the Secretary of the Commission and mailed to counsel for Local 11-6 on January 17.

On January 19, the Staff of the Commission filed a pleading urging the Commission not to issue the subpoenas requested by Local 11-6, or to quash the subpoenas if they had already been issued. Laclede Gas Company filed a similar pleading on January 24. Laclede also asks the Commission to issue subpoenas requiring the two new witnesses to

appear to be deposed on February 6, if the Commission does not quash the subpoenas requested by Local 11-6.

The motions to quash the subpoenas that the Commission has issued do not challenge the form or substance of the subpoenas. Rather, they are motions asking the Commission to preclude those two witnesses from offering live rebuttal testimony at the hearing. In one sense, those motions are premature. At this point, Local 11-6 has merely requested the issuance of subpoenas and in that request included an explanation of why it wanted the subpoenas. Local 11-6 has not yet filed a motion asking that the testimony of those witness be admitted at the hearing, and in issuing the requested subpoenas, the Commission certainly has not ruled that those witnesses will be allowed to testify at the hearing.

The arguments presented by the parties do, however, raise some interesting points. The Commission has allowed the parties an opportunity to prefile direct, rebuttal, and surrebuttal testimony regarding the incidents about which these two witnesses are knowledgeable. Therefore, if Local 11-6 wants to present additional live rebuttal testimony at the hearing, it will need to explain why that testimony could not have been addressed in its prefiled surrebuttal testimony. Nevertheless, the Commission's rule allows a party a reasonable opportunity to address matters not previously disclosed that arise at the hearing.¹ It is conceivable that Local 11-6 could offer a justification for offering that live testimony at the hearing. Therefore, the Commission cannot rule on the admissibility of that additional testimony until all circumstances are known at the hearing.

¹ Commission Rule 4 CSR 240-2.0130(8).

By requesting subpoenas to have additional witnesses available at the hearing, Local 11-6 is simply protecting its options. Staff and Laclede have shown no reason to quash those subpoenas. Similarly, Laclede may depose those potential witness if it wishes to do so. The Commission will issue the deposition subpoenas that Laclede has requested.

IT IS ORDERED THAT:

1. Staff's Motion to Quash Subpoenas is denied.
2. Laclede Gas Company's Motion to Quash Subpoenas is denied.
3. The executed deposition subpoenas requested by Laclede Gas Company shall be mailed to legal counsel for Laclede.
4. This order shall become effective on January 30, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Woodruff, Deputy Chief Regulatory Law Judge