

R. J. Liebe Athletic Lettering Company,)
)
Complainant,)
)
v.)
)
Laclede Gas Company,)
)
Respondent.)

STAFF'S REPORT OF INVESTIGATION

1. In its December 22, 2006, *Order Directing Staff To Investigate And File a Report And Directing Response From Complainant* (Order), the Commission directed the Staff to conduct an investigation of R. J. Liebe Athletic Lettering Company's complaint against Laclede Gas Company (Laclede), and to file a report concerning the results of that investigation by January 18, 2007. The Commission further ordered Complainant to file a response to Laclede's December 21, 2006, *Motion to Dismiss Complaint* and to Staff's report on its investigation by January 25, 2007.

2. The Staff is filing, this same date, its *Motion For Leave to File Staff Report Out of Time and to Extend Complainant's Time to File Response*. Accordingly, after having discussed this matter with the parties, the Staff, in its Motion, asks the Commission to extend Complainant's date to file its response to not later than February 7, 2007.

3. The Staff has completed its investigation into the above-captioned complaint and has prepared its Report, attached hereto as Appendix A and incorporated by reference herein.

4. Based on the results of Staff's investigation into this matter, and for reasons more clearly explained in its Report, the Staff has found no violation of Commission rules, particularly 4 CSR 240-10.040 (1), (2), and (5), or of Laclede's Tariff Rule 10A. However, the Staff believes that Laclede has much room for improvement in that it should not have taken six months to resolve a problem with a stalled AMR device.

WHEREFORE, the Staff respectfully submits its report of investigation to the Commission as directed.

Respectfully submitted,

/s/ Robert S. Berlin

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mail to all counsel of record this 22nd day of January 2007.

/s/ Robert S. Berlin

REPORT OF THE STAFF

TO: Missouri Public Service Commission Official Case File
Case No. GC-2007-0192.
R.J. Liebe Athletic Lettering Company vs. Laclede Gas Company

FROM: /s/Carol (Gay) Fred, Consumer Service Department Manager

DATE: January 22, 2007

/s/ Carol Gay Fred / 01/ 22/07
Consumer Service Department/Date

[Signature] 1/22/07
General Counsel's Office/Date

On November 17, 2006, R.J. Liebe Athletic Lettering Company (Liebe Company), filed a formal complaint case against Laclede Gas Company (Laclede).

On November 21, 2006, A Notice of Complaint Deficiency was issued which directed Laclede to file its answer to the complaint by December 21, 2006.

On December 21, 2006, Laclede filed its Answer and Motion to Dismiss Complaint.

On December 22, 2006, the Commission issued an Order Directing Staff to Investigate and File a Report by January 18, and Directing Response from Complainant. Following are the results of the Staff's investigation:

On May 26, 2006, the Consumer Services Department received a fax containing an informal complaint from Jim Liebe outlining a billing dispute between R.J. Liebe Athletic Lettering Company and Laclede. With his complaint form, Mr. Liebe provided seven different bill copies from November 2005 – June 2006 that illustrated both estimated and actual monthly bills ranging from \$932.11 to \$125,047.89.

Staff immediately began its informal investigation by requesting billing details and statements of account from Laclede. As a result of its informal investigation, Staff found:

On 11/7/05, an AMR was installed on the Complainant's large, commercial grade meter.

- On 11/22/05, the 11/05 billing was generated for service from 10/19/05 to 11/7/05, in the amount of 793 CCF, and from 11/7/05 to 11/18/05, zero (0) CCF. A total of 793 CCF actual gas usage was billed in the amount of \$932.11.
- Subsequent readings from the AMR did not indicate any usage, which generated billing errors due to this malfunction.
- On 01/31/06, a 2-month adjusted bill was rendered for service from 11/18/05 to 01/23/06. Inadvertently, Laclede sent a bill for in the amount of \$125,047.89. for usage of 85,725 CCF.
- On 02/13/06, the Commercial Sales Department of Laclede advised Cindy of the Liebe Company to disregard the bill. Liebe requested and received a corrected bill.

- On 02/24/06, the 02/06 bill was rendered for service from 01/23/06 to 02/22/06. A total of 14,275 CCF gas usage was billed in the amount of \$19,520.59. The amount due shown on the bill was \$146,445.20.
- On 03/01/06, Laclede's Commercial Sales Department advised Cindy again that a corrected bill would be sent, and that an investigation of the meter/AMR device would be done to determine whether the meter was malfunctioning, which could have led to the erratic billing.
- On 03/04/06, Laclede obtained an actual meter reading of X69471, which appeared to be out of line/high read.
- On 03/06/06, a 4-month adjusted bill was produced for service from 10/19/05 to 02/22/06. A total of 6,300 CCF estimated gas usage was billed in the amount of \$8,797.20. The prior charges were credited, leaving a balance due of \$7,866.09.
- On 04/18/06, a 5-month adjusted bill was rendered for service from 10/19/05 to 3/23/06. A total of 9,323 CCF estimated gas usage was billed in the amount of \$12,967.69. The prior charges were credited, leaving a balance due of \$4,170.49.
- On 05/16/06, the 04/06 bill was rendered for service from 03/23/06 to 04/24/06. A total of 1,640 CCF estimated gas usage was billed in the amount of \$2,262.53.
- On 05/31/06, CellNet replaced the AMR.
- On 06/01/06, the Commercial Sales Department followed up with Jim Liebe and explained that the AMR had been replaced and that a corrected bill would be forthcoming based on prior usage history. It should be noted that the current bill, 05/06, was for estimated usage through 05/23/06, because the AMR was repaired after the cycle bill date. The corrected bill would be rendered at the following cycle billing, 06/06.
- On 7/12/06, Laclede sent a corrected bill.
- Subsequent readings have indicated normal, progressive usage.

Following the Staff's closure of the informal complaint on July 14, 2006, Staff understands that Laclede continued to meet with Liebe Company representatives and felt they had worked out a reasonable solution for the estimated gas usage and provided an additional adjustment to the Liebe Company account in October 2006 for unmetered gas.

From Staff's review and investigation of the formal complaint, it appears that the primary issue in this formal complaint is the application of whether or not Commission rule 4 CSR 240-10.040 (1) and (2) or Laclede tariff Rule 10 A on Sheet No. R-8 applies.

4 CSR 240-10.040 (1) and (2) states:

(1) Whenever a utility is unable to gain access to a customer's premises for the purpose of reading and testing meters or servicing or maintaining the utility's equipment or for other appropriate purposes, following calls made at the customer's premises during the usual course of business, the customer, on request from the utility, in which a particular time is specified, shall give access to his/her premises to representatives of the utility for those purposes at the time specified, which shall be within the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, otherwise, the utility may estimate for billing purposes the meter reading subject to correction when the utility may read the meter.

(2) Except for the provisions of this rule, all bills rendered to customers for metered service furnished will show the reading of the meter at the beginning and end of the period for which the bill is rendered and shall give the dates of readings, the number of units of service supplied and the basis of charge or reference. Where, by reason of the use of postal or other card form of billing or for other good reasons, this information cannot reasonably be placed on the bills, any utility may present for filing with the commission, in conjunction with its rules, a proposed form of billing. The commission may authorize, deny or require modification of any such proposed form of billing.

As Laclede pointed out in its Answer in this case, Commission Rule 4 CSR-240-10.040 (5) states:

"Each utility shall adjust customer's bills for incorrect meter readings or improper meter registration in a reasonable and equitable manner consistent with the rules which it has on file with the Commission. Any specific rule adopted by a utility covering these adjustments shall be filed with the Commission in conformance with the commission's rules covering the filing and publication of rate schedules."

Laclede's Tariff Rule 10A is the rule on file with the Commission to allow bills to be adjusted for meter stoppages or failures. This language is as follows:

"In the event of the stoppage or the failure of any meter to register, the customer shall be billed for such period on an estimated consumption based upon his use of gas in a similar period of the like use."

It is Staff's understanding that both rule and tariff should apply if that is possible. Staff sympathizes with the Liebe Company regarding the manner in which their billing dispute was handled, and agrees that Laclede's service in this case was poor. Multiple bill adjustments should not have occurred. It also should not have taken Laclede approximately six months to resolve a problem with a stalled AMR device. Access to the meter was not an issue, and the company had recognized early on that the AMR device was not working. Laclede should have taken measures to obtain actual meter reads once it became aware that the AMR device had stalled, and that AMR replacement could not be done immediately.

The Liebe Company has made three requests for relief:

1. That Laclede be enjoined from issuing estimated billing to commercial customers except for the narrow circumstances described in 4 CSR 240-10.040 (1).

Staff response is that Laclede must comply with the Commission's rules and its own tariffs and Laclede's current tariff permits it to estimate gas usage, and to render a bill to the customer based on such estimate in the event of mechanical failure of gas meters in service.

2. Liebe Company is also asking for a refund of all monies paid based on an estimated bill, however, Liebe does not deny their usage of gas.

A customer should pay for the gas it actually uses. Laclede has used a reasonable method to estimate actual usage in this case based on known prior usage history and adjustments were given as late as October 2006.

3. Liebe Company further states that a fine and/or rulings to punish Laclede for willful violation of its Rule should apply.

Staff's conclusion is that Laclede has not violated Commission rules or its approved tariff.

Staff concludes that, based on the information provided, and Staff's response to the relief requested by the Liebe Company, that the Commission should direct Laclede to act more promptly on repair or replacement of stalled AMR devices or dead meters and that estimated billing statements should be limited to no more than two billing statements if meter access is available. Staff also concludes that it appears that the Liebe Company has received appropriate billing and adjustments for the gas usage in question and Staff investigation does not indicate that Laclede has violated its approved tariff or Commission rules for the billings rendered.

