

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

Dr. Hortense Lucinda Harrison,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2008-0041
)	
Laclede Gas Company,)	
)	
Respondent.)	

**SUPPLEMENTAL BRIEF OF THE
MISSOURI OFFICE OF THE PUBLIC COUNSEL**

The Missouri Office of the Public Counsel offers this brief as a supplement to Public Counsel's arguments in its initial brief. Public Counsel's initial brief is more than sufficient to allow the Commission to reach the conclusion that Laclede violated the Commission's rules as outlined by Public Counsel. However, Public Counsel offers the following additional arguments on the first issue identified in the August 7, 2008 List of Issues.

1. Did Laclede violate its tariff or Commission rules in rendering estimated bills to Dr. Harrison between December 2006 and March 2007?

The Commission's estimated billing rules clearly outline the few instances where Laclede may estimate a customer's usage. The failure of an automatic meter reading (AMR) device attached to a *working meter*, a meter that has not stopped and that continues to register usage, is not an instance where the Commission's rules or Laclede's tariff authorizes Laclede to estimate a customer's usage. The Commission's rules only allow Laclede to estimate usage to seasonally billed customers or when Laclede is prevented from reading the meter. 4 CSR 240-13.020(2). Laclede's tariff, under the

section titled “Rendering and Payment of Bills,” mirrors the language from the rule. P.S.C. MO. No. 5 Consolidated, Fifth Revised Sheet No. R-6.

Laclede is apparently relying on the “Meter Tests” section of its tariffs for its authority to estimate bills when the AMR device fails. P.S.C. MO. No. 5 Consolidated, Fifth Revised Sheet No. R-8. The relevant language states:

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 like use.

Laclede’s reliance on this tariff language is erroneous for several reasons. First, Dr. Harrison’s meter continued to register usage and did not stop or fail to register usage. (Tr. 219). A meter reader dispatched to Dr. Harrison’s residence could have easily obtained a reading of Dr. Harrison’s outside meter during the period of estimated billing. (Tr. 138). The Commission’s rules clearly require billing based on actual usage unless the company is *prevented* from reading the meter. The failure of Laclede’s ability to remotely read the cellular transmission is distinct from a meter that has stopped functioning and that does not register usage. Nothing prevented Laclede from reading Dr. Harrison’s outside meter except Laclede’s decision not to send a meter reader to Dr. Harrison’s residence.

Second, Laclede’s tariff provision only allows estimated usage that is “based upon his use of gas in a similar period of like use.” The residence in question was new, and therefore, it was not possible for Laclede to estimate usage based upon Dr. Harrison’s prior usage history. This fact increased the importance of gaining an actual read from Dr. Harrison’s working meter to ensure the billing was accurate, and to avoid the erroneous estimated billing that brought about the large catch-up bill and ultimately this complaint.

Third, the tariff language was added to Laclede's tariff long before the invention of AMR, and therefore, it was clearly not the Commission's intention to include AMR transmissions in the Commission's definition of a registering meter. To suggest that the Commission intended AMR transmissions to be synonymous with a meter registering ignores the intent of the rules and tariffs that require an actual meter reading unless Laclede is somehow prevented from accessing the meter. The purpose of this requirement is to protect the customer from large billing adjustments. Laclede's failure to follow this requirement resulted directly in the large billing adjustment that the rule and tariffs were meant to avoid.

Lastly, one must question the placement of this tariff language under the section "Meter Tests," when the estimated billing provisions appear in a different section. This placement supports the interpretation that the above-quoted language was inserted to address situations where a meter test indicated that the meter has stopped registering. In the facts of Dr. Harrison's case, the meter continued to register usage and it was the cellular signal that failed.

Laclede appears to acknowledge that its tariff does not allow estimated billing when the AMR fails, and has attempted to correct that "defect" through a tariff change in Case No. GT-2008-0374, *In the Matter of the Laclede Gas Company Tariff Filing to Allow Estimated Billing Whenever an Automatic Meter Reader Fails to Send Readings of Actual Usage*. However, even if the Commission were to approve such a tariff change, the tariff that applies to Dr. Harrison's complaint has not been amended and does not allow estimated billing when an AMR fails.

Laclede may argue that it would be more convenient for Laclede to simply estimate billing whenever an AMR fails. However, the facts of this case suggest that the inconvenience Laclede would have faced by dispatching a meter reader is far less than the inconvenience experienced by Dr. Harrison when she received a catch-up bill for more than \$800. Moreover, unless Laclede expects malfunctioning AMR devices to be a common occurrence, Laclede would not be harmed from dispatching a meter reader whenever the AMR stops transmitting a signal. Regardless of the policy involved, the Commission's rules and tariffs do not allow estimated billing when an AMR device fails to transmit a signal and the meter continues to function.

Public Counsel asks the Commission to reach the conclusion that its rules and Laclede's tariffs currently do not allow estimated billing in situations where the AMR fails but the meter continues to register usage and Laclede is not otherwise prevented from reading the meter. For this reason, Laclede violated 4 CSR 240-13.020(2) and P.S.C. MO. No. 5 Consolidated, Fifth Revised Sheet No. R-6 when Laclede estimated Dr. Harrison's usage and billed Dr. Harrison based on estimated usage.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 1st day of October 2008:

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