

**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.	)	

**RESPONSE TO MOTION TO STRIKE**

**COMES NOW** the Missouri Office of the Public Counsel and for its Response to Laclede Gas Company's October 10, 2008 Motion to Strike Portions of Public Counsel's Supplemental Brief states:

1. Laclede seeks to strike two portions of Public Counsel's October 1, 2008 Supplemental Brief, alleging that Public Counsel seeks to introduce new evidence.

2. Laclede first criticizes Public Counsel's statement that the language contained in Laclede's Tariff Sheet No. R-8 could not have contemplated an Automatic Meter Reading (AMR) system because the tariff sheet predates "the invention of AMR." While it is safe to assume the technology was invented after the introduction of cellular telecommunications, Public Counsel concurs that the precise date that AMR technology was invented is not in the record, nor is it relevant. Public Counsel intended to show that Tariff Sheet No. R-8 predates Laclede's introduction of AMR, which is relevant because it shows that the Commission could not possibly have contemplated AMR cellular technology when approving Tariff Sheet Number R-8, which became effective of May 31, 1997. (Tr. 255). In other words, Tariff Sheet No. R-8 became effective well in

advance of Laclede fitting its meters with AMR capabilities, and therefore the term “failure of any meter to register” could not have contemplated the failure of a cellular transmission where the meter continues to function properly.

3. Laclede’s response attempts to introduce new evidence regarding other remote reading devices, which is surprising given Laclede’s Motion to Strike. Just as there is no evidence regarding the invention date of AMR, there is also no evidence regarding other remote reading technology. And if there was a Commission decision that in any way concluded that a functioning and registering meter can lawfully be estimated simply because its remote capabilities are inoperable, the Commission can assume that Laclede would have located that decision and cited to it. Instead, this is a case of first impression, asking the Commission to resolve the issue of whether Laclede is lawfully allowed to estimate the usage of a functioning meter *simply because it requires that Laclede visit the premises*.

4. Laclede’s second criticism of Public Counsel’s Supplemental Brief alleges that Public Counsel’s reference to Case Number GT-2008-0374 also seeks to introduce new evidence. Public Counsel refers to this case caption to highlight Laclede’s attempt to correct the issues raised in this Compliant. Again, Laclede criticizes Public Counsel’s reference to a separate case while at the same time citing to *two* separate Commission cases as evidence. Laclede cannot have it both ways. Laclede also alleges facts from the separate case referenced by Public Counsel. Whereas Public Counsel lawfully referenced a case caption, which was adopted and used by the Commission, Laclede’s Motion to Strike attempts to introduce Laclede’s position and evidence from that case.

**WHEREFORE**, Public Counsel respectfully offers these clarifying explanations of its Supplemental Brief; asserts that Public Counsel's brief does not introduce new evidence for the reasons explained above; and asks that the Commission deny Laclede's Motion to Strike.

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 20<sup>th</sup> day of October 2008:

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