BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Cesar M. Alba,	)	
	)	
Complainants,	)	
v.	)	Case No. GC-2007-0445
	)	
Laclede Gas Company,	)	
Respondent.	)	

POST-HEARING REPLY BRIEF OF LACLEDE GAS COMPANY

On January 24, 2008, the Commission issued an order requiring Mr. Alba to file a post-hearing brief by February 15, 2008, and permitting Laclede until March 3, 2008, to file a response to Mr. Alba's brief. Mr. Alba failed to file a brief by the ordered deadline and, as of March 3, 2008, has still not filed a brief.[1] Although there is no brief to respond to, Laclede is nevertheless filing this brief to address the issues raised by Mr. Alba in his complaint.

In that complaint, Mr. Alba raised two issues: first, that he was overcharged for gas service rendered during the winter of 2006-07, and second, that Laclede's methods of testing for and identifying leaks were inadequate, causing a safety issue. Mr. Alba based his allegation that he was overcharged on the fact that the usage and amounts billed in 2006-07 at the unit he occupied in the building he owns on 3931 Minnesota in the City of St. Louis (the "Residence") were higher than the usage and amounts billed to his former residence on the second floor of 7050 Dartmouth in University City. He based his allegation that Laclede's leak detection practices are inadequate on his belief that Laclede uses an aerosol can to spray an unknown substance on pipes to detect leaks, and that this

[1] Since February 15, 2008, Laclede has attempted to contact Mr. Alba and has left a message on his answering machine, but has not received a reply.

method is inferior to the method used by Mr. Alba's contractor, who used a spray bottle to apply a soapy water solution to the pipes.

The evidence produced in the case conclusively demonstrated that Mr. Alba was mistaken on both of his conclusions and, in many cases, on the underlying facts supporting them. There are many reasons supporting the accuracy of Mr. Alba's billed gas usage. First, the billed usage is based on actual and regular meter readings. Second, on an annualized basis, the billed usage is consistent with, and actually at the lower end of, past usage at the Residence. Third, Mr. Alba's usage at the 2nd floor Residence is significantly less than the usage recorded at both of the first floor apartments in his four family flat. Fourth, Mr. Alba's usage is not unusual for an older building in the city. Fifth, because Laclede performed a mid-winter meter change, Mr. Alba's gas usage in the winter of 2006-07 was registered consistently on two different meters. For Mr. Alba to be correct, both meters that measured usage consistent with the past and with each other would have to be wrong. Finally, based on Staff's review, it is Staff's opinion that Mr. Alba was billed accurately.

The evidence further showed that Laclede's leak detection procedures are safe and adequate. Laclede's service technicians do not use aerosol cans to detect leaks, and are not even issued an aerosol can. Instead, they normally perform leak tests with a more sophisticated tool called a manometer, also referred to as a "U-Gauge" or "U-Tube" because of its shape. In the instances where Laclede does use a liquid spray, it uses the same type of plastic spray bottle that Mr. Alba described as being used by his contractor. Further, the "unknown" spraying substance is unknown only to Mr. Alba. Laclede knows it to be a leak detection fluid known as "leak-seek." Laclede considers leak-seek to be

superior to soapy water in that it stays on the piping longer and drips less, resulting in a better leak test and less mess in a customer's home.

In summary, the evidence shows that the meter readings at the Residence were accurate, and that Laclede's leak detection procedures are safe and adequate. In a complaint case, the Commission determines whether the Company has violated any laws or rules, orders or decisions of the Commission. In this case, Laclede has clearly committed no such violations. The Commission should therefore find that Laclede has violated no laws or Commission rules, orders or decisions and dismiss this complaint.

ISSUES

1. Did Laclede overcharge Mr. Alba for gas service by billing him for 985 CCF (Hundred Cubic Feet) of gas, totaling $1,281.28, for the period from October 12, 2006 to June 27, 2007?

2. Are Laclede's leak detection practices inadequate? If so, should Laclede be required to use soapy water applied by a plastic spray bottle to detect leaks?

CONCLUSION

1. For the reason discussed below, Laclede did not overcharge Mr. Alba for gas service rendered from October 12, 2006 to June 27, 2007.

2. Laclede's leak detection practices are safe and adequate. Laclede normally uses a manometer to detect the existence of leaks. On occasions when Laclede needs to identify the location of a leak, Laclede uses a plastic spray bottle to apply a leak detection fluid known as "leak-seek." Laclede considers this method to be superior to

soapy water. Laclede should not be confined to using only a spray bottle with soapy water to detect leaks.

BACKGROUND

Since 1996, Mr. Alba has owned a four-family apartment building at 3931 Minnesota in the City of St. Louis. In May 2006, he disconnected service at 7050 Dartmouth, where he had lived for several years and moved into the Residence on the second floor of 3931 Minnesota. This is the first time he had lived in his own building at 3931 Minnesota since he purchased it. (Transcript at pp. 10-12[2]; p. 41, ll. 10-24) There had not been a consistent gas customer at the residence since 1999. (Tr. at 102, ll. 7-24)

In October 2006, Mr. Alba requested that gas service be established at the Residence and gas was activated on October 12, 2006. (Exhibit 3 (Staff Recommendation) at p. 2) By December 2006, Mr. Alba was already dissatisfied with the amounts of the early winter bills at the Residence. Because Mr. Alba had an inside meter and had not had an AMR module installed, his first two reads had been estimated. On December 12, 2006, he contacted Laclede to make a high-bill complaint. Laclede arranged to obtain a meter reading via a special meter read. On December 18, a Laclede meter reader obtained a reading of x6185, indicating that Mr. Alba's bills had in fact been overestimated. Laclede subsequently issued an adjusted bill. (*Id.*; Exhibit 5, p. 1; Tr. at pp. 64-66)

Meanwhile, at 8:42 a.m. on the morning of December 19, 2006, Mr. Alba called in a slight odor of gas in the basement. A Laclede service technician was dispatched and arrived at the property at 9:05 a.m. The technician first performed a service entrance

[2] All references to Transcript refer to a document entitled "Evidentiary Hearing, Volume 1" November 7, 2007.

inspection, to see whether gas was migrating into the home from outside, but the gas detection equipment registered no gas in the air where the service line enters the home. (Tr. at 78, l. 14 to 79, l. 4; Exh. 5, p. 7) He then performed a leak test using a manometer ("U-Tube") and found that the U-Tube would not hold pressure, indicating a leak in the piping that runs between the meter and the customer's gas appliances. (Exh. 5, pp. 3-4; Tr. at pp. 66-68; Exh. 3, p. 2) After confirming the existence of a gas leak, the technician turned off the gas service at or about 10:00 a.m. and recommended that the customer find an HVAC contractor to repair the customer's fuel runs. (Exh. 5, pp. 3-4; Tr. at 70, ll. 6-23; Exh. 3, p. 2)

After turning off the gas service, Laclede's service technician was directed to remove the meter and replace it with an AMR-equipped meter, which he did, completing the job at 10:15 a.m. After the meter change, the service technician left Mr. Alba's gas off, pending repair of the leaks. (Exh. 5, pp. 5-7; Exh. 3, p. 2; Tr. at pp. 72-73) It appears that Mr. Alba's HVAC contractor repaired the leaks the next day, December 20, 2006. (Exh. 1, Appendix A)

Following the repairs, Mr. Alba contacted Laclede to restore gas service at the Residence. On December 21, Laclede's service technician again performed the U-Gauge test to check for the existence of leaks on the customer's piping. No leaks were found, indicating that the HVAC contractor had successfully repaired the leaks. The service technician therefore restored gas service and lit the customer's furnace and water heater. (Exh. 5, pp. 8-10; Tr. at pp. 75-76)

Beginning on December 21, Mr. Alba's gas usage was measured by the new meter. Mr. Alba's usage for the remainder of the 2006-07 winter was consistent with the usage

recorded in the early winter by the former meter. (Exh. 6; Tr. at 100, ll. 2-9) Laclede disconnected Mr. Alba's gas service at the Residence on June 27, 2007. (Exh. 6)

ARGUMENT

1. Laclede did not overcharge Mr. Alba for gas service provided to him between October 12, 2006 and June 27, 2007.

There are many reasons supporting the accuracy of Mr. Alba's billed gas usage. First, the usage billed is actual usage, that is, it was recorded on a meter. Second, on an annualized basis, it is consistent with, and actually at the lower end of, past usage at the Residence. Third, Mr. Alba's usage at the 2nd floor Residence is significantly less than the usage recorded at both of the first floor apartments in this four family flat. Fourth, Mr. Alba's usage is not unusual for an older building in the city. Fifth, after the meter was replaced on December 19, 2006, Mr. Alba's usage recorded by the second meter was consistent with the usage recorded on the first meter. It is extremely unlikely under these circumstances that both working meters could be both faulty and commit the same type of error. Finally, based on Staff's review, it is also Staff's opinion that Mr. Alba was billed accurately.

Laclede's witness for these matters was Ms. Rhonda O'Farrell, who has been the assistant manager of the Community Services Department for the past five years. Ms. O'Farrell has gained a broad experience in her twelve years at Laclede, including stints in the Customer Relations Department, the Commercial and Industrial Sales Department, and most notably, the Customer Accounting Department. (Tr. at 91, l. 15 to 92, l.7)

Mr. Alba was billed for actual gas usage based on regular and consistent meter readings. Beginning in December 2006, Laclede received and billed based on an actual

read each month until service was disconnected in June 2007. (Exh 2, p. 4; Exh. 3, Schedule 2; Exh. 1, Appendices 3-6)

On an annualized basis, Mr. Alba's usage is consistent with, and actually at the lower end of, past usage at the Residence. Mr. Alba's usage for 2006-07 was about 1075 CCF on an annualized basis. Since 1990, usage at the Residence has consistently averaged between 1000 and 1200 CCF annually. When viewed on a use per heating degree day (HDD) basis, Mr. Alba's usage of .2306 CCF/HDD compares favorably to usage patterns in other years, and especially to the more recent usage in the late 1990s, which showed .2899 CCF used per HDD. (Exh. 6; Tr. at 94, ll. 3-8, at 95, l. 18 to 96, l. 15) In summary, Mr. Alba's usage is right in line with all of the prior usage at the Residence, and even at the lower end of this usage range. These facts support the accuracy of the meter readings and stand in direct contrast to Mr. Alba's claim of unusually high usage.

Further, Mr. Alba's usage at the 2nd floor Residence is significantly less than the usage recorded at both of the first floor apartments in his four family flat. Exhibit 6 indicates that the usage on the first floor of 3931 Minnesota, directly below Mr. Alba's Residence, averaged about 1350 CCF annually, while the usage on the first floor of 3933 Minnesota averaged 1675 CCF annually. (Exh. 6; Tr. at 94, l. 15 to 95, l. 17) Mr. Alba's annualized usage of 1075 CCF pales in comparison to these figures. It is likely that, as heat rises, Mr. Alba has enjoyed some benefit from the heat generated in the first floor unit below the Residence. Regardless, Mr. Alba should not be heard to complain about usage that is only 64-80% of the amount used by his downstairs neighbors.

Mr. Alba's usage is also not unusual for an older building in the city. (Tr. at 98, ll. 8-12; at 47, ll. 6-11) Over time, these buildings tend to experience some deterioration

and are simply not as airtight as newer buildings. This fact again supports the reasonableness and accuracy of Mr. Alba's billed usage.

Notably, after the meter at the Residence was replaced on December 19, 2006, Mr. Alba's usage recorded by the second meter was consistent with the usage recorded on the first meter. (Tr. at 100, ll. 2-9) For Mr. Alba to prove his claim of inaccurate billing, the Commission would have to believe that both meters at the Residence were faulty, and that both were faulty in the same direction. By itself, the odds of this occurring are very remote. When viewed in conjunction with the other evidence adduced in this case as set forth in this section, those odds must be seen to approach zero.

Finally, after thoroughly reviewing this matter, the Staff found that Laclede's billings were accurate. (Tr. at 45, ll. 16-19) In its Recommendation, Staff confirmed its finding that in billing Mr. Alba, Laclede violated neither Commission rules nor Laclede's tariffs. (Exh.3, p. 3)

For his part, Mr. Alba produced no evidence to support his claim. His main argument was that his usage at the Residence was substantially higher than his usage at his previous apartment on Dartmouth Avenue. Laclede agrees with this assertion, but demonstrated at the hearing that Mr. Alba's usage at the Dartmouth apartment was irrelevant. There could be a host of reasons that explain the different amounts of gas used at the two locations, some of which are in Mr. Alba's control. These reasons include the amount of insulation, weatherproofing, the age, efficiency and condition of the furnace, thermostat settings and use of electric heaters. Staff agreed that the gas usage on Dartmouth was not meaningful. (Tr. at 96, l. 16 to 97, l. 7; at 48, ll. 8-15) Mr. Alba's irrelevant argument regarding his gas use at the Dartmouth apartment cannot

compare to the mountain of evidence demonstrating that the meters at the Residence recorded the usage accurately.

2. Laclede's leak detection practices are safe and adequate.

Laclede's testimony on its leak testing procedures was presented by Jeffrey Schlote, who has 15 years experience in Laclede's Service and Installation Department, the last six as a foreman. (Tr. at 51, ll. 1-23) Mr. Schlote testified that, in detecting leaks on the customer's side of the meter, Laclede uses a sophisticated piece of equipment called a manometer, also referred to as a "U-Gauge" or U-Tube." The manometer is hooked up to the customer's fuel runs and pressurized. The service technician will then watch the pressure gauge. If the system is losing pressure, the pressure gauge will drop, indicating a leak somewhere in the customer's piping. If the pressure holds, this indicates that the system is intact, that there are no leaks. (Tr. at 52, ll. 18-24)

The U-Tube procedure is a superior test to determine whether or not a leak exists on the customer's piping. It does not identify the location of the leak or leaks which, in this case, was left to the customer's contractor. The soapy water/leak-seek test then is useful for finding the actual location of leaks by looking for bubbles on the piping. (Tr. at 84, ll. 1-22; at 89, ll. 1-10) Thus, the manometer test and the bubble test are not competitive, but complementary. The manometer test is a technological procedure that determines if a leak exists for purposes of knowing whether the fuel runs are gas safe. The bubble test identifies where the leak is for purposes of repairing it.

Laclede uses both tests when appropriate and they are both safe and adequate. This fact is supported by Staff's witness, Marilyn Doerhoff. (Exh. 3, pp. 1-2; Tr. at 45, l. 25 to 46, l. 19)

Mr. Alba even agrees with the concept of the manometer. Contrary to his own position that would require Laclede to use a plastic spray bottle with soapy water to conduct the bubble test, Mr. Alba admitted that "with modern technology…a high-tech detection should be able to find out whether there is a leak or not…" (Tr. at 11, ll. 4-7) Mr. Alba added that "either method, either high tech or just plain liquid soap should be able to detect it…" (*Id*. at ll. 8-10) In other words, Mr. Alba concedes that Laclede's manometer test is at least as effective as the bubble test.

Mr. Alba claimed that Laclede used an aerosol can to spray an unknown substance onto his piping, a method he opined was inferior although he provided no reasoning to support this and presented no evidence to establish himself as an expert in leak testing or gas safety. In fact, Mr. Alba is mistaken regarding the aerosol can. Laclede witness Schlote testified that Laclede doesn't use an aerosol can to perform leak tests, and its service technicians are not even issued such an item. (Tr. at 52, l. 25 to 53, l. 10) Instead, when Laclede uses spray testing to identify the location of a leak, it uses a plastic spray bottle, which is precisely the equipment recommended by Mr. Alba. (Exh. 4; Tr. at 53, ll. 3-15; at 20, l. 12 to 21, l. 2)

When confronted with the assertion that Laclede uses a plastic spray bottle and not an aerosol can, Mr. Alba conceded that he might not be "100% accurate" in what he saw. Strangely, Mr. Alba then volunteered that "Whatever its worth, I don't care whether he used…aerosol can or just plain non-aerosol plastic bottle…" (Tr. at 22, ll. 6-25)

In testifying to the events of December 18-21, 2006 regarding the meter reading, gas odor report, leak check, meter change, leak repair and gas restoration, Mr. Alba's version of these events differed significantly from Laclede's. Laclede's version of the events is more credible, because it is supported by detailed company records, made

contemporaneous with the occurrence of the events in December 2006, and made in the ordinary course of Laclede's business. (See Exh. 5) Conversely, Mr. Alba admitted that he had not even taken contemporaneous notes and, other than the information in Exhibit 1, that he was testifying from memory at the hearing in November 2007, nearly a year after the events in question occurred. (Tr. at 25, l. 19 to 26, l. 4; at 28, ll. 1-10)

Finally, with respect to the bubble test, Mr. Alba preferred plain soapy water and was critical of the solution used by Laclede. In response, Laclede testified that the leak detection fluid it uses in place of soapy water is known as "leak-seek," and is a solution that adheres better to the piping than soapy water, providing a better opportunity to see bubbling if it exists. In addition, because it drips less, leak-seek makes less of a mess inside people's homes, which improves the service Laclede provides to its customers. (Exh. 4; Tr. at 54, ll. 4-25; at 58, l. 19 to 59, l. 11)

CONCLUSION

In summary, the evidence presented in this case shows that Laclede did not overcharge Mr. Alba for gas service rendered from October 12, 2006 to June 27, 2007, and that Laclede's leak detection practices are safe and adequate. Laclede has violated no laws or Commission rules, orders or decisions. The Commission should therefore find for the Company and dismiss this complaint.

WHEREFORE, Laclede respectfully requests that the Commission deny the relief requested by Complainant in this case and dismiss the Complaint.

Respectfully submitted,

/s/ Rick Zucker
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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing pleading was served on the Complainant, the General Counsel of the Staff of the Missouri Public Service Commission, and the Office of Public Counsel on this 3rd day of March, 2008, by United States mail, hand-delivery, email, or facsimile.

/s/ Rick Zucker