

In the Missouri Public Service Commission

In the matter of
Janice Shands et al
Complainant)

V WC 2015-0030
MAWC
Respondent

In the matter of
Janice Shands et al
Complainant)

V EC 2015-0043
Ameren
Respondent

In the matter of
Janice Shands et al
Complainant)

V GC 2015-0045
LaCledde Gas
Respondent

Comes now LCTCA and withdraws its request to be made a party

Comes now LCTCA ¹and withdraws any request to be made a party²

¹ While it does concur does not wish to be a party

² This is especially so where the other condo owners having failed to pay their assessments and there being other financial issued in addition to the ones with the utilities, and where the unit owners are being forced from the building, the procedures, costs and expenses of PSC have made it cost prohibitive for LCTCA to be a party.

This is especially so where as in the recent filing confirms , the caselaw indicated PSC may not even have the authority to make the determination sought in the 9-30 amended complaint, namely that PSC should defer to the courts, even where based on known caselaw and where there is a clear distinction between rate make authority and any complaint authority and there would need to be expressly mention in the statute to supplant common remedies.

This is especially so where:

As in Public Works of Rolla , supra p59

The Public Service Commission is not a court and has no power to declare or enforce any principle of law or equity ..(citing . AmericanPetroleum Exchange v Public Service

To the recollection of the undersigned, there has been no order adding same, and as noted if the concern was to include all unit owners, they have been named parties to the circuit court action, and now that they are dispersing where the building is being closed especially due to the actions of LaCleda Gas, to locate them will be even harder.³

By /s/ Susan H. Mello #31158

Commission, 172 SW 2d 952, and May co) ... circuit courts have exclusive jurisdiction in all civil cases not otherwise provided for ..(citing Sec 14 Art v Constitution of Missouri).

...

As in Katz Drug, supra p 679

The commission is a body of limited jurisdiction and has only such power as are conferred upon it by the statutes and such incidental powers as may be necessary to enable the commission to exercise the power granted ... The Public Service Commission is an administrative body and not a court and hence the commission has no power to exercise or perform a judicial functions or to promulgate an order requiring a pecuniary reparation or refund .. The commission as no power to declare or enforce any principle of law or equity .

As in Wilshire, supra p .905

(while) .. That Commission does have exclusive jurisdiction over all utility rates but when a controversy arises over the construction of a contract of a rate schedule upon which a contract is based , and a claim of an overcharge is made, only the courts can require an accounting or render a judgment for an overcharge, The Public Service Commission cannot" enforce, construe or annul contracts nor can it enter a money judgment ..

As in Fee Fee Trunk, supra at p 468

The Commission is a creature of the legislature and has only such powers as are expressly conferred upon it by statute and those reasonably incident thereto. It may not perform the judicial function. It has no power to determine damages, award pecuniary relief or declare or enforce any principle of law or equity citing Straube v Bowling Green 350 Mo 132(1950) (wherein it having been held if the question concerned only property rights " jurisdiction to determine these rights is vested in the circuit court The Public Service Commission has no jurisdiction of such a controversy).

As in Gaines v Gibbs, at 543

The Public Service Commission is not a court ,, and has no power to construe or enforce contracts .. declare, enforce..The Commission does not exercise judicial power or authority..

³As it is the arguably best process server in St Louis, has had to non est 2 of the summons, has had to lie in wait for a former Board member, and the Kings County heriff In WA could not locate a businessman there.

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Certificate of service

A copy was sent by email to P.C. Office of General Counsel at staff.counsel@psc.mo.gov, to Dustin Allen (Public Counsel) at opscervice@ded.mo.gov, and counsel for the utilities on 11/3.14/s/ Susan H Mello