BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Chantel R. Muhammad,	)	
	)	
Complainant,	)	
	)	
v.	)	File No. GC-2016-0010
	)	
Laclede Gas Company	)	
	)	
Respondent.	)	

REPORT AND ORDER

Issue Date: October 19, 2016

Effective Date: November 18, 2016

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of October, 2016.

Chantel R. Muhammad,	)	
	)	
Complainant,	)	
	)	
v.	)	File No. GC-2016-0010
	)	
Laclede Gas Company	)	
	)	
Respondent.	)	

REPORT AND ORDER

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The Missouri Public Service Commission is denying relief on the complaint of Chantel R. Muhammad against Laclede Gas Company ("Laclede").

Summary

Mr. Muhammad argues that the Commission should relieve him of his current gas bill, alleging that Laclede incorrectly billed him for natural gas ("gas") in 2008 ("the 2008 bill") and unlawfully disconnected his gas service in 2015 ("the 2015 disconnection"). But the 2015 disconnection occurred because of a safety issue, not because of the 2008 bill. And the 2008 bill charged Mr. Muhammad for only one year out of three under-billed years, as the Commission's regulations require, leaving an uncollectible $2,000. In addition, over $4,000 more is due on Mr. Muhammad's account for gas that Mr. Muhammad has consumed since 2011. Mr. Muhammad makes other arguments as to safety and accurate metering. The Commission is also ruling against those arguments.

Procedure

Mr. Muhammad filed the complaint[1] and a more definite statement.[2] Laclede filed an answer.[3] The Commission's staff ("Staff") filed a recommendation.[4] Based on those filings, the Commission issued an order defining the issues for hearing.[5] The Commission convened an evidentiary hearing on the merits of the complaint.[6] The Commission received initial briefs and reply briefs from Laclede and Mr. Muhammad.[7]

The regulatory law judge issued a recommended decision.[8] The Commission received comments on the recommended decision from Laclede.[9] The Commission is approving the recommended decision with modifications to address Laclede's comments and to address Mr. Muhammad's arguments more clearly.[10]

This report and order is subject to an application for rehearing filed no later than the business day before the effective date of this report and order, and to judicial review, as set forth in Sections 386.500 to 386.540, RSMo 2000 and RSMo Supp. 2013.

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[1] Electronic Filing and Information System ("EFIS") No. 1 (July 28, 2015) *Formal Complaint*.

[2] EFIS No. 41 (May 25, 2016) *Response to Order to File a More Definitive and Certain Statement*.

[3] EFIS No. 4 (August 10, 2015) *Laclede Gas Company's Answer to Complaint*.

[4] EFIS No. 6 (August 21, 2015) *Staff Recommendation*.

[5] EFIS No. 43 (May 26, 2016) *Order and Notice of Hearing*.

[6] EFIS No. 63 (August 16, 2016) *Transcript - Volume 2 (Evidentiary Hearing 8-12-16).*

[7] EFIS No. 72 (September 19, 2016) *Laclede Gas Company's Initial Brief*. EFIS No. 73 (September 22, 2016) *Laclede Gas Company's Reply Brief*. EFIS No. 75 (September 28, 2016) *Complainant Brief*. EFIS No. 74 (September 28, 2016) *Complainant Reply Brief*.

[8] EFIS No. 76 (October 4, 2016), *Notice of Recommended Report and Order*. The file reflects extensions of time to file an answer, conduct discovery, and brief the case. Those circumstances constitute good cause to extend the time for issuing the recommended decision. 4 CSR 240-2.070(15)(G).

[9] EFIS No. 77 (October 13, 2016) *Laclede Gas Company's Comments on Recommended Report and Order*. 4 CSR 240-2.070(15)(H).

[10] 4 CSR 240-2.070(15)(H).

Standards

Mr. Muhammad has the burden of proving the allegations in his complaint[11] by the preponderance of the evidence.[12] Preponderance means evidence weighing more in favor of[13] than against[14] the complaint. The Commission has weighed the substantial and competent evidence on the whole record, and makes each ruling on consideration of each party's allegations and arguments, and the reasonable inferences from that evidence.

Where the evidence conflicts, the Commission must determine which evidence is most credible and may do so implicitly.[15] The Commission's findings reflect its determinations of credibility, and no law requires the Commission to make any statement as to which portions of the record the Commission believes or disbelieves.[16] The Commission will not discuss matters that are not dispositive.

Under those standards, the Commission makes the following findings of fact, and makes public the following information furnished to the Commission. [17]

Findings of Fact

1. At all relevant times, Mr. Muhammad resided at 730 Dover, St. Louis, Missouri.[18] That unit was part of a duplex.[19] The other unit in the duplex was 732 Dover,

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[11] *AG Processing, Inc. v. KCP & L Greater Missouri Operations Co.*, 385 S.W.3d 511, 515-16 (Mo. App., W.D. 2012).

[12] *Spencer v. Zobrist*, 323 S.W.3d 391, 398 (Mo. App., W.D. 2010).

[13] *State Board of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App., W.D. 2000).

[14] *Hager v. Director of Revenue*, 284 S.W.3d 192, 197 (Mo. App., S.D. 2009).

[15] *Stone v. Missouri Dept. of Health & Senior Services*, 350 S.W.3d 14, 26 (Mo. banc 2011).

[16] *Stith v. Lakin*, 129 S.W.3d 912, 919 (Mo. App., S.D. 2004).

[17] Section 386.480, RSMo 2000.

occupied by Mr. Muhammad's neighbor and landlord Leon Edmond,[20] whose account was current at all relevant times.[21]

2. Laclede's main connected to both units' service lines at a curb box, which led to a separate meter for each unit in the duplex's basement.[22]

3. On October 1, 2005, Mr. Muhammad initiated service with Laclede. From that date until May 2009, Laclede's alternatives for measuring consumption by Mr. Muhammad were estimates or actual consumption.[23] Consumption of gas is measured on a meter that records hundreds of cubic feet ("ccf").[24]

Billing

4. On October 1, 2005, the actual meter reading for Mr. Muhammad ended with 2895.[25] On October 22, 2005, the actual meter reading for Mr. Muhammad ended with 2896, just 1 ccf.[26] That consumption is very low compared to the average residential customer, who consumes 30 ccf in October,[27] but it guided Laclede's estimated bills for the next three years. [28]

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[18] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 79, line 21 through 23.

[19] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 79, line 8 through 15.

[20] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 79, line 24 through 25.

[21] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 65, line 14 through 16.

[22] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 79, line 16 through 20.

[23] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 84, line 5 through 13.

[24] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 82, line 11 through 16.

[25] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 81, line 20 through 24.

[26] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 82, line 2 through 10.

[27] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 83, line 2 through 8.

[28] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 94, line 19 through page 95, line 1.

5. In December 2005, a third party that contracted with Laclede—not a Laclede employee—obtained access to the basement and installed an automated meter reader ("AMR"), a device that automatically sends readings over a cellular network, in the meter serving Mr. Edmond. The contractor did not install an AMR in Mr. Muhammad's meter, most likely because Mr. Muhammad's meter is of a different make.[29]

6. Laclede requested access in about 41 letters and postcards sent to Mr. Muhammad, seeking to install an AMR, [30] a device that automatically sends readings over a cellular network.[31] Mr. Muhammad never responded to any of those requests for access, [32] so Laclede could not take meter readings, and could not install an AMR.[33] Therefore, estimated billing based on estimated consumption was necessary from November 2005 through September 2008.[34]

7. On September 23, 2008, Laclede's estimated consumption for Mr. Muhammad had reached an estimated reading ending with 3307.[35] Laclede billed Mr. Muhammad for about 411 ccf in the past three years.[36] That much gas cost about $1,040.41, which Laclede billed. [37]

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[29] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 84, line 19 through page 90, line 19.

[30] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 103, line 1 through 13.

[31] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 84, line 19 through page 90, line 19.

[32] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 103, line 23 through 25.

[33] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 103 line 9 through 13.

[34] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 84 line 5 through 16.

[35] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 93, line 21 through page 94, line 3.

[36] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 4.

[37] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 7.

8. On October 11, 2008, the actual meter reading for Mr. Muhammad[38] ended with 6428.[39] Mr. Muhammad had consumed 3,532 ccf in the previous three years.[40] The cost of that gas was about $4,208.06.[41] Laclede had under-billed Mr. Muhammad by about $3,167.65 over the previous three years.[42]

9. In October 2008, Laclede sent Mr. Muhammad the 2008 bill.[43] The 2008 bill charged Mr. Muhammad for only the previous 12 months,[44] which left about $2,000 in consumption unbilled.[45]

10. In May 2009, Laclede installed an AMR, after which all readings for Mr. Muhammad were actual.[46]

11. By January 2011, Mr. Muhammad had paid the 2008 bill down to about $99.00.[47]

12. But in 2011, Mr. Muhammad underpaid his bill by $577.03.[48] In 2012, Mr. Muhammad underpaid his bill by $582.48.[49] In 2013, Mr. Muhammad made no payments at all, which caused him to fall behind $1,188 more.[50]

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[38] Obtained in the course of a required safety inspection. EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 91, line 1 through 24.

[39] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 92, line 11 through page 93 line 11. EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 5. EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 97, line 19 through 22.

[40] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 6.

[41] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 8.

[42] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 9.

[43] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 95, line 8 through 16.

[44] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 10.

[45] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column 11. EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 99, line 6 through 8.

[46] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 103 line 4 through 8.

[47] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 104 line 13 through 19.

13. From 2011 to 2015, Mr. Muhammad's denial of access to his meter thwarted Laclede's attempts to disconnect service.[51] Pursuant to a May 2015 disconnect notice,[52] Mr. Muhammad owed $4,079.07 on his gas bill.[53] The charges on Mr. Muhammad's bill became delinquent after June 15, 2015.[54]

Disconnection

14. On June 22, 2015, a Laclede service technician again visited the property to disconnect service and again could not gain access to the meter.[55]

15. The technician then checked the curb box to see whether the technician could disconnect service to Mr. Muhammad from outside the duplex.[56] The technician saw that the curb box had only one valve for the duplex's two units, so turning off the gas at the curb would also have interrupted service to Mr. Edmond, whose account was paid and not subject to disconnection.[57]

16. But the technician also saw that the valve was sheared off.[58] The sheared-off valve constituted a safety issue so Laclede replaced the valve. That repair required

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[48] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column "Long (short)," row 2011.

[49] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column "Long (short)" row 2012.

[50] EFIS No. 65 (August 22, 2016) Exhibit 1, first page, column "Long (short)" row 2013. EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 105 line 4 through page 106, line 10.

[51] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 111, line 9 through page 113, line 5.

[52] EFIS No. 69 (August 22, 2016) Exhibit No. 5, May 21st, 2015 Gas Bill.

[53] EFIS No. 69 (August 22, 2016) Exhibit No. 5, May 21st, 2015 Gas Bill.

[54] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 108, line 12 through 24.

[55] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 113 line 2 through 8.

[56] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 113 line through 13.

[57] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 106 line 17 through 23.

[58] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 113 line through 13.

Laclede to shut off the gas for the duplex[59]—both Mr. Muhammad's and Mr. Edmond's—on June 22, 2016.[60] Two days later, Laclede restored service to Mr. Edmond. [61] Laclede did not restore service to Mr. Muhammad.[62]

17. As of August 12, 2016, Mr. Muhammad's balance for gas consumption and late fees stood at approximately $4,200.[63]

Conclusions of Law

The Commission has jurisdiction and authority to rule on a complaint. [64] The issue in a complaint is whether Laclede violated any statute or Commission regulation, tariff, or order.[65] Mr. Muhammad alleges that Laclede unlawfully disconnected his service. Laclede argues that the disconnection was lawful under the provisions that allow disconnection for Mr. Muhammad's failures to pay his bill:

> (A) Nonpayment of an undisputed delinquent charge [.[66]]

A delinquent charge is undisputed until a customer takes certain actions to alert a utility of a billing problem[67] as set forth in the Commission's regulations, which then bar

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[59] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 113, line 14 through page 114, line 4.

[60] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 115, line 5 through 7.

[61] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 115, line 8 through 15.

[62] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 115, line 16 through 21.

[63] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 104 line 20 through 23.

[64] Section 393.360.1, RSMo 2000.

[65] Section 393.360.1, RSMo 2000.

[66] 4 CSR 240-13.050(1); Laclede's tariff, *P.S.C. Mo. No. 5 Consolidated* page R-12a, 14(1)(A).

[67] 4 CSR 240-13.045.

disconnection.[68] Mr. Muhammad does not allege that he took any such action as to any part of his bill.

Billing

At hearing, Mr. Muhammad offered exhibits describing a complaint by the Office of the Public Counsel alleging that Laclede has over-earned,[69] and inaccurate readings from a gas meter in Bonne Terre, Missouri.[70] But no evidence shows that Mr. Muhammad's meter was inaccurate or that Laclede has earned more than its return on equity from Mr. Muhammad as approved by the Commission. Mr. Muhammad has not shown any violation as to meter accuracy.

Mr. Muhammad cites Laclede's opportunity to install an AMR through its contractor in December 2005. Mr. Muhammad is correct that the lost opportunity for accurate readings has consequences. The period for which Laclede may collect after under-billing is:

> . . . twelve (12) monthly billing periods or four (4) quarterly billing periods, calculated from the date of discovery, inquiry or actual notification of [Laclede], whichever was first [.[71]]

That provision limited Laclede's collection to one year, leaving Laclede with an uncollectible $2,000. But the 2008 bill complied with that provision.

Mr. Muhammad argues that he should not suffer prejudice from Laclede's under-billing from November 2005 through September 2008. But the under-billing did not cause the 2015 disconnection, a safety issue did. Also, Mr. Muhammad cites no statute

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[68] 4 CSR 240-13.045.

[69] EFIS No. 67 (August 22, 2016) Exhibit No. 3 - News Report from St. Louis Today.

[70] EFIS No. 66 (August 22, 2016) Exhibit No. 2 - News Report by Mike Colombo.

[71] 4 CSR 240-13.025(1)(B); Laclede's tariff, *P.S.C. Mo. No. 5 Consolidated* page R-9, 10.B(A).

or Commission regulation, tariff, or order requiring reconnection while he had over $4,000 outstanding on his bill unrelated to, and more than six years after, the 2008 bill. Therefore, even if the 2008 bill were erroneous, it did not prejudice Mr. Muhammad.

Disconnection

Mr. Muhammad also cites a provision giving him time to pay before Laclede may disconnect him. That provision bars disconnection based on any bill:

> . . . correcting a previous underbilling, whenever [Mr. Muhammad] claims an inability to pay the corrected amount, unless [Laclede] has offered [Mr. Muhammad] a payment arrangement equal to the period of underbilling. [[72]]

Mr. Muhammad's service continued six and one-half years after the 2008 bill, more than the three years of under-billing, and much more than the one year that the 2008 bill covered. Mr. Muhammad has not shown any violation of that provision.

Mr. Muhammad cites two other provisions involving bills for service to other customers. They bar disconnection for failure to pay the bill of:

> (D) . . . another customer, unless [Mr. Muhammad] received substantial benefit and use of the service;
>
> (E) . . . a previous owner or occupant of the premises . . . except where the previous occupant remains an occupant or user [.[73]]

Mr. Muhammad offered no evidence about anyone being billed for gas consumed by anyone else. The 2015 disconnection affected Mr. Edmond, but the 2015 temporary disconnection of Mr. Edmonds was not based on Mr. Muhammad's failure to pay any bill, it was based on a safety rule. Mr. Muhammad has not shown any violation of those provisions.

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[72] 4 CSR 240-13.050(2)(F); Laclede's tariff, *P.S.C. Mo. No. 5 Consolidated* page R-12a, 14(2)(F).

[73] 4 CSR 240-13.050(2); Laclede's tariff, *P.S.C. Mo. No. 5 Consolidated* page R-12a, 14(2).

Mr. Muhammad argues that the replacement of the curb box was unlawful and a mere pretext for disconnecting his service. But Laclede cites the Commission's safety rules requiring Laclede to make that repair:

> Underground valves. Each underground service line valve must be located in a covered durable curb box or standpipe that allows ready operation of the valve and is supported independently of the service lines. [[74]]

If Laclede had not provided ready operation of the valve, it would have committed a safety violation. As to who sheared off the valve, no party has proved that person's identity, Laclede expressly makes no accusation, and the Commission makes no finding.

Mr. Muhammad attempts to impeach Laclede's credibility with statements that Laclede disconnected Mr. Muhammad from inside the duplex. [75] In support, Mr. Muhammad cites a "report" from Laclede.[76] The report of Staff[77] sets forth those statements because Staff made its report on incomplete information.[78] This report and order does not rely on that statement. And, in any event, Staff's statements do not impeach Laclede's credibility.

Mr. Muhammad argues that Laclede failed to give notice to, and evacuate residents from, the duplex when Laclede found the sheared valve and replaced the curb box. But Mr. Muhammad cites no evidence and no statute or Commission regulation, tariff, or order requiring an evacuation, or even a notice, when Laclede found the

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[74] 4 CSR 240-40.030(8)(I)3.

[75] EFIS No. 75 (September 28, 2016) *Complainant Brief*, first page, paragraph 2.D.

[76] EFIS No. 74 (September 28, 2016) *Complainant Reply Brief*, first page, paragraph 3.

[77] EFIS No. 6 (August 21, 2016) *Staff Recommendation*, page 2, paragraph 5.

[78] EFIS No. 63 (August 24, 2016) *Transcript - Volume 2*, page 74, line 7 through 20.

sheared valve or replaced the curb box; so Mr. Muhammad has not shown any violation as to notice, evacuation, or other safety provisions.

Ruling

Mr. Muhammad has not carried his burden of proving that Laclede violated any statute or Commission regulation, tariff, or order as to the 2008 bill or the 2015 disconnection. The 2015 disconnection occurred as part of a safety repair and not as a result of the 2008 bill. The 2008 bill was correct. Mr. Muhammad has not carried his burden of proving that Laclede violated any statute or any Commission regulation, tariff, or order.

THE COMMISSION ORDERS THAT:

1. All relief requested in connection with the complaint is denied.
2. This order shall be effective on November 18, 2016.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman , CC., concur;
and certify compliance with the
provisions of Section 536.080, RSMo 2000.

Dated at Jefferson City, Missouri
on this 19th day of October, 2016.

Appearances

For:	Appearing:
Chantal R. Muhammad	Chantal R. Muhammad 730 Dover St. Louis MO 63111
Laclede Gas Company	Rick Zucker 700 Market Street, 6th Floor St. Louis MO 63101
Staff of the Missouri Public Service Commission	Mark Johnson and Jeff Keevil P.O. 360 Jefferson City, MO 65102