

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Tony Walker,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2007-0162</u>
)	
Missouri Gas Energy,)	
)	
Respondent.)	

ORDER RESETTING PREHEARING CONFERENCE AND DIRECTING
THE FILING OF A PROCEDURAL SCHEDULE

Issue Date: January 18, 2007

Effective Date: January 18, 2007

On October 19, 2006,¹ Tony Walker filed a complaint with the Commission against Missouri Gas Energy ("MGE"). MGE filed its answer to the complaint on November 9, and the Staff of the Missouri Public Service Commission filed its Report on December 6.

A prehearing conference was set in this matter for December 22. In the order setting the prehearing conference the parties were advised that, pursuant to Commission Rule 4 CSR 240-2.090, "Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for

¹ All dates throughout this order refer to the year 2006 unless otherwise noted.

the failure to appear is shown.” The parties were also given the option to appear by telephone, but no such requests were made.

On December 22, the Staff and MGE entered their appearance at the prehearing conference. Mr. Walker did not appear. Mr. Walker had not requested a continuance. During the prehearing conference, the presiding officer made three attempts to contact Mr. Walker by phone using two phone numbers he had provided to the Commission, and a third number provided by another individual answering one of the calls. Mr. Walker could not be reached by phone.

Because Mr. Walker failed to make an appearance at the prehearing conference, he was directed to file a pleading with the Commission showing cause why his complaint should not be dismissed. Mr. Walker was advised that his response should explain to the Commission why he was unable to appear for the prehearing conference and why he believed he had a valid complaint given the Staff’s report concerning his gas bill. The deadline for Mr. Walker’s response was January 2, 2007. Mr. Walker failed to respond to the Commission’s December 22 order.

It was brought to the Commission’s attention that Mr. Walker changed his address. However, it should be noted that there is nothing in the record to indicate that Mr. Walker did not receive the Commission’s prior orders. The Commission had not received any returned mail and service by mail is complete upon mailing.² Nevertheless, recognizing that Mr. Walker’s mail may have been delayed, on January 3, 2007, the Commission re-mailed its December 22 show cause order to Mr. Walker’s new address and issued a separate order extending the deadline for his response to January 12, 2007.

² 4 CSR 240-2.080(17)(C)(1).

On January 17, 2007, the Commission received a letter from Mr. Walker stating that due to problems with having his mail forwarded from his old address, he had not received the Commission's show cause order until January 8, 2007. Mr. Walker's letter was postmarked on January 11, 2007, and the Commission will treat his response as being timely filed.

Mr. Walker requested the Commission reset the prehearing conference and direct the filing of a procedural schedule. Mr. Walker states that he intends to prove his claim regarding his billing dispute although he does not provide the specific reasons for why he believes his complaint is valid, as directed in the Commission's show cause order. Nevertheless, the Commission will allow this matter to proceed and will reset the prehearing conference. It is expected that the prehearing conference will provide an opportunity for the parties to further pursue settlement discussions. The parties shall jointly file a proposed procedural schedule one week after the prehearing conference.

The Commission informs the parties that this prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference. However, all parties are required to be present for the prehearing conference. **Parties must arrive in person, or appear by phone, for the prehearing conference on or before the scheduled starting time of 10:00 a.m. in order to participate.** A court reporter will be present to make of record of the parties that appear. As previously noted, failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint.

Arriving late to a prehearing conference is the equivalent of failing to appear.

Parties are expected to appear at scheduled hearings on time, or to advise the Commission of their need to appear late or to timely request a continuance. Once a hearing is adjourned, the parties who did enter an appearance and the court reporter are released. It is extremely difficult to have parties who were timely in their appearance, and court reporters that keep very busy schedules, return to the Public Service Commission for unscheduled hearing times. This is why the Commission issues advance notice of all hearings and extends various opportunities prior to any scheduled hearing for the parties to appear by phone or request a continuance. As set out below, any party who wishes to attend by telephone will be permitted to do so.

IT IS ORDERED THAT:

1. The parties shall appear at a prehearing conference to be held on February 9, 2007, beginning at 10:00 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans With Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. Any party wishing to appear by telephone shall notify the Regulatory Law Judge by calling 573-522-8459 no later than January 31, 2007.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on February 9, 2007, either in person or by phone, and shall provide the Commission

with a list of dates when that party is available to appear. This pleading shall be filed no later than January 31, 2007.

4. Any party requesting a continuance shall serve a copy of the request on every party to this complaint.

5. The parties shall jointly prepare and file a proposed procedural schedule no later than February 16, 2007.

6. This order shall become effective on January 18, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 18th day of January, 2007.