

FILED

JUL 13 2005

Missouri Public
Service Commission

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

JAMES DUDLEY)	PSC # GC- 2004-0216
Complainant)	
v.)	
)	
PSC \ COMMISSION)	
Respondent)	

COMPLAINANT MOTION FOR REVIEW

COME NOW James Dudley, (Pro- Se) is requesting this Court to review the Commission Report and Order in according to V.A.M.S. rule 386.510.

1. The Court has Jurisdiction under the rule of law in 386.510. The rule states that after the Commission denies your rehearing that the party has the right to petition the Court for Review.
2. James Dudley (Complainant) filed his Review as required by 386.510.
3. This Court is in the County where the Commission has it principal office (Cole County) as required in 386.510.
4. James Dudley the (Complainant) is only asking the Court to review the Commissions order not MGE.
5. The Commission issued its Order denying the Motion for Rehearing on November 9, 2004 in the case no. GC-2004-0216. Mr. Dudley filed his motion for Review with the Court on November 19, 2004, which is in the required time by the Rules of 386.510.
6. Mr. Dudley put everyone on notice especially the Commission.
7. Mr. Dudley sent the Commission, the Office of General Counsel, the Office of the Public Counsel as well MGE lawyer Dean L Cooper a copy of the Petition of Review.
8. Venue is proper under MO. Rev. Stat. 386.510. The PSC and the Commission are located in Jefferson City, Missouri in the County of Cole County.

Cause of Actions

1. Respondent disconnected Complainant gas service while a dispute was in action with Missouri Gas Energy (MGE) and the Public Service Commission (PSC) schedule 4pg4 #1,2,3
2. Respondent transferred a \$2,204 which was found out later that the Tenant gas bill of \$2,099 in the name of Ms.Sarha Chappelow whom either lived at 4024 Prospect or authorized someone to use her name and two years later her bill was transferred to Mr. Dudley home at 4231 Tracy in June 25, 2002. Schedule 1 and 2
3. Complainant received a gas bill in the amount of \$2,510 on July 10, 2002 at Mr. Dudley home at 4231 Tracy. schedule 1
4. Complainant did dispute that billing account of \$2,510.00 at 4231 Tracy with Respondent on July 12, and 24th of 2002 and that is two times and gas service was disconnected on July 30, 2002, .6 day later. Schedule 14
5. Later Mr. Dudley found out that MGE transferred the 4024 Prospect bill of a tenant to the complainant home at 4231 Tracy were the gas service was disconnected on July 30,2002 .schedule 10 pg3# 7,8,9,10
6. Ms. Chappelow's name was removed from the 4024 Prospect's gas billing account and was replaced with Complainant's name
7. Respondent applied the \$2,204 from 4024 Prospect along with the \$305.00 that was the June Bill for 4231 Tracy on June 25, 2002. schedule 14 b
8. Complainant received a gas bill for \$2,510.00 at 4231 Tracy on July 10, 2002.
Schedule 1

9. Complainant called Respondent on July 12, 2002 and disputed the bill with Mrs. Bussey whom worked for MGE for the property at 4231 Tracy.
10. Complainant wrote the Public Service Commission on July 18, 2002, disputing the (gas) billing account at 4231 Tracy. Schedule 4 pg 5
11. Complainant called Respondent again on July 24, 2002 disputing the gas account at 4231 Tracy. Schedule 14 , 7-24-02
12. The Public Service Commission informed MGE to stop all collection proceedings on July 30, 2002 on the billing account at 4231 Tracy. Schedule 4 pg 4 # 1,2,3

TRANSFERRED ISSUES

13. Mr. Dudley was not a customer of MGE from Sept. 25, 2000 until April 27, 2001 at 4024 Prospect Ms. Chappelow was.
14. Mr. Dudley never lived at 4024 Prospect it was always rental property.
15. The gas account was in Ms. Sarah Chappelow name whom my have lived there or allow someone to used her name.
16. Mr. Dudley never told anyone at MGE that he would be responsible for any tenant gas bill
17. MGE put Ms. Chappelow on a payment plan
18. MGE accepted 4 gas payments from Ms. Chappelow on the bill at 4024 Prospect
19. Mr. Dudley is not responsible for a tenant utilities bill. Rule 704.4 , 11: 74 Ex # 1
20. The transferred was improper in this action by MGE.

MGE TARIFFS RULES (8-8.01) AND CODE OF STATE REGULATIONS

(4 CSR – 240 -)

21. MGE did not to follow their tariffs rules from (8.80 1.) General Terms and Conditions for gas service (Section 8) Claims and Complaints Settlements- Residential Only, Ex 3 and

4 CRS 240-13.045 Dispute Ex. 1 nor 4 CSR 240-13.050 Discontinuance of Service Ex 2 #5

22. The rule of **PSC Dispute- 4 CSR-240-13.045 (#1)** A dispute must be registered with the utility at least twenty-four (24) hours prior the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by these rules. Ex 1 # 1

23. Complainant had registered with the gas utility within 24 hours. Complainant spoke with Respondent on July 12 and 24th of 2002. Complainant's gas service was disconnected on July 30, 2002. schedule 14, 7-25-2002

24. Rule of PSC 240-13.050 (#1-5) service should not have been discontinued during (#1) Service may be discontinuance for any of the following reasons. A Nonpayment of an undisputed delinquent charge (#5) A utility shall not discontinue residential service pursuant to section (1) unless written notice by first class mail is sent to the customer at service shall not be issued as to that portion of a bill which is determined to be an amount in dispute pursuant to **sections 4 CSR 240-13.045 (5) and (6)** that is least ten days prior to the date of the discontinuance. A notice of discontinuance of currently the subject of a dispute pending with the utility or complaint before the commission nor shall such a notice be issued as to any bill or portion of a bill which is the subject of a settlement agreement except after breach of the settlement agreement unless the utility inadvertently

issues the notice in which case the utility shall take necessary steps to withdraw or cancel this notice. Ex 2

25. Respondent failed to comply with General Terms and Conditions for gas service
(Section 8) Claims and Complaints Settlements- Residential Only,

8.01 complaint and disputed claims: When a customer advises the company

Prior to the date of proposed discontinuance of service that all or any part of any billing rendered is in dispute the company shall:

A. A dispute must be registered with the utility at least twenty-four (24) hours prior the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by these rules. Ex. 3

20. Complainant's had registered with the gas utility within 24 hours. Complainant spoke with Respondent on July 12 and 24th of 2002. Complainant's gas service was disconnected on July 30, 2002. Schedule 14, 7-24-2002

21. 8.06 Failure to Reach Agreement: If the company does not resolve the complaint to the satisfaction of the customer, the company representative shall advise the customer:

A. That each party has right to register an informal complaint with the Commission

B. of the address and telephone number where the customer may file an informal complaint with the Commission.

22. 8.08: Discontinuance pending Decision: The Company shall not discontinue residential service or issues a notice of discontinuance relative to the matter in dispute pending the decision of the hearing examiner or other Commission personal except pursuant to the terms of interim determination

ISSUES FOR THE COURT

James Dudley (complainant) pursuant to RSMo. # 386.510 respectfully asks that the Court review with respect to the Commission Report and Order issued in the above case

For the reasons stated herein the Report and Order is unjust, unreasonable, and unsupported by competent evidence upon MGE facts. For the following reasons and in the following respects:

1. Mr. Dudley produced documents after documents showing that MGE and MGE Attorneys, MGE staff Wanda Bussey that stated that Mr. Dudley refused to pay the total amount that his gas service was disconnected on July 30, 2002 not on July 24, 2002.

2. MGE never showed the Commission one document that a notice letter was sent out to Mr. Dudley in May, June, July, of 2002, for the amount of \$305. There is not one past due notice that the Commission looked at for the month of June in the amount of \$305 which is what MGE's issue is about.(schedule # 13a-b) Complaint's issue is the dispute of \$2,510 and the discontinuance of service, while the dispute is pending, 8.01 4CSR 240-13.045,Ex #1-3.

3. MGE never showed one document to the Commission verifying that a message was ever sent or received Mr. Dudley from any of MGE's staff.

Mr. Dudley strongly objects to the Commission not using any of his exhibit or schedules documents in their decision in this matter.

4. The Commission never ruled on 8.01 or 4CSR -240-13.45 dispute issues Ex#1-3.

5. The Commission considered only Ms. Shirley Bolden's Rebuttal when she admitted that she did not become involved in this case until July 30, 2002.

6. The Commission never considered Mrs. Wanda Bussey, MGE's attorneys, Martine Montemore, Robert Hack nor the courts documents that was sent to the Circuit Court or PSC. Schedule 10 pg 3, 7 schedule 11 pg3 # 1-13 schedule 15 MGE Answer to the PSC. Pg 4 # 1-10
7. The Commission was extremely bias in there order.
8. The Commission considered PSC Staff whom never even read the many documents that was sent to them.

DISCONTINUE OF SERVICE, FOR PAST DUE AMOUNT

Complainant feels that the Commission erred in their ruling on the disconnection issues for the amount of \$305.00 being past due and the issues of dispute.

On the issue of a past due amount of \$305.00 and the disconnection of the service at 4231 Tracy on July 30, 2002.

1. Previous in this matter does not mean past due.
2. Previous in this matter means before another amount was added to Mr. Dudley's charge of \$305.00 which was added from the transfer amount of \$2,204.00. (Schedule #1-13b)
3. Mr. Dudley was bill on 6/10/02 for \$266 and on 6/10/02 was charge \$38 for the month of June 2002 and also bill on 6/25/2002 for \$2204 that was an transferred bill.(schedule 1, 13B)
4. Mr. Dudley was never past due for the \$305.00 charge in April, May, June or July of 2002. (Schedule 13, B, C)
5. Mr. Dudley's account went like this
 1. In May of 2002 Mr. Dudley gas bill was \$266.00.
 2. On June 10, 2002 MGE transferred the \$266.00 to Mr. Dudley's June bill.

3. On June 10, 2002 MGE billed Mr. Dudley \$38.00 and added the \$38.00 to the \$266.00 which made the bill \$305.00. (Schedule 13, B)
6. In June of 2002 if MGE had not transferred the \$2,204.00 to Mr. Dudley's bill in July of 2002 the bill would have been \$305.00 for the month of July 2002.
7. From the records the bill should have read like this, Previous bill \$266.00 and current bill \$38.00 and pay this amount \$305.00 by July 22, 2002. (Schedule#1-#13b-c)
8. That was not the case because \$2,204.00 was transferred and added to the \$305.00 which made Mr. Dudley's bill \$2,2510.00.(schedule#1-13 b-c)
9. In this case the previous bill of \$305.00 was the first amount on June 10, 2002 then June 25, 2002 MGE added the transferred amount of \$2,204.00, which in this case previous before the transfer bill of \$2,204.00.
10. Still the \$305.00 was not past due until 21 days from rendition, MGE Tariff 1.08 delinquent charge.
11. Past due does not mean previous.
12. Previous does not mean past due.
13. Current does not mean past due or previous, they mean what they say.
14. Again previous mean before something was added.
15. Past due mean late or delinquent on a charge.
16. The \$305. charge was on the July 10th bill, for the June bill. Schedule 13 b 6-10-2002 .
17. And again Schedule 2, page 2 MGE told the PSC staff Tracy Leonberger that they would accept \$1,000 to restore the gas service, MGE did not say they would accept \$305.00 to restore the gas service.

18. You can't be past due for \$305.00, if you never received a bill for \$ 305. The first disconnect notice I received was for \$2,510., the second gas disconnect notice \$2,528.00 not \$305.00. (Schedule 1)

DISPUTE ISSUE

19. Mr. Dudley disputed his gas bill of \$2510 with Mrs. Wanda Bussey whom works for MGE; Mr. Dudley called MGE on the 12th and the 24th of July 2002.(schedule 14 7-24-02) MGE tariffs states in section 8 # **8.01 Dispute and Discontinuance Pending Decision** while MGE failed to adhere to their own tariff.(Ex1 #1 -3 #8.01-8.02)
20. MGE was never supposed to disconnect Mr. Dudley's gas service in July of 2002. Additionally because there was no evidence that MGE had attempted to remove the transferred bill nor make any agreement with Mr. Dudley about his gas bill for the amount of \$2,510 or the \$305 as required by MGE's tariffs **8.01-8.08 and PSC 4CSR 240-13.045.(Ex1#1-3#8.01-8.02)**
21. Mr. Dudley did receive a gas bill for the amount of \$2,510 on July 10, 2002, which showed it as a previous bill for \$305 and the transferred amount of \$2,204. (schedule#1)
22. Ms. Bolden did not become involved in this case until July 30, 2002 and she has never spoken with Mr. Dudley at all about this matter.
23. Mr. Dudley talked with MGE's staff Mrs. Wanda Bussey on July 24, 2002 and she did not mention anything about a message being left on Mr. Dudley's home. (Schedule 14,)July 24, 2002.
24. Mr. Dudley talked with MGE staff Mrs. Wanda Bussey on July 24, 2002 and there was no mention of Mr. Dudley's gas service being disconnected at that time. Schedule 14

25. When Mr. Dudley called MGE on July 12 he stated to Mrs. Wanda Bussey that the \$2510 was not his bill that made it a dispute.(Ex1#1-3#8.01)

PREPONDERANCE OF THE EVIDENCE

1. MGE failed to show any evidence that Mr. Dudley received a bill for \$305 before July10, 2002.
2. MGE failed to show any evidence that the gas service at Mr. Dudley's home at 4231 Tracy was not disconnected for any other reason than the transferred bill of Ms. Sarah Chappelow's gas bill at 4024 Prospect.
3. MGE failed to show any evidence that Mr. Dudley did not dispute the gas bill he received from MGE in the amount of \$2510.
4. MGE only evidence was Ms. Shirley Bolden's uncorroborated testimony as to these facts. Who only became apart of this case on July 30, 2002 .
5. Further MGE failed to provide any records indicating that Mr. Dudley was **PAST DUE FOR \$305** .

In light of this as well as additional evidence considered by the Commission the Commissions decision is unsupported by competent and substantial evidence.

6. Mr. Dudley's gas service at 4231 Tracy was disconnected on July 30, 2002, not on July 24, 2002. Complaint's schedule 10, page 3 #
7. Mr. Dudley was not past due for \$305.
8. Mr. Dudley was never notified of having to make any kind of payment for the amount of \$305 from Mrs. Bussey nor Ms. Bolden.

BASIS FOR DISCONTINUANCE

COMPLAINANT SCHEDULES AND EXHIBITS

#1 Shows THE \$2,510 under to avoid and NOT \$305 that Mr. Dudley received on July 10, 2002.

#2 PSC response letter August 23, 2002, (PG 2 line 1, 2, 3) shows MGE asking for \$1,000 to restored Mr. Dudley gas service not \$305.

5 Shows that MGE was asking for \$ 2,586 not \$305 in August, 2002

6 Shows that MGE was asking for \$ 2,895 not 305 in 8/15/2003

7 Shows that MGE was asking for \$ 2,895 not 305 in 9/5/2003

8 Shows that MGE was asking for \$ 2,256 not 305 in 11/11/2002

9 Statement shows that MGE was asking for \$ 2,797 not 305 in Nov 6, 2002

#10 MGE Motion for Summary Judgment Uncontroverted Facts, Page 3 #7, 8, 9, 10. Not July 24th, but on July 30, 2002. Shows that MGE was disconnecting Mr. Dudley gas service because of the transfer bill and that service was disconnected on July 30, 2002 not July 24, 2002

In November 6, 2002, Affidavit of **Wand Bussey** not **Ms. Bolden**, (Page 5 #15, 16,17,18) not on July 24, but on July 30, 2002 and no mention of Mr. Dudley gas service being disconnected for the past due, of \$305 being the reason for the disconnection of 4231 Tracy.

#11 Motion for Summary Judgment-page 1 #7, 8,9,10 still on July 30, 2002 not July 24, 2002.

(Page 3 #3, 4, 5, 6,) still on July 30, 2002 not on July 24, 2002 and after refusal to pay the total amount.

#12 Suggestions in Opposition, Page 1 #5,6,7,8,9,10,11,12 not for the amount of \$305 but total amount.

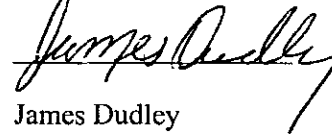
Page 6 1,2,3,4,5,6,7,8,9,10,11,12 not for the amount of \$305 and not on July 24, as Ms. Bolden stated, but on July 30, 2002.

Remedies and relief

- (a) To confirm the transfer order.
- (b) Reverse the order of the Commission of the Discontinue of Service.

WHEREFORE, James Dudley petitioner pray that's the Court dismisses the Commissions Order of the Discontinue of Service and confirms the Transfer order.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James Dudley", written over a horizontal line.

James Dudley
4247 Agnes
Kansas City, MO 64130
(816) 682-1689

CERTIFICATE OF SERVICE


I hereby certify that United State Mail mailed a copy of the above document on this 10 day of July ~~June~~ 2005 to:

Dean L. Cooper # 36592
Of BRYDON, SWEARENGEN & ENGLAND P.C.
312 East Capitol Avenue
P.O.Box 456
Jefferson City MO. 65102-0456

SECRETARY OF THE COMISSION
OF THE PUBLIC SERVICE COMMISSION
PO. BOX 360
JEFFERSON CITY MO. 65102

MISSOURI PUBLIC SERVICE COMMISSION
PO. BOX 360
JEFFERSON CIYT MO. 65102
OFFICE OF THE GENERAL COUNSEL

MISSOURI PUBLIC SERVICE COMMISSION
PO. BOX 360
JEFFERSON CIYT MO. 65102
OFFICE OF THE PUBLIC COUNSEL



James Dudley