

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

February 9, 2007
Jefferson City, Missouri
Volume 2

TONY WALKER,)
)
Petitioner,)
)
vs.) Case No. GC-2007-0162
)
MISSOURI GAS ENERGY)
)
Respondent.)

HAROLD STEARLEY, Presiding
REGULATORY LAW JUDGE

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1 P R O C E E D I N G S

2 JUDGE STEARLEY: All right. Good morning. It's
3 Friday, February 9th, 2007, and we are here for the second
4 attempt at a prehearing conference with Mr. Tony Walker in
5 the case Tony Walker versus Missouri Gas Energy, Case No.
6 GC-2007-0162.

7 My name is Harold Stearley. I'm the presiding
8 officer in this matter. And we'll begin with taking oral
9 entries of appearance beginning with Staff.

10 MR. FRANSON: My name is Robert Franson. I am
11 Senior Counsel with the Missouri Public Service Commission
12 representing the Staff of the Public Service Commission,
13 P.O. Box 360, Jefferson City, Missouri, 65102.

14 JUDGE STEARLEY: Okay. And for MGE?

15 MS. CARTER: Diana Carter with Brydon,
16 Swearngen & England, 312 East Capitol Avenue, Jefferson
17 City, Missouri, for Missouri Gas Energy.

18 JUDGE STEARLEY: Okay. Just prior to going on
19 the record, we attempted to call into our phone bridge,
20 which was established for Mr. Walker's participation, and
21 he was not on the line at that time. We're going to try
22 again now while we are on the record.

23 MR. FRANSON: Actually, Judge, don't we have to
24 call in first to establish the phone bridge?

25 JUDGE STEARLEY: Actually, each time I've called

1 in on these, it will continual ring unless somebody else
2 is connected. So -- but we had -- we will continue to
3 try. And we'll try calling his home number as well if he
4 -- if we don't hook up with him on the phone bridge. If
5 he -- if he had called in, it would pick up. But it's
6 continually ringing so -- I'm going to go ahead and try
7 him at his home number. I have two numbers. We will try
8 them.

9 RECORDING: I'm sorry. Your restriction level
10 does not allow access to the number dialed.

11 JUDGE STEARLEY: Very well. He must have caller
12 block on unidentified lines.

13 MR. FRANSON: That could be. But, ordinarily,
14 what they do is give you an opportunity to identify
15 yourself or unblock it, the ones I've seen. My -- my
16 son's daycare has that. And --

17 RECORDING: I'm sorry. Your restriction level
18 does not allow access to the number dialed. If you feel
19 you have reached this recording in error --

20 MR. FRANSON: And they will give you an
21 opportunity to say you are so-and-so or unblock your
22 number. I have no clue how to unblock the number, and
23 then I usually identify myself. And then I get through.

24 JUDGE STEARLEY: We'll try the phone bridge one
25 last time.

1 (Phone call was placed. No answer received.)

2 JUDGE STEARLEY: Okay. Very well. Notice on
3 this prehearing conference went out well in advance. An
4 additional notice was provided on how to participate by
5 phone. Plus, I had made contact with Mr. Walker by phone
6 advising him that he could attend by phone, which he
7 actually said was his preference. And I made phone
8 contact to provide him with the number as well as sending
9 him written notice.

10 Despite these various contacts, Mr. Walker has
11 not appeared today by either telephone or in person. And
12 at this point, I will cancel -- I had already planned on
13 canceling the requirements for any procedural schedule,
14 and I will be, I guess -- I could give, at most,
15 Mr. Walker one last opportunity to show cause for his
16 failure to appear, after which we'll follow up with an
17 order to dismiss this action.

18 MR. FRANSON: Judge, would -- would you
19 entertain or need a Motion to Dismiss made here on the
20 record today?

21 JUDGE STEARLEY: If -- if you would like to go
22 ahead and place one on the record verbally, that's fine.

23 MR. FRANSON: I -- I would. We have now been
24 here twice for prehearing conferences. And I'm sorry. I
25 don't have the date of the first one. But now we've been

1 here a second time, and Mr. Walker has failed to appear
2 twice.

3 He has had more than sufficient opportunity and
4 certainly any problems on -- as far as being allowed to
5 appear by phone that has alleviated it. The fact that you
6 are calling him alleviates any other concerns. He has not
7 shown up for this.

8 And, Judge, the Staff's recommendation in this
9 case was to dismiss the complaint. Now, the specific
10 reasons for that are highly confidential. I'm not going
11 to go into that.

12 But this Motion to Dismiss is two-fold. One,
13 for all the reasons found in the Staff's recommendations,
14 the case should be dismissed. And, two, now for
15 procedural grounds, failure to prosecute.

16 Mr. Walker, twice, has failed to appear for
17 prehearing conferences. And so on the grounds in our
18 Staff's recommendation is one. And two is the failure to
19 prosecute his complaint.

20 Judge, I would make a motion to dismiss this
21 case with prejudice so that it is over and done with.

22 MS. CARTER: Missouri Gas Energy would, of
23 course, concur in that.

24 JUDGE STEARLEY: All right. And I -- I know you
25 already have requested both in your -- in your answer and

1 in Staff's report that it be dismissed. And it's
2 certainly gone beyond 90 days on when Mr. Walker first
3 filed his complaint, and he has failed to prosecute. And
4 he's failed to appear, so he is now also in violation of
5 Commission order. So we'll take your motions under
6 consideration, and we'll proceed from there.

7 Are there any other matters we need to address
8 today while we're on the record?

9 MR. FRANSON: Not that I'm aware, your Honor.

10 MS. CARTER: No, Judge.

11 JUDGE STEARLEY: Okay. I'd like to thank you
12 both for appearing, and we will go off the record.

13 MR. FRANSON: Thank you.

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