

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 1st day of  
November, 2007.

Stanley Lewis,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>Case No. GC-2007-0267</u></b>
	)	
Laclede Gas,	)	
	)	
Respondent.	)	

**ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE**

Issue Date: November 1, 2007

Effective Date: November 11, 2007

Stanley Lewis filed a formal complaint against Laclede Gas Company ("Laclede") on January 16, 2007.<sup>1</sup> By order dated October 4, the Commission set the matter for a prehearing conference in Room 305 of the Governor Office Building on Wednesday, October 17, beginning at 2:00 p.m. As permitted by the order, Laclede requested to participate via telephone on October 10. No continuance was secured or requested by any party beforehand, and the conference was convened at the scheduled time. While Laclede and the Office of the Public Counsel appeared via phone and Staff appeared in person, Mr. Lewis did not appear for the prehearing conference, either by telephone or in person.

As the Commission explicitly advised the parties in its October 4 order, Commission Rule 4 CSR 240-2.090(5) states: "Failure to appear at a prehearing conference without

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<sup>1</sup> Unless otherwise specified, all dates in this order refer to the 2007 calendar year.

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 the failure to appear is shown." Furthermore, the order also expressly stated that "the parties are required to be present for the prehearing conference," either in person or by telephone. Since Mr. Lewis failed to appear at the October 17 prehearing conference without previously having requested or secured a continuance, under the plain terms of this Rule, his complaint became subject to dismissal unless he showed "good cause for [his] failure to appear." Accordingly, by order dated October 18, the Commission gave Mr. Lewis eleven days (*i.e.*, until October 29) to file a pleading showing good cause for his failure to appear at the prehearing conference.<sup>2</sup>

The October 29 deadline has passed, but Mr. Lewis has not filed such a pleading. Commission Rule 4 CSR 240-2.116(3) provides that a "party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, prehearing conference, hearing, or mediation session." Likewise, Commission Rule 4 CSR 240-2.070(6) permits the Commission, on its own motion or the motion of a party, to dismiss a complaint for "failure to comply with any provision of [its] rules or an order of the commission." As "[t]he law helps those who help themselves, generally aids the vigilant, but rarely the sleeping, and never the acquiescent,"<sup>3</sup> Mr. Lewis' complaint against Laclede will be dismissed without prejudice pursuant to Commission Rules 4 CSR 240-2.090(5), 4 CSR 240-2.116(3), and 4 CSR 240-2.070(6).

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<sup>2</sup> Commission Rule 4 CSR 240-2.116(4) states that a "case may be dismissed . . . after a minimum of ten (10) days notice to all parties involved."

<sup>3</sup> *Hannan v. Dusch*, 153 S.E. 824, 831 (Va. 1930).

**IT IS ORDERED THAT:**

1. Stanley Lewis' complaint against Laclede Gas Company in Case No. EC-2007-0267 is dismissed without prejudice.
2. This order shall become effective on November 11, 2007.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale  
Secretary

( S E A L )

Davis, Chm., Murray, Clayton, Jarrett, CC., concur.  
Appling, C., absent

Lane, Regulatory Law Judge