

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

MICHAEL E. MCKINZY, SR.,)
)
 Complainant,)
)
V.) Case No. GC-2003-0579
)
MISSOURI GAS ENERGY,)
)
 Respondent.)

PREHEARING CONFERENCE
Volume 1
Monday, December 1, 2003
Governor Office Building
200 Madison Street
Jefferson City, Missouri 65101

VICKY RUTH, Presiding,
SENIOR REGULATORY LAW JUDGE

REPORTED BY:

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

2 RLJ RUTH: Good morning.

3 We're here for a prehearing conference in
4 Case No. GC-2003-0579, in the matter of Michael E.
5 McKinzy, Sr., Complainant, versus Missouri Gas Energy,
6 Respondent.

7 My name is Vicky Ruth, and I'm the regulatory
8 law judge assigned to this case. Today's date is Monday,
9 December 1st, 2003, and it is a few minutes after
10 10:00 a.m.

11 Let's begin by taking entries of appearance.

12 Mr. McKinzy, I understand you're representing
13 yourself, but for the record --

14 MR. MCKINZY: Yes.

15 RLJ RUTH: -- would you state your name and
16 spell it for the record.

17 MR. MCKINZY: Michael, M-i-c-h-a-e-l, middle
18 initial E., last name McKinzy, M-c-K-i-n-z-y, Sr.

19 RLJ RUTH: And would you state your residence
20 address for the record?

21 MR. MCKINZY: Residence address, 8004 Overton,
22 Raytown, Missouri 64138.

23 RLJ RUTH: Is it Overton Drive, Lane, Street?

24 MR. MCKINZY: I've had some complications
25 over -- I've had it a road, drive, avenue.

1 And the sign, I went outside to actually look
2 at, and it just says Overton. So it varies depending on
3 whose -- who is mailing me correspondence.

4 RLJ RUTH: I thought I'd check because I saw --
5 the record refers to it several different ways.

6 MR. MCKINZY: Yes.

7 I just moved there since March, so I don't have
8 much history in the area.

9 RLJ RUTH: Okay.

10 The next, MGE.

11 MR. COOPER: Dean Cooper, the law firm of
12 Brydon, Swearngen & England, P. O. Box 456,
13 Jefferson City, Missouri 65102, appearing on behalf of
14 the Missouri Gas Energy, a Division of Southern Union
15 Company.

16 RLJ RUTH: Thank you.

17 Public Counsel.

18 MR. MICHEEL: Douglas E. Micheel appearing on
19 behalf of the Office of Public Counsel, P. O. Box 2230,
20 Jefferson City, Missouri 65102-2230.

21 RLJ RUTH: And Staff.

22 MR. BERLIN: Robert S. Berlin appearing on
23 behalf of Staff of the Public Service Commission,
24 Post Office Box 360, Jefferson City, Missouri 65102.

25 RLJ RUTH: Thank you.

1 The purpose of today's prehearing conference is
2 to give the parties an opportunity to get together,
3 decide exactly what is still at issue and possibly for
4 the parties to resolve whatever may still be at issue.

5 The parties will also need to discuss a
6 proposed procedural schedule if the outcome of today's
7 discussion is not a resolution.

8 The Commission also wants to clarify the extent
9 to which you, Mr. McKinzy, believe that your complaint
10 has been resolved.

11 One of the pleadings filed by MGE indicates
12 that they believe that the matter might be settled, but
13 based on my review of the pleadings, I was not sure all
14 of your concerns had been addressed, and I want to get
15 that on the record.

16 MR. MCKINZY: Okay.

17 RLJ RUTH: Okay?

18 Do the parties have anything else that needs to
19 be brought up today?

20 MR. COOPER: Not at this point, Your Honor.

21 RLJ RUTH: Okay.

22 The previous order scheduling this hearing had
23 indicated that a procedural schedule was due
24 December 10th.

25 If the parties discuss this matter this

1 afternoon and decide that a procedural schedule is not
2 necessary or that additional time is needed before that
3 procedural schedule is filed, one of you will have to
4 take it upon yourself to file something in the record.
5 Otherwise, I expect to see a procedural schedule on the
6 10th.

7 Now, Mr. McKinzy, I assume you have copies of
8 the pleadings --

9 MR. MCKINZY: Yes.

10 RLJ RUTH: -- the documents that the other
11 parties have filed?

12 Could you tell me if you believe that this
13 matter is settled, and if not, exactly what you still see
14 as your complaint.

15 MR. MCKINZY: Okay. I do not believe this
16 matter -- this matter is settled due to the fact that it
17 does not address the issue of how the tariffs were not
18 followed in my case, and my service should have never
19 been denied in that the tariffs stated that -- the
20 tariffs as stated -- as they stated did not apply to my
21 instance, and they were applied to me and my family and I
22 was subjected to go without service for several months.

23 And I would like this to be a possible way of
24 having to make anyone else who may be in a similar
25 situation not to suffer like my family and I were made to

1 suffer. Something that should have tooke (sic) a day
2 took over three months to have service transferred from
3 one residence to another. And that's what I really
4 wanted to get at.

5 The fact that the service is now on does not
6 address the fact that it should have never been
7 discontinued in the first place, because I was not
8 personally in -- in arrears concerning my gas service
9 with MGE.

10 RLJ RUTH: Okay.

11 I just want to make sure I understand and get
12 it clarified for the record.

13 You feel that the tariffs, the company's
14 tariffs, were actually not followed?

15 MR. MCKINZY: Right.

16 RLJ RUTH: Can you explain that further?

17 MR. MCKINZY: Okay.

18 I was not given any written or verbal notice
19 prior to the service being disconnected. That's in their
20 tariffs that they're to give verbal notice.

21 RLJ RUTH: Was the service disconnected or did
22 they refuse to transfer? Just refresh my memory.

23 MR. MCKINZY: Okay. What occurred is I
24 relocated from a previous address, 8609 East 87th Street
25 in Raytown, to 8004 Overton, and I requested transfer of

1 service.

2 When I moved into the residence on Overton, the
3 gas was on in the person who I was leasing from.

4 RLJ RUTH: Okay.

5 MR. MCKINZY: And I attempted to have the
6 service transferred to my name, and they refused to after
7 they discovered that I had remarried. And the debt of my
8 new wife had occurred prior to me knowing her.

9 And that came forth because they attempted to
10 initially transfer the service to my ex-wife's name. And
11 after I made them aware that I had divorced her and, in
12 fact, remarried, they requested my new wife's name and
13 Social Security number and did a credit check and came
14 out with an outstanding debt.

15 And I informed them that my current wife did
16 not reside with me, and they still insisted that I pay
17 her existing -- her overdue bill prior to transferring my
18 service.

19 They initially agreed -- agreed to transfer the
20 service the next day, but in the continuation of
21 communication on the phone and me informing them that I
22 had been divorced and remarried and also informed them
23 that my current wife did not reside with me, it led from
24 my service being discontinued.

25 And it took from March -- from April the

1 16th -- or April the 18th -- or June the 18th to
2 September the 11th that my residence was without gas
3 service and was based on a debt that I did not owe.

4 And I feel that it was obvious and evident that
5 it was something that could have been based on -- the
6 current tariffs had to be followed, that this would not
7 have occurred.

8 RLJ RUTH: Okay.

9 I don't want to put words in your mouth, but I
10 want to make sure I understand your position.

11 So when you say that the tariffs weren't
12 followed, you mean they did not provide you with written
13 notice?

14 MR. MCKINZY: Right.

15 RLJ RUTH: And then, also, they were -- in your
16 opinion they were attempting to transfer a debt to you
17 that you did not owe something?

18 MR. MCKINZY: Right. And that's -- they did
19 not provide me with written notice. They did not present
20 the debt in writing. They did not give written notice or
21 verbal notice prior to discontinuing my service.

22 I had a residence at the period of time that
23 they were attempting to collect that the -- the period
24 that covered the outstanding debt, I had a separate
25 residence that I was residing at, and I had an active

1 account in my name that they provided me documentation to
2 substantiate.

3 So they had knowledge that -- in the process
4 that they were able to -- had access to, to show that I
5 was residing elsewhere during the same period that they
6 were attempting to collect from.

7 So it comes down, they wanted -- they accepted
8 the payment for the service I used during that time
9 period and now they attempted to make me pay for an
10 additional person's service.

11 RLJ RUTH: And when you say service was
12 discontinued on Overton, it's really a case of service
13 was actually in someone else's name, the landlord or the
14 previous tenant?

15 MR. MCKINZY: True.

16 RLJ RUTH: So you had service for a very brief
17 time when you moved?

18 MR. MCKINZY: Right.

19 RLJ RUTH: But then when you needed the service
20 in your name --

21 MR. MCKINZY: They refused.

22 RLJ RUTH: -- they cut off the service from the
23 previous person's name and did not put service in in your
24 name?

25 MR. MCKINZY: True.

1 RLJ RUTH: Now, one of the pleadings that MGE
2 filed suggests that the Company did start gas service to
3 Overton perhaps -- yes, September 11th is what they say,
4 and then MGE also states that your account has had a
5 notation added such that the debt of your wife will not
6 be transferred to the Overton account absent evidence
7 that your wife is living there.

8 MR. MCKINZY: Right.

9 And that's a conditional stipulation that I
10 don't feel should apply and does not apply.

11 RLJ RUTH: Okay.

12 MR. MCKINZY: Because the debt that they were
13 attempting to collect, she was not a member of my
14 household.

15 My wife and I maintained separate households
16 from prior to us marrying, and after she maintained to
17 reside where she was residing, prior to me entering --
18 moving into the Overton address.

19 She never began residing with me on the Overton
20 address. So she was not a member of my household at any
21 time. And the fact that there is a tariff that I can
22 refer to.

23 I would like to state that they were not
24 supposed to discontinue service when they're attempting
25 to have you pay for someone else's debt, unless the

1 person you're attempting to discontinue service received
2 benefit and service, and the fact that I did not reside
3 at the residence ever where the debt was occurred met
4 that qualification.

5 RLJ RUTH: So did you even know your wife --

6 MR. MCKINZY: I did not know her at the time.
7 We met November of last year. This debt is from '98 to
8 '99.

9 So at the time I was married to my ex-wife and
10 I had four kids that reside at my residence at 4020 East
11 51st Terrace in Kansas city, Missouri, and that was
12 documentation verified by -- I requested an activity
13 report, which I brought with me today.

14 And they sent showing the starting of service,
15 and it covers the period that they were attempting to
16 collect from me at my residence.

17 RLJ RUTH: Okay. Then I want to make sure I
18 get it on the record.

19 MGE's September 12th filing states, quote, on
20 information and belief counsel for MGE states that the
21 action taken by MGE should satisfy the complainant, end
22 quote.

23 And that's referring to the fact that MGE has
24 started service at your residence and that MGE will not
25 transfer the bill unless your wife moves in with you.

1 It's my understanding that you would disagree
2 with MGE's statement and you do not feel that they have
3 resolved your complaint?

4 MR. MCKINZY: That's true.

5 RLJ RUTH: Okay. Now, you mentioned that you
6 might have some documents you wanted to --

7 MR. MCKINZY: Yes.

8 RLJ RUTH: -- offer into the record.

9 MR. MCKINZY: I've attempted to put in writing
10 the relevant facts concerning my residency during the
11 periods, and I've submitted -- prepared an affidavit. I
12 have an original. I'm not sure -- it's a five-page
13 affidavit. It's notarized by a notary public, and it
14 details my purchase of my residence from 4020 East 51st
15 Terrace back in '93 and that I had active service there
16 during the period of time that the debt in question was
17 occurred.

18 And it gives detailed chronological order of my
19 residency from '93 up until the present time from
20 4020 East 51st Terrace to 8609 East 87th Street,
21 currently on 8004 Overton, and at all times my gas
22 service was in my name.

23 It gives also a testament to really the fact
24 that my wife did not reside with me at my Overton
25 address.

1 RLJ RUTH: May I see the document?
2 And do you have copies?
3 MR. MCKINZY: Yes.
4 This is the original.
5 RLJ RUTH: And so you have two copies?
6 MR. MCKINZY: Okay.
7 MR. MICHEEL: That's all right, Judge. I'll go
8 get a copy from one of the other parties.
9 RLJ RUTH: We can also go upstairs afterwards
10 and I can get you a copy.
11 I'm going to mark this affidavit of Michael E.
12 McKinzy, Sr. as Exhibit 1. It is a five-page document.
13 And my copy, the original copy, does have a notary seal
14 stamped on the back.
15 Are there any objections to this document being
16 admitted into the record?
17 MR. COOPER: Yes, Your Honor, at this point in
18 time, for a couple of reasons.
19 One, we haven't had a chance to thoroughly
20 review it; two, I don't think prehearing conferences are
21 generally utilized for fact gathering.
22 Now, that having been said, let me go further.
23 If you -- I would not object to obviously the marking,
24 which has been done, and perhaps the provision of a week
25 to ten days for me to either file an objection or not

1 file an objection to its admission into evidence.

2 RLJ RUTH: Okay.

3 If I do not admit this at the prehearing
4 conference -- and you're right, prehearing conferences
5 generally are not for fact finding -- it would be my
6 understanding that Mr. McKinzy could still file it as a
7 supplemental document to the record however.

8 MR. MCKINZY: Which I had intended to mail
9 through the mail, but due to the closeness of the
10 hearing, I thought it would be best served to bring it in
11 person.

12 I had intended to provide a mailed copy into
13 the Commission, Public Service Commission, to be made a
14 part of the record.

15 RLJ RUTH: What I'm going to do now is I will
16 mark it just for identification purposes, and MGE or
17 anyone else, if you have objections, file them by --
18 let's see.

19 You wanted ten days?

20 MR. COOPER: Yes.

21 RLJ RUTH: And what is the 10th or the 11th?
22 Does anyone have a calendar? Is that next, like,
23 Wednesday?

24 MR. COOPER: The 10th is a Wednesday.

25 You know, Your Honor, the other possibility is

1 what Mr. McKinzy really wants to do is make it a
2 supplemental pleading of some sort. I mean, I suppose we
3 can make it a pleading without admitting it into
4 evidence.

5 MR. MCKINZY: Well, I would like it to be made
6 a part of the evidence. I'm not sure if this is the
7 proper way, but that's the whole -- I would like to get
8 my affidavit as a personal account of my history --
9 residential history and my gas service with MGE, so they
10 can clarify that the pertinent times where I resided and
11 where my gas was in my name at.

12 RLJ RUTH: I understand what you're trying to
13 do. My problem is, I can't actually represent you.

14 MR. MCKINZY: Okay.

15 RLJ RUTH: There is one way to go about it,
16 which is what you did. You brought it as an exhibit.
17 However, if it's going to be made an exhibit and made
18 part of the record this way through the prehearing
19 conference, I am going to allow the parties 10 days to
20 object.

21 MR. MCKINZY: Okay.

22 RLJ RUTH: However, if you want to instead take
23 back the document, you can file it as a supplemental
24 pleading. You've filed other things --

25 MR. MCKINZY: Yes.

1 RLJ RUTH: -- and had attachments.
2 MR. MCKINZY: And it became part of the record.
3 RLJ RUTH: It could be done in a similar
4 manner.
5 MR. MCKINZY: Okay.
6 RLJ RUTH: It's up to you.
7 MR. MCKINZY: Well, I think I can withdraw and
8 just make it a supplemental pleading so that it can be
9 definitely made a part of the record without any
10 objections being made to it if it's submitted that way.
11 RLJ RUTH: I used a pencil, so I erased my
12 markings.
13 Here is your original.
14 MR. MCKINZY: Thanks.
15 RLJ RUTH: Now, Mr. Cooper, since this is not a
16 hearing, you don't actually have an opportunity to
17 cross-examine Mr. McKinzy, but if you would like to make
18 a statement, you certainly may at this time.
19 I'm going to allow anyone who wants to make a
20 statement of their position at this time and then I will
21 leave the room. We'll conclude the on-the-record portion
22 and give the parties an opportunity to discuss this
23 matter.
24 If it cannot be resolved, then I'll expect that
25 proposed procedural schedule. If it is resolved, then

1 hopefully something will be filed to that effect.

2 MR. COOPER: Your Honor, let me -- rather than
3 any sort of formal statement -- because I don't know that
4 we have a whole lot of decisions for the Commission to
5 make, I guess, here today, or for yourself to make here
6 today.

7 What I would, I guess, want to discuss with you
8 is the possibility of in this circumstance some sort of
9 motion for summary determination.

10 Obviously, I guess it's up to the company to
11 pursue such a thing if it would like to. But having
12 listened to Mr. McKinzy today, it seems like our -- the
13 basis of our dispute here really is what do MGE's tariffs
14 say, and I guess, two, maybe what does that mean under
15 the circumstances that we're presented here with.

16 I don't know that we have a big dispute over
17 the fact themselves, listening to Mr. McKinzy. I think
18 we probably have a difference maybe on the meaning of
19 discontinue versus commencing service and some things
20 like that. But I think that's really a question of a
21 tariff issue.

22 And I guess my question for you really is, if
23 we were to commit to make such a filing and take the
24 Commission down that road, would that be sufficient
25 reason to put off or to not necessarily establish a

1 procedural schedule until the Commission were able to
2 deal with those -- I guess what I would allege are really
3 kind of questions of law related to the tariffs, as
4 opposed to moving our way towards an evidentiary hearing
5 which may not be necessary?

6 RLJ RUTH: The Commission would be willing to
7 postpone the filing of a proposed procedural schedule for
8 a short time, not indefinitely.

9 I think it would be moved as an extension,
10 X number of days.

11 MR. MCKINZY: I would object to that,
12 Your Honor.

13 This ordeal began with my family and I back in
14 March and any unnecessary delay -- I feel that what is
15 really needed in this case is just a determination of
16 whether or not the tariffs were followed by MGE, and I
17 think that's based on the evidence presented and that's
18 what is needed to go forth here as to continue the
19 process.

20 And if the conclusion that is reached, that
21 they did, in fact, follow the tariffs that someone filed,
22 then this case would be dismissed. But any unnecessary
23 delay would be a hardship for me, to continue to go back
24 and postpone my life, you know, unnecessarily, and that I
25 would like to have this resolved as quickly as possible.

1 And I would object on the record of any requested delays.

2 I would not be in agreement with that.

3 MR. MICHEEL: Your Honor, I see no need to
4 postpone the setting of the procedural schedule.

5 Mr. Cooper has every right under Commission
6 rule to file a motion for summary judgment. The 30 days
7 has run under the rule. He could file his motion
8 tomorrow.

9 I don't think that necessitates some sort of
10 postponement of the procedural schedule.

11 I mean, you have a pro se complainant here who
12 has obviously taken the time and energy to go down this
13 path, and I think it's not harmful to set a procedural
14 schedule.

15 If, in the interim, after Mr. Cooper chooses to
16 file his motion for summary disposition, the Commission
17 rules in Mr. Cooper's client's favor, then the procedural
18 schedule is by operation of law postponed.

19 But I don't see any reason to postpone setting
20 the procedural schedule, Your Honor.

21 RLJ RUTH: And your comments are noted. I'm
22 not changing the deadline today.

23 The deadline is still December 10th unless a
24 motion to extend is received and granted by the
25 Commission. And whether or not they grant it would

1 depend on what gets filed and what five commissioners --
2 three of five commissioners want to do.

3 They do sometimes, however, extend those
4 procedural schedules -- the filing of a procedural
5 schedule if it looks like the matter might be resolved in
6 the meantime.

7 I am just stating that not as a prediction as
8 to what would happen here --

9 MR. MCKINZY: A possibility.

10 RLJ RUTH: -- but just as a comment.

11 Okay.

12 MR. COOPER: And certainly I understand
13 Mr. McKinzy's point, that he doesn't want to delay the
14 proceeding.

15 My suggestion really is that perhaps because
16 it's been laid out, a question of what the tariffs say,
17 that, perhaps, a summary determination is a quicker way
18 to get to the answer than a hearing, but that's --

19 RLJ RUTH: And it's up to MGE if you want to
20 file that.

21 However, I assume we'll go off the record in
22 just a few minutes, and at that point I would encourage
23 the parties to discuss potential procedural schedules if
24 it should go that way.

25 There is a calendar on the ninth floor that has

1 the -- it has when the hearings are already scheduled, so
2 that we can -- the parties could look at that and see
3 what might be available.

4 You can tentatively work out some dates should
5 it go that way. And if you decide on dates, it would be
6 helpful if one of you would tell me, and I can put those
7 dates in yellow on the calendar as a tentative
8 protection. Otherwise, when you come back in a week or
9 two weeks or three weeks, if the hearing is necessary,
10 that date may be gone.

11 MR. MCKINZY: Okay.

12 RLJ RUTH: Mr. Cooper, did you have anything
13 further you wanted to state?

14 MR. COOPER: No. That's it, Your Honor.

15 RLJ RUTH: Mr. Micheel?

16 MR. MICHEEL: No, Your Honor.

17 RLJ RUTH: Staff?

18 MR. BERLIN: Yes, Staff would like to make a
19 statement.

20 Staff certainly recognizes Mr. McKinzy's
21 hardship in this complaint, but would like to also note
22 that the remedies asked for by Mr. McKinzy have been
23 granted in this complaint case.

24 It is Staff's understanding that his gas
25 service was turned on by MGE on September 10th, and that

1 MGE did note Mr. McKinzy's account, that the past debt of
2 Mr. McKinzy's wife, Tamara Nance, will not be transferred
3 to Mr. McKinzy's account.

4 RLJ RUTH: Absent evidence that she is residing
5 there.

6 MR. BERLIN: Staff has a difficult time
7 understanding -- basing a procedural schedule on a
8 hypothetical event or a fact scenario that has not been
9 played out.

10 Absent Mr. McKinzy's wife living there, that
11 comment is a hypothetical situation with no factual
12 basis.

13 Staff would be hard-pressed to develop a
14 procedural schedule around a hypothetical-fact scenario,
15 but certainly the Commission can advance such
16 hypothetical question to the Staff to make -- to make
17 some sort of an opinion outside the boundaries of this
18 particular case.

19 It is Staff's view that this case -- and in
20 this case, the remedies have been achieved, in that
21 Mr. McKinzy's gas service was turned on September 10th
22 and his account was duly noted.

23 What happens in the future with regard to
24 Mr. McKinzy's wife and/or how MGE may choose to respond
25 to that may form the basis of a complaint case in the

1 future or it may not.

2 MR. MCKINZY: I'd like to respond to that.

3 MR. MICHEEL: I'd like to also respond.

4 RLJ RUTH: Just a minute.

5 May I ask a question first?

6 MR. MICHEEL: Sure.

7 RLJ RUTH: I just want to make sure I'm

8 remembering correctly.

9 And Staff's recommendation filed back in early

10 September was Staff's opinion that the tariff provides

11 that Mr. McKinzy should not be obligated to pay his

12 wife's bill whether she's living with him or not?

13 MR. BERLIN: That is correct.

14 RLJ RUTH: But Staff does not feel that the

15 Commission should at this point address that scenario?

16 For instance, if Mr. McKinzy intends for his

17 wife to move in with him, then the bill would be

18 transferred over to -- the wife's bill would be

19 transferred to this account, Staff does not want to get

20 into the what if's, if you will?

21 MR. BERLIN: Basically, Your Honor, that's

22 correct.

23 We do not deny MGE having a right to collect a

24 past-due account.

25 RLJ RUTH: But based on your interpretation of

1 the tariff, do they have the right to transfer the wife's
2 bill to the Overton account should she move in with
3 Mr. McKinzy?

4 MR. BERLIN: Well, as I believe it was covered
5 in the pleading, Your Honor, that Mr. McKinzy neither
6 used or benefited from the service rendered to Tamara
7 Nance during that time period and at the residence in
8 question.

9 So that is the basis of our pleading and
10 Staff's position.

11 Our concern now is in dealing with hypothetical
12 events that really have not transpired --

13 RLJ RUTH: True.

14 MR. MCKINZY: -- with regard to this case.

15 RLJ RUTH: A wife moving in with a husband is
16 not an unforeseen event.

17 MR. COOPER: Your Honor, I think the concern
18 becomes -- and I don't know that it necessarily makes a
19 difference in this situation, but the concern becomes
20 that if it's a hypothetical event, and that's the way
21 we're going to structure the question, it's essentially a
22 declaratory judgment that the Commission is being asked
23 to enter.

24 And I haven't researched it for the purposes of
25 today's proceeding, but my Administrative Hearing

1 Commission practice from a few years ago would lead me to
2 believe that there is probably some constitutional
3 problems with the Commission entering into the realm of
4 declaratory judgments here in the State of Missouri.

5 RLJ RUTH: And I understand that.

6 Part of my concern is, for instance, the Staff
7 seems to feel that all of Mr. McKinzy's complaints have
8 been addressed.

9 When I read the pleading, it looked to me as if
10 he were asking turn on the gas, turn on service, don't
11 charge me for my wife's bill, and don't ever charge me
12 for my wife's bill no matter what.

13 I saw from the pleading that it looked like two
14 things had been addressed and everybody ignoring the
15 third.

16 Nobody was saying, Commission, you don't have
17 the authority to address the third or the third should be
18 resolved in favor of Mr. McKinzy or against Mr. McKinzy.
19 It was just ignored.

20 And that's one thing the Commission wants to
21 get at. I can't ignore it and just assume --

22 MR. COOPER: And I'm not suggesting that.

23 RLJ RUTH: That's why we're here. I thought he
24 was asking for all three. So it did not look like all
25 three had been addressed.

1 Now, whether or not the Commission can address
2 all three is another question.

3 I'm sorry. Mr. Micheel, you've been very
4 patient.

5 MR. MICHEEL: All I want to say, if the Staff
6 does not believe that this complainant has filed a case
7 for which relief can be granted, then the Staff should
8 file a motion to dismiss.

9 And Staff's belief, whether or not -- whether
10 it's right or wrong I don't know, that this case doesn't
11 raise a claim should not prevent -- again, should not
12 prevent the setting of a procedural schedule.

13 If Mr. Berlin feels that this complaint needs
14 to be dismissed, he should file his papers and state his
15 legal beliefs as to why the case should be dismissed,
16 but that should not prevent this pro se claimant from
17 getting a procedural schedule set.

18 RLJ RUTH: I understand your concerns. And
19 obviously we're here because I had some questions as to
20 whether or not everything that Mr. McKinzy had requested
21 had been addressed in one form or another, because it
22 looked to me like one of his requests was being totally
23 ignored.

24 And I haven't had a motion to dismiss. I
25 haven't had any -- I've had three things that he asked,

1 where everybody tells me two are taken care of and just
2 ignoring the third. So we're here.

3 MR. MCKINZY: And I would like to comment that
4 your understanding of my request is based -- is what I
5 believe as well, is that based on that I had no benefit
6 that I should -- this should have never occurred in the
7 first place, that I should have never been asked to pay
8 for the debt because I didn't know her at the time, and
9 it should never be my responsibility to pay for a debt of
10 a person I did not know, you know, given the fact that
11 the only connection there is that -- is that we were
12 married sometime in the future after she incurred the
13 debt.

14 And based on that fact alone, my family, my
15 four kids and I, have suffered from that fact that she
16 has become my wife.

17 Also, I would like to say that my initial
18 complaint consisted of my being denied service after
19 being given an opportunity to review, which I did not
20 have at the time.

21 I had no knowledge that I had -- had knowledge
22 of a tariff and general terms of and conditions for gas
23 service, I had no knowledge of their existence.

24 And after being made aware of those and given
25 an opportunity to examine them, I found that they're in

1 this instance of this continuance or denial of service,
2 that there are additional tariff violations that were
3 committed, I believe, by MGE that I had no knowledge to
4 include in the initial complaint that included the same
5 period of time, the failure to give written notice or
6 verbal notice, the failure of attempting to make me pay
7 for a debt of another customer when I did not benefit
8 from the use.

9 These are tariff violations that I had no
10 knowledge and no ability of including in the original
11 complaint, but they were, in fact, still a part, I
12 believe, of this complaint in the process of how things
13 occurred, that I was still entitled to those notices and
14 written presentation. I was never given any of that, but
15 I was still expected to pay for -- for the debt.

16 RLJ RUTH: Okay. Mr. McKinzy, earlier you had
17 indicated that you might file a supplemental pleading and
18 it could have as an attachment the affidavit or any other
19 documents. You may want to address some of these issues
20 you just brought up in your supplemental pleading also.
21 That is up to you.

22 MR. MCKINZY: Okay.

23 RLJ RUTH: I just point that out as an option.

24 I do ask, if you're going to file something,
25 that you do it also by December 10th so that I know

1 what's going on. And if you need additional time, you
2 could at least file a letter indicating that you need
3 additional time or a pleading indicating that you need
4 additional time, so that I will -- that I'll know whether
5 something is coming.

6 I think we've addressed everything we need to
7 on the record.

8 But, Mr. Micheel, I did kind of cut you off
9 before. Did you have anything further?

10 MR. MICHEEL: No, Your Honor.

11 I just wanted to make sure that this pro se
12 individual is getting the process that they're due, and I
13 think he is.

14 RLJ RUTH: Okay.

15 Then that will conclude the on-the-record
16 portion of today's hearing.

17 WHEREUPON, the on-the-record presentation of
18 the Prehearing Conference is concluded.

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