

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED⁴
SEP 05 2006

THE STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION,
Complainant,

v.

MIKE WARD,
Respondent.

Missouri Public
Service Commission

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) Case No. WC-2007-0042
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MOTION TO SET ASIDE DEFAULT JUDGMENT

COMES NOW Respondent MIKE WARD, by and through counsel of record J. Patrick Sullivan of Sullivan Law Office, P.C. and for his "Motion to Set Aside Default Judgment", and pursuant to section 4 CSR 240-2.070(9) states to the commission as follows, to-wit:

1. That the undersigned had spoken with attorney Steven C. Reed this morning who had no objection to the filing of Respondent's Answer out of time; and who this afternoon faxed the undersigned of the entry of a default judgment. The undersigned reasonably believes that Mr. Reed would not have an objection to the Commission setting aside the default judgment; the undersigned being unable to contact Mr. Reed by phone at 4:00 p.m.

2. That a separate action seeking injunctive relief is being maintained by the Public Service Commission in the Circuit Court of Stone County, Missouri as case number 06SN-CC00114; wherein a temporary injunction is currently in place.

3. That the undersigned represents Mr. Ward in that injunction matter having entered his appearance on August 11th.

4. That Mr. Ward was served in that cause on August 10th.

5. That confusion existed such that Mr. Ward was uncertain as to the separate nature of

this proceeding and of its "expedited" nature.

6. That prior to the preparation of this motion, and on even date herewith, the undersigned had prepared for forwarding the enclosed "Answer", "Entry of Appearance" and "Application for Leave to File Answer Out of Time", with the agreement of Mr. Reed.

7. That the granting of this motion would be in the ends of justice, in that it would allow for the cause to be disposed of on the merits.

8. That although the undersigned has not seen the default judgment entered by the Commission, this Motion is believed to be filed within seven (7) days of its entry as required by 4 CSR 240-2.070(9), and that the foregoing should be deemed to constitute good cause.

9. That there was no dilatory action on the part of Respondent.

WHEREFORE, the undersigned moves the Commission to set aside its default judgment, to restore the cause to its docket to be heard on the merits, to allow the filing of Respondent's Answer out of time; and for such other and further relief as the Commission deems just in the premises.

SULLIVAN LAW OFFICE, P.C.

By: 

J. Patrick Sullivan, #31370

Attorney for Respondent

P.O. Box 2175

Branson West, MO 65737

417-272-1444; fax: 272-1555

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was forwarded via U.S. mail, first class, postage prepaid to attorney Steven C. Reed, P.O. Box 360, Jefferson City, MO 65102, this 31st day of August, 2006.

X 

J. Patrick Sullivan