

Jimmie E. Small,
Complainant,
v.
Ameren Missouri, et. al.,
Respondents.

File No. EC-2012-0050

Issue Date: January 31, 2013

Effective Date: January 31, 2013

On January 30, 2013, Jimmie E. Small filed *Complainant's Rule 44.01 Motion for Enlargement of Time to File His Ameded [sic] Complaint, Plus Request for Pre-Hearing Conference* ("motion"). In his motion, Mr. Small requests that the Commission grant an extension of time of unknown duration to amend his complaint and schedule a prehearing conference to discuss ongoing discovery disputes between the parties. Ameren Missouri responded to the motion by stating that there is currently no agreement between the parties about deposing potential witnesses. Ameren Missouri also requests a prehearing conference to discuss pending discovery matters.

On October 29, 2012, the Commission issued an *Order Denying Motion for Reconsideration, Granting Motion to Amend Complaint, and Amending Procedural Schedule*, which permitted Mr. Small to amend his complaint but required that any further requests to amend the complaint must be filed no later than February 1, 2013.

The Commission has the discretion to extend this time period¹ and waive procedural rules for good cause shown.² Good cause is acting in good faith and as a reasonable person would under all the circumstances.³ The circumstances of this case are that Mr. Small filed the complaint 18 months ago, and was permitted to amend it in October 2012. Mr. Small has had many months to conduct whatever discovery he thought was appropriate and has known for 3 months of the deadline to finally amend the complaint. Permitting Mr. Small to amend the complaint at some undetermined point in the future will undoubtedly delay the evidentiary hearing scheduled for March 12, 2012. Mr. Small has not stated in his motion any reason for his inability to meet the filing deadline or sufficient justification to further delay these proceedings. His motion fails to demonstrate good cause for the extension of time, so that request will be denied. If Mr. Small should discover additional claims in the future, he is free to file another complaint or submit those claims to a court of appropriate jurisdiction.

With regard to the request for a prehearing conference, both parties agree that a conference would be helpful to resolve discovery matters. The Commission will grant that request.

THE COMMISSION ORDERS THAT:

1. Mr. Small's request for an extension of time to amend his complaint is denied.
2. Mr. Small's request for a prehearing conference is granted.

¹ Commission Rule 4 CSR 240-2.050(3)(A)

² Commission Rule 4 CSR 240-015

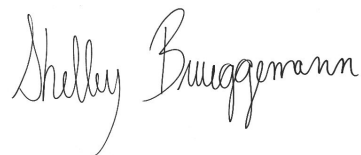
³ *Morgan v. Gaeth*, 273 S.W.3d 55, 59 (Mo. App. 2008)

3. A prehearing conference shall be held on February 11, 2013, beginning at 1:30 p.m., in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. This meeting will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the conference.

4. Any party that wants to participate in the prehearing conference by telephone may do so by calling **toll-free 866-630-9346** at the time set for the beginning of the conference.

5. This order is effective immediately upon issuance.

BY THE COMMISSION



Shelley Brueggemann
Acting Secretary

(S E A L)

Michael Bushmann, Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 31st day of January, 2013.