

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Mrs. Walter L. Schwab,)	
)	
Complainant,)	
)	
v.)	<u>Case No. WC-2008-0106</u>
)	
Missouri American Water,)	
)	
Respondent.)	

ORDER SETTING PREHEARING CONFERENCE AND DIRECTING
FILING OF A PROPOSED PROCEDURAL SCHEDULE

Issue Date: December 5, 2007

Effective Date: December 5, 2007

Mrs. Walter L. Schwab (a/k/a Geraldine K. Schwab) filed a formal complaint against Respondent Missouri-American Water Company ("MAWC") on October 15, 2007, in which she alleged that the \$566.62 water bill she received in September 2007 for residential water usage from June 1, 2007 through August 29, 2007 was "unreasonable and incorrect." For relief, she sought a corrected bill from MAWC. On October 17, 2007, the Commission notified MAWC of the complaint and allowed it thirty days in which to answer as provided by Commission Rule 4 CSR 240-2.070(7). The same day, pursuant to 4 CSR 240-2.070(10), the Commission ordered its Staff to commence an investigation of Mrs. Schwab's formal complaint and to file a report concerning the results of its investigation no later than one week after MAWC filed its answer to the complaint.

MAWC filed its answer on November 15, 2007, explaining that the water meter at Mrs. Schwab's home was working properly with no indications of leaks on the service line

on the two or three occasions it was inspected at her request. MAWC further stated that there is a lawn sprinkler system at Mrs. Schwab's home, which may have contributed to a large amount of water usage during the dry months of July and August 2007, and that the billing history on her account for the last three years demonstrates that her residential water usage has typically been considerably higher during the summer months.

On November 26, 2007, Staff filed its verified report and recommendation based on its investigation, which showed, among other things, that Mrs. Schwab's account has been properly billed each month based on her actual water usage, and that it could find no evidence of any tariff or rules violation by MAWC. Staff further noted that when one of its representatives visited Mrs. Schwab's home on November 14, 2007, he observed that the yard is fairly large and that the grass was a beautiful green color. Based on her historical water usage; the hot, dry summer weather experienced in July and August 2007; and the absence of any indication that the water meter in question was inaccurate or had been misread, Staff concluded that "the bill received by the Schwabs was correct for the amount of water used." Accordingly, Staff recommended that Mrs. Schwab's complaint be dismissed.

This matter is now at issue and a prehearing conference is appropriate to ensure its prompt resolution. In part, a prehearing conference is designed to permit the parties to pursue settlement discussions and to identify all remaining procedural or substantive matters of concern prior to the formal disposition of the issues in the case.¹ In addition, a prehearing conference offers the parties a valuable opportunity to attempt to resolve their differences by agreeing to voluntary mediation of their dispute. The parties shall jointly file a proposed procedural schedule within twenty days after the prehearing conference.

The Commission reminds the parties that this prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference.² However, all parties are required to be present for the prehearing conference, and a court reporter will be present to make a record of the parties that appear. **Parties must arrive in person or appear by telephone at or before the scheduled starting time of 9:00 a.m. in order to participate.** Pursuant to Commission Rule 4 CSR 240-2.090(5), “Failure to appear at a prehearing conference without 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.”

The Commission further advises the parties that arriving late to a prehearing conference is the equivalent of failing to appear. Parties are expected to appear at scheduled hearings on time, or to advise the Commission of their need to appear late or to timely request a continuance. If a party fails to meet those obligations, that party may be dismissed and the Commission may rule in favor of an opposing party. This is why the Commission issues advance notice of all hearings and conferences and extends various opportunities prior to any scheduled event for the parties to appear by phone or request a continuance.

IT IS ORDERED THAT:

1. The parties shall appear at a prehearing conference to be held on December 18, 2007, beginning at 9:00 a.m. The prehearing conference will be held in Room 305 at the

¹ See Commission Rule 4 CSR 240-2.090(6).

² Also, under Commission Rule 4 CSR 240-2.090(7), any facts the parties may discuss during the conference, including any settlement offers or discussions, are privileged and cannot be used against any participating party unless the parties agree to disclose them or they are fully supported by other, independent evidence.

Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. Any party wishing to appear by telephone shall notify the Regulatory Law Judge by calling 573-751-7485 no later than December 11, 2007.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on December 18, 2007, either in person or by phone, and shall provide the Commission with a list of dates when that party is available to appear. Any such pleading shall be filed no later than December 12, 2007, and shall also be served on every other party to this complaint by the party requesting the continuance.

4. The parties shall jointly prepare and file a proposed procedural schedule no later than January 7, 2008.

5. This order shall become effective on December 5, 2007.

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 5th day of December, 2007.

BY THE COMMISSION



Colleen M. Dale
Secretary