

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 16th
day of September, 2008.

Seth and Jeanette Langton,)	
)	
Complainants,)	
)	
v.)	<u>Case No. WC-2008-0350</u>
)	
Missouri American Water,)	
)	
Respondent.)	

ORDER DISMISSING COMPLAINT

Issue Date: September 16, 2008

Effective Date: September 26, 2008

Seth and Jeanette Langton filed a formal complaint against Missouri-American Water Company ("MAWC") on April 25, 2008,¹ in which they alleged that the company's customer service was substandard and unprofessional, that they had received annoying, unhelpful, and insensitive phone calls from MAWC, and that on two occasions, their account had not been credited for the full amount of the check they sent. For relief, they sought a Commission order requiring MAWC to compensate them for the 30 hours of time they spent making trips to the property and on the telephone with the company at a rate of \$120 per hour, for a total of \$3600.

MAWC filed its answer on May 29, Staff filed its verified report and

¹ All dates throughout this order refer to the year 2008 unless otherwise noted.

recommendation based on its investigation on June 12 and the Commission held a prehearing conference in this matter on July 14. Prior to the prehearing conference, MAWC and Staff had sought to have this case dismissed because they alleged that the Langtons had requested relief that the Commission could not legally grant.

On July 23, after the prehearing conference, because it appeared there was no actual dispute regarding the material facts in this matter and because it appeared there was also no actual billing dispute between the Langtons and MAWC that had already not been resolved, the Commission issued an order directing the parties to jointly file a stipulation as to all material facts not in dispute and to separately file a list of any facts the parties believed were still in dispute and offer their positions on those facts. Additionally, the Commission granted the Langtons leave to amend their complaint and modify their legal arguments, in any way they desired, or make a change in the relief they were requesting from the Commission. The Commission gave the parties 21 days to complete their filings to provide adequate time, and any party was welcome to file for an extension if they felt additional time was required.

On August 13, Staff and MAWC filed a joint stipulation stating they believed there were no relevant, material facts in dispute and they reaffirmed their belief that this case should be dismissed. The Langtons did not join in this joint response, they did not file a separate list of facts they believed were still in dispute, they did not amend their complaint, and Staff and MAWC further stated that it was their understanding that the Langtons no longer wished to pursue their complaint.

On August 14, because the Langtons did not comply with the Commission's July 23 order, the Commission directed the Langtons to file a pleading with the Commission

stating whether they wish to pursue their complaint and why the complaint, as currently pled, should not be dismissed. The deadline for filing this pleading was set for August 25. The Langton's did not respond to the Commission's order.

Pursuant to 4 CSR 240-2.116(2): "Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time." Commission Rule 4 CSR 240-2.116(3) provides that any party may be dismissed from a case for failure to comply with a Commission order. One-hundred and thirty-nine days have passed since the Langtons filed their complaint (April 25th - Aug September 11th) and other than attending the prehearing conference, held 59 days ago, the Langtons have not prosecuted their complaint. The Langtons did not comply with the Commission's July 23 order, and they did not amend their complaint to seek relief that the Commission is able to legally grant. The Langtons have also now failed to comply with the Commission's August 14 show cause order. Consequently, the Commission will dismiss this complaint.

IT IS ORDERED THAT:

1. Seth and Jeanette Langton's complaint against Missouri American Water Company filed on April 25, 2008, and assigned case number WC-2008-0350, is hereby dismissed without prejudice.

2. This order shall become effective on September 26, 2008.

3. This case may be closed on September 27, 2008.

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,
and Gunn, CC., concur.

Stearley, Senior Regulatory Law Judge.