

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

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

Issue Date: June 23, 2008

Effective Date: June 23, 2008

Seth and Jeanette Langton filed a formal complaint against Respondent Missouri-American Water Company ("MAWC") on April 25, 2008, 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. On April 29, 2008, 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 two weeks after MAWC filed its answer to the complaint.

MAWC filed its answer on May 29, 2008, explaining that estimated meter reads were necessary because the Langtons had an indoor meter and MAWC meter readers were routinely unable to gain access to the water meter inside their home. MAWC further stated that it took six visits to the premises before it was finally able to remedy those access problems by installing a new meter with an outdoor automatic reading device, denied that its personnel had been annoying, unhelpful, or insensitive to the Langtons, and denied that it had undercredited their account for payments received.

On June 12, 2008, Staff filed its verified report and recommendation based on its investigation, which showed, among other things, that although MAWC did threaten disconnection when the Langtons failed to comply with the terms of a payment agreement, the company did not violate Commission Rule 4 CSR 240-13.050 regarding disconnection of service and did not violate any other Commission rule. Staff also found that although neither MAWC's tariff nor any Commission rule required the company to compensate the Langtons for the time they spent trying to get their concerns addressed, the company did credit their account with an adjustment in an amount equal to \$30.00 for this purpose. As to the Langtons' claim for \$3600 in damages against the company, Staff cited case law holding that the Commission does not have the legal authority to grant monetary relief as compensation for damages. Accordingly, Staff recommended that the Langtons' 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

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

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 ten 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.

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.

IT IS ORDERED THAT:

1. The parties shall appear at a prehearing conference to be held on Monday, July 14, 2008, beginning at 9:00 a.m. The prehearing conference will be held in Room 305 at the 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 July 7, 2008.

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 July 14, 2008, 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 July 2, 2008, 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 July 24, 2008.

5. This order shall become effective on June 23, 2008.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

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

Dated at Jefferson City, Missouri,
on this 23rd day of June, 2008.